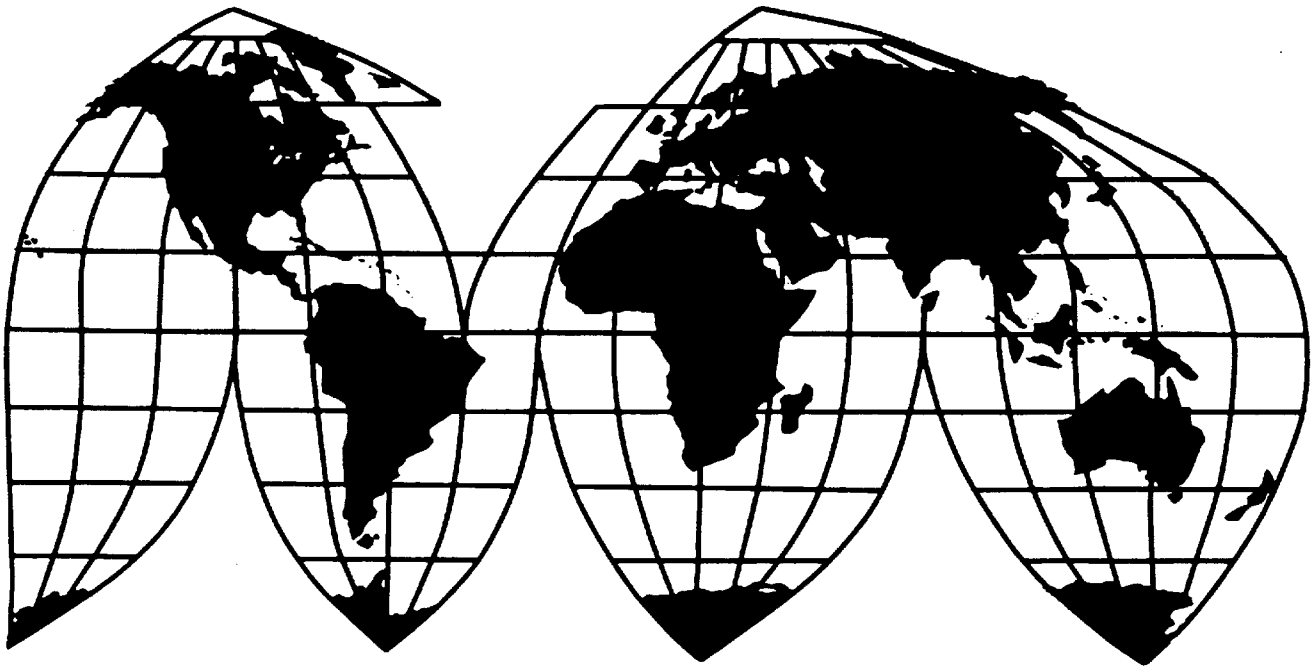
Light-walled Rectangular Pipe and Tube From Mexico and Turkey

Investigations Nos. 731-TA-1054 and 1055 (Final)

Publication 3728 **October 2004**

U.S. International Trade Commission



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GLOSSARY OF TERMS

ANSI	American National Standards Institute
AUV	Average unit value
COGS	Cost of goods sold
Commission	U.S. International Trade Commission
F.o.b.	Free on board
FR	*Federal Register*
HTS	Harmonized Tariff Schedule of the United States
LWR	Light-walled rectangular
PRWs	Production and related workers
R&D	Research and development expenses
SG&A	Selling, general, and administrative

GLOSSARY OF FIRMS

Producers

Allied	Allied Tube and Conduit
Bull Moose	Bull Moose Tube Co.
California	California Steel & Tube
Copperweld	Copperweld Corp.
Dallas	Dallas Tube
EXL	EXL Tube
Hanna	Hanna Steel
Hannibal	Hannibal Industries, Inc.
Leavitt	Leavitt Tube Co., LLC
Maruichi	Maruichi American Corp.
Maverick	Maverick Tube Corp.
Northwest	Northwest Pipe Co.
Searing	Searing Industries, Inc.
Tubular	Tubular Products Div., Leggett & Platt, Inc.
Valmont	Valmont Industries, Structural Tube Div.
Vest	Vest, Inc.
Western	Western Tube & Conduit Corp.

Importers

Arcelor	Arcelor Trading USA, LLC
Commercial	Commercial Metals Co.
Exim	Exim America Trading, Inc.
Galvak	Galvak, S.A. de C.V.
Hylsa	Hylsa, S.A. de C.V.
Hylsamex	Hylsamex, S.A. de C.V.
International	International Tube & Pipe Sales, Inc.
Maruichi	Maruichi American Corp.
Mitsui	Mitsui & Co. (USA), Inc.
Mueller	Mueller Metals, Inc.
Perfiles	Perfiles y Herrajes, S.A. de C.V.
Prolamsa	Prolamsa, Inc.
Seba	Seba International, Ltd.

Stemcor	Stemcor USA, Inc.
Sweetwater	Sweetwater SteelCompany, Inc.

Purchasers

Carolina Carports	Carolina Carports
Chicago Tube	Chicago Tube
Eagle	Eagle National
Halco	Master Halco
Icon	Icon Health and Fitness
Industrial MEtal	Industrial Metal Supply
J & D	J & D Metal Buildings
J&I	J & I Manufacturing
McElroy	McElroy Metal
Merchants	Merchants Metals
Metals USA	Metals USA Southeast
Norton	Norton Metals
O'Neal	O'Neal Steel
Pacific Steel	Pacific Steel and Recycling
Patton	Patton Sales
PMS	PMS
Ramcast	Ramcast Ornamental
Ryerson	Ryerson Tull
Service Steel	Service Steel and Pipe
Steel Supply	Steel Supply
Steel and Pipe	Steel and Pipe

Foreign Producers

Arco	Arco Metal S.A. de C.V.
Borusan	Borusan Birlesik
Erbosan	Erbosan Erciyas Boru Sanyii Ve Ticaret
Galvak	Galvak, S.A. de C.V.
Goktas	Göktas, A.S,.
Guven	Guven Boru Profil Sanayi ve Ticaret Ltd. Sti.
Hylsa	Hylsa, S.A. de C.V.
IMSA	IMSA-MEX, S.A. de C.V.
LM	Perfiles y Herrajes LM S.A. de C.V.
Maquilacero	Maquilacero, S.A. de C.V.
Mannesmann	Mannesmann Pipe and Steel Corp.
MMZ	MMZ Onur Boru Profil Uretim San. Ve. Tic A.S.
Noksel	Noksel Celik Boru Sanayi A.S.
Ozboran	Ozboran Tube Industry Inc.
Ozdemir	Ozdemir Boru Profil San. Ve. Tic. Ltd. Sti.
Prolamsa	Productos Laminados de Monterrey, S.A. de C.V.
Regiomontana	Regiomontana de Perfiles y Turbos, S.A. de C.V.
Umran	Umran Steel Pipe Inc.

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

Investigations Nos. 731-TA-1054 and 1055 (Final)

LIGHT-WALLED RECTANGULAR PIPE AND TUBE FROM MEXICO AND TURKEY

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Mexico and Turkey of light-walled rectangular ("LWR") pipe and tube, provided for in subheading 7306.60.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).

BACKGROUND

The Commission instituted these investigations effective September 9, 2003, following receipt of a petition filed with the Commission and Commerce by California Steel and Tube, City of Industry, CA; Hannibal Industries, Los Angeles, CA; Leavitt Tube Co., Chicago, IL; Maruichi American Corp., Santa Fe Springs, CA; Northwest Pipe Co., Portland, OR; Searing Industries, Inc., Rancho Cucamonga, CA; Vest, Inc., Los Angeles, CA; and Western Tube and Conduit Corp., Long Beach, CA. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of LWR pipe and tube from Mexico and Turkey were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of April 23, 2004 (69 FR 22093). The hearing was held in Washington, DC, on August 31, 2004, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

VIEWS OF THE COMMISSION

Based on the record in these investigations, we determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of light-walled rectangular (LWR) pipe and tube from Mexico and Turkey that are sold in the United States at less than fair value (LTFV).[1]

The petition was filed on September 9, 2003, by domestic producers California Steel and Tube (California), Hannibal Industries, Inc. (Hannibal), Leavitt Tube Company, LLC (Leavitt), Maruichi American Corporation (Maruichi), Northwest Pipe Company (Northwest), Searing Industries, Inc. (Searing), Vest Inc. (Vest), and Western Tube and Conduit Corporation (Western) (collectively Petitioners).

Participating as parties in these investigations were the Mexican producers and exporters Galvak, S.A. de C.V. (Galvak), Hylsa S.A. de C.V. (Hylsa), and Productos Laminados de Monterrey, S.A. de C.V. and its related U.S. importer, Prolamsa, Inc. (Respondents Prolamsa) (collectively Mexican Respondents).[2] The Turkish producer Özborsan Boru Sanayi Ve Ticaret and its U.S. importer, Commercial Metals Company (collectively Turkish Respondents), and the Mexican producer and exporter Perfiles y Herrajes LM, S.A. de C.V. (LM), are parties to these investigations but did not participate in the hearing or file briefs or comments.

I. BACKGROUND

LWR pipe and tube consists of flat-rolled steel that has been formed into a tube having a rectangular or square cross-section, within particular dimensions. LWR pipe and tube has many uses, including in such items as fencing, window guards, cattle chutes, railings, furniture parts, athletic equipment, lawn and garden equipment, store shelving, and towel racks.[3] It is commonly produced to American Society of Testing and Materials (ASTM) specifications A-500 or A-513.[4] The majority of both domestic production and imports was sold to distributors, with the remainder sold directly to end users.[5]

The petition was filed on behalf of eight domestic producers of LWR pipe and tube, as noted above.[6] There are 29 firms known to be producing LWR pipe and tube in 2003, 15 of which provided questionnaire responses to the Commission.[7] Six of these firms are located in California.[8] Eight firms have one or more production facilities in the southern United States, as well as certain northern states.[9]

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[1] Whether the establishment of an industry is materially retarded is not at issue in these investigations.

[2] Petitioners and Mexican Respondents participated in the hearing and filed pre- and posthearing briefs and final comments.

[3] Confidential Staff Report (CR) at I-9, II-1, Public Staff Report (PR) at I-7, II-1.

[4] CR at I-9 n. 15, PR at I-7 n. 15.

[5] CR, PR at Table I-2.

[6] CR, PR at I-1.

[7] CR, PR at III-1 & Table III-1. Fifteen firms, believed to represent 92 percent of U.S. LWR pipe and tube production over the period examined, provided usable trade and financial data on their U.S. operations producing LWR pipe and tube. CR, PR at III-1.

[8] CR, PR at III-1 & Table III-1.

[9] CR, PR at III-1 & Table III-1.

Domestic sales accounted for more than half of the U.S. market for LWR pipe and tube over the period examined.[10] For the latter part of the period, the next largest source was imports from the two subject countries, mainly Mexico. Also present in the market were imports from nonsubject sources, principally Canada.[11]

II. DOMESTIC LIKE PRODUCT

A. In General

In determining whether 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."[12] 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."[13] 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 . . . ."[14]

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.[15] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[16] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[17] Although the Commission must accept the determination of the Department of Commerce (Commerce) as to the scope of the imported merchandise that has been found to be sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.[18]

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[10] CR, PR at Table IV-8.

[11] CR, PR at Table IV-2 n. 2.

[12] 19 U.S.C. § 1677(4)(A).

[13] 19 U.S.C. § 1677(4)(A).

[14] 19 U.S.C. § 1677(10).

[15] 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).

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

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

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

B. Product Description

In its final determinations regarding subject imports from Mexico and Turkey, Commerce defined the imported merchandise within the scope of the investigations, LWR pipe and tube (or LWRPT), as –

> welded carbon-quality[19] pipe and tube of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch. These LWRPT have rectangular cross sections ranging from 0.375 x 0.625 inches to 2 x 6 inches, or square cross sections ranging from 0.375 to 4 inches, regardless of specification.[20]

LWR pipe and tube is a distinct category of tubular product employed in a variety of end uses not involving the conveyance of liquids or gases.[21] Typical applications for LWR pipe and tube are mechanical or ornamental. A limited amount of LWR pipe and tube, meeting the requisite industry standards for bearing load, is used for structural purposes.[22]

C. Analysis

In its preliminary determinations, the Commission found a single domestic like product consisting of all LWR pipe and tube, coextensive with Commerce's scope. The Commission addressed the issue whether galvanized LWR pipe and tube should be a separate domestic like product from black LWR pipe and tube. The Commission found that both types of LWR pipe and tube shared common characteristics, uses, and production processes, and that the limited record did not indicate that domestic channels of distribution differed. While interchangeability was somewhat limited due to the corrosion-resistant quality of galvanized LWR pipe and tube, and galvanized LWR pipe and tube commanded a higher price, the Commission concluded that there was no clear dividing line between black and galvanized LWR pipe and tube sufficient to warrant finding two domestic like products.[23]

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[19] The notices define "carbon-quality" as products in which

> (i) iron predominates, by weight, over each of the other contained elements (ii) the carbon content is 2 percent or less, by weight, and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium (also called columbium), or 0.15 percent of vanadium, or 0.15 percent of zirconium.

69 Fed. Reg. 53675, 53675-676 (Sept. 2, 2004) (Turkey); 69 Fed. Reg. 53677, 53678 (Sept. 2, 2004) (Mexico).

[20] 69 Fed. Reg. at 53675 & 53678.

[21] The terms "pipe" and "tube" are used interchangeably in the scope, as they are used generally in the Harmonized Tariff Schedule. (Industry parlance is another matter: "Pipes" are circular in cross-section, whereas "tubes" may be of any cross-sectional shape, including rectangular or square.) CR at I-8, PR at I-7.

[22] CR at I-8-I-9, PR at I-7.

[23] Light-Walled Rectangular Pipe and Tube from Mexico and Turkey, Inv. Nos. 731-TA-1054 and 1055 (Preliminary), USITC Pub. 3644 (Oct. 2003) (USITC Pub. 3644) at 5-7.

Petitioners argue that the Commission properly treated black and galvanized LWR pipe and tube as a single like product in the preliminary phase and should apply the same definition in the final phase.[24] Respondents Prolamsa ask the Commission to revisit the question and contend that, under the Commission's traditional six-factor analysis, black and corrosion-resistant LWR pipe and tube are separate like products.[25]

In previous antidumping investigations involving LWR pipe and tube, the Commission has defined a single domestic like product, co-extensive with scopes that encompassed black and corrosion-resistant LWR pipe and tube.[26] In adopting this definition, however, the Commission did not *expressly* consider whether corrosion-resistant LWR pipe and tube warranted treatment as a separate like product due to product differences.[27] Moreover, Commission determinations are *sui generis* and the Commission is not bound by a like product finding in other investigations.[28]

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[24] Prehearing Brief of Petitioners at 4-11; Posthearing Brief of Petitioners at 1 & A-1-A-3

[25] Prehearing Brief of Prolamsa at 2-12; Posthearing Brief of Prolamsa at 2-4. (The other Mexican Respondents lent an oral concurrence to Respondents Prolamsa's like product argument under questioning at the hearing. Revised and Corrected Transcript of Hearing (Aug. 31, 2004) (Tr.) at 200 (Mr. Winton, counsel to Galvak and Hylsa).)

Respondents Prolamsa would also have us analogize cases such as Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, The Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom, Inv. Nos. 701-TA-319-332, 334, 336-342, 344, 347-353, 731-TA-573-579, 581-592, 594-597, 599-609, 612-619 (Final), USITC Pub. 2664 (Aug. 1993) at 7, in which the Commission found five separate flat-rolled carbon steel products, including corrosion-resistant sheet. Given product and record differences and the necessarily *sui generis* nature of our analysis, as well as the fact that the domestic production of corrosion-resistant LWR pipe and tube is overwhelmingly made from black rather than corrosion-resistant sheet, we decline to do so. We base our domestic like product determination on the record in each investigation, and note that "references to determinations defining the like product in other investigations of differing products ha[ve] little utility." Certain Aluminum Plate from South Africa, Inv. No. 731-TA-1056 (Preliminary), USITC Pub. 3654 (Dec. 2003) at 10-11 n. 59.

[26] Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey, and Venezuela, Inv. Nos. 701-TA-253 (Review) and 731-TA-132, 252, 271, 273, 276, 277, 296, 409, 410, 532-534, 536, and 537 (Review), USITC Pub. 3316 (July 2000) at 13-14; Light-Walled Rectangular Pipe and Tube from Mexico, Inv. No. 731-TA-730 (Preliminary), USITC Pub. 2892 (May 1995) at I-6-I-7; Certain Light-Walled Rectangular Pipes and Tubes from Argentina, Inv. No. 731-TA-409 (Final), USITC Pub. 2187 (May 1989) at 5, 15-16; Certain Light-Walled Rectangular Pipes and Tubes from Taiwan, Inv. No. 731-TA-410 (Final), USITC Pub. 2169 (Mar. 1989) at 3-4, 51 n. 2; Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. No. 731-TA-349 (Final), USITC Pub. 1994 (July 1987) at 3-4; Certain Welded Carbon Steel Pipes and Tubes from the Philippines and Singapore, Inv. Nos. 731-TA-293, 294, and 296 (Final), USITC Pub. 1907 (Nov. 1986) at 5-6; Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. No. 731-TA-211 (Final), USITC Pub. 1799 (Jan. 1986) at 3-4; Certain Welded Carbon Steel Pipes and Tubes from Brazil and Spain, Inv. Nos. 731-TA-197 and 198 (Preliminary), USITC Pub. 1569 (Aug. 1984) at 6-7; Certain Welded Carbon Steel Pipes and Tubes from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-131, 132, and 138 (Final), USITC Pub. 1519 (Apr. 1984) at 4.

[27] Cf. Light-Walled Rectangular Pipe and Tubes from Argentina and Taiwan, Inv. Nos. 731-TA-409 and 410 (Preliminary), USITC Pub. 2098 (July 1988) at 4-6, in which the Commission rejected arguments by Taiwanese respondents that galvanized LWR pipe and tube is a separate like product that should be excluded from the investigation because of a lack of domestic production. The Commission noted that the information collected did not warrant a departure from the Commission's consistent prior practice of treating LWR pipe and tube as a single like product. Respondents Prolamsa framed the issue in these investigations so as to remove any defect created by asking the Commission to modify the scope.

[28] See Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1088 (Ct. Int'l Trade 1988). See also Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp. 2d 1353, 1379 (Ct. Int'l Trade 1999) (Commission determinations are *sui generis*; "'a particular circumstance in a prior investigation cannot be regarded by the Commission as dispositive of the determination in a later investigation,'" quoting Citrosuco quoting Armstrong Bros. Tool Co. v. United States, 84 Cust. Ct. 102, 115, 489 F. Supp. 269, 279 (1980). However, in the

(continued...)

The record before us, while mixed with respect to certain factors, demonstrates no clear dividing line between black and corrosion-resistant LWR pipe and tube such as to warrant finding two like products. As previously noted, domestically produced corrosion-resistant LWR pipe and tube is produced overwhelmingly from black sheet, not from corrosion-resistant sheet. Such LWR pipe and tube is mostly produced through in-line galvanizing. Generally, the physical properties (strength, hardness, and ductility) and the mechanical characteristics of black and corrosion-resistant LWR pipe and tube are not affected by the galvanizing process, which takes place after welding and generally involves coating the steel with a thin film of zinc.[29] Galvanized and black LWR pipe and tube are used in the same general types of applications (mechanical and ornamental, and to a limited extent structural applications), and have directly overlapping end uses, particularly in one of the largest markets for LWR pipe and tube, ornamental iron fencing.[30]

Galvanized LWR pipe and tube is used when corrosion resistance is an important service requirement, as it lengthens the useful life of the manufactured product in corrosive environments.[31] Thus, when specific uses or customers require corrosion-resistant product, for example manufacturers of carports (for which certain components are corrosion-resistant by warranty), black LWR pipe and tube is not interchangeable.[32] For most applications, however, the two can be used interchangeably, although practical considerations, such as price (galvanized LWR pipe and tube is generally more costly) or welding considerations (black LWR pipe and tube is more conducive to welding), may result in the sale of one over the other.[33]

The channels of distribution for domestically produced black and corrosion-resistant LWR pipe and tube overlap substantially. The vast majority of U.S. shipments of domestically produced corrosion-resistant LWR pipe and tube is sold to distributors as opposed to endusers and, while the numbers are somewhat less disparate, most U.S. shipments of domestically produced black LWR pipe and tube are also sold to distributors.[34]

Black and corrosion-resistant LWR pipe and tube share common manufacturing facilities and production-related employees. The production processes overlap substantially, particularly insofar as corrosion-resistant product is made from black LWR pipe and tube. Galvanizing is a value-added process that requires additional equipment, energy, and maintenance.[35] Operators may turn in-line galvanizing on

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[28] (...continued)
event that the Commission finds a different domestic like product or products than it has in prior investigations, it should provide a reasoned explanation of its decision. Id.

[29] CR at I-9-I-10, PR at I-7-I-8; CR, PR at D-3-D-7.

[30] Tr. at 74-78 (various witnesses); CR, PR at D-11-D-14.

[31] CR at I-9, PR at I-7.

[32] CR at I-12, PR at I-9.

[33] CR at I-11, PR at I-9; CR, PR at D-11-D-14.

[34] CR, PR at Table I-2 (approximately 85 percent to 15 percent for corrosion-resistant product versus 70 percent to 30 percent for black product). The mere fact that a number of these distributors do not sell corrosion-resistant LWR pipe and tube, as Respondents Prolamsa contend, is consistent with the fact that U.S. production is mostly of black LWR pipe and tube. The questionnaire responses gathered in the final phase indicate that of the 23 responding purchasers, six buy both black and corrosion-resistant LWR pipe and tube, three buy only corrosion-resistant, and the remainder buy only black.

[35] See CR at I-9-I-10, PR at I-8.

and off as needed, and such production capability is primarily used to make conduit rather than LWR pipe and tube.[36]

LWR pipe and tube is generally perceived by domestic producers as a single, distinct category of welded carbon pipe and tube.[37] The perception of Galvak, which Prolamsa states it shares, is one of separate like products based on corrosion resistance qualities. Purchasers' perceptions appear shaped by the intended use of the particular LWR pipe and tube.[38]

Corrosion-resistant LWR pipe and tube is a higher-value product than black LWR pipe and tube. During the period of investigation, average unit values for domestically produced corrosion-resistant product ranged from *** percent to *** percent higher than for domestically produced black product.[39] However, as the Commission noted in its preliminary determinations, there exist wide differences in price among various LWR pipe and tube products. The Commission highlighted examples such as very thin LWR pipe and tube made from cold-rolled steel; LWR pipe and tube with an acryllic coating; and LWR pipe and tube produced in nonstandard lengths.[40]

Black and corrosion-resistant pipe and tube therefore share significant commonality in terms of physical characteristics, applications, channels of distribution, and production facilities, processes and employees. There are differences between the two, due to the corrosion-resistant coating, that limit interchangeability and result in purchaser preferences for corrosion-resistant product in certain circumstances and black product in others. The corrosion-resistant product is also higher priced. However, these differences are not inconsistent with a continuum of LWR pipe and tube product of which corrosion-resistant forms one part. On balance, therefore, we find that black and corrosion-resistant LWR pipe and tube do not constitute separate like products.[41] Accordingly, we define the domestic like product as all LWR pipe and tube, coextensive with the scope.

III. DOMESTIC INDUSTRY

The domestic industry is defined in the Act as "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."[42] In its preliminary determinations, the Commission

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[36] Tr. at 73 (Mr. Schagrin, counsel to Petitioners). There is evidence in the record of purchasers of black LWR pipe and tube contracting with independent galvanizers to hot-dip fabricated black LWR pipe and tube for the purchasers' use. See, e.g., Questionnaire Response of *** at II-10.

[37] No party has argued for a broadening of the domestic like product beyond the scope to include other carbon welded pipe and tube products.

[38] CR, PR at D-5-6, 13-14. Industry standards are also tied to uses rather than corrosion resistence (mechanical, which for specification purposes includes ornamental, and structural). CR at I-8-I-9, PR at I-7.

[39] CR, PR at Table I-3.

[40] USITC Pub. 3644 at 7, citing Petitioners' Postconference Brief Exh. 4.

[41] Cf. Steel Wire Rope from China and India, 731-TA-868-869 (Final), USITC Pub. 3406 (March 2001), in which the Commission rejected a respondent's contention that galvanized carbon steel wire rope constitutes a separate like product from bright carbon steel wire rope due to differences in the two created by corrosion resistance. The Commission found no clear dividing line and defined three types of rope, galvanized carbon steel wire, bright carbon steel wire, and stainless steel wire rope, as one like product for purposes of those investigations. USITC Pub. 3406 at 6-8.

[42] 19 U.S.C. § 1677(4)(A). 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. See 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).

defined the domestic industry to include all domestic producers of LWR pipe and tube.[43] Consistent with our single domestic like product finding in the final phase, we define the domestic industry to include all domestic producers of LWR pipe and tube.[44]

IV. CUMULATION[45]

A. In General

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, section 771(7)(G)(i) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the U.S. market.[46] In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors, including:

(1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
(2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
(3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
(4) whether the subject imports are simultaneously present in the market.[47]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.[48] Only a "reasonable overlap" of competition is required.[49]

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[43] USITC Pub. 3644 at 7-8.

[44] Current known U.S. producers are identified in CR, PR at Table III-1. The domestic industry includes ***, which is owned by a joint venture one of whose partners also imports LWR pipe and tube from Turkey. CR at III-4, PR at III-3. No party argues for *** exclusion from the domestic industry under the Act's related parties provision, 19 U.S.C. § 1677(4)(B)(ii)(II), and the record under the circumstances contains insufficient evidence to establish the requisite control in that business relationship to qualify *** as a related party.

[45] Negligibility is not an issue in these investigations. Subject imports from each country accounted for more than three percent of the volume of all LWR pipe and tube imported into the United States in the most recent twelve-month period for which data are available preceding the filing of the petition. USITC Pub. 3644 at 8 (50.8 percent and 11.7 percent, respectively, for subject imports from Mexico and Turkey).

[46] 19 U.S.C. § 1677(7)(G)(i). None of the statutory exceptions to cumulation applies in these investigations. 19 U.S.C. § 1677(7)(G)(ii).

[47] See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

[48] See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

[49] The Statement of Administrative Action for the Uruguay Round Agreements Act ("SAA") expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." SAA, H.R. 316, 103d Cong., 2d Sess., vol. I at 848 (1994), citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988), aff'd 859 F.2d 915 (Fed. Cir.

(continued...)

In the preliminary phase, the Commission cumulated subject imports from Mexico and Turkey.[50] Petitioners argue that the record in the final phase supports cumulation.[51] Respondents make no argument against cumulating subject imports for purposes of the Commission's present material injury analysis.[52]

B. Analysis

The conditions for cumulating subject imports from Mexico and Turkey have been satisfied. The petition was filed with respect to both countries on the same day with Commerce and the Commission and, based on the record in the final phase of these investigations, we find that there is a reasonable overlap of competition among subject imports and between subject imports from each country and the domestic like product.

First, there is a high degree of fungibility among subject imports from Mexico, Turkey, and the domestic like product. Subject imports and domestically produced LWR pipe and tube typically conform to applicable industry specifications set by such organizations as ASTM and the American Society for Mechanical Engineers (ASME).[53] The vast majority of domestic product and subject imports from Mexico, and apparently all of the subject imports from Turkey, are black LWR pipe and tube.[54] There is agreement among the parties that subject imports and domestically produced LWR pipe and tube are generally commodity products and are interchangeable.[55]

Approximately *** percent of subject imports from Mexico were corrosion-resistant LWR pipe and tube.[56] Such higher-value products are also made domestically, with four U.S. producers reporting the production of corrosion-resistant LWR pipe and tube.[57]

The majority of U.S. producers and purchasers of black LWR pipe and tube reported in their questionnaire responses that subject imports from Mexico and Turkey were "always" or "frequently" interchangeable with the domestic product and each other; most U.S. importers reported that such imports

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[49] (...continued)
1988). See Goss Graphic System, Inc. v. United States, 33 F. Supp. 2d 1082,1087 (Ct. Int'l Trade 1998) ("cumulation does not require two products to be highly fungible"); Mukand Ltd., 937 F. Supp. at 916; Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

[50] USITC Pub. 3644 at 9-11.

[51] Prehearing Brief of Petitioners at 11-13.

[52] Mexican Respondents, on the other hand, request that the Commission exercise its discretion not to cumulate subject imports for purposes of any threat analysis.

[53] CR at I-9 n. 15, PR at I-7 n. 15 (citing in particular ASTM specifications A-513 (mechanical) and A-500 (structural tubing)).

[54] In 2003, for example, *** percent (*** short tons) of U.S. producers' U.S. shipments and *** percent (*** short tons of U.S. imports from Mexico were of black LWR pipe and tube. CR, PR at Tables III-4, IV-4. Turkey reported no U.S. imports of corrosion-resistant LWR pipe and tube during the period of investigation. CR at IV-5, PR at IV-3.

[55] CR at I-11, PR at I-9.

[56] CR, PR at Table IV-3.

[57] CR at I-10, PR at I-9; CR, PR at Table III-1. Together these producers accounted for *** percent of domestic production of LWR pipe and tube in 2003. CR, PR at Table III-1. Before questionnaire responses in the final phase were received, Mexican Respondents contended that preprimered LWR pipe and tube were a niche product on which subject imports from Mexico faced little competition in the U.S. market. The data reveal that, to the contrary, the U.S. producers produce and ship significant quantities of this preprimered product. CR at IV-6, PR at IV-6-IV-7; CR, PR at Table VI-6.

were "frequently" interchangeable with the domestic product and with each other.[58] With respect to corrosion-resistant LWR pipe and tube, the majority of U.S. producers and importers reported in their questionnaire responses that subject imports were "always" or "frequently" interchangeable with the domestic product. The majority of U.S. purchasers reported that the corrosion-resistant product imported from Mexico is "always" interchangeable with that produced domestically.[59] Considerations of fungibility thus favor cumulation.

With respect to the second factor, geographic markets, U.S. producers shipped LWR pipe and tube throughout the United States, with more balance among the four major geographic regions (East, Gulf, Midwest, and West) than that exhibited by U.S. importers of subject imports. For example, in 2003, approximately *** percent of total U.S. shipments by U.S. producers were to the West, *** percent to the Midwest, *** percent to the Gulf, and *** percent to the East.[60] The share of U.S. producers' U.S. shipments of black LWR pipe and tube followed the same regional trend (with the highest amount sold in the West and lowest amount in the East).[61] U.S. producers' U.S. shipments of corrosion-resistant LWR pipe and tube were highest in the West on a short-ton basis, but as a share of overall shipments the ratio of corrosion-resistant to black product was highest in the East.[62] Both black and corrosion-resistant product were shipped by U.S. producers to every region of the country during the period of investigation.[63]

Shipments of subject imports from Mexico and Turkey showed the highest concentration in the Gulf. In 2003, approximately *** percent of subject imports from Mexico, and *** percent of subject imports from Turkey, were shipped to the Gulf. The second highest concentration of U.S. shipments of subject imports from Mexico were to the East (approximately *** percent in 2003), while for Turkey that region was the Midwest (approximately *** percent in 2003). U.S. shipments of subject imports from Mexico and Turkey, however, were present in the four major regions throughout the period of investigation.[64]

The record thus demonstrates that subject imports from Mexico and Turkey and the domestic product were each marketed and sold in common geographic regions. While U.S. producers' U.S. shipments tended to be concentrated in the West and those of subject imports more concentrated in the Gulf, we find a reasonable geographical overlap of competition.

In terms of channels of distribution, U.S. producer and importer shipments of LWR pipe and tube within the United States were far more likely to go to distributors than to end users between January 2001 and June 2004. For U.S. producers, shipments of LWR pipe and tube to distributors accounted for between 71 percent and 76 percent of total annual shipments during the period of investigation. For subject imports from Mexico, between 68 percent and 82 percent of total annual shipments were to distributors in the same period. U.S. shipments to distributors accounted for between 88 percent and 100 percent of total annual shipments of subject imports from Turkey.[65] We therefore find a substantial overlap in the channels through which subject imports and the domestic product are distributed in the United States.

Finally, subject imports and the domestic like product were simultaneously present in the U.S. market. U.S. producers shipped domestic product to their customers in this market throughout the period

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[58] CR at II-12-II-14, PR at II-8-II-10; CR, PR at Table II-4.

[59] CR at II-14, PR at II-8; CR, PR at Table II-4.

[60] CR, PR at Table IV-4.

[61] CR, PR at Table G-4.

[62] CR, PR at Tables G-3 & G-5.

[63] CR, PR at Tables G-4 & G-5.

[64] CR, PR at Table IV-4.

[65] CR, PR at II-1 & Table I-2.

of investigation.[66] Subject imports from Mexico were recorded in every month of the same period. Subject imports from Turkey were recorded in 6 months in 2001, 10 months in 2002, every month in 2003, and 5 of the 6 months of the interim period, January to June 2004.[67]

Based on the record in the final phase, we therefore find a reasonable overlap of competition among subject imports from Mexico and Turkey and between subject imports and the domestic like product. Consequently, we cumulate subject imports from Mexico and Turkey for the purpose of analyzing whether the domestic industry is materially injured by reason of subject imports.

V. NO MATERIAL INJURY BY REASON OF CUMULATED SUBJECT IMPORTS

In the final phase of antidumping investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.[68] In making this determination, the Commission must consider the volume of 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.[69] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[70] In assessing whether 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.[71] 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."[72]

A. Conditions of Competition

LWR pipe and tube is an intermediate product with many end-use applications. Uses cited by questionnaire respondents included fences, gates, hand rails, furniture, sports equipment, automotive equipment, material handling equipment, scaffolding, agricultural equipment, machine parts, carports, and trailors. Demand for LWR pipe and tube is closely linked to the demand for such end-use products.[73]

Overall, apparent U.S. consumption of LWR pipe and tube, a proxy for demand, increased *** percent between 2001 and 2003. Apparent U.S. consumption increased *** percent between 2001 and 2002 before declining *** (*** percent) in 2003, attributed to a then-sluggish economy.[74] Most recently, apparent U.S. consumption showed a *** percent increase in the first half of 2004 relative to the first half of 2003.[75] Some questionnaire respondents reported demand declines, but this appears to be a matter of

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[66] CR, PR at Table IV-4.

[67] CR, PR at Table IV-5.

[68] 19 U.S.C. § 1673d(b).

[69] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . [a]nd explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B). See also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

[70] 19 U.S.C. § 1677(7)(A).

[71] 19 U.S.C. § 1677(7)(C)(iii).

[72] Id.

[73] CR at II-1, II-5, PR at II-1, II-3.

[74] CR, PR at Table C-1.

[75] CR, PR at Table C-1.

perception rather than fact.[76] Data on the record show that apparent consumption increased overall during the period of investigation.[77]

The domestic industry supplied more than *** percent of the U.S. market during the period of investigation;[78] its share of the market declined somewhat between 2001 and 2003, and between interim 2003 and interim 2004. Several domestic production facilities closed during the period of investigation, although overall industry capacity increased.[79] Domestic capacity utilization increased *** percentage points from 2001 to 2003, and increased further in interim 2004 as compared to interim 2003.[80]

In 2001, the Commission conducted a safeguard investigation of steel products (Inv. No. TA-201-73) that included the type of LWR pipe and tube subject to these investigations. Flat-rolled carbon steel, the primary input for LWR pipe and tube, was also subject to this Section 201 investigation.[81] Following affirmative determinations of serious injury and remedy recommendations by the Commission, President Bush imposed an additional *ad valorem* tariff of 15 percent on certain welded (including LWR) pipe and tube imports in the first year, commencing March 20, 2002, 12 percent in the second year, and nine percent in the third year.[82] The President also placed *ad valorem* duties on flat-rolled carbon and alloy steel that were higher than the duties on LWR pipe and tube (30 percent, 24 percent, and 18 percent, in the first, second, and third year, respectively).[83] The President terminated the Section 201 remedies in December 2003.[84]

Cumulated subject imports and nonsubject imports each started the investigation period with approximately *** percent of the U.S. market. During the period the market share of subject imports increased somewhat, whereas the market share of nonsubject imports decreased somewhat.[85] Subject imports from Mexico and Turkey, as noted above, were not covered by the Section 201 duties.[86] The share of apparent U.S. consumption of nonsubject imports from sources subject to Section 201 (or other)

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[76] CR at II-5-II-6, PR at II-3. See also Tr. at 114-117 (various witnesses).

[77] CR at II-6, PR at II-3. We see no evidence of a discrete business cycle for this industry, nor have Petitioners (who emphasized the significance of this consideration) pointed us to one, other than to indicate that apparent U.S. consumption over the period of investigation has increased. Demand in this industry is derived from demand for the various products' end uses, which may be impacted by various sectors of the economy.

[78] CR, PR at Table C-1 (a full-year range of *** percent (2002) to *** (2001)).

[79] CR, PR at Table III-2. Excaliber Tube filed for bankruptcy in July 2001; Copperweld closed its Piqua, Ohio, mill in mid-2002; Olympic Steel Tube closed in mid-2002; and Maverick Tube closed its Youngstown, Ohio, pipe mill in February 2003. CR at III-8, PR at III-5.

[80] CR, PR at Table III-2.

[81] CR, PR at V-1.

[82] CR, PR at Table I-1; Steel: Monitoring Developments of the Domestic Industry, Investigation No. TA-204-9,USITC Pub. 3632, Volume I: Executive Summaries and Investigation No. TA-204-9 (Part I) (Overview, Flat and Long Products), ("Steel, USITC Pub. 3632") at Overview I-5. The safeguard remedies were global, with certain countries excluded from the relief, including Canada, Israel, Jordan, Mexico, and most developing countries. Turkey was excluded except for its imports of rebar. Steel, USITC Pub. 3632 at Overview I-6.

[83] Steel, USITC Pub. 3632 at Overview I-5.

[84] Presidential Proclamation 7741 of December 4, 2003; 68 Fed. Reg. 68483 (Dec. 8, 2003).

[85] CR, PR at Table IV-8.

[86] CR, PR at Table I-1.

duties[87] declined from 2001 to 2003, whereas the share of apparent U.S. consumption of nonsubject imports from sources not subject to Section 201 (or other) duties increased from 2001 to 2003.[88]

Domestic producers and importers commented in these investigations on the steel safeguard program and consolidation in the domestic steel industry. The consolidation of the domestic industry and the developing shortages of raw materials worldwide reportedly resulted in increasing shortages and escalating steel prices, especially in 2004.[89] A number of market participants cited surging Chinese demand for flat-rolled steel as a main reason for the tightness in supply of raw materials to make LWR pipe and tube.[90] For the domestic LWR pipe and tube industry, which does not manufacture steel, raw material costs account for a significant share of the cost of producing the domestic like product.[91]

LWR pipe and tube is largely a commodity product that must meet common ASTM standards regarding materials, dimensions, and testing. Domestically produced LWR pipe and tube and the imported product are considered interchangeable, with both being able to meet customer specifications.[92]

Subject corrosion-resistant LWR pipe and tube as well as other high-value LWR pipe and tube products are marketed in the United States. As noted above, however, the vast majority of domestic production and subject imports from Mexico, and apparently all of the subject imports from Turkey, are of black LWR pipe and tube.[93]

B. Volume

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."[94]

Cumulated subject import volume increased from 113,135 short tons in 2001 to 183,160 short tons in 2002 before leveling off in 2003 (183,656 short tons); cumulated subject import volume was 94,540 short tons in the first half of 2004 compared to 88,562 short tons in the first half of 2003.[95]

Subject imports' U.S. shipment volume relative to consumption in the United States increased from *** percent in 2001 to *** percent in 2002, leveled off in 2003 (***), and was *** percent in the first half of 2004 compared to *** percent in the first half of 2003.[96] The domestic industry's market share declined *** percentage points between 2001 and 2002 (from *** percent to *** percent), before

[87] The data on imports covered by Section 201 duties include Argentina, which was covered by antidumping duties during the period examined, although it was excluded from the Section 201 duties as a developing country. We note that Taiwan was covered by both antidumping and Section 201 duties. Singapore was covered by the Section 201 duties and by antidumping duties until mid-2000. CR at I-3, PR at I-2; CR, PR at Table IV-2.

[88] CR, PR at Table IV-8. Canada and to a lesser extent Brazil accounted for almost all nonsubject imports that were not covered by Section 201 duties or other remedies during the period of investigation. CR, PR at Table IV-2 n. 2.

[89] CR, PR at V-2.

[90] Raw material shortages and rising costs are worldwide conditions. CR, PR at App. F.

[91] CR, PR at V-1.

[92] CR at I-11, PR at I-9.

[93] In 2003, for example, *** percent (*** short tons) of U.S. producers' U.S. shipments and *** percent (*** short tons of U.S. imports from Mexico were of black LWR pipe and tube. CR, PR at Tables III-4, IV-4.

[94] 19 U.S.C. § 1677(7)(C)(i).

[95] CR, PR at Table IV-2.

[96] CR, PR at Table IV-8.

recovering *** percentage points in 2003 (*** percent), and was *** percent in the first half of 2004 as compared to *** percent in the first half of 2003.[97]
Nonsubject import market share declined from *** percent in 2001 to *** percent in 2003, and was *** percent in the first half of 2004 as compared to *** percent for the same period in 2003.[98]

Subject import volume relative to production in the United States increased from *** percent in 2001 to *** percent in 2002 before leveling off in 2003 (*** percent), and was *** percent in the first half of 2004 compared to *** percent in the first half of 2003.[99] Nonsubject import volume relative to production in the United States declined from *** percent to *** percent, and was *** percent in the first half of 2004 compared to *** percent for the same period in 2003.[100]

The above data show that the volume of subject imports, both in absolute and relative terms, was significant over the period of investigation.[101] However, the increase in subject import volume must be viewed in the context of prevailing conditions that included demand increases and domestic production and shipment increases over the period of investigation, even while imports increased. Moreover, the bulk of subject import volume increases took place in the first part of the period examined (between 2001 and 2002). Absolute and relative subject import volume was flat in 2002 and 2003 and increased modestly between the interim periods. This volume trend thus commenced well before the petition was filed. As discussed further below, we do not find that the filing of the petition had a significant effect on exporters' shipments; to the contrary, the subject import volume rose somewhat after the petition's filing.

C. Price Effects of Cumulated Subject Imports

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[102]

As discussed above, LWR pipe and tube is largely a commodity product that is commonly produced to ASTM specifications, and there exists a high degree of fungibility between domestic product and subject imports. Price plays an important role in sales of LWR pipe and tube; it was cited most frequently as the primary factor in purchasing decisions in responses to purchasers' questionnaires.[103]

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[97] CR, PR at Table IV-8.

[98] CR, PR at Table IV-7. As noted above, nonsubject imports not subject to Section 201 or other duties increased market share between 2001 and 2003, while those subject to Section 201 or other duties lost market share in the same period. CR, PR at Table IV-8.

[99] CR, PR at Table IV-9.

[100] CR, PR at Table IV-9.

[101] Commissioner Pearson concurs that the volume of subject imports, in absolute terms, was significant over the period of investigation.

[102] 19 U.S.C. § 1677(7)(C)(ii).

[103] CR, PR at Table II-1.

The Commission collected quarterly weighted-average price information from U.S. producers and importers from January 2001 through June 2004 on six standard LWR pipe and tube products.[104] Pricing data reported by the producers accounted for approximately 83 percent of U.S. producers' commercial shipments during 2003. Reported data for subject imports accounted for 100 percent of those imports in 2003.[105]

Based on the record evidence, we find that subject imports significantly undersold the domestic like product, but did not depress or suppress domestic prices to a significant degree. Price comparisons between U.S.-produced LWR pipe and tube and cumulated subject imports were possible in a total of 75 instances. In 61 instances, cumulated subject imports undersold the domestic product, by margins ranging from 0.7 percent to 34.3 percent. In 14 instances, the domestic product undersold cumulated subject imports, by margins ranging from 0.6 percent to 21.8 percent.[106]

Despite the existence of such underselling, however, subject imports have not had a significant adverse impact on domestic prices. Domestic prices did not exhibit a downward trend during the period of investigation. For products 1 through 5, average quarterly prices for U.S. producers fell somewhat in 2001, and then rose fairly steadily (with some fluctuations) through the final quarter of 2003 (in each instance demonstrating an ultimate increase over the three year period), before soaring in the first two quarters of 2004.[107] Product 6 data reveal a fairly steady downward trend for reported U.S. producers' prices through the second quarter of 2003, followed by a substantial recovery in the last two quarters of 2003, and increases in the first two quarters of 2004 that resulted in the highest prices during the period of investigation for U.S. producers.[108] Thus, while prices fluctuated, there were no price declines overall for these products. Therefore we find no significant price depression.

Nor were domestic price increases significantly suppressed by lower-priced subject imports. The evidence demonstrates that U.S. producers raised prices in every year between 2001 and 2003, and that they raised them dramatically in 2004. Changes in costs of goods sold (COGS) were largely driven by raw material costs. Raw material costs increased throughout the period of investigation, as did average unit values of sales. Such unit values kept pace with raw material costs in 2002 but rose at a slower rate than raw material costs in 2003.[109] The reverse was true in interim 2004. The increase in the average unit value of sales far outpaced the increase in unit raw material costs between the first half of 2003 and the first half of 2004.[110]

COGS as a ratio to net sales decreased between 2001 and 2002, before increasing in 2003, and then declined between the interim periods.[111] The overall increase in this ratio between 2001 and 2003 was not significant. Moreover, in the most recent period, COGS as a ratio to net sales declined again,

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[104] CR, PR at Tables V-1-V-6.

[105] CR at V-6, PR at V-5.

[106] See Staff Tables 1-4 (Sept. 28, 2004), compiled from pricing data appearing in CR, PR at Tables V-1-V-4; CR, PR at Tables V-5-V-6 (these products were imported from Mexico but not Turkey).

[107] CR, PR at Tables V-1-V-5 & Figure V-3 (graphs depicting trends).

[108] CR, PR at Table V-6 & Figure V-3. Product 6 was imported from Mexico but not Turkey. We note that the quarterly average prices for imports of this product from Mexico were higher than the quarterly average prices for U.S. producers from the second quarter of 2002 through the second quarter of 2004. CR, PR at Table V-6 & Figure V-3. Thus, U.S. producers' prices were falling even while imports from Mexico were being sold at higher prices, which further indicates that domestic prices did not fall in response to subject import price movements.

[109] CR, PR at Table C-1 (unit values increased *** percent while unit COGS increased *** percent in 2003).

[110] CR, PR at Table C-1 (unit values were *** percent higher in interim 2004 than interim 2003 while unit COGS were *** percent higher in interim 2004 than interim 2003).

[111] CR, PR at Table VI-1 (*** percent in 2001 to *** percent in 2002 and then to *** percent in 2003; *** percent in interim 2004 as compared to *** percent in interim 2003).

even though subject import volumes were higher than they had been in the corresponding period in 2003.[112]

The reported average prices for the subject imports remained below the reported average prices for the domestic product for most of the product sold during the most recent period.[113] Nevertheless, U.S. producers succeeded in obtaining price increases that far exceeded increases in raw material costs. The domestic industry's ability to realize such price increases in the face of a significant volume of lower-priced subject imports confirms that subject imports did not restrict the U.S. producers' ability to raise prices to recover increased costs.

Petitioners argue that the pendency of the investigations accounts for the domestic industry's ability to realize price increases, and that we should therefore discount the 2004 data in our analysis.[114] We decline to do so as we do not find that the domestic industry's price increases are attributable to any significant degree to the filing of the petition or the pendency of the investigations. The domestic industry's LWR pipe and tube price increases in the first quarter of 2004 predated Commerce's preliminary determinations in these investigations, and occurred at a time when subject import volume was higher than it had been in the comparable period in 2003.[115] There is no credible evidence that exporters were reducing shipments in response to the petition, or that the market was influenced by the petition's filing. Indeed, when asked to explain the price increases in 2004, not one U.S. producer identified the petition's filing or the pendency of the investigations as a factor.[116] Moreover, the record shows that domestic producers raised prices for *both* subject and nonsubject merchandise (*i.e.*, other welded pipe and tube products), indicating that factors other than the investigations were responsible for the price increases.[117] Domestic price trends in these investigations broadly reflected trends in raw material costs.[118] Such costs appear to have dwarfed other factors in explaining the domestic price movements evidenced in these investigations.

Finally, the Commission was unable to confirm a single allegation of lost revenue by Petitioners, and of their 21 lost sales allegations, 20 were either denied or unverified.[119] While we appreciate that proof of lost sales and lost revenues may be harder to demonstrate in certain market conditions, this virtual absence of direct evidence of U.S. producers lowering their prices to maintain orders, or losing sales to subject imports, further supports our conclusion in these investigations that subject imports have not had a significant adverse impact on domestic prices.

In sum, while the record indicates significant underselling by subject imports during the period of investigation, subject imports have not depressed or suppressed domestic prices to a significant degree. Accordingly, we find that subject imports have not had significant adverse effects on domestic prices during the period of investigation.

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[112] CR, PR at Tables IV-2, VI-1.

[113] CR, PR at Tables V-1-V-6.

[114] E.g., Posthearing Brief of Petitioners at 11-14, citing SAA comments on 19 U.S.C. § 1677(7)(I).

[115] CR, PR at Table IV-4.

[116] CR, PR at F-16-F-18 (compiling responses to Commission staff's inquiry regarding explanation for price increases in 2004). Petitioners first asserted such a connection in these investigations when counsel filed their prehearing brief.

[117] E.g., Prehearing Brief of Galvak and Hylsa at Atts. 3-4.

[118] CR, PR at Figures V-1, V-3.

[119] CR, PR at Tables V-7-V-9. Purchasers responded to Commission staff's inquiries with respect to 10 alleged lost sales, and denied nine of those allegations.

D. Impact

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.[120] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[121] [122]

We find that subject imports did not have a significant adverse impact on the domestic industry's performance. As noted above, apparent U.S. consumption increased *** percent between 2001 and 2002 before declining *** percent in 2003, attributed to a then-sluggish economy.[123] Most recently, apparent U.S. consumption rose *** percent in the first half of 2004 relative to the first half of 2003.[124] The domestic industry was profitable throughout the period of investigation and, moreover, most indicators of its condition showed improvement during the period of investigation. Additionally, the domestic industry finished with a strong performance in interim 2004 as compared to interim 2003.

While the domestic industry's output did not keep pace with the overall consumption increase, the record in the final phase does not demonstrate material injury by reason of subject imports.[125] Domestic output increased *** percent between 2001 and 2003 (from *** short tons to *** short tons), and was *** percentage points higher in the first half of 2004 than in the first half of 2003 (*** short tons as compared to ***).[126] Capacity utilization increased *** percentage points between 2001 and 2003 and was *** percentage points higher in interim 2004 relative to interim 2003, while capacity remained fairly

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[120] 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851, 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." Id. at 885.).

[121] 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 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25 n. 148.

[122] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii) (V). In its final affirmative determination for Mexico, Commerce determined dumping margins as follows: Prolamsa, 6.08 percent; Perfiles y Herrajes (LM), 14.45 percent; Galvak/Hylsa, 17.46 percent; Regiomontana, 6.36 percent; and an "all others" margin of 11.23 percent. 69 Fed. Reg. at 34132. In its final affirmative determination for Turkey, Commerce determined dumping margins as follows: Guven, 34.89 percent; Onur Boru Profil Uretim (MMZ), 6.12 percent; Ozborsan/Onur Metal, 34.89 percent; Ozdemir, 34.89 percent; and an "all other" margin of 6.12 percent. 69 Fed. Reg. at 53676-678.

[123] CR, PR at Table C-1.

[124] CR, PR at Table C-1.

[125] Nothing in the statute indicates that the failure of the industry to capture a certain proportional share of all of the growth in consumption for the product is a *per se* indication of material injury. Indeed, the statute, 19 U.S.C. § 1677(7)(E)(ii), instead notes that the presence or absence of any factor that we are required to evaluate shall not necessarily give decisive guidance. We have fully considered the domestic industry's performance in the context of the growth in consumption and, as explained above, do not find on the record in these investigations that subject imports have had a significant adverse impact on the domestic industry.

[126] CR, PR at Table C-1.

stable.[127] While the overall capacity utilization seems modest (approximately *** percent), the domestic industry has apparently operated at this type of level since the early 1980s.[128]

In addition, U.S. shipment volumes increased *** percent between 2001 and 2003 (from *** short tons to *** short tons) and the domestic industry shipped *** short tons in the first half of 2004 as compared to *** short tons in the same period in 2003.[129] Shipment average unit values also increased during the period of investigation (*** percent between 2001 and 2003 and *** percent in interim 2004 as compared to interim 2003).[130] Domestic inventory volume was generally stable, resulting in a decreasing ratio of inventories to total shipments throughout the period of investigation.[131]

Employment indicators showed gains overall between 2001 and 2003, with the number of workers, hours, and wages increasing. The number of workers increased from *** in 2001 to *** in 2003, but was *** in interim 2004 as compared to *** in interim 2003. Hours worked were *** percent lower in interim 2004 as compared to interim 2003, while wages increased in the same comparison.[132] Productivity increased throughout the period of investigation.[133]

Although the industry's financial performance showed some declines in 2003 as compared to 2002, when apparent U.S. consumption dipped for the only time in the period of investigation and raw material costs continued to climb, the industry still remained profitable and its performance improved dramatically in interim 2004. Operating income increased between 2001 and 2002 (from $*** million to $*** million), but fell between 2002 and 2003, to below the operating income level in 2001 ($*** million).[134] Operating income on a per unit basis followed the same trend (increasing *** percent between 2001 and 2002 and declining *** percent between 2002 and 2003).[135] Operating margins increased from *** percent in 2001 to *** percent in 2002, before declining to a still positive *** percent in 2003.[136] Operating income in interim 2004 was well above that in interim 2003, $*** million in interim 2004 as compared to $*** million in interim 2003.[137] Operating income on a per unit basis increased in interim 2004 as compared to interim 2003, rising from $*** to $***.[138] Operating margins increased *** percentage points in interim 2004 as compared to interim 2003, rising from *** percent to *** percent.[139]

Of fifteen responding companies, operating losses during the period of investigation were reported by *** companies in 2001, *** in 2002, *** in 2003, and none in interim 2004.[140] The domestic

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[127] CR, PR at Table C-1. The domestic industry's overall capacity increased *** percent between 2001 and 2003 (approximately *** thousand short tons), but was *** percent lower in interim 2004 than in interim 2003.

[128] E.g., CR at III-8 n. 24, PR at III-5 n. 24. Accordingly, we have given less weight to the absolute level of capacity utilization, and more weight to the changes in utilization that occurred over the period of investigation.

[129] CR, PR at Table III-3.

[130] CR, PR at Table C-1.

[131] CR, PR at Table III-6.

[132] CR, PR at Table III-7.

[133] CR, PR at Table III-7 & C-1 (*** percent between 2001 and 2003, and *** percent in comparing interim 2004 to interim 2003).

[134] CR, PR at Table VI-1.

[135] CR, PR at Table C-1.

[136] CR, PR at Table VI-1.

[137] CR, PR at Table C-1.

[138] CR, PR at Table C-1.

[139] CR, PR at Table VI-1.

[140] CR, PR at Table VI-1.

industry's return on investment between 2001 and 2003 did not fall below *** percent.[141] Capital expenditures and research and development expenses increased between 2001 and 2003, and were lower in interim 2004 as compared to interim 2003.[142]

Thus, the domestic industry as a whole[143] operated profitably throughout the period of investigation, including in 2003, and made dramatic gains in interim 2004 as compared to interim 2003.[144]

The domestic industry's improved operating results are attributable in part to the increase in average unit sales values noted above. While these increases did not keep pace with the average unit costs of raw materials in 2003, the opposite was true in interim 2004, when such values rose at a much faster rate than did the average unit costs of raw materials. That sales values rose faster than average unit steel costs when comparing the interim periods cannot be completely attributed to inventory accounting methods that lead to a three to four month lag in matching costs with sales. Thus, despite Petitioners' contention that the industry's profitability in interim 2004 is distorted by the effect of a first in/first out (FIFO) inventory accounting in calculating operating income,[145] U.S. producers were able to raise sales prices faster in 2004 than increases in steel costs.[146]

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[141] CR, PR at Table VI-9.

[142] CR, PR at Table VI-8.

[143] The Act directs the Commission to focus on the domestic industry "as a whole," not on individual firms in the industry. See, e.g., Timken Co. v. United States, — F. Supp. 2d—, Slip Op. 04-17 (February 25, 2004) at 13 n. 2 ("The purpose of the antidumping statute . . . is to protect United States industries not specific corporations from unfair behavior by foreign competitors."); Calabrian Corp. v. United States, 794 F. Supp. 377, 385-86 (Ct. Int'l Trade 1992) ("This Court has repeatedly affirmed . . . .that 'Congress intended the ITC determine whether or not the domestic industry (as a whole) has experienced material injury due to the imports. This language defies the suggestion that the ITC must make a disaggregated analysis of material injury.'" quoting Copperweld Corp. v. United States, 682 F. Supp. 552, 569 (Ct. Int'l Trade 1988) (other citations omitted)). Cf. Altx Inc. v. United States, Slip Op. 02-65 at 17 (Ct. Int'l Trade July 12, 2002) ("[T]he statutory directive to analyze the industry "as a whole" compels an evaluation of all material factors raised by the parties that would render a more accurate reading of the health of the industry.").

[144] Petitioners have argued that the companies with the greatest proportion of their sales in the Gulf region have suffered the most from subject imports. Prehearing Brief of Petitioners at 26. Petitioners do not claim that the regional industry provision of the statute (19 U.S.C. § 1677(4)(C)) is applicable to these investigations, and the record would not support such a conclusion. We have therefore considered the domestic industry as whole, while taking into consideration all factors that might reflect upon the health of the industry. See n. 143 supra. In any event, of the companies cited by Petitioners as having a high proportion of sales in the Gulf region, the two largest showed *** operating margins in all periods, and the remaining three, which showed mixed results, accounted for less than *** percent of net sales of the domestic industry in 2003. Moreover, the unit sales values of the producers cited by Petitioners were not generally lower in the Gulf than in other regions. See CR, PR at Tables VI-2 & G-12. See also Posthearing Brief of Prolamsa Exh. 1 at 4-9.

[145] Posthearing Brief of Petitioners at A-4-A-10 & Exh. 12. Mexican Respondents responded that a recalculation of profitability to adjust for a FIFO effect in costing raw materials would not change the overall trend, and that the domestic industry was remarkably profitable under any calculation. Posthearing Brief of Galvak and Hylsa at 7 & Att. 4.

[146] CR at VI-15-VI-16, PR at VI-4-VI-5. See CR, PR at Figure III-1. Compare CR, PR at Tables VI-3, VI-4 (between interim 2003 and interim 2004, industry purchase cost of hot-rolled and cold-rolled steel sheet rose by $***/short ton and $***/short ton respectively) with Table VI-1 (between interim 2003 and interim 2004, unit value of industry commercial net sales rose by $***).

Petitioners set forth an alternative methodology for calculating industry profitability in light of the fact that the inventory cost flow assumption for some domestic producers is FIFO.[147] Mexican Respondents proffered their own rosier alternative.[148] Commission staff explored a third alternative, but ultimately cautioned against reliance on a calculation of industry profitability other than as identified in Table VI-1 of the Staff Report.[149] None of the alternative calculations is in accordance with Generally Accepted Accounting Principles (GAAP), or reconcilable with the firms' actual books and records as prepared in accordance with the particular firm's chosen accounting methodology.[150] The profitability data cited above upon which we rely, in contrast, were provided by the firms themselves in response to Commission questionnaires, were certified by officials of those firms, and comply with GAAP. Finally, we note, each of the alternative calculations confirms the same general trend identified in Table VI-1 of the Staff Report, that of an industry that suffered some profitability decline between 2002 and 2003, but remained profitable throughout and has become more robust in the most recent period.[151]

In light of our finding that subject imports have not suppressed or depressed prices to a significant degree, the lack of correlation between subject imports and any financial performance declines experienced by the domestic industry, and the overall positive condition of the domestic industry in the period of investigation, we do not find that subject imports have had a significant adverse impact on the domestic industry.[152]

VI. NO THREAT OF MATERIAL INJURY BY REASON OF CUMULATED SUBJECT IMPORTS

Section 771(7)(F) of the Act directs the Commission to determine whether an industry in the United States is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[153] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole."[154] In making our threat determination, we have considered all factors that are relevant to this investigation, and evaluated subject imports from Mexico and Turkey on a cumulative basis.[155]

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[147] Posthearing Brief of Petitioners at A-4-A-10 & Exh. 12; Final Comments of Petitioners at 6-10 & Exh. 5.

[148] Posthearing Brief of Galvak and Hylsa at 7 & Att. 4; Final Comments of Galvak and Hylsa at 5-6 & Atts. 1-3.

[149] CR, PR at App. H.

[150] CR, PR at App. H.

[151] CR, PR at App. H.

[152] As noted above, we have not discounted the interim 2004 data, as Petitioners requested; however, nor have we adopted Mexican Respondents' position that we focus only on the most recent period in measuring present material injury. Rather, we have taken into consideration the domestic industry's performance throughout the period of investigation, as required by the Act.

[153] 19 U.S.C. § 1677d(b) and 1677(7)(F)(ii).

[154] 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984); see also Calabrian Corp. v. United States, 794 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), citing H.R. Rep. No. 98-1156 at 174 (1984).

[155] 19 U.S.C. § 1677(7)(F). The Commission must consider, in addition to other relevant economic factors, the following statutory factors in its threat analysis:

(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering

(continued...)

Cumulation for threat analysis is treated in Section 771(7)(H) of the Act, which leaves to the Commission's discretion the cumulation of imports in analyzing threat of material injury.[156] Based on an evaluation of the relevant criteria as well as our analysis supporting cumulation in the context of assessing present material injury, we reject Mexican Respondents' claim that there is insufficient overlap of competition for purposes of threat analysis, and exercise our discretion to cumulate imports from Mexico and Turkey. For the reasons discussed below, we determine that the domestic industry is not threatened with material injury by reason of cumulated subject imports.

We find that the increase in volume and market share of subject imports does not indicate a likelihood of substantially increased subject imports. Subject import volume increases were most significant early in the period of investigation, with nearly all the gains demonstrated between 2001 and 2002. Subject import volumes then leveled off, demonstrating far smaller gains since 2002. Subject import volumes had little if any direct impact on the domestic industry, and there is no evidence that conditions of competition would change in such a way that any increases in the imminent future would have an adverse impact on the domestic industry. Insofar as the Section 201 duties imposed by the President in 2002 created market opportunities in the United States for imports from countries exempted from such coverage, including Mexico and Turkey and, among others, Canada and Brazil (which together accounted for over 90 percent of imports of LWR pipe and tube from all other countries to which the Section 201 duties did not apply), such duties were terminated as to all countries in December 2003. The

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[155] (...continued)

authority as to the nature of the subsidy particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement and whether imports of the subject merchandise are likely to increase,

(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

(VII) in any investigation under this subtitle which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 1671d(b)(1) or 1673d(b)(1) of this title with respect to either the raw agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).

Moreover, the Commission shall consider the threat factors "as a whole" in making its determination "whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur" unless an order issues. In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class of merchandise suggest a threat of material injury to the domestic industry.

Factors I and VII are inapplicable to these investigations.

[156] 19 U.S.C. § 1677(7)(H).

most recent trends in subject import volumes thus do not indicate that it is likely that there will be substantially increased imports of subject merchandise in the imminent future.

We also find that the record does not support a conclusion that unused production capacity or any imminent increases in production capacity in Mexico or Turkey will lead to substantially increased imports in the imminent future. Subject producers have maintained excess capacity throughout the period of investigation, yet such foreign excess capacity has not led to meaningful import increases after 2002, the year in which the Section 201 remedies were applied to numerous nonsubject sources of LWR pipe and tube imports.[157] While the record indicates that Mexico and Turkey increased their production capacity, this did not lead to injurious import increases during the period of investigation.[158] We have no basis to conclude that any projected additional capacity increases would cause subject imports to grow significantly, especially in light of worldwide conditions of higher prices and tight supplies of raw materials. Moreover, producers in the two countries have significant and growing home markets; third-country markets, to which most product from Turkey is exported, have also grown.[159] The industries in each country as a whole thus project declines in exports to the United States, absolutely and relative to other markets.[160]

Nor do we find that inventory levels indicate a likelihood of substantially increased imports in the imminent future. Subject producers' ratios of inventories to production and to total shipments declined between 2001 and 2003 and were projected to decline further in 2004.[161] The ratios of U.S. importers' inventories to imports and to U.S. shipments also declined between 2001 and 2003, although the interim 2004 ratios as compared to interim 2003 ratios were slightly higher. The total inventory of subject merchandise held by U.S. importers amounted to less than one percent of apparent U.S. consumption throughout the period of investigation.[162]

Given the absence of significant negative price effects by subject imports during the period of investigation, we do not find it likely that subject imports will have significant adverse price effects in the imminent future. As discussed above, subject imports were consistently lower priced than the domestic like product, yet there was no evidence that subject imports were depressing or suppressing U.S. prices to any significant degree. To the contrary, domestic prices increased generally between 2002 and 2003, notwithstanding subject import volume increases, and then soared in interim 2004. On this record, the domestic industry demonstrated that it is generally capable of passing along its costs, even when such costs are increasing. While the domestic price trajectory in 2004 may become less steep, as Petitioners

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[157] CR, PR at Table VII-5.

[158] Nine of ten known Turkish producers of LWR pipe and tube provided questionnaire data to the Commission in the preliminary phase of these investigations. Only two producers, accounting for approximately *** percent of exports from Turkey to the United States in 2003, provided data in the final phase. See CR at VII-6-VII-7, PR at VII-5. In these views we have relied on both the preliminary phase and final phase information.

[159] CR, PR at Tables VII-2-VII-4.

[160] CR, PR at Table VII-5. We note that two producers in Turkey have projected significant growth in exports to the U.S. market, but such projections are not consistent with the far greater coverage of data we obtained in the preliminary phase of these investigations. Cf. CR, PR at Table VII-3 and CR, PR at Table VII-4. In any event, as we have discussed in connection with our present material injury analysis, significant volumes of subject imports during the period of investigation did not have an adverse impact on production and shipment levels or financial operations of the domestic industry.

[161] CR, PR at Table VII-5.

[162] CR, PR at Table VII-6.

suggest,[163] there is nothing in the record to indicate that price declines are imminent,[164] or that the lack of a correlation between subject imports prices and domestic prices will change. Our finding that there is no likelihood of substantially increased subject import volumes further supports our conclusion that subject imports will continue not to have significant price effects in the imminent future.

Petitioners have not argued that product shifting *per se* is a consideration that supports an affirmative threat determination here, and we find nothing in the record that shows that any such potential capability as a means of imminently increasing subject import volume is anything more than speculative.

We are also not persuaded that antidumping duty findings or remedies against subject countries in other markets suggest a threat of material injury to the domestic industry. The only extant antidumping order that covers LWR pipe and tube is Canada's December 2003 final determination of dumping regarding structural tubing known as hollow structural sections. The order that Canada ultimately issued applies to Turkey among other countries.[165] However, in the same month (December 2003), the European Union (EU) lifted provisional antidumping measures it had imposed against LWR pipe and tube from Turkey in July 2003.[166] We cannot conclude that the overall effect of these two contrary actions would be a significant increase in the amount of subject product exported from Turkey to the United States. There is also an EU antidumping order on round welded pipe from Turkey (among others) from September 2002 that Petitioners claim will result in welded pipe capacity in Turkey being diverted to the production of LWR pipe and tube.[167] Although light-walled round and rectangular pipe and tube often share common production equipment, we do not find that an EU order on round pipe and tube from Turkey will result in greater exports of LWR pipe and tube from Turkey to the United States given that the EU's measures on the LWR product itself from Turkey have now been removed, and given the length of time in which the measure already has been in effect.

In addition, the domestic industry is clearly not vulnerable to a threat of material injury by reason of subject imports from Mexico and Turkey. As discussed above, the domestic industry performed well during the period of investigation, posting solid production and shipment gains, enjoying positive operating income and positive operating income ratios throughout the period of investigation, and ending with a financial performance during the most recent period that leaves it stronger and more profitable than at any time during the period of investigation.[168]

We do not find that subject imports are likely to have an actual or potential negative effect on the domestic industry's existing development and production efforts.[169] Finally, we find no evidence of any other demonstrable adverse trends that indicate a probability that the subject imports will materially injure the domestic industry.[170] On the contrary, the health of the industry before us supports our finding that it is not threatened with material injury by reason of the subject imports.

Given the lack of likely volume or price effects and the domestic industry's generally robust condition, and based upon our consideration of all of the relevant statutory factors, we do not find that

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[163] E.g., Posthearing Brief of Petitioners at 11.

[164] It appears that favorable pricing conditions will continue rather than halt in the imminent future. E.g., Prehearing Brief of Galvak and Hylsa at 19-20 & Exhs. 5, 7-8.

[165] CR at VII-12-VII-13, PR at VII-10.

[166] CR at VII-12, PR at VII-10.

[167] CR at VII-11-VII-12; Posthearing Brief of Petitioners at A-35.

[168] CR, PR at Table C-1.

[169] The domestic industry's return on investment between 2001 and 2003 did not fall below *** percent. CR, PR at VI-9. Capital expenditures and research and development expenses increased between 2001 and 2003, and were lower in interim 2004 as compared to interim 2003. CR, PR at Table VI-8.

[170] 19 U.S.C. § 1677(7)(F)(I)(IX).

material injury by reason of subject imports from Mexico and Turkey is imminent in the absence of antidumping duty orders. Accordingly, we find that the domestic industry producing LWR pipe and tube is not threatened with material injury by reason of subject imports from Mexico and Turkey.

CONCLUSION

For the above-stated reasons, we determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of LWR pipe and tube from Mexico and Turkey that are sold in the United States at less than fair value.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on behalf of California Steel and Tube ("California"), City of Industry, CA; Hannibal Industries ("Hannibal"), Los Angeles, CA; Leavitt Tube Co. ("Leavitt"), Chicago, IL; Maruichi American Corp. ("Maruichi"), Santa Fe Springs, CA; Northwest Pipe Co. ("Northwest"), Portland, OR; Searing Industries, Inc. ("Searing"), Rancho Cucamongo, CA; Vest, Inc. ("Vest"), Los Angeles, CA; and Western Tube and Conduit Corp. ("Western"), Long Beach, CA, on September 9, 2003, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of light-walled rectangular (LWR) pipe and tube[1] from Mexico and Turkey. Information relating to the background of the investigations is provided below.[2]

Date	Action	*Federal Register* citation
September 9, 2003	Petition filed with Commerce and the Commission; institution of Commission investigations	68 FR 54244 (September 16, 2003)
October 6, 2003	Commerce's notice of initiation	68 FR 57667
October 24, 2003	Commission's preliminary determinations	68 FR 61829 (October 30, 2003)
April 13, 2004	Commerce's preliminary determinations	69 FR 19390 and 69 FR 19400
April 13, 2004	Scheduling of final phase of Commission investigations	69 FR 22093 (April 23, 2004)
August 31, 2004	Commission's hearing	
September 2, 2004	Commerce's final determinations	69 FR 53675 and 69 FR 53677
September 29, 2004	Commission's vote	
October 12, 2004	Commission determinations and views sent to Commerce	

MARKET SUMMARY

Trade in the U.S. market for LWR pipe and tube totaled more than $*** million during 2003. The domestic industry producing LWR pipe and tube accounted for more than half of U.S. apparent consumption during the period of investigation (January 2001-June 2004), and consisted of approximately 18 firms, with the top five companies (***) accounting for more than *** percent of domestic producers' sales during 2003. Sixteen firms responded that they imported subject merchandise during the period of investigation: 10 responding firms accounted for 75 percent of subject imports from Mexico and six firms accounted for almost all of subject imports from Turkey. Purchasers of LWR pipe and tube are numerous and purchase the subject product for a wide variety of applications such as

[1] For purposes of these investigations, LWR pipe and tube is a mechanical tubing used in furniture and other non-structural applications. A complete description of the imported product subject to the investigations is presented in the section of this part of the report entitled *The Subject Product*.

[2] *Federal Register* notices cited in the tabulation since the Commission's preliminary determinations are presented in app. A.

automotive, ornamental fences, display racks, sports equipment, furniture, hand rails, scaffolding, carports, and trailers. Six manufacturers/exporters in both Mexico and Turkey exported LWR pipe and tube to the United States during the period of investigation.

SUMMARY DATA

A summary of data collected in the investigations is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on the questionnaire responses of 15 U.S. producers, which account for approximately *** percent of U.S. production during the period examined. U.S. imports for Mexico and nonsubject sources are based on official statistics of the U.S. Department of Commerce; U.S. imports from Turkey are based on responses to the Commission's questionnaires (*see* discussion in *Part IV* of this report). Other data concerning imported LWR pipe and tube are from questionnaire responses submitted by 16 U.S. importers, with 10 firms accounting for about 75 percent of subject imports from Mexico during the period of investigation, and five firms accounting for almost all of subject imports from Turkey, for a total of 81 percent of subject imports combined. Mexican industry data are from questionnaire data submitted by eight firms whose exports to the United States accounted for approximately 72 percent of imports of LWR pipe and tube from Mexico during the period of investigation. Turkish industry data are from questionnaire data submitted by 10 firms during the preliminary phase of these investigations, which accounted for approximately 80 percent of Turkish production of the subject product.[3]

PREVIOUS INVESTIGATIONS

Since 1980, the Commission has conducted 14 import-injury investigations (one countervailing duty, 10 antidumping, two safeguard, and one fact finding) involving LWR pipe and tube, which resulted in the imposition of three antidumping duty orders. Following the Commission's sunset reviews of LWR pipe and tube in July 2000, which resulted in a negative determination regarding Singapore and the termination of import relief under section 201, there are currently two outstanding antidumping duty orders on imports of LWR pipe and tube from Argentina and Taiwan. A listing of the investigations is presented in table I-1.

[3] European Trade Services' postconference brief, p. 1. Preliminary phase data have been used because only two manufacturers/exporters in Turkey, Noksel Celik Boru Sanyi A.S. and Ozborsan Boru San ve Tic A.S., completed the Commission's foreign producer questionnaire during the final phase of these investigations. The firms' exports to the United States of LWR pipe and tube accounted for approximately *** percent of total exports to the United States from Turkey during 2002.

Table I-1
LWR pipe and tube: Previous investigations

Source	Inv. No.	USITC Publication		Result
		Number	Date	
Korea	A-138 (F)	USITC 1519	April 1984	Affirmative; revoked October 1985 following VRA
Spain	A-198 (P)	USITC 1569	August 1984	Terminated after preliminary; petition withdrawn
Taiwan	A-211 (F)	USITC 1799	January 1986	Negative
Singapore	A-296 (F)	USITC 1907	November 1986	Affirmative
	A-296 (Review)	USITC 3316	July 2000	Revoked
Taiwan	A-349 (F)	USITC 1994	July 1987	Negative
Argentina	A-409 (F)	USITC 2187	May 1989	Affirmative
	A-409 (Review)	USITC 3316	July 2000	Order continued
Taiwan	A-410 (F)	USITC 2169	March 1989	Affirmative
	A-410 (Review)	USITC 3316	July 2000	Order continued
Mexico	A-730 (P)	USITC 2892	May 1995	Negative
World wide	201-73	USITC 3479	December 2001	Additional tariffs and tariff-rate quotas;[1] relief did not apply to imports from Mexico or Turkey
	204-9 332-452	USITC 3632	September 2003	Termination of import relief[2]

[1] Following affirmative determinations of serious injury and remedy recommendations by the Commission, President Bush issued a proclamation on March 5, 2002, imposing temporary import relief for a period not to exceed three years and one day. Presidential Proclamation 7529 of March 5, 2002 (67 FR 10553, March 7, 2002). Import relief relating to LWR pipe and tube consisted of an additional tariff of 15 percent *ad valorem* on imports in the first year, 12 percent in the second year, and 9 percent in the third year.

[2] Following receipt of the Commission's findings contained in "Steel: Monitoring Developments in the Domestic Industry" (Inv. No. TA-204-9) and "Steel-Consuming Industries: Competitive Conditions With Respect to Steel Safeguard Measures" (Inv. No. 332-452), the President terminated the steel safeguard tariffs and tariff-rate quotas. Presidential Proclamation 7741 of December 4, 2003 (68 FR 68483, December 8, 2003).

Source: Cited Commission publications.

ORGANIZATION OF REPORT

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 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 decline 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.*

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

NATURE AND EXTENT OF SALES AT LTFV

On September 2, 2004, the Commission received notification of Commerce's final determinations that LWR pipe and tube from Mexico and Turkey is being, or is likely to be, sold in the United States at LTFV.[4] Commerce's final weighted-average dumping margins for the manufacturers/exporters in Mexico and Turkey are as follows:

Country/Company	Dumping margins[1] (*percent ad valorem*)
Mexico	
Prolamsa	6.08
Perfiles y Herrajes (LM)	14.45
Galvak/Hylsa[2]	17.46
Regiomontana	6.36
All others	11.23
Turkey	
Guven[3]	34.89
Onur Boru Profil Uretim (MMZ)	6.12
Ozborsan/Onur Metal[3]	34.89
Ozdemir[3]	34.89
All others	6.12

[1] Commerce's period of investigation was July 1, 2002, through June 30, 2003.
[2] Galvak and Hylsa are wholly owned subsidiaries of Hylsamex, a Mexican holding company, which is 90-percent owned by Alfa, S.A. de C.V., and were treated as one entity for purposes of Commerce's antidumping analysis.
[3] Commerce found that Guven, Ozborsan/Onur, and Ozdemir are affiliated producers with similar or identical production facilities, that there exists a significant potential for the manipulation of price or production, and therefore, treated them as a single entity for purposes of the preliminary antidumping determination.

[4] *Light-Walled Rectangular Pipe and Tube from Mexico: Notice of Final Determination of Sales at Less than Fair Value*, 69 FR 53677 (September 2, 2004); and *Light-Walled Rectangular Pipe and Tube from Turkey: Notice of Final Determination of Sales at Less than Fair Value*, 69 FR 53675 (September 2, 2004).

THE SUBJECT PRODUCT

Commerce has defined the scope of these investigations as:

Welded carbon-quality[5] pipe and tube of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch. These LWRPT have rectangular cross sections ranging from 0.375 x 0.625 inches to 2 x 6 inches, or square cross sections ranging from 0.375 to 4 inches, regardless of specification.[6]

THE DOMESTIC LIKE PRODUCT

The Commission's decision regarding the appropriate domestic products that are "like" the subject imported product is based on a number of factors, including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price. During the preliminary phase of these investigations the Commission found a single domestic like product consisting of LWR pipe and tube included within Commerce's scope of investigation.[7] [8]

During these final phase investigations, Mexican respondent Prolamsa argued that corrosion-resistant LWR pipe and tube[9] should be treated as a separate like product.[10] Information on the Commission's domestic like product factors is set forth below.

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[5] The term "carbon-quality" applies to products in which (i) iron predominates, by weight, over each of the other contained elements, (ii) the carbon content is 2 percent or less, by weight, and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of cooper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium (also called columbium), or 0.15 percent of vanadium, or 0.15 percent of zirconium.

[6] *Light-Walled Rectangular Pipe and Tube from Mexico: Notice of Final Determination of Sales at Less than Fair Value*, 69 FR 53677 (September 2, 2004). LWR pipe and tube is classifiable in the Harmonized Tariff Schedule of the United States (HTS) under subheading 7306.60.50, at a column 1-general duty rate of free imports from Turkey and Mexico.

[7] *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey* (Invs. Nos. 731-TA-1054 and 1055 (Preliminary)), USITC Pub 3644, October 2003, pp. 6-7.

[8] During the previous antidumping investigations involving LWR pipe and tube, the Commission determined that the domestic like products were coextensive with Commerce's scope of investigations. *Certain Light-Walled Rectangular Pipes and Tubes from Taiwan* (Inv. No. 731-TA-410 (Final)) , USITC Pub 2169, March 1989, p. 4; *Light-Walled Rectangular Pipe and Tube from Mexico* (Inv. No. 731-TA-730 (Preliminary)), USITC Pub 2892, May 1995, p. 7; and *Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey, and Venezuela* (Invs. Nos. 731-TA-296 and 409-410 (Review)), USITC Pub 3316, July 2000, p. 14.

[9] Corrosion-resistant LWR pipe and tube is product produced from hot-rolled and cold-rolled sheet that is either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel-, or iron-based alloys, whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Black LWR pipe and tube is product that is blackened, pickled, and/or coated with a thin layer of oil or lacquer for weather and rust protection; and does not meet the description of corrosion-resistant products. Product definitions in the instructions booklet to the Commission's questionnaires.

[10] Prolamsa prehearing brief, pp. 2-11, and posthearing brief, pp. 2-3. Counsel for Mexican respondents Galvak/Hylsa did not object to Prolamsa's position regarding corrosion-resistant LWR pipe and tube as a separate domestic like product (hearing transcript, p. 202 (Winton)). During the preliminary and final phases of these investigations, counsel for the Turkish respondents did not comment on the question of the domestic like product.

Physical Characteristics and Uses

In common usage, and generally in the HTS, the terms "pipes," "tubes," and "tubular products" are interchangeable. In industry nomenclature, however, a distinction is made between pipes and tubes. Pipes are circular cross-sectional tubular products and are produced in a few standard sizes.[11] Tubes, on the other hand, may be of any cross-sectional shape, including circular, square, and rectangular, among others. Steel pipes and tubes can be divided into two general categories according to the method of manufacture, namely, welded or seamless; however, only welded tubing is subject to these investigations. These investigations also focus only on carbon steel.[12] Tubes are also distinguished by specific end uses.[13] Most LWR pipe and tube is classified as mechanical tubing, which is not intended to support weight; however, a small amount may fall into the structural category which is meant to bear weight.[14] In the United States, steel pipes and tubes are generally produced according to industrial standards and specifications by standard-setting organizations.[15]

LWR pipe and tube is a distinct category of tube employed in a variety of end uses not involving the conveyance of liquids or gases. The main uses include fencing, window guards, cattle chutes, railings for construction and agricultural applications, and more ornamental (but also functional) items such as furniture parts, athletic equipment, lawn and garden equipment, store shelving, towel racks, and similar items.

Generally, the physical properties (strength, hardness, and ductility) and the mechanical characteristics of black and corrosion-resistant LWR pipe and tube are not affected by the galvanizing process.[16] While it is reported that both black and corrosion-resistant LWR pipe and tube can be used in the same applications, depending on customer specification and quality, galvanized product is used in applications where corrosion resistance is an important service requirement (e.g., air conditioning equipment, automotive parts, outdoor signs, etc.).[17]

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[11] Each standard pipe size is defined by a nominal diameter and wall thickness. The pipe standard is identified by the nominal pipe size (NPS), which is a dimensionless designator that has been substituted for such traditional terms as "nominal diameter." Pipe in nominal pipe sizes of 1/8 to 12 is based on a standardized outside diameter (O.D.) that was originally selected so that pipes having a wall thickness that was typical of the period would have an inside diameter in inches approximately equal to the nominal size. For pipe in nominal sizes of 14 and larger, the O.D. is equal in inches to the nominal size.

[12] According to the American Iron and Steel Institute (AISI), carbon steel is ferrous material with less than 2 percent of carbon by weight.

[13] Tubes and pipes are also classified according to end uses by the AISI including standard pipe, line pipe, structural pipe and tubing, mechanical tubing, pressure tubing, and oil country tubular goods.

[14] According to petitioners' preliminary phase arguments, about 5 percent of LWR pipe and tube would be classified as subject structural tubing. Petitioners' postconference brief, exh. 2, p. 1. According to Mexican respondents, about 25-30 percent of LWR pipe and tube would be classified as subject structural tubing. Mexican respondents' postconference brief, exh. 1, p. 11. Respondents' estimates are based on a sampling of customers' purchases of LWR pipe and tube. Petitioners' estimates are based on producers' experience.

[15] These organizations include the American Society of Testing and Materials (ASTM), and the American Society for Mechanical Engineers (ASME). The domestically produced and subject imported LWR pipe and tube is typically made in compliance with ASTM specifications A-513 (mechanical tubing) or, less frequently, A-500 (structural tubing). Conference transcript, pp. 90-93 (Katsafanas and Schagrin).

[16] *See* questionnaire responses addressing various domestic like product factors contained in appendix D.

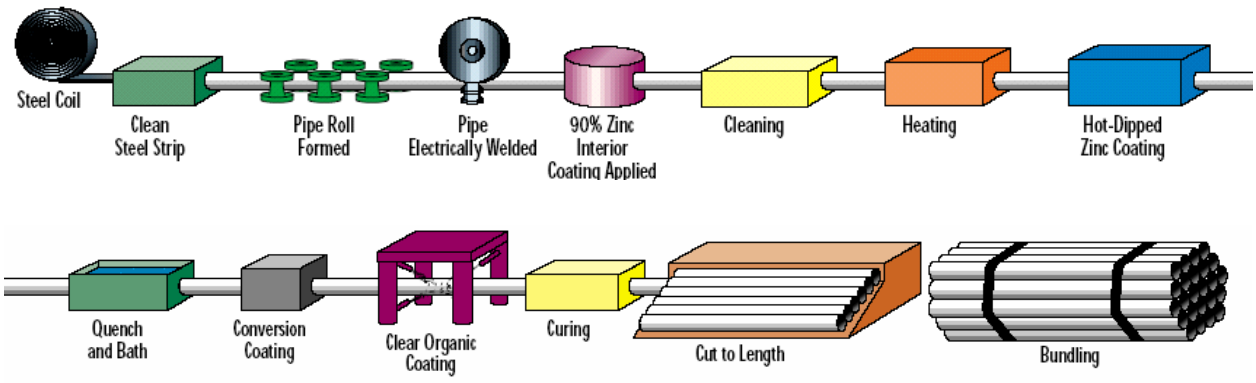
[17] *Id.*

Manufacturing Process

The process of manufacturing LWR pipe and tube is relatively uncomplicated. First, flat-rolled steel is slit into strips of the width needed to produce the desired size of pipe and tube. The steel strips are then fed into machinery that bends the strip into tubular form. The edges of the strip are then pressed together and heated to approximately 2,600 degrees F. The pressure and heat on the edges form a weld. After welding, the round tube is formed into rectangular or square shapes by use of additional forming rolls. The tube is then cooled and cut.[18] U.S. producers currently employ two methods in the manufacture of LWR pipe and tube: (1) two-stage forming (from flat coil, to round tube, to rectangular tube) and (2) direct forming (directly from flat coil to rectangular tube).[19] LWR pipe and tube is frequently produced on the same equipment, using the same employees, as round pipe and tube and structural (heavier-walled rectangular) tube.[20]

Four U.S. producers and four Mexican firms produce corrosion-resistant galvanized products. Galvanizing is the process of coating steel with a thin film of zinc to protect the steel from corrosion. The most common method for galvanizing is the hot-dip process, which involves dipping the tube into a molten zinc bath.[21] Some producers buy galvanized sheet to make LWR tubing, but this represents a small portion of production.[22] Figure I-1 graphically depicts the manufacturing process for LWR pipe and tube with in-line galvanizing.

Figure I-1
LWR pipe & tube: Manufacturing process including coating



Source: Prolamsa, Inc.

[18] A succinct description of the production process which is still valid today can be found in the Commission's final determination concerning LWR pipe and tube from Taiwan: *Certain Light-Walled Rectangular Pipes and Tubes from Taiwan* (Inv. No. 731-TA-410 (Final)) , USITC Pub 2169, March 1989, pp. A-4-A-5.

[19] Staff field trip report of August 2, 2004.

[20] Responses to Commission's producer's questionnaires.

[21] Following welding and flash removal, Allied produces corrosion-resistant LWR pipe and tube using its in-line patented "Flo-Coat" process which includes ***. Staff field trip report of August 2, 2004.

[22] Email from Norman Vantoai to Gerald Houck, October 15, 2003.

Interchangeability and Customer and Producer Perceptions

Domestically produced LWR pipe and tube and the imported product are considered interchangeable, with both products being able to meet customer specifications.[23] In previous LWR pipe and tube investigations and in the July 2000 sunset review of the cases, the Commission found that imported LWR may be considered to be interchangeable with domestic product for most applications because manufacturing processes and technologies are similar throughout the world.[24] In addition, LWR pipe and tube must meet common standards regarding materials, dimensions, and testing, established by standard authorities.

Since LWR pipe and tube can be used as both structural and mechanical tubing, typical applications include fence tubing, structural pipe tubing, scaffolding, and framing. Although price and availability are the key considerations for the use or interchangeability of LWR pipe and tube and circular welded carbon steel pipes and tubes, design criteria for specific applications limit their interchangeability. In the previous sunset investigations, domestic producers and importers reported that domestically produced LWR pipe and tube and subject imports were interchangeable and that there were no differences between the domestic and the imported subject products.[25]

Although other, generally less expensive products, including steel angle, bar, rod, and channel can be used in place of LWR pipe and tube in many applications, their inferior strength-to-weight ratio serves to limit their usage in many other instances.[26] Also, round, light-walled pipe and tube could theoretically be substituted for LWR pipe and tube, but end-user specifications and long standing customer preferences limit the interchangeability of these products.[27]

Industry participants report that while black and corrosion-resistant LWR pipe and tube can be interchangeable in most applications, specific applications and customers may require the use of corrosion-resistant product (e.g., manufacturers of carports).[28]

Channels of Distribution

Channels of distribution for the imported and U.S.-produced LWR pipe and tube are shown in table I-2. Both U.S. producers and importers sold the majority of the subject product to distributors during the period of investigation. For corrosion-resistant LWR pipe and tube, imports from Mexico were sold principally to end users.

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[23] According to petitioners, subject imports are fungible with domestic production and with other subject imports. Petitioners' postconference brief, p. 5. According to witnesses for importers of LWR pipe and tube from Mexico and counsel for Mexican respondents, the subject products and the domestically produced products are generally commodity products and are interchangeable. Conference transcript, pp. 138, 143, 155, and 172. However, some importers of subject imports from Mexico maintain that corrosion-resistant LWR pipe and tube is not fully interchangeable with black LWR pipe and tube. See like product comments in appendix D..

[24] *Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey, and Venezuela* (Invs. Nos. 731-TA-296 and 409-410 (Review)), USITC Pub 3316, July 2000, p. LWR-I-11.

[25] *Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey, and Venezuela* (Invs. Nos. 731-TA-296 and 409-410 (Review)), USITC Pub 3316, July 2000, p. LWR-II-4. Similar results were also obtained in original determinations. *Light-Walled Rectangular Pipe and Tube from Mexico* (Inv. No. 731-TA-730 (Preliminary)), USITC Pub 2892, May 1995, p. II-5.

[26] *Light-Walled Rectangular Pipe and Tube from Mexico* (Inv. No. 731-TA-730 (Preliminary)), USITC Pub 2892, May 1995, p. II-4.

[27] Conference transcript, pp. 78-81 (Schagrin).

[28] *See* questionnaire responses addressing various domestic like product factors contained in appendix D.

Table I-2
LWR pipe and tube: Shares of shipments by channels of distribution, 2001-03, January-June 2003, and January-June 2004

Item	Distributors					End users				
	Calendar year			January-June		Calendar year			January-June	
	2001	2002	2003	2003	2004	2001	2002	2003	2003	2004
	Share of U.S. shipments, based on quantity (*percent*)									
Black:										
U.S. producers	68.6	69.0	72.8	71.4	73.9	31.4	31.0	27.2	28.6	26.1
Mexico	79.0	88.0	89.6	87.8	83.0	21.0	12.0	10.4	12.2	17.0
Turkey	87.7	91.4	96.5	97.6	99.8	12.3	8.6	3.5	2.4	0.2
Subject imports	80.1	89.1	91.2	90.7	87.3	19.9	10.9	8.8	9.3	12.7
Corrosion-resistant:										
U.S. producers	86.0	84.3	86.1	86.1	88.2	14.0	15.7	13.9	13.9	11.8
Mexico	12.2	8.5	6.2	14.6	9.6	87.8	91.5	93.8	85.4	90.4
Turkey	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Subject imports	12.2	8.5	6.2	14.6	9.6	87.8	91.5	93.8	85.4	90.4
Total:										
U.S. producers	70.9	70.9	74.5	73.1	75.7	29.1	29.1	25.5	26.9	24.3
Mexico	72.7	68.2	74.5	81.9	73.0	27.3	31.8	25.5	18.1	27.0
Turkey	87.7	91.4	96.5	97.6	99.8	12.3	8.6	3.5	2.4	0.2
Subject imports	74.5	74.4	78.8	86.3	79.1	25.5	25.6	21.2	13.7	20.9

[1] Not applicable; none reported.

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

Price

Average unit values for U.S. shipments of LWR pipe and tube increased regularly from $*** per ton to $*** per ton during 2001-03 (table I-3). Average unit values for shipments of imports from Mexico fluctuated upward from $500 per ton to $506 per ton during 2001-03. Average unit values for shipments of imports from Turkey increased regularly from $319 per ton to $397 per ton during 2001-03. During January-June 2004, average unit values for U.S. shipments of U.S.-produced product and imports from Mexico increased significantly when compared to the same period in 2003. Average unit values for corrosion-resistant LWR pipe and tube were higher than for black product, ranging from *** to *** percent higher during the period of investigation. Pricing practices and prices reported for LWR pipe and tube in response to Commission questionnaires are presented in *Part V* of this report.

Table I-3
LWR pipe and tube: Average unit values of U.S. shipments, by types, 2001-03, January-June 2003, and January-June 2004

Item	Calendar year			January-June	
	2001	2002	2003	2003	2004
	Unit value (*per short ton*)				
Black:					
U.S. producers	$***	$***	$***	$***	$***
Mexico	***	***	***	***	***
Turkey	***	***	***	***	***
Subject imports	***	***	***	***	***
Total	***	***	***	***	***
Corrosion-resistant:					
U.S. producers	***	***	***	***	***
Mexico	***	***	***	***	***
Turkey	***	***	***	***	***
Subject imports	***	***	***	***	***
Total	***	***	***	***	***
Total:					
U.S. producers	***	***	***	***	***
Mexico	500	524	506	511	693
Turkey	319	335	397	412	438
Subject imports	477	474	485	486	635
Total	***	***	***	***	***

Source: Appendix E, table E-1.

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

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

LWR pipe and tube is a product used in many applications. Uses cited by questionnaire respondents included automotive applications, ornamental fences, display racks, sports equipment, furniture, hand rails, material handling equipment, gates, scaffolding, agricultural equipment, machine parts, carports, and trailers.

Shipments of LWR pipe and tube within the United States are more likely to go to distributors than to end users. For U.S. producers, total shipments to distributors accounted for between 71 and 76 percent of shipments during January 2001- June 2004. For imports from Mexico, between 68 and 82 percent of total annual shipments went to distributors during that period. For imports from Turkey, U.S. shipments to distributors accounted for between 88 and 100 percent of shipments during the period for which data were collected.

U.S. producers reportedly shipped LWR pipe and tube throughout the United States. In 2003, approximately 39 percent of total U.S. shipments by U.S. producers of LWR pipe and tube were to the Western region, 23 percent to the Midwest, 15 percent to the Gulf, and 8 percent to the East (see table IV-4). Shipments of black product were more directed to the Western region in 2003; shipments of corrosion-resistant product to the Western region were somewhat smaller, with the share about 31 percent. Shipments of corrosion-resistant product to the East region were relatively higher with 24 percent being sent to that region in 2003, while the share of shipments of black product to the East was only 6 percent in 2003. The shares of total shipments of LWR pipe and tube to the Midwest and Gulf regions were 23 and 15 percent in 2003, with slightly higher shares of black product and lower shares of corrosion-resistant.

During 2003, shipments of imports of LWR pipe and tube from Mexico and Turkey were distributed differently among the regions. Nine percent of black LWR pipe and tube shipments of imports from Mexico were to the Western region in 2003, while 77 percent were to the Gulf region, and 4 percent were to the East (see table G-6). In 2003, 83 percent of corrosion-resistant product from Mexico were shipped to the East region and 8 percent to the Gulf (see table G-7). In 2003, 84 percent of shipments of imports of black LWR pipe and tube from Turkey were to the Gulf region, 13 percent to the Midwest, and 1 percent to the East (see table G-8). There were no imports of corrosion-resistant product from Turkey during the period for which data were collected.

Twenty-three purchasers have responded to the questionnaire. They are almost equally concentrated in the Gulf and Western regions, with four in the Midwest, and one in the East. Eighteen purchasers are distributors; three are end users, and two were resellers. Distributers sold to a wide variety of OEM fabricators, building contractors, agricultural implement manufacturers, ornamental iron fence and trailer manufacturers, carport builders, exercise equipment producers, sign companies and paper mills, welders, and homeowners.

Ten of these distributors reported that they do not compete with the domestic producers or importers from whom they buy their LWR pipe and tube. Five did so occasionally, or did not know, and five competed to varying degrees, depending on the size of the customer.

Delivery costs varied according to plant locations and ports. Producers appear to have lower transportation costs in the East region; U.S. producers reported shipping costs ranging from $10-55 per short ton in the East region, while importers reported costs of $65-100 per short ton in that region. Importers who sold product in the Gulf region reported lower shipping costs than the U.S. producers that sold in that region; three importers reported shipping costs of less than $20 per short ton while two U.S. producers reported higher shipping costs. In the Midwest, five U.S. producers reported costs of $50 per short ton or less, while three importers' costs ranged from $47-50 per short ton. Other U.S. producers

reported costs ranging from $10-80 per short ton. Producers in the West region also appeared to have a cost advantage with most reporting lower delivery costs per short ton than did importers.

Delivery lead times also varied between U.S.-produced LWR pipe and tube and imports from Mexico and Turkey. For U.S. producers, delivery times ranged from 1-2 days to as much as 60 days. For imports from the subject countries, delivery times ranged from 1 day to as much as 4 to 6 months.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

The sensitivity of the domestic supply of LWR pipe and tube to changes in price depends on several factors, including the level of excess capacity, the availability of alternate markets for U.S.-produced LWR pipe and tube, inventory levels, and the ability to shift to the manufacture of other products. The overall evidence in these investigations indicates that the U.S. industry has a high degree of flexibility in expanding output and U.S. shipments in response to an increase in price. The main reasons supporting this degree of supply responsiveness are the low industry capacity utilization rates and high ratios of inventories to shipments. U.S. producers' capacity utilization rates were about *** percent during January 2001-June 2004 (see table III-2). They ranged from a low of *** percent in 2001 to a high of *** percent in January-June 2004. However, U.S. producers' export shipments were consistently small during 2001-03. In each of these years, exports accounted for no more than about *** percent of total U.S. shipments (see table III-3). The ratio of end-of-period inventories to U.S. shipments ranged from about *** to *** percent during 2001-03 (see table III-6). During January-June 2004, the ratio of inventories to total shipments was *** percent.

Questionnaire responses show that 13 of the 15 U.S. producers make other kinds of pipe and tubing using the same production equipment and production and related workers employed in making LWR pipe and tube. Round pipe and tubing were most commonly cited, but other shapes, such as oval, bullet nosed, and d-shaped, fence tube, line pipe, ERW round tubing, electrical mechanical tube, structural pipe, and other products were also mentioned. This information suggests that the industry has some flexibility in shifting its product mix.

Mexico

Capacity utilization rates of producers of subject imports in Mexico ranged from a high of 91.4 percent in 2002 to a low of 87.7 percent in 2001. During the interim period of January-June 2004, Mexican producers capacity utilization rates were lower at 81.7 percent. During the period for which data were collected, inventories of LWR pipe and tube ranged between 4.8 and 6.4 percent of total shipments. Virtually all exports of LWR pipe and tube from Mexico were to the United States. Most Mexican product, however, was sold in the home market, ranging from *** percent in 2001 to *** percent in 2003 and *** percent in January through June 2004.

Turkey

Producers of subject imports in Turkey operated at relatively high capacity utilization rates during the period January 2000-June 2003.[1] Capacity utilization rates for Turkish producers of LWR pipe and tube fell from 49.2 percent in 2000 to 46.8 percent in 2001 and then rose to 58.0 percent in 2002. The

[1] Data gathered during the preliminary phase of this investigation are used in this analysis, as only two of nine manufacturers/exporters in Turkey responded to the Commission's questionnaire in these final phase investigations.

capacity utilization rate for Turkish producers for 2004 was projected to be 65.6 percent. The ratio of inventories to shipments in Turkey was 6.4 percent in 2000 and rose to 9.2 percent in 2002; this ratio was 5.5 percent in January-June 2003. Exports of LWR pipe and tube from Turkey to the United States were 6.5 percent of total shipments in 2000, 7.3 percent in 2001, 14.1 percent in 2002 and 5.1 percent in interim 2003. Shipments to other countries rose from 33.8 percent of total shipments in 2000 to 41.8 percent in 2001 and then fell to 36.1 percent in 2002; this ratio increased in interim 2003 to 46.6 percent when compared to 39.3 percent in interim 2002. Home market shipment shares fell over the period, falling from 59.7 percent in 2000 to 49.8 percent in 2002 and 48.3 percent in interim 2003.

U.S. Demand

Demand Characteristics

Since LWR pipe and tube is an intermediate product with many end-use applications, including fences, gates, hand rails, furniture, sports equipment, automotive equipment, and others as discussed above, the overall demand for LWR pipe and tube is closely linked to the demand for those end-use products. Pipe and tube products often account for a substantial share of the final cost of products where they are used as inputs (see cost share discussion below). There are a number of products that can substitute for LWR pipe and tube, although these may only be suitable for a limited range of end uses.

Demand Trends

When asked how U.S. demand for LWR pipe and tube had changed since January 1, 2001, eight of 12 U.S. producers reported that demand had declined; in addition, two firms reported an upturn in demand in 2003 or 2004, and two reported current demand was strong. Most of the producers that reported reduced demand attributed the decline to two factors: a sluggish economy and an increased level of imports of manufactured goods that use LWR pipe and tube. Responses from importers were mixed. Of the seven importers who responded, three said that demand had decreased, three said that it had increased, one reported that it was unchanged. Apparent consumption data indicate that overall demand in the United States increased irregularly from 2001 to 2003 and increased further during January-June 2004, compared to the same period in 2003.

The apparent contradiction between the perceptions of individual producers and the aggregate demand data compiled for this investigation was discussed during the public hearing. Commissioners questioned the domestic panel about firms shutting down production lines, although actual production was increasing in quantity terms every year of the period of investigation.[2] Counsel for the domestic industry indicated this anomaly was largely a question of perception.[3] An individual may perceive reduced demand when consulting their order book, but when all the data are considered together, demand is increasing.

Substitute Products

Four U.S. producers and five importers either stated that there are no substitutes for LWR pipe and tube or indicated that they are not aware of any substitutes. Seven U.S. producers mentioned substitute products, including round pipe and tube, drawn-over mandrel, roll formed tube, metal stamping, angle, channel; other steel shapes such as bar, angles, and strip; and products made of

[2] Hearing transcript, p. 100 (Okun), p. 114 (Hillman).

[3] Hearing transcript, p. 116 (Schagrin).

aluminum, stainless steel, plastic, and wood. Importers added purlins[4] to the list of substitute products.

Seven purchasers reported substitutes for LWR pipe and tube. In order of importance, these firms stated that pre-primed, CEE purlin, plastics, channel, and stainless would be the first choice as substitutes; bar angles, flat bar, and prime painted would follow. Examples of applications were purlins for sheet metal attachment in roofs and side walls, box purlins for posts and trusses,[5] channels for structural supports and angles, and flat bar for manufactured products, such as furniture and small trailers.

Cost Share

Producers and importers were asked to estimate the cost of LWR pipe and tube products as a percentage of the end use products for which they are used as inputs. Five U.S. producers and two importers made estimates for various products. The available estimates show that LWR pipe and tube often accounts for a significant share of the final product cost. Estimates ranged from 2 to 80 percent for automotive uses; from 20 percent to over 50 percent for display racks; from 15 to 60 percent for furniture; from 30 to 80 percent for gates and fences; from 15 to 80 percent for sports equipment; from 30 to 80 percent for scaffolding; and from 10 to 20 percent for trailers. Estimates were also made by individual firms for other products including bed frames (1 percent), frame materials for storage building (75 percent), and hand rails (30 percent).

Purchasers who are end users of LWR pipe and tube were asked what share of total cost was accounted for by LWR pipe and tube of the major products they produce. A producer of metal components and agricultural equipment indicated that LWR pipe and tube accounted for *** percent of total cost. A producer of ornamental panels reported LWR pipe and tube to be *** percent of total cost of ornamental panels and *** percent of ornamental posts. A producer of carports of varying sizes indicated shares of total cost would be *** percent of an 18' by 21' carport, *** percent of a 20' by 21' carport, and *** percent of a 22' by 21' carport.

SUBSTITUTABILITY ISSUES

The degree of substitutability between domestic products and subject and nonsubject imports, between subject imports from different sources, and between subject and nonsubject imports is examined in this section. The discussion is based upon the results of questionnaire responses from producers, importers, and purchasers.

Factors Affecting Purchasing Decisions

Table II-1 summarizes the 23 purchasers' responses concerning the top three factors they reported in their purchasing decisions. As indicated in the table, price was cited most frequently as the primary factor in buying decisions. Availability/reliability of supply was the most frequently cited second factor. While quality, availability/reliability of supply, and delivery/transportation tied for the factor cited as third in importance.

[4] Purlins are used as longitudinal members in a roof frame for supporting rafters between the plate and ridge. CEE and box purlins reflect the shape of the purlin.

[5] Trusses are various structural framing members.

Table II-1
LWR pipe and tube: Ranking factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Price[1]	9	7	1
Quality	4	5	5
Availability/reliability of supply[1 2]	3	8	5
Traditional supplier/contract	3	0	2
Product range/production schedule	2	0	3
Delivery/transportation[2]	1	2	5
Other[3]	0	1	3

[1] One firm reported both price and delivery for first factor both are recorded
[2] One firm reported both availability and delivery for third factor both are recorded
[3] Other factors include credit lines for second factor; terms, service, and marketing practice for third factor.

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

Purchasers were asked to rate the importance of 15 factors in their purchasing decisions (table II-2). All 23 responding purchasers rated availability as very important; 22 firms reported that lowest price was very important; 21 firms reported that reliability of supply was very important; 20 firms reported that delivery time and quality that meet industry standards were very important; and 17 firms reported product consistency was very important.

Purchasers were asked for a country-by-country comparison on the same 15 factors (table II-3). For U.S.-produced product compared to Mexican product, most purchasers reported they these two products were the same except for price where the Mexican product was reported to be superior (i.e. lower) by 8 of 12 responding firms. Four firms compared the U.S.-produced and Turkish products. Three of these firms reported that the U.S. product was superior with regard to delivery time, and reliability of supply; two each reported that the U.S. product was superior in product availability and delivery terms; and three reported that the Turkish product was superior in lowest price. Eight firms compared the U.S. product with nonsubject product. Five of these firms reported that the U.S. product was superior in delivery time and four each reported that the U.S. product was superior in product availability, delivery terms, reliability of supply, and U.S. transportation costs. Only one firm each compared Mexican and Turkish product, and Mexican and nonsubject product. Two firms compared Turkish and nonsubject product. While these firms agreed that Turkish and nonsubject were comparable with regard to some factors (discounts, extension of credit, quality, etc) they were not in agreement on other factors (see table II-3).

Purchasers were asked if certain grades, types, or sizes of LWR pipe and tube product were available from a single source. Twenty of the 23 responding purchasers reported that they were not. One reported that blue scope steel was available from only one source and one firm reported that some types of product were predominantly available from some vendors. to some factors (discounts, extension of credit, quality, etc) they were not in agreement on other factors (see table II-3).

Purchasers were asked if certain grades, types, or sizes of LWR pipe and tube product were available from a single source. Twenty of the 23 responding purchasers reported that they were not. One reported that blue scope steel was available from only one source and one firm reported that some types of product were predominantly available from some vendors.

Table II-2
LWR pipe and tube: Importance of purchase factors, as reported by U.S. purchasers

Factor	Very important	Somewhat important	Not important
	Number of firms responding		
Product availability	23	0	0
Delivery terms	11	9	3
Delivery time	20	3	0
Discounts offered	13	7	3
Extension of credit	8	9	6
Lowest price	22	1	0
Minimum quantity requirements	3	15	5
Packaging	5	13	5
Product consistency	17	5	1
Quality meets industry standards	20	1	2
Quality exceeds industry standards	4	9	10
Product range	7	14	2
Reliability of supply	21	2	0
Technical support/service	7	11	5
U.S. transportation costs	11	10	2

Note: Not all purchasers responded for each factor.

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

Purchasers were also asked if they or their customers ever specifically requested product from one country over other possible sources. Five of the 23 responding purchasers reported that they or their customers did sometimes order product from specific countries. Two reported some customers preferred U.S.-produced product for domestic requirements; two reported a preference for Mexican product either because of geographic reasons or because it was specifically requested; and one reported that Australian product was preferred because its product characteristics were better than domestic product.

When asked how often their firm purchases LWR pipe and tube that is offered at the lowest price, one purchaser indicated “always,” 14 indicated “usually,” eight indicated “sometimes,” while no purchaser indicated “never”. Responses to questions concerning their purchasers’ awareness of the country of origin of LWR pipe and tube, three purchasers reported that they always knew country of origin, seven usually, five sometimes, and eight never know whether the LWR pipe and tube they are purchasing is U.S.-produced or imported. Purchasers were asked if they knew the manufacturer of the

Table II-3
LWR pipe and tube: Comparisons of product by source country, as reported by U.S. purchasers

Factor	U.S. vs Mexico			U.S. vs Turkey			U.S. vs nonsubject			Mexico vs Turkey			Mexico vs nonsubject			Turkey vs nonsubject		
	S	C	I	S	C	I	S	C	I	S	C	I	S	C	I	S	C	I
	Number of firms responding																	
Product availability	1	7	4	2	2	0	4	4	0	0	1	0	0	0	1	0	1	1
Delivery terms	3	7	2	2	2	0	4	4	0	0	1	0	0	0	1	0	1	1
Delivery time	3	6	3	3	1	0	5	3	0	1	0	0	0	0	1	0	1	1
Discounts offered	0	10	2	0	4	0	1	6	0	0	1	0	0	1	0	0	2	0
Extension of credit	0	12	0	0	4	0	0	7	0	0	1	0	0	1	0	0	2	0
Lowest price	0	4	8	0	1	3	1	4	3	0	0	1	1	0	0	1	1	0
Minimum quantity requirements	1	11	0	1	3	0	3	5	0	0	1	0	0	1	0	0	2	0
Packaging	1	11	0	0	4	0	3	7	0	0	1	0	0	1	0	0	2	0
Product consistency	3	9	0	1	3	0	1	6	1	1	0	0	0	1	0	0	1	1
Quality meets industry standards	1	10	1	0	4	0	0	8	0	0	1	0	0	1	0	0	2	0
Quality exceeds industry standards	3	7	2	0	4	0	2	6	1	0	1	0	0	1	0	0	2	0
Product range	0	9	3	0	4	0	1	6	1	0	1	0	0	1	0	0	2	0
Reliability of supply	1	8	3	3	1	0	4	4	0	1	0	0	0	0	1	0	1	1
Technical support/service	0	11	1	1	3	0	3	4	1	0	1	0	0	1	0	0	2	0
U.S. transportation costs	1	6	5	0	4	0	4	3	1	0	1	0	0	1	0	0	2	0

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior.

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

product they purchased. Thirteen of 23 responding purchasers stated that they "always" know this information; three firms reported that they "usually" know this information; six firms reported that they "sometimes" know this information; and one firm reported that it "never" knows this information.[6]

Asked whether or not they required their suppliers to become certified or pre-qualified with respect to the quality, chemistry, strength, or other performance characteristics of the LWR pipe and tube they purchase, eleven purchasers did, while ten did not. Two other purchasers reported that they did so on a relatively small percentage of their purchasers, and one purchaser reported requiring these only when the firm purchasing from them required it. Four purchasers required lab testing or an ISO program, while

[6] One purchaser reported both always and usually in the answers of these two questions. Their response has been included in usually.

others wanted test reports supplied with all purchases, and indicated that material is subject to rejection.

When qualifying a new supplier, most purchasers reported that factors such as availability, quality, reliability, references, and price (including features such as financial stability, insurance, credit checks, etc.) were considered. Purchasers also reported that obtaining acceptable quality was an important concern. One purchaser mentioned lab testing, and another stated that they were working toward and implementing an ISO program. Five purchasers provided information on the time necessary to qualify a supplier which ranged from 1 day to 3 months. Three of these five firms reported that qualification times ranged from 1 to 3 months.

In terms of quality requirements beyond ASTM specifications, 14 purchasers reported that they normally had no additional requirements, while nine had additional requirements. Often these were requirements of cleanliness and surface quality, especially that the product be rust free. Dimensions and suitability for welding and powder coating were also important. Only one of the 23 responding purchasers reported that any supplier (domestic or foreign) had lost its qualification, or failed to qualify since January 1, 2001.

Comparisons of Domestic Products and Subject Imports

In order to determine whether U.S.-produced LWR pipe and tube can generally be used in the same applications as imports from Mexico and Turkey, producers, importers, and purchasers were asked whether the product can "always," "frequently,""sometimes,"or "never" be used interchangeably. For black product, the majority of producers that compared Mexico and Turkey with the United States reported that they are always or frequently interchangeable as shown in table II-4. One producer commented that interchangeability depends on the quality requirements of the customer and for many or most applications domestic and imported are always interchangeable. Another U.S. producer commented that while the imports are often substandard, their dimensions are the same as those for U.S.-produced products. A third U.S. producer reported that interchangeability depends upon the application, and for fence applications, customers may use imported LWR pipe and tube. For black product, fewer importers reported that interchangeability is "always" interchangeable, and more often is "frequently" interchangeable. One importer pointed out a variety of quality and size problems with imports from Turkey and other countries. These ranged from difficulty obtaining certain chemical and physical specifications of the steel coils used in the manufacture of LWR pipe and tube; limitations in obtaining various lengths, which limited the OEM market; and poor surface quality or heavy oil that was difficult to clean. There also seemed to be difficulty with metric sizing, which may not meet the standards of their customers. The majority of purchasers of black LWR pipe and tube found the majority of domestic and imported product to be "always" or "frequently" interchangeable. One purchaser indicated that the Mexican product was less expensive, but not as good, while another reported that, in the case of product from Turkey, which is only sometimes interchangeable, their corners have a made radius and cannot be ready for telescoping for chrome.[7]

For corrosion-resistant LWR pipe and tube, a smaller number of producers reported that domestic and imported product was "always" or "frequently" interchangeable, while most importers indicated it was "frequently" interchangeable. A small number of purchasers reported that domestic and Mexican product was "always" or "frequently" interchangeable.

[7] Corners have a made radius refers to the squareness tolerances of the corners not being up to standard, and as a result of this low standard they are not used when chrome plating is used because only better quality product is used with such an expensive coating.

Table II-4
LWR pipe and tube: Interchangeability of product from different sources[1]

Black	U.S. producers					U.S. importers					U.S. purchasers				
Country comparison	A	F	S	N	0	A	F	S	N	0	A	F	S	N	0
U.S. vs. Mexico	5	5	2	-	-	3	6	-	-	-	6	5	2	-	-
U.S. vs. Turkey	5	4	2	-	-	2	6	3	-	-	6	4	1	-	2
U.S. vs. Nonsubject	5	4	2	-	-	2	4	3	-	-	2	6	-	-	1
Mexico vs. Turkey	4	3	2	-	-	1	6	3	-	-	5	3	-	-	3
Mexico vs. Nonsubject	5	3	2	-	-	1	4	3	-	-	2	3	-	-	3
Turkey vs. Nonsubject	5	3	2	-	-	1	4	3	-	-	1	5	-	-	3
Corrosion-resistant	**U.S. producers**					**U.S. importers**					**U.S. purchasers**				
Country comparison	**A**	**F**	**S**	**N**	**0**	**A**	**F**	**S**	**N**	**0**	**A**	**F**	**S**	**N**	**0**
U.S. vs. Mexico	2	2	-	-	-	1	4	1	-	-	3	2	-	-	1
U.S. vs. Turkey	2	2	-	-	-	1	5	1	-	-	-	1	1	-	3
U.S. vs. Nonsubject	2	2	-	-	-	1	3	1	-	-	1	1	1	-	3
Mexico vs. Turkey	2	1	-	-	-	-	5	2	-	-	1	1	-	-	3
Mexico vs. Nonsubject	2	1	-	-	-	-	3	2	-	-	1	1	-	-	3
Turkey vs. Nonsubject	2	1	-	-	-	-	3	2	-	-	-	1	1	-	3

[1] Producers and importers were asked if LWR pipe and tube produced in the United States and in other countries is 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.

Importers' responses concerning interchangeability between the domestic product and imports from Mexico were often similar to those from U.S. producers. For importers that compared U.S. products with both Mexico and Turkey, a majority said that the products from these countries can "always" or "frequently" be used interchangeably.[8]

Three firms that import LWR pipe and tube from Mexico made additional comments. One importer stated that the quality of the LWR pipe and tube product from Mexico may limit interchangeability. Another importer reported that it offers product with odd lengths and coatings for customers with small orders that are not available from most U.S. producers. A third importer stated that it offers a product with a special coating that is only available from a few U.S. producers.

In addition to questions concerning interchangeability, producers and importers were also asked to compare U.S.-produced products with imports from each of the subject countries in terms of product differences such as quality, availability, product range, and other characteristics. Again, firms were asked

[8] Responses concerning interchangeability were similar among importers of LWR pipe and tube from both Mexico and Turkey.

whether these product differences are “always”, “frequently”, “sometimes”, or “never” significant (see table II-5). Of the U.S. producers that compared the U.S. product with product from Mexico and Turkey, most said that the differences are “sometimes” or “never” significant. One producer said that differences between the United States and Mexico are “frequently” significant. Among importers, a majority reported that the differences are “always”, “frequently” or “sometimes” significant for both countries.[9]

Table II-5
LWR pipe and tube: Differences other than price between products from different sources[1]

Black	U.S. producers					U.S. importers				
Country comparison	A	F	S	N	0	A	F	S	N	0
U.S. vs. Mexico	-	1	2	7	-	1	2	6	1	-
U.S. vs. Turkey	-	1	2	7	-	1	1	6	2	-
U.S. vs. Nonsubject	-	1	3	7	-	1	-	6	1	-
Mexico vs. Turkey	-	1	1	7	-	4	1	3	1	-
Mexico vs. Nonsubject	-	1	1	7	-	1	3	3	-	-
Turkey vs. Nonsubject	-	1	1	7	-	1	-	4	-	-
Corrosion-resistant	**U.S. producers**					**U.S. importers**				
Country comparison	**A**	**F**	**S**	**N**	**0**	**A**	**F**	**S**	**N**	**0**
U.S. vs. Mexico	-	-	-	3	-	-	1	4	1	-
U.S. vs. Turkey	-	-	-	3	-	-	-	4	2	-
U.S. vs. Nonsubject	-	-	-	3	-	-	-	4	1	-
Mexico vs. Turkey	-	-	-	3	-	3	-	5	1	-
Mexico vs. Nonsubject	-	-	-	3	-	-	3	2	-	-
Turkey vs. Nonsubject	-	-	-	3	-	-	-	2	-	-

[1] Producers and importers were asked if differences other the price between LWR pipe and tube produced in the United States and in other countries are a significant factor in their firms’ sales of LWR pipe and tube.

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

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

[9] Responses concerning product differences were similar among importers of LWR pipe and tube from both Mexico and Turkey.

Comparisons of Domestic Products and Nonsubject Imports

Producers and importers were also asked to compare U.S.-produced LWR pipe and tube with nonsubject imports both in terms of interchangeability and product differences. Most producers that compared the interchangeability of the domestic product with nonsubject imports stated that the products are "always" or "frequently" interchangeable. All U.S. producers that compared the domestic product with nonsubject imports in terms of product differences reported that the differences are either "sometimes" or "never" significant. Of the importers that compared the domestic product with nonsubject imports in terms of interchangeability, the majority stated that they are "always" or "frequently" interchangeable. The majority of importers that compared the domestic product with nonsubject imports in terms of product differences reported that the differences are "sometimes" or "never" significant.

Comparisons of Subject Imports and Nonsubject Imports

U.S. producers and importers of LWR pipe and tube from all sources were asked to separately compare imports from Mexico and Turkey with nonsubject imports, both in terms of interchangeability and product differences. The majority of producers that compared imports from Mexico and Turkey with nonsubject imports in terms of interchangeability said that the products are "always" or "frequently" interchangeable. All producers that compared imports from Mexico and Turkey with nonsubject imports in terms of product differences said that the differences are "sometimes" or "never" significant. Of the importers that compared products from the two countries with nonsubject imports in terms of interchangeability, the majority said that they are "always" or "frequently" interchangeable. Of importers that compared products from Mexico with nonsubject imports in terms of product differences, the majority said that the differences are "always" or "frequently" significant. For importers that compared products from Turkey with nonsubject imports, a majority reported that the differences are "sometimes" significant.

Comparisons of Subject Products from the Subject Countries

U.S. producers, importers, and purchasers of LWR pipe and tube from all sources were further asked to compare imports from Mexico and Turkey both in terms of interchangeability and product differences. Most of the producers that compared products from the two countries in terms of interchangeability reported that they are "always" or "frequently" interchangeable. Almost all of the U.S. producers that compared products from Mexico and Turkey in terms of product differences stated that the differences are "sometimes" or "never" significant. Of the importers that compared products from the two countries in terms of interchangeability, a majority said that they are "always" or "frequently" interchangeable. Of the importers that compared products from the two countries in terms of product differences, responses were mixed across the categories.

ELASTICITY ESTIMATES

U.S. Supply Elasticity

The domestic supply elasticity for LWR pipe and tube measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price for LWR pipe and tube. The elasticity of domestic supply depends on several factors, including the level of excess capacity, the existence of inventories, and the availability of alternate markets for U.S.-produced LWR pipe and tube. Available

information on these factors indicates that the U.S. industry is likely to have the ability to increase or decrease shipments to the U.S. market; an estimate in the range of 5 to 10 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for LWR pipe and tube measures the sensitivity of the overall quantity demanded to changes in the U.S. market price for LWR pipe and tube. This estimate depends on the factors discussed earlier, such as the existence, availability, and commercial viability of substitute products and the relative cost share of LWR pipe and tube. Based on information available, a demand elasticity in the range of 0.75 to 1.25 is reasonable.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products. Product differentiation, in turn, depends upon such factors as quality and conditions of sale. Based on available information, the elasticity of substitution between U.S.-produced LWR pipe and tube and LWR pipe and tube imported from Mexico and Turkey is estimated to be in the range of 3 to 5.

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

U.S. PRODUCERS

Table III-1 lists the 18 known U.S. producers of LWR pipe and tube, their plant locations, positions on the petition, and shares of reported 2003 production.[1] Counsel for the Mexican respondents argued that producers located on the West Coast accounted for *** percent of total production in 2003, that most of the subject imports from Mexico enter the United States in Texas, and that approximately 80-90 percent of subject imports are sold to users in Texas.[2] Data from table III-1, however, indicate that about *** percent of U.S. production is accounted for by West Coast producers. Producers accounting for approximately *** percent of 2003 production have at least one plant location in a southern state.[3] A description of known U.S. producers of LWR pipe and tube follows.

Company Profiles

Responding Firms

Allied is owned by Tyco International, Portsmouth, NH, and is related by a common parent to Tyco European Metals, West Bromwich, UK; Tyco Tubing LTD, Oldbury, UK; and Tyco Flow Control Do Brazil, San Paulo, Brazil, all producers of LWR pipe and tube. LWR pipe and tube accounted for *** percent of Allied's total establishment sales during 2003, with *** pipe and tube accounting for the remaining *** percent of sales. Allied produces corrosion-resistant LWR pipe and tube which accounted for *** percent of the firm's total production of LWR pipe and tube during 2003.

Bull Moose is owned by Caparo Industries, PLC, London, UK. It is related by common ownership and management to Bull Moose Tube, Ltd, Ontario, Canada, which also produces LWR pipe and tube. Bull Moose is the largest producer in the domestic industry. LWR pipe and tube accounted for *** percent of Bull Moose's total establishment sales during 2003, with *** pipe and tube accounting for the remaining *** percent of sales. Bull Moose produces corrosion-resistant LWR pipe and tube which accounted for *** percent of the firm's total production of LWR pipe and tube during 2003.

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[1] During the preliminary phase of these investigations, counsel for Mexican respondents argued that there are possibly two dozen more producers of the domestic like product than the 18 listed in table III-1 and that they produce subject structural tubing under specification A-500. Prolamsa's postconference brief.

During these final phase investigations, U.S. producers' questionnaires were sent to an additional 22 firms identified by Mexican respondents (Sept. 24, 2003, submission of White & Case, p. 4 and exhibit 3) as possible U.S. producers of the subject product (a list described as being developed from a "fishing expedition" of the internet and credible information that the firms were producers of the subject product (hearing transcript, pp. 223 and 276 (Bond)). Eight of the identified firms responded and reported that they did not produce the subject product. Of the remaining 14 firms, 11 reported they produced subject product amounting to approximately 24,000 tons during 2003, and 3 have not responded to repeated inquires by Commission staff. At the Commission's hearing, counsel for respondent Galvak/Hylsa identified Wheatland Tube as another U.S. producer of LWR pipe and tube that had not provided information to the Commission (hearing transcript, p. 183 (Winton)). Wheatland has reported that *** (Sept. 1, 2004, e-mail from ***, Wheatland Tube).

[2] Mexican respondents' postconference brief, pp. 4-5.

[3] See *Part IV* of this report for a discussion of cumulation issues including overlap of competition.

Table III-1
LWR pipe and tube: U.S. producers, their positions on the petition, production locations, U.S. production, and shares of reported U.S. production, 2003

Firm	Position on the petition	Production location(s)	LWR pipe and tube products			Share of all production *(percent)*
			Black (*short tons*)	Corrosion-resistant (*short tons*)	Total Quantity (*short tons*)	
Responding firms:						
Allied	Support	Chicago, IL; Philidelphia, PA; Depere, WI; Pine Bluffs, AR; Phoenix, AZ	***	***	***	***
Bull Moose	Support	Gerald, MO; Chicago Heights, IL; Elkhart, IN; Trenton, GA; Marury OH	***	***	***	***
California	Petitioner	City of Industry, CA	***	***	***	***
Copperweld	([1])	Pittsburgh, PA	***	***	***	***
Dallas	Support	Dallas, TX	***	***	***	***
Hanna	***	Fairfield, AL	***	***	***	***
Hannibal	Petitioner	Los Angeles, CA	***	***	***	***
Leavitt	Petitioner	Chicago, IL Jackson, MS	***	***	***	***
Maruichi	Petitioner	Santa Fe Springs, CA	***	***	***	***
Maverick	Suppport	Blytheville, AR Longview, WA	***	***	***	***
Northwest	Petitioner	Houston, TX	***	***	***	***
Searing	Petitioner	Rancho Cucamongo, CA	***	***	***	***
Tubular	***	Lavergne, TN Carrollton, KY West Point, MS	***	***	***	***
Vest	Petitioner	Vernon, CA	***	***	***	***
Western	Petitioner	Long Beach, CA	***	***	***	***
Subtotal			468,090	65,617	533,707	92.5
Non-responding firms:						
AK Tube	***	Walbridge, OH	***	***	***	***
EXL[2]	***	North Kansas City, MO	***	***	***	***
Valmont[3]	***	Tulsa, OK	***	***	***	***
11 non-responding producers			***	***	***	***
Subtotal			43,245	0	43,245	7.5
Total			511,335	65,617	576,952	100.0

[1] ***.
[2] ***.
[3] ***.

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

California is owned by MacSteel Service Centers USA, Newport Beach, CA. LWR pipe and tube accounted for *** percent of California's total establishment sales during 2003, with *** accounting for the remaining *** percent of sales.

Copperweld is North America's leading producer of tubular products. With 14 manufacturing facilities throughout the United States and Canada, they offer a wide range of steel tubular products.[4] About 15 years ago Palmer Tube of Australia purchased Welded Tube Co. of America and invested in its U.S. facility in Chicago to produce painted tubing products, similar to that produced by one of the Mexican respondents, Prolamsa. Welded Tube Co. was sold to LTV Copperweld in 1999.[5]

Dallas Tube and Rollform, a division of Inca Metal Products Corporation,[6] is a manufacture of welded steel tubing in square and rectangular shapes.[7] LWR pipe and tube accounted for *** percent of Dallas' total establishment sales during 2003, with *** pipe and tube accounting for the remaining *** percent of sales.

Hanna Steel produces structural and mechanical tubing from the Southeast to the Midwest. Hanna produces tubing ranging from ½" square to 10" square in a number of square, rectangle, and round sizes, with wall thicknesses through .500 (½") in seven tube mills in Illinois and Alabama.[8]

Hannibal is owned by Mitsui Steel Development Co., Inc. (MSD), New York, NY.[9] *** is an importer of the subject product. *** imported *** tons of LWR pipe and tube from Turkey in 2002, and *** tons in January-June 2003.[10] LWR pipe and tube accounted for *** percent of Hannibal's total establishment sales during 2003, with *** tubing accounting for the remaining *** percent of sales.

Leavitt has two facilities: the original in Chicago, IL, founded in 1957, and the newer facility (built in 1985) in Jackson, MS.[11] Leavitt was purchased in 1996 by Chase Brass and Copper for $92 million but sold on March 31, 2001 for only $29 million.[12] LWR pipe and tube accounted for *** percent of Leavitt's total establishment sales during 2003, with *** tubing accounting for the remaining *** percent of sales.

Maruichi is owned by Maruichi Steel Tube, Ltd., Osaka, Japan, and Metal One, Osaka, Japan. Maruichi began operations in 1980 and currently has six mills and two slitting lines. It imported LWR pipe and tube only from Japan during the period examined. LWR pipe and tube accounted for ***

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[4] Copperweld is one of the largest and most diversified producers of steel tubular products in North America. They are also the world's leading manufacturer of bimetallic wire and bimetallic strip products. Copperweld is headquartered in Pittsburgh, PA and employs 2,300 people in the United States, Canada, and the United Kingdom. Retrieved from Copperweld's website *http://www.copperweld.com/*.

[5] Petitioners' postconference brief, exh. 4, p. 2.

[6] Inca Metal is a leading Texas based-manufacturer of steel products for the construction, distribution, and manufacturing industries. Inca consists of three companies: Inca Metal Products Corp, the nation's 7th largest rack and shelving manufacturer; *Dallas Tube*, a manufacturer of mechanical and structural steel tubing, and Andes Metal Processors, a toll processor for large steel mill customers. Inca Metal Products was initially founded in 1939. Retrieved from Inca Metal's website *http://www.incametal.com/*.

[7] Retrieved from Dallas' website *http://www.dallastube.com/*.

[8] Retrieved from Hanna's website *http://www.hannasteel.com*.

[9] MSD is a joint venture company formed by Mitsui & Co. USA (Mitsui) and Mitsui & Co., Ltd. in 1986. Its primary focus is the promotion of U.S. domestic steel, with functions including the marketing and distribution of steel services. MSD also promotes and sometimes manages joint venture investments in steel related industries. Mitsui is an importer of a large variety of products, including LWR pipe and tube. Email from petitioners' counsel, October 15, 2003.

[10] Hannibal's production of LWR pipe and tube in 2002 was *** tons. ***'s subject imports were *** percent of ***'s production in that year.

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

[12] Conference transcript, p. 68 (Schagrin).

percent of Maruichi's total establishment sales during 2003, with *** pipe accounting for the remaining *** percent of sales.

Maverick Tube corporation operates two mills that produce LWR pipe & tube: Maverick Tube LP[13] and Prudential Steel, Inc.[14]

Northwest purchased the assets of Southwest Pipe in Houston, TX in 1998. LWR pipe and tube accounted for *** percent of Northwest's total establishment sales during 2003, with *** pipe and tube accounting for the remaining *** percent of sales.

Searing is a family owned company that was founded in 1985. It produces round and rectangular light-walled tubing, and it has one structural mill to produce structural tubing.[15] LWR pipe and tube accounted for *** percent of Searing's total establishment sales during 2003, with *** pipe and tube accounting for the remaining *** percent of sales. Searing produces corrosion-resistant LWR pipe and tube which accounted for *** percent of the firm's total production of LWR pipe and tube during 2003.

Tubular is owned by Leggett & Platt, Inc., Carthage, MO, and related by common parent to Blazon Tube, West Point, MS. It appears that part of Parthenon's facilities may have once been part of Excaliber Tube, which was founded by ex-Bull Moose employees and went into bankruptcy at the end of 2001 or early 2002. Leggett & Platt bought some of the assets of Excaliber Tube.[16] LWR pipe and tube accounted for *** percent of Tubular's total establishment sales during 2003, with *** tubing accounting for the remaining *** percent of sales.

Vest is owned by Kawasco Corp., Tokyo, Japan. LWR pipe and tube accounted for *** percent of Vest's total establishment sales during 2003, with *** tubing accounting for the remaining *** percent of sales.

Western Tube is owned by Sumitomo Metal USA Corp., Chicago, IL, and is related to Sumitomo Pipe and Tube Ltd., Tokyo, Japan. In addition to LWR pipe and tube, Western produces *** in the same establishment. Western produces corrosion-resistant LWR pipe and tube which accounted for *** percent of the firm's total production of LWR pipe and tube during 2003.

Non-Responding Firms

A number of other firms identified as U.S. producers of LWR pipe and tube have not responded to the Commission's questionnaires in these final phase investigations. The firms are described below.

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[13] Maverick is a leading North American producer of tubular steel products used in energy and industrial applications. They are the largest producer in North America of oil country tubular goods (OCTG) and line pipe products for use in newly drilled oil and natural gas wells and transporting oil and natural gas. Maverick also produces coiled tubing, line pipe and umbilicals, hollow structural sections (HSS), standard pipe, and pipe piling. They recently added electrical steel conduit to their product line. Retrieved from Maverick's website *http://www.maverick-tube.com.*

[14] Prudential Steel Ltd., a wholly owned subsidiary of Maverick Tube Corporation, is one of North America's leading producers of high quality energy and industrial tubular products. Prudential Steel Ltd., markets its products to both the energy sector (line pipe and OCTG) and the industrial sector (HSS). Prudential operates three pipe-making facilities in Calgary, Alberta with over 400,000 tons of annual capacity. Retrieved from Prudential's website *http://www.maverick-tube.com/.*

[15] Conference transcript, p. 37 (Mitchell).

[16] Conference transcript, p. 56 (Schagrin).

AK Steel Corporation purchased Alpha Tube and changed the name to AK Tube LLC. AK Tube LLC produces value-added large diameter, thin wall mechanical tubing for automotive, construction, heating and cooling, furniture and other markets. The company operates tube mills, slitters and a variety of finishing equipment and produces a wide range of specialty and coated steel tubing products. The company employs about 250 in its facility near Toledo.[17]

EXL, dba Steel Ventures Co., is owned by Steel and Pipe Supply, Manhattan, KS, and was founded by ex-employees of Leavitt Tube.[18] Steel Ventures purchased the assets of EXL on September 1, 2003. EXL was ***. EXL produces square and round tube on the same machinery as the subject product.

Valmont currently operates from 34 facilities located in 14 countries around the world. The company is headquartered in Omaha, NE, and employs over 5,200 personnel worldwide, with approximately 1,500 located in Nebraska producing LWR pipe and tube as well as lighting and traffic poles, utility poles, communication poles and towers, and irrigation equipment.[19] ***.

A number of firms were identified by counsel for Mexican respondent Prolomsa as potential U.S. producers of structural LWR pipe and tube, but the firms did not respond to the Commission's questionnaires during these final phase investigations. The contacted firms provided estimated 2003 production of the subject product as follows: ***.

Plant Closures

In addition to active producers, there have been plant closures during the period of investigation. Excaliber Tube filed for bankruptcy on July 18, 2001.[20] Copperweld closed its Piqua, OH mill in mid-2002. That mill was owned by LTV and was formerly known as Miami Tube.[21] Maverick Tube Corp.'s Youngstown, OH pipe mill closed in February 2003.[22] Olympic Steel Tube, with a capacity of approximately *** tons, closed in mid 2002.[23]

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

The U.S. industry's production, capacity, and capacity utilization data are presented in table III-2. It should be noted that capacity utilization remained well below 50 percent throughout the period examined.[24]

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[17] Retrieved from AK's website *http://www.aksteel.com/*.

[18] Conference transcript, p. 55 (Schagrin).

[19] Retrieved from Valmont's website *http://www.valmont.com/*.

[20] Retrieved from *http://www.iasworldtrade.com/BankruptcyTable.htm*, Aug. 16, 2004.

[21] Conference transcript, p. 19 and conference transcript, pp. 56-57 (Schagrin).

[22] Mexican respondents' postconference brief, p. 16.

[23] Questionnaire response of ***.

[24] At the conference, the industry witness from Northwest testified that a capacity utilization of 50 percent was normal for the pipe and tube industry. The witness from Leavitt indicated that his firm achieved higher capacity utilization rates in the early 1980s and expected the higher rates to return in the absence of dumped imports. Conference transcript, p. 59 (Mitchell).

Table III-2
LWR pipe and tube: U.S. production capacity, production, and capacity utilization, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Most firms produced other tubing products on the same machinery as that used to produce LWR pipe and tube: primarily light-walled round pipe and tube, but also square, oval, bullet-nosed, and d-shaped tubing. In addition, some of the firms manufacture nonsubject structural tubing and roll form shapes. LWR pipe and tube ranged in percentage from 25 to 100 percent of the products manufactured by each firm in the industry.

*** was one of two firms in the industry to reply that it changed its operations recently. It *** ***.[25] *** also experienced some changes during the period examined. It ***.[26]

U.S. PRODUCERS' U.S. SHIPMENTS AND EXPORTS

Tables III-3-III-5 present data on the U.S. industry's shipments during the period examined. Unit values for U.S. shipments rose during the period, with the largest increase in 2004. All responding U.S. producers were asked for an explanation of the significant increase in 2004. Nine responding firms all stated the primary reason for the price increase was higher raw material costs.[27] Figure III-1 graphically depicts the trends during the period of investigation, in average unit values for U.S. shipments of black LWR pipe and tube and spot prices for the raw material input, hot-rolled steel sheet. Export shipments were small, accounting for *** percent or less of total shipments of LWR pipe and tube during the period of investigation.

Table III-3
LWR pipe and tube: U.S. producers' shipments, by types, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table III-4
LWR pipe and tube: U.S. producers' U.S. shipments, by types, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table III-5
Pre-primered LWR pipe and tube: U.S. producers' U.S. shipments, 2001-03, January-June 2003, and January-June 2004

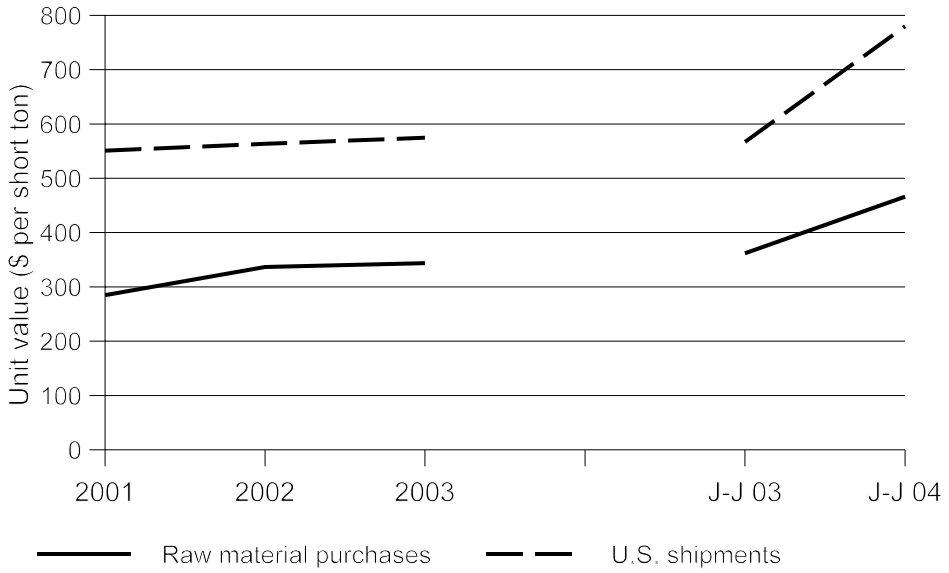
* * * * * * *

[25] Questionnaire response of ***.

[26] Questionnaire response of ***.

[27] *See* appendix F for producer and importer comments regarding the increase in raw material costs.

Figure III-1
LWR pipe and tube: Average unit values of U.S. shipments and U.S. producers' purchase prices for all steel sheet, 2001-03, January-June 2003, and January-June 2004



Source: Tables III-3 and VI-3-VI-5.

U.S. PRODUCERS' INVENTORIES

Table III-6 presents data on the U.S. industry's inventories during the period.

Table III-6
LWR pipe and tube: U.S. producers' end-of-period inventories, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Table III-7 shows the U.S. industry's employment-related data during the period examined.

Table III-7
LWR pipe and tube: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

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

U.S. IMPORTERS

Importers' questionnaires were sent to 44 firms identified as possible importers as well as 36 firms receiving producers' questionnaires. Sixteen firms responded that they imported subject merchandise during the period of investigation: 10 responding firms accounted for 75 percent of subject imports (as reported by Commerce) from Mexico and five firms accounted for almost all of subject imports from Turkey.[1] One U.S. producer, ***, imported LWR pipe and tube from ***. As mentioned in part III of this report, *** imports the subject product from *** and is related to ***, one of the U.S. producers of LWR pipe and tube. Table IV-1 presents data from the responding firms relating to imports of LWR pipe and tube from Mexico and Turkey.

Table IV-1
LWR pipe and tube: U.S. importing firms and their imports into the United States, by subject-country sources, 2003

* * * * * * *

U.S. IMPORTS

U.S. subject imports are based on official Commerce statistics for all but Turkish imports, which are based on responses to Commission questionnaires,[2] and are presented in table IV-2. Subject imports from Mexico increased significantly from 2001 to 2003, and then again from January-June 2003 to January-June 2004. The average unit value of imports from Mexico fluctuated upward from 2001 to 2003, and increased sharply between January-June 2003 and January-June 2004. Subject imports from Turkey also increased substantially between 2001 and 2003, and then decreased between the interim periods. Average unit values (AUVs) of such imports increased steadily from 2001 to 2003 and then slightly more from January-June 2003 to January-June 2004. U.S. importers attribute the 2004 increases in average unit values to changes in the price of raw material steel sheet.[3] Imports from nonsubject sources covered by section 201 relief declined steadily during the period examined. Imports from all other sources increased steadily during the period. AUVs of those imports rose $255 per ton from January-June 2003 to January-June 2004 (a 152-percent increase). Table IV-3 presents imports from Mexico, by type during the period of investigation, as reported in Commission questionnaires.

[1] In the preliminary phase of these investigations the Commission received 26 completed importers' questionnaires. Three firms that reported imports during the preliminary phase responded to the final phase questionnaire by reporting that they had mistakenly reported their purchases as imports during the preliminary phase. Staff has contacted the remaining importers that responded in the preliminary phase to no avail.

[2] Imports of Turkish subject product reported in response to the Commission's questionnaires were significantly greater than those reported by Commerce. Staff contacted those importers reporting imports from Turkey and asked for an explanation of the difference. Although all importers of Turkish product affirmed that their questionnaire data were correct, they had no explanation for the difference between the questionnaire and official Commerce data.

[3] *See* appendix F for comments from producers and importers regarding increases in raw material costs.

Table IV-2
LWR pipe and tube: U.S. imports, by sources, 2001-03, January-June 2003, and January-June 2004

Source	Calendar year			January-June	
	2001	2002	2003	2003	2004
	Quantity (*short tons*)				
Mexico	102,146	144,591	154,005	68,643	76,142
Turkey	10,989	38,569	29,651	19,919	18,398
Subtotal	113,135	183,160	183,656	88,562	94,540
Sources subject to AD & 201 duties[1]	48,949	47,680	22,300	13,200	13,311
All other sources[2]	64,315	71,347	82,784	40,700	49,667
Subtotal	113,264	119,028	105,083	53,900	62,978
Total imports	226,399	302,188	288,740	142,462	157,518
	Value (*$1,000*)[3]				
Mexico	49,778	73,643	75,815	33,920	49,764
Turkey	3,286	12,293	11,136	8,029	7,563
Subtotal	53,064	85,937	86,950	41,948	57,327
Sources subject to AD & 201 duties[1]	20,788	21,081	11,772	6,699	7,535
All other sources[2]	30,887	36,344	40,183	19,818	36,836
Subtotal	51,675	57,424	51,955	26,517	44,371
Total imports	104,739	143,361	138,905	68,466	101,698
	Unit value (*per ton*)				
Mexico	$487	$509	$492	$494	$654
Turkey	299	319	376	403	411
Subtotal	469	469	473	474	606
Sources subject to AD & 201 duties[1]	425	442	528	508	566
All other sources[2]	480	509	485	487	742
Subtotal	456	482	494	492	705
Total imports	463	474	481	481	646

Table continued on next page.

Table IV-2--Continued
LWR pipe and tube: U.S. imports, by sources, 2001-03, January-June 2003, and January-June 2004

Source	Calendar year			January-June	
	2001	2002	2003	2003	2004
	Share of quantity (*percent*)				
Mexico	45.1	47.8	53.3	48.2	48.3
Turkey	4.9	12.8	10.3	14.0	11.7
Subtotal	50.0	60.6	63.6	62.2	60.0
Sources subject to AD & 201 duties[1]	21.6	15.8	7.7	9.3	8.5
All other sources[2]	28.4	23.6	28.7	28.6	31.5
Subtotal	50.0	39.4	36.4	37.8	40.0
Total imports	100.0	100.0	100.0	100.0	100.0
	Share of value (*percent*)				
Mexico	47.5	51.4	54.6	49.5	48.9
Turkey	3.1	8.6	8.0	11.7	7.4
Subtotal	50.7	59.9	62.6	61.3	56.4
Sources subject to AD & 201 duties[1]	19.8	14.7	8.5	9.8	7.4
All other sources[2]	29.5	25.4	28.9	28.9	36.2
Subtotal	49.3	40.1	37.4	38.7	43.6
Total imports	100.0	100.0	100.0	100.0	100.0

[1] Argentina and Taiwan are subject to outstanding antidumping duty orders and the 20 countries subject to section 201 import relief include Australia, Austria, Belgium, China, Finland, France, Germany, Italy, Korea, Malaysia, Netherlands, New Zealand, Saudia Arabia, Spain, Sweden, Switzerland, Taiwan, Thailand, and UK.
[2] Brazil and principally Canada accounted for 90 to 97 percent of imports in the all other sources category during the period of investigation.
[3] Landed, duty-paid.

Source: Compiled from official Commerce statistics for HTS subheading 7306.60.50. Turkish imports are compiled from data submitted in response to Commission questionnaires.

U.S. imports of black and corrosion-resistant LWR pipe and tube from Mexico are presented in table IV-3. There were no imports of corrosion-resistant subject products from Turkey during the period of investigation.

Table IV-3
LWR pipe and tube: U.S. imports from Mexico, by types, 2001-03, January-June 2003, and January-June 2004

Source	Calendar year			January-June	
	2001	2002	2003	2003	2004
			Quantity (*short tons*)		
Black	***	***	***	***	***
Corrosion-resistant	***	***	***	***	***
Total	79,354	96,743	117,982	56,314	56,855
			Value ($*1,000*)		
Black	***	***	***	***	***
Corrosion-resistant	***	***	***	***	***
Total	37,097	49,621	58,031	28,109	37,256
			Unit value (*per ton*)		
Black	$***	$***	$***	$***	$***
Corrosion-resistant	***	***	***	***	***
Total	467	513	492	499	655
			Share of quantity (*percent*)		
Black	***	***	***	***	***
Corrosion-resistant	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0

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

Source: Compiled from responses to Commission questionnaires.

CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical market, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Issues concerning fungibility are addressed in Part II of this report and channels of distribution are discussed in Parts I and II.

Data regarding U.S. producers' and U.S. importers' shipments of LWR pipe and tube by geographic regions are presented in table IV-4. With regard to simultaneous presence in the U.S. market, imports from Mexico were recorded in every month of the period of investigation (table IV-5). Imports from Turkey were recorded in 6 months of 2001, 10 months of 2002, every month of 2003, and 5 months during January-June 2004.

Table IV-4
LWR pipe and tube: U.S. producers' shipments and U.S. importers' shipments of imports, by region, 2001-03, January-June 2003, and January-June 2004

Region[1]	Calendar year			January-June	
	2001	2002	2003	2003	2004
	Share of U.S. shipments (*percent*)				
U.S. producers' U.S. shipments:					
East	***	***	***	***	***
Gulf	***	***	***	***	***
Midwest	***	***	***	***	***
West	***	***	***	***	***
All other	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
U.S. shipments of imports from Mexico:					
East	***	***	***	***	***
Gulf	***	***	***	***	***
Midwest	***	***	***	***	***
West	***	***	***	***	***
All other	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
U.S. shipments of imports from Turkey					
East	***	***	***	***	***
Gulf	***	***	***	***	***
Midwest	***	***	***	***	***
West	***	***	***	***	***
All other	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0
U.S. shipments of imports from subject countries:					
East	9.3	17.8	14.9	13.6	10.8
Gulf	70.5	67.3	68.3	72.0	65.3
Midwest	3.7	7.6	7.4	4.3	5.9
West	5.5	5.5	7.1	7.4	9.0
All other	11.0	1.9	2.4	2.7	9.1
Total	100.0	100.0	100.0	100.0	100.0

[1] The **East region** includes the states of Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia; the **Gulf region** includes the states of Alabama, Louisiana, Mississippi, Oklahoma, and Texas; the **Midwest region** includes the states of Arkansas, Illinois, Indiana, Iowa, Kansas, and Tennessee; and the **West region** includes the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

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

Table IV-5
LWR pipe and tube: U.S. imports from Mexico and Turkey, by months, January 2001-June 2004

Period	Mexico	Turkey	Period	Mexico	Turkey
	Quantity (*short tons*)			Quantity (*short tons*)	
2001:			**2003**:		
January	7,346	0	January	9,742	7,059
February	5,566	984	February	9,139	6
March	7,695	0	March	10,555	3,580
April	7,160	1,112	April	11,076	1,990
May	12,102	1,073	May	14,369	1,340
June	11,258	0	June	13,761	967
July	10,209	0	July	13,927	241
August	10,262	2,447	August	13,346	3,349
September	6,934	684	September	15,918	672
October	8,544	0	October	16,759	4,319
November	7,278	0	November	14,554	5,456
December	7,792	2,103	December	10,859	2,270
2002:			**2004**:		
January	7,906	21	January	15,723	763
February	8,140	4,084	February	18,613	4,951
March	7,501	1,024	March	10,677	0
April	13,087	0	April	10,243	1,456
May	14,304	0	May	10,029	2
June	15,035	1,357	June	10,859	3
July	17,058	7,292			
August	16,664	2,830			
September	10,971	2,100			
October	13,493	1,759			
November	11,530	8,375			
December	8,902	1,696			

Source: Compiled from official Commerce statistics.

Mexican respondents argue that competition is limited with respect to pre-primered[4] LWR pipe and tube in that this is a niche product that accounts for a significant percentage of imports of LWR pipe and tube from Mexico while little is known of U.S. production/sales of the product. Data on U.S.

[4] Pre-primered LWR pipe and tube was defined by Mexican respondents as product produced from hot-rolled and cold-rolled sheet that is completely coated (including the weld) with paint or primer that prevents oxidation and/or serves as a base for the application of paint. Mexican respondents' comments on draft questionnaires, April 26, 2004, pp. 2-3.

shipments of U.S. production and imports from Mexico of pre-primered LWR pipe and tube are presented in table IV-6.

Table IV-6
LWR pipe and tube: U.S. producers' and importers' U.S. shipments of pre-primered product, by source, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table IV-7 presents shares of U.S. shipments of U.S. producers' and U.S. importers' black and corrosion-resistant LWR pipe and tube for the period of investigation.

Table IV-7
LWR pipe and tube: Shares of U.S. shipments of U.S.-produced and imported product, by type and source, 2001-03, January-June 2003, and January-June 2004

Type and source	Calendar year			January-June	
	2001	2002	2003	2003	2004
	Share of U.S. shipments (*percent*)				
Black:					
U.S.-produced product	***	***	***	***	***
Imports from--					
Mexico	90.6	75.1	81.9	81.0	86.3
Turkey	100.0	100.0	100.0	100.0	100.0
Subtotal subject	91.7	81.7	85.5	85.9	89.4
All other sources	100.0	100.0	100.0	100.0	100.0
Total imports	96.3	90.0	91.4	91.6	94.1
Total black	***	***	***	***	***
Corrosion-resistant:					
U.S.-produced product	***	***	***	***	***
Imports from--					
Mexico	9.4	24.9	18.1	19.0	13.7
Turkey	0.0	0.0	0.0	0.0	0.0
Subtotal subject	8.3	18.3	14.5	14.1	10.6
All other sources	0.0	0.0	0.0	0.0	0.0
Total imports	7.9	17.6	14.3	13.7	10.3
Total corrosion-resistant	***	***	***	***	***

Source: Compiled from responses to Commission questionnaires and official Commerce statistics.

APPARENT U.S. CONSUMPTION AND U.S. MARKET SHARES

Table IV-8 presents apparent U.S. consumption and U.S. market shares during the period, based on U.S. producers' U.S. shipments reported in questionnaire responses and U.S. imports.

Table IV-8
LWR pipe and tube: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2001-03, January-June 2003, and January-June 2004

Item	Calendar year			January-June	
	2001	2002	2003	2003	2004
			Quantity (*short tons*)		
U.S. producer's U.S. shipments	***	***	***	***	***
U.S. imports from--					
Mexico	102,146	144,591	154,005	68,643	76,142
Turkey	10,989	38,569	29,651	19,919	18,398
Subtotal	113,135	183,160	183,656	88,562	94,540
Sources subject to AD & 201 duties	48,949	47,680	22,300	13,200	13,311
All other sources	64,315	71,347	82,784	40,700	49,667
Subtotal	113,264	119,028	105,083	53,900	62,978
Total imports	226,399	302,188	288,740	142,462	157,518
Apparent U.S. consumption	***	***	***	***	***
			Value (*$1,000*)		
U.S. producer's U.S. shipments	***	***	***	***	***
U.S. imports from--					
Mexico	49,778	73,643	75,815	33,920	49,764
Turkey	3,286	12,293	11,136	8,029	7,563
Subtotal	53,064	85,937	86,950	41,948	57,327
Sources subject to AD & 201 duties	20,788	21,081	11,772	6,699	7,535
All other sources	30,887	36,344	40,183	19,818	36,836
Subtotal	51,675	57,424	51,955	26,517	44,371
Total imports	104,739	143,361	138,905	68,466	101,698
Apparent U.S. consumption	***	***	***	***	***
			Share of quantity (*percent*)		
U.S. producer's U.S. shipments	***	***	***	***	***
U.S. imports from--					
Mexico	***	***	***	***	***
Turkey	***	***	***	***	***
Subtotal	***	***	***	***	***
Sources subject to AD & 201 duties	***	***	***	***	***
All other sources	***	***	***	***	***
Subtotal	***	***	***	***	***
Total imports	***	***	***	***	***

Table continued on next page.

Table IV-8--*Continued*
LWR pipe and tube: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2001-03, January-June 2003, and January-June 2004

Item	Calendar year			January-June	
	2001	2002	2003	2003	2004
	Share of value (*percent*)				
U.S. producer's U.S. shipments	***	***	***	***	***
U.S. imports from--					
Mexico	***	***	***	***	***
Turkey	***	***	***	***	***
Subtotal	***	***	***	***	***
Sources subject to AD & 201 duties	***	***	***	***	***
All other sources	***	***	***	***	***
Subtotal	***	***	***	***	***
Total imports	***	***	***	***	***

[1] Argentina and Taiwan are subject to outstanding antidumping duty orders and the 20 countries subject to section 201 import relief include Australia, Austria, Belgium, China, Finland, France, Germany, Italy, Korea, Malaysia, Netherlands, New Zealand, Saudia Arabia, Spain, Sweden, Switzerland, Taiwan, Thailand, and UK.

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

RATIO OF SUBJECT IMPORTS TO U.S. PRODUCTION

Data on ratios of U.S. imports of LWR pipe and tube to U.S. production are presented in table IV-9.

Table IV-9
LWR pipe and tube: Ratio of U.S. imports to U.S. production, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

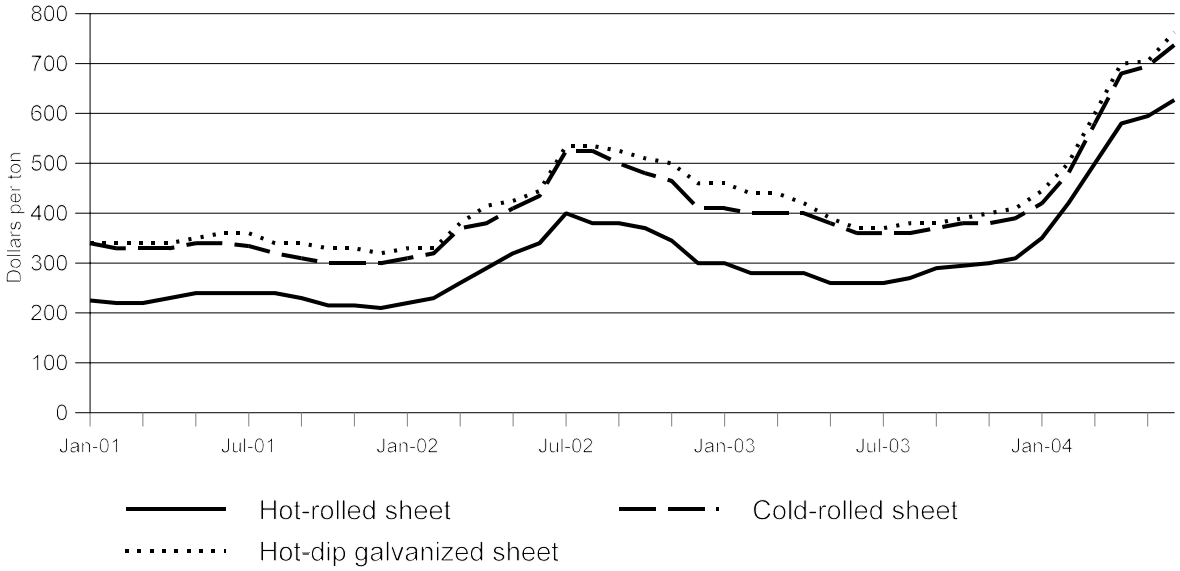
PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

Raw material costs account for a significant share of the cost of producing LWR pipe and tube. During January 2001-June 2004, these costs ranged between 71 percent and 76 percent of the cost of goods sold. The chief raw material inputs are hot-rolled and cold-rolled sheet; galvanized sheet is used occasionally. Spot prices for these raw materials are shown in figure V-1.

Figure V-1
Spot prices for hot-rolled sheet, cold-rolled sheet, and hot-dip galvanized sheet



Source: Purchasing Magazine Transaction Price Report.

Section 201 Import Relief

Producers and importers were asked to discuss the effect on their operations since January 1, 2001, of the imposition, modification, and termination of the U.S. safeguard tariffs on LWR pipe and tube, and on flat-rolled steel. Thirteen producers responded with some comment on aspects of the steel safeguard program. Three considered there to be no impact on their operations. Eight producers felt there had been at least some impact on their operations from safeguard imposition, largely because Mexico and Turkey had been exempted from the program, although some producers felt the effects were difficult to determine. Several producers felt that market conditions were much more important, especially by the time the safeguard tariffs were terminated. Fourteen importers responded with some comment on aspects of the safeguard program. Eleven importers reported that there was little or no effect because Mexico and Turkey were exempted from the program. Three importers believed there had been an effect from the safeguards and that scarcities of product led to increased prices. Some importers commented on the adverse effect on margins because tariffs of 30 percent on flat-rolled product were double the additional tariffs on pipe and tube. According to these importers, this contributed to the higher

costs of inputs and provided an advantage to foreign suppliers, especially in China and Asia, who could obtain coil for $140 per ton less than could U.S. producers. Several importers felt, as did U.S. producers, that increased domestic activity was more important than safeguard tariffs and resulted in prices starting to go up in 2003. These importers stated that this only increased in 2004 with increased global economic activity, especially from China, and the effect of termination of the safeguard program made little apparent difference.

Both producers and importers commented that the steel safeguard program led to consolidation in the domestic steel industry. This consolidation and the developing shortages of raw materials reportedly resulted in increasing shortages and escalating steel prices, especially in 2004.

Purchasers also commented on the effect of the steel safeguard program. Eleven of 23 responding purchasers reported little or no effect from the program on their operations. Six felt that the program had created shortages leading to increased prices, or at least removing downward pressure on domestic prices, although one purchaser responded that prices were lower when the tariffs were in place. Regarding the effect on flat steel prices, nine purchasers reported little or no effect. Eight purchasers reported shortages and price increases, with some reporting dramatic changes. Four reported being put on allocation as a result, and had to go offshore for their flat-rolled steel.

Transportation Costs to the U.S. Market

Transportation costs for LWR pipe and tube shipped from Mexico to the United States averaged 6.6 percent of the customs value of imports during 2003, and imports from Turkey to the United States averaged 10.8 percent of the customs value of imports during that year. These estimates are derived from official import data and represent the transportation and other charges on imports.[1]

U.S. Inland Transportation Costs

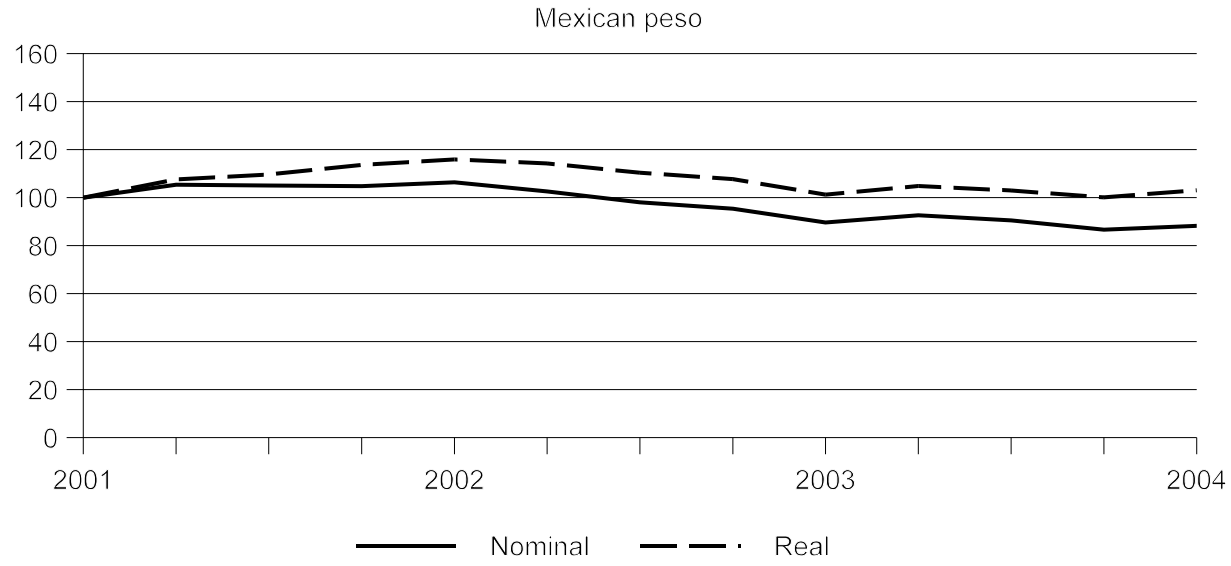
Transportation costs on U.S. inland shipments of LWR pipe and tube generally account for a small to moderate share of the delivered price of these products. For U.S. producers and importers, reported costs ranged from about $6 to $100 per ton. Transportation costs are discussed in more detail in part II of this report.

Exchange Rates

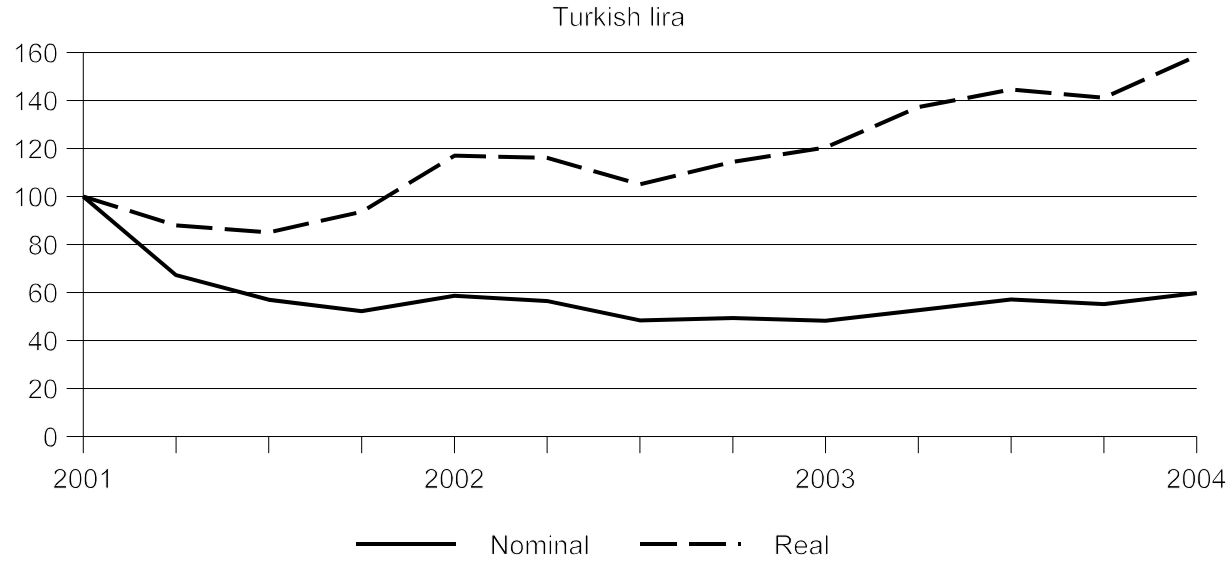
Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Mexican peso depreciated 11.7 percent relative to the U.S. dollar from January 2001 to March 2004 (figure V-2) and the real value appreciated by 3.1 percent. The nominal value of the Turkish lira depreciated by 40.2 percent relative to the U.S. dollar while the real value appreciated by 58.6 percent during that time.

[1] The estimated cost was obtained by subtracting the customs value from the c.i.f. value of the imports for 2002 and then dividing by the customs value.

Figure V-2
Exchange rates: Indices of the nominal and real exchange rates between the Mexican and Turkish currencies and the U.S. dollar, by quarters, January 2001-March 2004



Source: International Monetary Fund, *International Financial Statistics*, June 2004.



PRICING PRACTICES

Producers and importers from subject countries reported that prices of LWR pipe and tube are determined in a variety of ways. Among U.S. producers, transaction-by-transaction negotiations according to market conditions were the most commonly cited method for arriving at prices. In addition, some U.S. producers also reported that prices are determined by contracts and by price lists. One producer also said that its prices are based upon a customer's past order volume and length of time as a customer of the firm. Another producer reported that its prices are 30 percent by transaction and 70 percent for a negotiated price for a duration of 1-3 months. Among importers, transaction-by-transaction negotiations were also the most commonly cited method for arriving at prices, with contract negotiations, percentage markups from costs, and price lists also mentioned. One importer said that its prices are based upon prevailing market prices of its competitors.

Discount policies vary among U.S. producers and importers of LWR pipe and tube from the subject countries. Questionnaire responses show that U.S. producers are more likely to provide discounts than importers. Seven of the 15 producers reported that they provide volume discounts either as a general policy or on a case-by-case basis. In addition, eight of 15 producers provide discounts of 0.5 to 2.0 percent for prompt payment of accounts. Among importers, just one of 15 responding firms reported that they provide discounts based upon quantity. Three importers stated that they provide discounts of between 0.5 to 1.5 percent for prompt payment of accounts.

U.S. producers and importers of products from the subject countries commonly quote prices on either an f.o.b. or delivered basis. Producers making f.o.b. quotes reported quoting f.o.b. mill, f.o.b. warehouse, and f.o.b. Los Angeles. Importers also sell f.o.b. port of entry and delivered. The majority of producers and importers arrange transportation to their customers' locations.

Sales of LWR pipe and tube are typically on a spot basis for both producers and importers. Contract sales are more common among U.S. producers than for importers from the subject countries, as no importers reported significant contract sales. Seven of 15 producers make part of their sales on a contract basis but for five of the seven, contract sales accounted for *** percent or less of total sales. The other two firms reported that 60 to 80 percent of their sales were on a contract basis. Only one of 12 importers reported selling on a contract basis, and for only 10 percent of its volume.

PRICE DATA

U.S. producers and importers of LWR pipe and tube from Mexico and Turkey were asked to provide quarterly data for the total quantity and value of selected products that were shipped to unrelated customers in the U.S. market during the period January-March 2001 through April-June 2004. The products for which pricing data were requested are as follows:

> ***Product 1*.–ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), carbon welded, not pickled and oiled, 2 inch square, 0.120 inch (+ or -10 percent) wall thickness (11 gauge), 20 foot or 24 foot lengths.**
>
> ***Product 2*.–ASTM A-513 (mechanical) or A-500 grade A or B (ornamental) tubing, carbon welded, pickled and oiled, 1 inch square, 0.065 inch nominal wall thickness (+ or -10 percent) (16 gauge), 20 foot or 24 foot mill lengths.**
>
> ***Product 3*.–ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), hot-rolled, not pickled and oiled, 11 gauge or .120 inch +/- 10% wall, one inch square to four inches square, or in rectangular circumferences of four inches to sixteen inches, lengths of 20 to 24 feet.**

***Product 4*.–ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), hot-rolled, not pickled and oiled, 14 gauge or .083 inch +/- 10% wall, one inch square to four inches square, or in rectangular circumferences of four inches to sixteen inches, lengths of 20 to 24 feet.**

***Product 5*.–ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), 16 gauge or .065 inch +/- 10% wall, galvanized, one inch square, lengths of 20 to 24 feet.**

***Product 6*.–ASTM A-513 (mechanical) or A-500 grade A or B (ornamental) tubing, galvanized, 2.5 inch square, 0.083 nominal wall thickness (+ or – 10 percent) (14 gauge), lengths of 20 to 24 feet.**

Twelve U.S. producers, eight importers of products from Mexico, and four importers of products from Turkey provided varying amounts of useable price data. Pricing data reported by the producers accounted for approximately 83 percent of U.S. producers' commercial shipments during 2003. Price data reported for imports of LWR pipe and tube from Mexico accounted for 100 percent of imports from Mexico in 2003, and price data reported for imports of LWR pipe and tube from Turkey accounted for 100 percent of imports from Turkey in 2003.

Price Trends

Quarterly weighted-average prices of products 1 through 6 are shown in tables V-1 through V-6 and figure V-3 for the period January 2001 through June 2004. In general, U.S. producer prices and prices of imports from Mexico and Turkey fluctuated throughout the period but increased in the first two quarters of 2004.

Table V-1
LWR pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, January 2001-June 2004

* * * * * * *

Table V-2
LWR pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January 2001-June 2004

* * * * * * *

Table V-3
LWR pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, January 2001-June 2004

* * * * * * *

Table V-4
LWR pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarters, January 2001-June 2004

* * * * * * *

Table V-5
LWR pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported product 5 and margins of underselling/(overselling), by quarters, January 2001-June 2004

* * * * * * *

Table V-6
LWR pipe and tube: Weighted-average f.o.b. prices and quantities of domestic and imported product 6 and margins of underselling/(overselling), by quarters, January 2001-June 2004

* * * * * * *

Figure V-3
LWR pipe and tube: Weighted-average f.o.b. prices of domestic and imported products 1-6, by quarters, January 2001-June 2004

* * * * * * *

Price Comparisons

Price comparisons between U.S.-produced and Mexican LWR pipe and tube were possible in a total of 75 instances.[2] In 50 of these instances, prices for the Mexican product were lower than those for the domestic product; margins ranged from 0.4 to 28.9 percent. In 24 instances, the Mexican product was priced above the domestic product with margins ranging between 0.3 and 21.8 percent. In one instance, the domestic and Mexican product were priced the same.

Price comparisons between U.S.-produced LWR pipe and tube and LWR pipe and tube imported from Turkey were possible in 53 instances. In all 53 of these instances, the product from Turkey was priced below the U.S. product with margins ranging between 8.8 and 49.0 percent.

LOST SALES AND LOST REVENUES

In their petition, the petitioning firms provided 12 allegations of lost sales due to competition from imports from Mexico and/or Turkey during the period June 2001 through July 2003 (table V-7). There were no lost revenue allegations in the petition. The seven lost sales allegations concerning Mexico involved 1,131 short tons with lost sales valued at $537,438. The three allegations concerning Turkey involved more than 3,700 short tons with an unspecified value, and the two allegations that involved a combination of both Mexico and Turkey amounted to 51 short tons with lost sales valued at $22,100. The staff contacted purchasers to investigate the allegations. Responses from purchasers are discussed below.

[2] Mexican respondents argue that "it appears that the prices for the imported Mexican product were at a different level of trade than the prices for the U.S. producers." (Mexican respondents post hearing brief, Attachment A, p. 7). Staff notes that the prices reported by Mexican producers (who were the importers of record) represent f.o.b. sales prices (f.o.b. Laredo, TX) of LWR pipe and tube to unrelated U.S. customers (staff interview with Jeffery Winton of Preston, Gates, Ellis, & Rouvelas Meeds, counsel for Mexican respondents, Sept. 14, 2004). Data submitted by U.S. producers also represent f.o.b. sales prices (f.o.b. U.S. point of shipment) to unrelated U.S. customers. Staff also notes that available data indicate that the majority of shipments made by both U.S. producers and by importers of Mexican product were made to distributors (see table I-1).

Table V-7
LWR pipe and tube: U.S. producers' lost sales allegations from the petition

* * * * * * *

*** was named in a lost sales allegation involving *** short tons. *** disagreed with the allegation. It said that it didn't use the size of pipe and tube product specified in the allegation ***. However, it said that it ***.

*** was named in a lost sales allegation involving ***. *** disagreed with the allegation. It said that it did not buy the products specified by the petitioners from *** during the ***.

*** was named in a lost sales allegation involving *** short tons. *** denied the allegation stating that it does not stock the specified product ***.

*** was named in a lost sale allegation concerning ***short tons. It was alleged that the price of the imports was ***. *** agreed with the allegation. It said that additional offerings are currently being made at *** below U.S. producer prices.

*** was named in a lost sales allegation involving *** short tons. *** disagreed with the allegation. It said that the alleged quantity and value of purchases were higher than actual levels. It said that the value of the material that ***.

*** was named in a lost sales allegation involving *** short tons. *** disagreed with the allegation. It said that it does business with ***.

In addition to the allegations supplied in the petition, domestic producers also provided nine allegations of lost sales due to competition from imports from Mexico and/or Turkey during the period January 2001 through June 2004 in their questionnaire responses (table V-8). Domestic producers also provided eight allegations of lost revenues in their questionnaire responses (table V-9). The nine lost sales allegations concerning Mexico involved 93,150 short tons with lost sales valued at $79,153,000. The three allegations that involved a combination of both Mexico and Turkey amounted to 140 short tons with lost sales valued at $101,200. The six lost revenue allegations concerning Mexico involved 16,558 short tons with lost revenue of $3,618,068. The allegation concerning Turkey involved *** short tons with lost revenue of $***. The allegation that involved a combination of both Mexico and Turkey involved *** short tons with lost revenue of $***. The staff contacted purchasers to investigate the allegations. Responses from purchasers are discussed below.

Table V-8
LWR pipe and tube: U.S. producers' lost sales allegations from questionnaires

* * * * * * *

Table V-9
LWR pipe and tube: U.S. producers' lost revenue allegations from questionnaires

* * * * * * *

*** was named in a lost sales allegation involving *** short tons from ***. *** disagreed with the allegation. It does not consume or sell LWR.

*** was named in a lost revenue allegation involving *** short tons from ***. *** disagreed with the allegation. It said it was unaware of any domestic LWR producer which lowered their price to *** as a result of a competitive offer from *** during ***. *** further indicated that mill price lists provided to *** indicated that local domestic producers were increasing prices throughout ***.

*** was named in a lost sales allegation involving *** short tons from ***. *** disagreed with the allegation. It said that domestic producers have increased prices during *** and that it was difficult to

see lost sales because of the presence of lower priced imports from ***. *** was also named in a lost revenue allegation involving *** short tons from ***. It disagreed with the allegation and said it was unaware that any U.S. producer offered a quote of *** per short ton for this volume, nor was it aware of any quote of *** that was accepted.

*** was named in a lost revenue allegation involving *** short tons from ***. It did not agree or disagree with the allegation. It constantly receives offers less than domestic offers and believed the numbers sounded reasonable.

*** was named in a lost sales allegation involving *** short tons from ***. It disagreed with the allegation. *** does not import any steel tubing and buys only from a domestic mill in *** and a mill in ***.

*** was named in a lost sales allegation involving *** short tons from ***. It was also named in a lost revenue allegation involving *** short tons from ***. *** disagreed with the allegations. It said that price was not the only issue and that U.S. producers were simply not reliable suppliers, who honored their contracts.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

*** firms[1] provided usable financial data on their U.S. operations producing LWR pipe and tube. These reported data are believed to represent more than 96 percent of reported U.S. LWR pipe and tube production in 2003.[2]

The responding U.S. firms reported that they made other welded pipe and tube products in addition to LWR pipe and tube. These other products, which accounted for the majority of the firms' production and sales, include nonsubject structural tubing, round and other non-rectangular shaped pipe and tube (including light-walled round tubing), roll form shapes, and square and rectangular pipe and tube that exceeds the size of the product specified in the scope of the investigations.

OPERATIONS ON LWR PIPE AND TUBE

Results of operations of U.S. producers' LWR pipe and tube operations are presented in table VI-1 (results of operations on black LWR pipe and tube and corrosion-resistant LWR pipe and tube are shown separately in appendix G).

Table VI-1
LWR pipe and tube: Results of operations of U.S. producers, fiscal years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

The quantity and value of sales increased between 2001 and 2002, between 2002 and 2003, and between January-June 2003 and the same period in 2004. The average unit value of sales increased slightly as well between each of the full years and then increased dramatically between January-June 2003 and the same period in 2004. Total cost of goods sold (COGS) for the reporting U.S. producers also increased between 2001 and 2002, again between 2002 and 2003, as well as between January-June 2003 and January-June 2004 in absolute terms and on a per-unit basis. However, per-unit COGS did not increase as fast as the increase in sales unit value between the interim periods, and COGS dropped as a ratio to sales value between the interim periods.

Changes in COGS are mostly driven by changes in raw material costs (see discussion later on inventory). Raw material costs increased between each of the years 2001-03, as well as between January-June 2003 and the same period in 2004; they also increased as a ratio to sales (except in interim 2004, when they decreased) and on a per-unit basis; the increase in unit raw materials was much less than the increase in the average unit value of sales between January-June 2003 and the same period in 2004.

---

[1] The firms are: ***. Although several companies have a fiscal year that differs from a calendar year, all but *** reported on a calendar year basis (*** has a fiscal year that ends on February 28). Differences between data reported in the trade and financial sections of the Commission's producers' questionnaire are attributable primarily to ***, because of its timing difference. Four firms reported data on corrosion-resistant LWR pipe and tube: ***. Differences between the trade and financial sections of the producers' questionnaire with respect to corrosion-resistant LWR pipe and tube also are attributable to ***.

Commission staff verified the producers' questionnaire responses of ***, and changes have been incorporated in the report. Verification reports attached to Office of Investigations Memorandum INV-BB-112, September 3, 2004.

[2] *** firms, ***, that are listed in table III-1 accounted for a total of *** of production in 2003, but did not provide data in the financial section of the Commission's questionnaire.

Operating income increased between 2001 and 2002 but fell between 2002 and 2003 to below the operating income level in 2001; operating income as a ratio of sales and on a per-unit basis followed these trends. Operating income rose dramatically between January-June 2003 and the same period in 2004 with increases in sales and sales unit value. The number of companies recording operating losses on their LWR pipe and tube operations ranged from two to six during the periods investigated until January-June 2004 when no company recorded an operating loss.

Table VI-2 presents financial data for each of the *** reporting U.S. producers, ranked according to the value of each firm's total net sales in 2003.

Table VI-2
LWR pipe and tube: Results of operations of U.S. producers, by firm, fiscal years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

In order to ascertain the possible effects of section 201 remedies and increases in steel costs on a firm's income, U.S. producers were requested to report their purchases of hot-rolled, cold-rolled, and galvanized steel used in the production of LWR pipe and tube. All or nearly all of the reporting firms stated that they do not keep their purchase information by end use. They further stated that the gauge (thickness) of many of the end-use products is similar, hence an input hot-rolled sheet could be used for the subject LWR pipe and tube or round pipe if the desired pipe gauge was the same. Staff requested that these companies allocate their purchases among their total production according to the ratio of sales tonnage. Such an allocation may understate or overstate the purchase costs because of differences of steel cost within a category of steel (e.g., a thinner gauge sheet typically costs more than a heavier gauge sheet for the same thickness). In addition, several companies reported the purchase of cold-rolled or galvanized sheet (because of the allocation process), although they may only have actually used hot-rolled to produce subject LWR pipe and tube (***).[3] Purchase costs often are not the same as raw material costs. In addition to the foregoing, differences between reported purchases and raw materials may include such items as freight charges from the steel maker to the pipe/tube maker, handling, warehousing, and insurance costs, losses in processing (petitioner estimated yield loss at ***),[4] and other direct materials (zinc or other metals, for example) used for the production of LWR pipe and tube. In sum, the reported purchase data are not an exact substitute for raw material costs. These data are shown in tables VI-3-VI-5.

[3] Verification reports attached to Office of Investigations Memorandum INV-BB-112, September 3, 2004.

[4] Petition, exh. 11-C.

Table VI-3
LWR pipe and tube: Hot-rolled steel sheet used in production, by quarters, January 2001 through June 2004

Period	Quantity purchased (1,000 short tons)	Purchase cost ($1,000)	Unit value (dollars per short ton)
2001			
Jan.-March	62	16,607	268
April-June	62	15,954	258
July-Sept.	56	14,596	259
Oct.-Dec.	66	17,514	266
Total/average	246	64,671	263
2002			
Jan.-March	62	16,559	267
April-June	69	20,549	297
July-Sept.	75	25,755	341
Oct.-Dec.	80	29,185	365
Total/average	286	92,048	321
2003			
Jan.-March	59	20,788	352
April-June	60	19,121	320
Subtotal/average	119	39,909	336
July-Sept.	59	17,710	298
Oct.-Dec.	85	26,420	310
Total/average	263	84,039	319
2004			
Jan.-March	68	25,892	383
April-June	65	34,306	526
Subtotal/average	133	60,199	453

Note.–Commission staff performed a reasonableness check on the reported questionnaire data and questioned those U.S. producers whose reported purchases did not approximately correspond with their reported production/sales by quantity. Corrections were made by ***. The data submitted by *** are not included because the reported purchases were not reasonable in terms of the reported quantity of sales; *** did not report these data.

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

Table VI-4
LWR pipe and tube: Cold-rolled steel sheet used in production, by quarters, January 2001 through June 2004

* * * * * * *

Table VI-5
LWR pipe and tube: Galvanized steel sheet used in production, by quarters, January 2001 through June

* * * * * * *

In the preliminary phase of these investigations, parties agreed that pipe and tube producers experienced increasing costs of flat-rolled carbon quality steel (composed primarily of hot-rolled, cold-rolled, and galvanized coated sheet and strip) during 2002 and 2003. The unit values of purchased hot-rolled, cold-rolled, and galvanized sheet follow the general pattern of the average unit values of raw materials reported in the firms' income statements in appendix G. The unit value of purchases of hot-rolled was flat to a small increase during 2001, increased considerably during 2002 (particularly during the second half of 2002), decreased on average during 2003 from the high costs registered in the first quarter, and then rose dramatically during the first six months of 2004 (particularly during the second quarter of 2004). Cold-rolled average values declined during 2001 but rose during 2002, increased again during 2003, and increased dramatically in 2004. Average purchase values of galvanized sheet fluctuated in the same manner as did cold-rolled.

Overall, average unit gross profit (table VI-1) declined in a narrow range from $*** per ton to $*** per ton between 2001 and 2003. This reflected a small increase in average unit sales values that was completely absorbed by a larger increase in average unit costs of raw materials between the two years. In contrast, average unit values of sales rose at a much faster rate (approximately $*** per ton) than did the average unit costs of raw materials (approximately $*** per ton) between January-June 2003 and January-June 2004, resulting in an overall increase of about $*** per ton unit gross profit. These improved operating results are largely attributable to U.S. firms making black LWR pipe and tube (see tables G-13 and G-14). That sales values rose faster than average unit steel costs between the interim periods cannot be completely attributed to inventory accounting methods that lead to a three to four month lag in matching costs with sales.[5] Namely, producers were able for a variety of reasons to raise sales prices faster than the announced increases in steel costs; the experience in 2004 was the opposite of that experienced by U.S. producers during 2001-03, where cost increases were higher than increases in unit sales revenue.[6] During the hearing, the Commission requested petitioners and respondents to address

[5] *** of the *** responding U.S. firms reported that their inventory cost-flow assumption is first-in-first-out (FIFO). These firms also stated that the time lag between purchasing the steel and matching purchase and processing costs against sales of LWR pipe and tube was three to four months. Under first-in-first-out (FIFO) inventory accounting, costs of inventory that were incurred or accumulated first are matched against current sales. This often results in costs lagging behind the cost of more recent inventory purchases (inventory at replacement cost), and will result in a widening difference between costs and sales even when both are rising at the same rate. The differential tends to narrow when both costs and sales values are declining or if only sales values are declining. Using FIFO results in a firm's balance sheet that more accurately reflects current values but may lead to some distortion in the firm's income statement, particularly in times when sales values or costs are rising rapidly. Using the last-in-first-out (LIFO) inventory accounting method results in a better match of sales values to costs, but may lead to a distortion in values on the balance sheet.

[6] Leavitt's president testified at the hearing that Leavitt was unable to pass along steel cost increases in 2001-03, but that 2004 saw a very changed steel environment. He further testified that Leavitt's financial results in January-

(continued...)

the effect of first-in-first-out (FIFO) accounting for material costs in calculating operating income and other measures of financial performance. The calculations proffered by parties are discussed in appendix H.

U.S. producers were asked for the number of their suppliers of hot-rolled, cold-rolled, and galvanized steel; whether the firm changed suppliers and why; whether the firm experienced difficulty in obtaining supply; and whether the steel safeguard measures (section 201 relief) were the primary cause of price changes of raw material inputs. The reported number of suppliers of hot-rolled ranged from two to three to a high of 18, but generally decreased in number toward the end of the period examined; no one firm reported a number of less than two and the average number of suppliers appears to be about four. In contrast, U.S. firms purchasing cold-rolled or galvanized steel reported buying from a relatively consistent one to two suppliers, although two firms reported purchasing from four suppliers which dropped to three by the end of the period examined. Although several stated that there were no changes in their suppliers, others indicated that suppliers would change due to availability and price. Additionally, several stated that the decrease in the number of suppliers was attributable to steel industry consolidation; this factor was also used to indicate that there was allocation of steel at a time when imported steel sheet was no longer available because of section 201 relief, or because steel consumption rose rapidly abroad, particularly in China.

Company comments[7] were mixed as to whether a firm experienced or did not experience difficulty in obtain supply of raw materials during 2001-03. Several firms stated that they had no difficulty in obtaining supply of raw materials during 2001-03, although these responding U.S. producers stated that certain steel mills experienced short-term supply difficulties (stated as "one to two days") on a spot basis during 2004, attributable to short supplies of raw materials, equipment outages, and lack of transportation in delivering on an as-promised basis. Other firms reported some difficulty in obtaining steel as early as late 2003,[8] also attributable to increased demand for steel and for steel scrap abroad.[9]

Finally, company comments also were mixed with regard to whether the steel safeguard measures were considered to be a primary cause of price changes of raw material inputs.[10] Several firms stated that the safeguards were a reason only because foreign steel was not available, but most others stated that the steel price changes were due to steel industry consolidation and reduction in steel production capacity. In 2004, price changes for raw material inputs to LWR pipe and tube are seen as primarily associated with consolidation among domestic steel producers (reducing supply), closures of U.S. steel mills, and increased purchases of steel scrap and finished goods by Chinese mills.[11]

In order to determine the effects of changes in energy costs (primarily electricity and natural gas) on a firm's income, U.S. producers were requested to report their energy costs incurred in the production of black LWR pipe and tube, and corrosion-resistant LWR pipe and tube. These data are shown in table VI-6.

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[6] (...continued)
June 2004 may be distorted due to the firm's inventories of steel recorded at pre-2004 steel prices. Hearing transcript, pp. 19-22 (Katsafanas). Also, *see* discussion of the business cycle and inventory issues. Hearing transcript, pp. 100-105 (Katsafanas, Mitchell, Baker, and Dustmann).

[7] Company comments are reported verbatim in app. I.

[8] One firm, ***, stated that "steel {supply} tightened in 2002, so we increased our foreign purchases with several mills. Imported coil became less available in 2003." *** producer questionnaire, III-7. Another firm, ***, echoed these sentiments, indicating that foreign supply ceased, which was the biggest impact of section 201 relief.

[9] See, *** producers' questionnaire responses, III-7; *** producers' questionnaire responses regarding allocation by local domestic suppliers, III-7.

[10] See company comments in app. I.

[11] *** producers' questionnaire responses.

Table VI-6
LWR pipe and tube: Energy costs of U.S. producers, fiscal years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Energy costs increased between 2001 and 2002 and declined slightly between 2002 and 2003; they declined between January-June 2003 and the same period in 2004. Energy costs increased as a ratio to other factory costs between 2001 and 2002 and declined between 2002 and 2003; they declined as a ratio to other factory costs between January-June 2003 and the same period in 2004 as well. Energy costs declined when measured as a ratio to total COGS, total net sales, or as a unit value of sales quantity. A decline in the ratio of energy costs to COGS is accounted for by increases in other categories of cost, such as steel inputs, while a decrease in the ratio of energy costs to net sales is accounted for by an increase in sales value. The decrease in energy unit value of sales is from the combined decrease in energy costs and increase in tons sold.

A variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume, but such an analysis is more effective when the product involved is a homogeneous product with no variation in product mix. Petitioners stated that LWR pipe and tube describes a wide range of products, and that these types, which may vary by size, strength, use, and coating, are characterized by differences in cost of production and sales values. Some of these differences in products and product mix can be seen by comparing the values of company-by-company sales and cost of sales on a per-unit basis in appendix G. No variance analysis was included in the Commission's report during the preliminary phase of these investigations because there was believed to be a high probability that product mix changes occurred during the period examined. This concern has been lessened in these final phase investigations because separate data were requested for black LWR pipe and tube and corrosion-resistant LWR pipe and tube. Table VI-7 presents the variance analysis for LWR pipe and tube while the variance analyses for black and corrosion-resistant LWR pipe and tube are presented in appendix G.

Table VI-7
LWR pipe and tube: Variance analysis on results of operations of domestic producers, fiscal years 2001-03, and January-June 2003-04

* * * * * * *

These analyses indicate that, generally speaking, the decrease in operating income from 2001 to 2003 was largely the result of costs (the "net cost/expense variance") increasing faster than selling price (the "price variance"), while the increase in operating income from January-June 2003 to the same period in 2004 was overwhelmingly due to selling price increasing faster than costs.

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

The responding firms' data on capital expenditures and research and development ("R&D") expenses incurred in the production of LWR pipe and tube are shown in table VI-8.

Table VI-8
LWR pipe and tube: Value of capital expenditures and R&D expenses of U.S. producers, fiscal years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Comparing the reporting firms' capital investments with their reported depreciation indicates that, in accounting terms, they are not replacing or modernizing equipment as fast as it is being consumed (depreciation is higher than capital expenditures).[12]

ASSETS AND RETURN ON INVESTMENT

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of LWR pipe and tube to compute return on investment (ROI). Specifically, the questionnaire requested each responding firm to provide asset data for its most recent four full fiscal years.[13] Commission staff averaged the yearly asset data to calculate the values shown for the fiscal years 2001 through 2003 in order to calculate an average for each year and render the balance sheet data more comparable to income for the same period. The data for total net sales and operating income are from table VI-1 and appendix tables G-10 and G-11 (modified to deduct *** because that firm did not provide asset data). Operating income was divided by total net sales, resulting in the operating income ratio. Total net sales was divided by total assets, resulting in the asset turnover ratio. The operating income ratio was then multiplied by the asset turnover ratio resulting in ROI;[14] the expanded form of this equation shows how the profit margin and total assets turnover ratio interact to determine the return on investment.

The LWR pipe and tube industry's total assets and its ROI are presented in table VI-9. The total assets utilized in the production, warehousing, and sales of LWR pipe and tube increased on average from 2001 to 2003 (accounted for largely by increases in the categories of net accounts receivable and inventories) as did total net sales. The combined operating income increased between 2001 and 2002 but fell between 2002 and 2003 (table VI-1) and ROI followed the trends in the operating income ratio. Examining black and corrosion-resistant LWR pipe and tube separately indicates that although total net sales and operating income followed similar trends, the operating profit margin and the asset turnover ratio for corrosion-resistant were both much higher than for black LWR pipe and tube. This resulted in a much higher ROI for corrosion-resistant LWR pipe and tube and increased the overall average ROI.

[12] See petitioners' posthearing brief for a discussion of investment, p. A-24.

[13] Asset data are for the end of the year. The Commission's questionnaire did not request asset data for either of the two interim periods (other than the table on property, plant, and equipment) because such interim period ROI would not be comparable with full year ROI.

[14] In this formula, sales divided by total assets is a general measure of a firm's ability to generate sales in relation to total assets, considering that the firm has investment in its cash, inventories, accounts receivable, as well as in its productive assets. ROI may be considered as a measure of the firm's ability to generate profits from existing current and fixed assets, and ROI may be used as one factor in management decisions for allocating resources to a particular product line within the overall business. For example, focusing on the profit side, firms could raise sales prices (or lower them to increase sales volume), move into other products or markets with higher margins, and examine costs for ways to reduce them (e.g., undertake investment to run plants more efficiently). On the asset side, ways may be examined to reduce investment (e.g., by modifying production technologies to reduce fixed plant and equipment, or altering credit policies to reduce accounts receivable).

Table VI-9
LWR pipe and tube: Value of assets used in production, warehousing, and sale, and return on investment, fiscal years 2001-03

* * * * * * *

Petitioners stated that the ROI numbers shown in table VI-9 would not justify investment in the industry producing LWR pipe and tube: the falling ROI is contrary to expectations; does not justify investment, given the risk. These companies are considered to constitute higher investment risk, and would be rated less credit worthy (and pay more in terms of their interest rate and have more restrictive debt covenants) compared to the highest category of credit-worthiness, for example, AAA from a debt rating service such as Moody's Investor Services or Standard and Poors. The book value of property, plant, and equipment is at historical cost, which means a lower investment cost and higher ROI than if it were valued at replacement cost.[15] One of the industry witnesses testified that his firm would look for a new project to yield a minimum ROI of 15 to 20 percent.[16] Respondents for Galvak/Hylsa stated that *** percent for existing facilities and *** percent for new investment would be the required ROI. The expected rate of return would be lower if capital costs were to fall. They noted that costs of investment capital in Mexico are higher compared with the United States because of Mexico's premium for country risk and exchange rate fluctuations.[17]

Table VI-10 shows a computation of ROI for NAICS 33121 (pipe and tube produced from purchased steel), based on data contained in the Risk Management Association's (RMA) *Annual Statement Studies*. The exact comparisons between the questionnaire data and RMA data are not recommended because of the great disparity in number of reporting companies, sales, and assets compared with the product-line information covered by the Commission's questionnaire.

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of LWR pipe and tube from Mexico and Turkey on their firms' growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown in appendix I.

[15] Petitioners' posthearing brief, pp. A-26 through A-29. Also, *see* hearing transcript, p. 126 (Blecker).

[16] Hearing transcript, p. 124 (Dustmann).

[17] Respondents' posthearing brief on behalf of Galvak/Hylsa, p. 17.

Table VI-10
Number of firms, sales, operating income, assets, and return on investment (ROI) on operations for NAICS 33121[1] for 10 one-year periods ending March 31, 1994 to March 31, 2003

Period	Number of companies	Net sales value ($1,000)	Total assets value ($1,000)	Net fixed assets as percent of total assets	Operating margin	Asset turnover (percent)[2]	ROI (percent)[3]	ROI (Percent)[4]
4/1/93 - 3/31/94	40	1,911,501	1,295,933	30.3	4.1	2.7 2.0 1.4	11.1 8.2 5.7	6.0
4/1/94 - 3/31/95	48	2,278,787	1,365,267	28.7	4.2	2.7 2.3 1.7	11.3 9.7 7.1	7.0
4/1/95 - 3/31/96	50	2,507,890	1,431,892	27.5	7.3	3.0 2.3 1.5	21.9 16.8 11.0	12.8
4/1/96 - 3/31/97	48	1,988,709	1,130,185	29.4	5.9	3.1 2.0 1.3	18.3 11.8 7.7	10.4
4/1/97 - 3/31/98	46	2,603,002	1,726,149	30.5	6.0	2.9 1.8 1.3	17.4 10.8 7.8	9.0
4/1/98 - 3/31/99	70	4,283,540	2,648,248	29.1	4.0	2.7 1.9 1.5	10.8 7.6 6.0	6.5
4/1/99 - 3/31/00	57	3,470,999	2,494,818	33.1	4.1	2.4 1.8 1.3	9.8 7.4 5.3	5.7
4/1/00 - 3/31/01	55	2,535,239	1,563,464	29.1	4.4	2.5 2.1 1.6	11.0 9.2 7.0	7.1
4/1/01 - 3/31/02	65	3,540,742	2,159,538	31.7	4.0	2.5 2.0 1.5	10.0 8.0 6.0	6.6
4/1/02 - 3/31/03	73	2,789,981	1,694,595	28.7	2.8	3.0 2.2 1.5	8.4 6.2 4.2	4.6

[1] NAICS 331210 (SIC 3317) represents establishments that produce welded or seamless steel pipe and tubes and heavy riveted steel pipe from purchased materials, but does not include the production of steel, including steel skelp or steel blanks, tube rounds, or pierced billets.

[2] Asset turnover is the ratio of sales to total assets. The three values represent the upper quartile, median, and lower quartile, respectively, of the array of industry values.

[3] Calculated as the product of operating margin times the upper, median, and lower quartile asset turnover values, respectively.

[4] Calculated as the product of operating margin times the asset turnover ratio (net sales divided by total assets).

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PART VII: THREAT CONSIDERATIONS

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,
>
> (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

[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."

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]

Subsidies are not relevant to these investigations; information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN MEXICO

There are eight known producers of LWR pipe and tube in Mexico: Arco Metal S.A. de C.V. (Arco); Galvak, S.A. de C.V. (Galvak); Hylsa, S.A. de C.V. (Hylsa); IMSA-MEX, S.A. de C.V. (IMSA); Maquilacero, S.A. de C.V. (Maquilacero); Perfiles y Herrajes LM S.A. de C.V. (Perfiles y Herrajes); Productos Laminados de Monterrey, S.A. de C.V. (Productos Laminados); and Regiomontana de Perfiles y Turbos, S.A. de C.V. (Regiomontana).[3] Data on six reporting firms' production and exports of LWR pipe and tube to the United States during 2003 are presented in table VII-1.

Table VII-1
LWR pipe and tube: Mexican producers' production and exports to the United States, 2003

* * * * * * *

Prolamsa reported that it set up two new mills during the period examined, in September 2001 and April 2002. LM began a new production line in early 2002. IMSA added a new production line in December 2001. Maquilacero and Galvak also increased production capacity during the period examined.

---

[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] Galvak and Hylsa are wholly owned subsidiaries of Hylsamex, a Mexican holding company, which is 90 percent owned by Alfa, S.A. de C.V. *Light-Walled Rectangular Pipe and Tube from Mexico: Notice of Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination,* 69 FR 19403 (April 13, 2004).

The product mix manufactured by the Mexican industry contains a significant amount of galvanized LWR pipe and tube. For example, during 2003 galvanized tubing accounted for *** percent of Galvak's U.S. sales, *** percent of Hylsa's U.S. sales, and *** percent of Prolamsa's U.S. sales. Galvanized LWR pipe and tube accounted for approximately 21 percent of subject exports from Mexico to the United States during 2003.

Data concerning the industry in Mexico are shown in table VII-2. Total production capacity increased significantly during the period examined. Capacity utilization was over 85 percent during the period except in 2004 when it dipped to 82 percent during the interim period but is projected to rise to 83 percent for the year. Total industry capacity in Mexico is about *** percent of total capacity in the United States. The home market accounted for approximately *** percent of shipments of the subject product. The United States was the only substantial export market, accounting for most of the remainder of shipments.[4] The ratio of inventories to production and shipments remained in the 4-7 percent range during the period examined.

[4] Other export markets included Belize, Canada, Chile, Costa Rica, Guatemala, and Honduras. Foreign producer questionnaire responses.

Table VII-2
LWR pipe and tube: Data for producers in Mexico, 2001-03, January-June 2003, January-June 2004, and projected 2004-05

Item	Actual experience					Projections	
				January-June			
	2001	2002	2003	2003	2004	2004	2005
Quantity (*units*)							
Capacity	429,616	494,524	539,737	270,255	264,593	540,401	546,551
Production	376,976	452,007	477,899	241,595	216,115	450,840	472,930
End of period inventories	21,049	21,013	22,385	24,077	26,276	23,180	24,579
Shipments:							
Internal consumption/ transfers	***	***	***	***	***	***	***
Home market	***	***	***	***	***	***	***
Exports to--							
The United States	70,947	95,538	114,370	52,340	54,675	95,920	86,723
All other markets	616	312	626	371	426	2,277	4,867
Total exports	71,563	95,850	114,996	52,711	55,101	98,197	91,590
Total shipments	363,637	435,550	457,486	231,412	205,171	429,377	449,582
Value (*$1,000*)							
Exports to the United States	33,124	47,403	56,039	25,473	37,845	64,816	61,420
Unit value (*per short ton*)							
Exports to the United States	$467	$496	$490	$487	$692	$676	$708
Ratios and shares (*percent*)							
Capacity utilization	87.7	91.4	88.5	89.4	81.7	83.4	86.5
Inventories to production	5.6	4.6	4.7	5.0	6.1	5.1	5.2
Inventories to total shipments	5.8	4.8	4.9	5.2	6.4	5.4	5.5
Share of total quantity of shipments:							
Internal consumption/ transfers	***	***	***	***	***	***	***
Home market	***	***	***	***	***	***	***
Exports to--							
The United States	19.5	21.9	25.0	22.6	26.6	22.3	19.3
All other markets	0.2	0.1	0.1	0.2	0.2	0.5	1.1
All export markets	19.7	22.0	25.1	22.8	26.9	22.9	20.4

[1] Capacity is based upon differing hours and weeks. The following are what are reported by company: ***.

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

THE INDUSTRY IN TURKEY

There are 10 known producers of LWR pipe and tube in Turkey: Borusan Birlesik Boru Earrikalari A.S. (Borusan); Erbosan Erciyas Boru Sanayii ve Ticaret A.S. (Erbosan); Goktas Yassi Hadde Marnulleri Tic ve San A.S. (Goktas); Guven Boru ve Panfil Sanayi ve Ticovet Ltd. Std. (Guven); Mannesmann Boru Endustrisi T.A.S. (Mannesmann); MMZ Onur Boru Profil Uretim San ve Tic A.S. (MMZ); Noksel Celik Boru Sanyi A.S. (Noksel); Ozdemir Boru Profil San ve Tic Ltd. Std. (Ozdemir); Ozborsan Boru San ve Tic A.S. (Ozborsan); and Umran Celik Boru Sanayii A.S. (Umran).[5] Data on nine reporting firms' production and exports of LWR pipe and tube to the United States during 2002, as reported during the preliminary phase of the investigations, are presented in the following tabulation:

Firm	Production		Exports to the United States	
	Quantity	Share of total	Quantity	Share of total
Borusan Birlesik	***	***	***	***
Mannesmann	***	***	***	***
Erbosan	***	***	***	***
MMZ	***	***	***	***
Noksel	***	***	***	***
Ozborsan	***	***	***	***
Ozdemir	***	***	***	***
Goktas	***	***	***	***
Guven	***	***	***	***
Total	316,891	100.0	45,958	100.0

Erbosan and Ozborsan together accounted for *** percent of capacity for the subject product in 2002. Borusan, Noksel, Ozdemir, and Goktas together accounted for another *** percent of capacity during that same year. Although Umran has a capacity of *** tons, it had no production during the period. MMZ and Noksel both started up new plants in 2001. Goktas increased capacity in 2002 and projected further increases in 2003 and 2004. Production was more evenly divided among firms in 2002 than capacity, except as noted for Umran. Ozborsan and Ozdemir accounted for *** percent of exports of the subject product to the United States. Other significant exporters were Goktas, Guven, MMZ, and Noksel, which accounted for the remainder of the subject exports.

During these final phase investigations, only two manufacturers/exporters in Turkey provided data on their operations producing LWR pipe and tube: Noksel and Ozborsan. The two firms accounted for *** percent of exports of LWR pipe and tube from Turkey to the United States during 2002. Therefore, data concerning the industry in Turkey as a whole were provided only during the preliminary phase of these investigations for the period January 2000-June 2003 (and projections for 2003 and 2004), and are shown in table VII-3. Total production capacity grew dramatically during the period examined.

[5] Commerce found that Guven, Ozborsan/Onur, and Ozdemir are affiliated producers with similar or identical production facilities, that there exists a significant potential for the manipulation of price or production, and therefore, treated them as a single entity for purposes of the preliminary antidumping determination. *Light-Walled Rectangular Pipe and Tube from Turkey: Notice of Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination*, 69 FR 19394 (April 13, 2004). This issue was not addressed in Commerce's final determination.

Total industry capacity in Turkey is about 35 percent of total capacity in the United States. The home market accounted for roughly three-fourths of shipments of the subject product. Exports to the United States accounted for 10 percent or less of shipments by Turkish producers during the period examined. Other export markets accounted for the remainder of shipments.[6] The ratio of inventories to production and shipments remained in the single digits during the period examined. Table VII-4 presents data for the period January 2001-September 2004 (and projections for 2004 and 2005) for the LWR pipe and tube operations of Noksel and Ozborsan.

[6] These markets include Middle Eastern and North African destinations, Canada, Panama, Honduras, Eastern European countries, the European Union (EU), and North Africa. Response to Commission's questionnaire and European Trade Services postconference brief, p. 4.

Table VII-3
LWR pipe and tube: Data for producers in Turkey, 2000-02, January-June 2002, January-June 2003, and projected 2003-04

Item	Actual experience					Projections	
				January-June			
	2000	2001	2002	2002	2003	2003	2004
				Quantity (*units*)			
Capacity	388,159	459,699	546,224	225,970	250,470	554,224	578,208
Production	191,019	215,027	316,891	160,899	172,213	358,050	379,223
End of period inventories	11,584	16,426	30,024	23,697	21,043	18,694	14,137
Shipments:							
Internal consumption/ transfers	0	0	0	0	0	0	0
Home market	107,415	110,858	162,071	78,621	91,729	193,412	204,006
Exports to--							
The United States	11,739	15,836	45,958	20,840	9,627	51,279	28,096
All other markets	60,705	91,124	117,296	64,401	88,415	159,608	160,673
Total exports	72,444	106,960	163,254	85,241	98,042	210,887	188,769
Total shipments	179,859	217,818	325,325	163,862	189,771	404,299	392,775
				Ratios and shares (*percent*)			
Capacity utilization	49.2	46.8	58.0	71.2	68.8	64.6	65.6
Inventories to production	6.1	7.6	9.5	7.4	6.1	5.2	3.7
Inventories to total shipments	6.4	7.5	9.2	7.2	5.5	4.6	3.6
Share of total quantity of shipments:							
Internal consumption/ transfers	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Home market	59.7	50.9	49.8	48.0	48.3	47.8	51.9
Exports to--							
The United States	6.5	7.3	14.1	12.7	5.1	12.7	7.2
All other markets	33.8	41.8	36.1	39.3	46.6	39.5	40.9
All export markets	40.3	49.1	50.2	52.0	51.7	52.2	48.1

Source: Compiled from data submitted in response to Commission questionnaires during the preliminary phase of the investigations.

Table VII-4
LWR pipe and tube: Data on operations in Turkey for Noksel and Ozborsan, 2001-03, January-June 2003, January-June 2004, and projected 2004-05

* * * * * * *

SUBJECT COUNTRIES COMBINED

Table VII-5 presents data for the combined industries of Mexico and Turkey.

Table VII-5
LWR pipe and tube: Data for producers in Mexico and Turkey, 2001-03, and projected 2004

Item	Actual experience			Projections
	2001	2002	2003[1]	2004
			Quantity (*units*)	
Capacity	889,315	1,040,748	1,093,961	1,118,609
Production	592,003	768,898	835,949	830,063
End of period inventories	37,475	51,037	41,079	37,317
Shipments:				
Internal consumption/transfers	0	0	0	0
Home market	110,858	162,071	193,412	204,006
Exports to--				
The United States	86,783	141,496	165,649	124,016
All other markets	91,740	117,608	160,234	162,950
Total exports	178,523	259,104	325,883	286,966
Total shipments	581,455	760,875	861,785	822,152
			Ratios and shares (*percent*)	
Capacity utilization	66.6	73.9	76.4	74.2
Inventories to production	6.3	6.6	4.9	4.5
Inventories to total shipments	6.4	6.7	4.8	4.5
Share of total quantity of shipments:				
Internal consumption/transfers	0.0	0.0	0.0	0.0
Home market	19.1	21.3	22.4	24.8
Exports to--				
The United States	14.9	18.6	19.2	15.1
All other markets	15.8	15.5	18.6	19.8
All export markets	30.7	34.1	37.8	34.9

[1] Data for 2003 are based on actual experience for producers in Mexico and on projections for Turkey for that period as reported during the preliminary phase investigations.

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

U.S. INVENTORIES OF PRODUCT FROM MEXICO AND TURKEY

U.S. importers' inventory holdings are shown in table VII-6.

Table VII-6
LWR pipe and tube: U.S. importers' end-of-period inventories, 2001-03, January-June 2003, and January-June 2004

Item	Calendar year			January-June	
	2001	2002	2003	2003	2004
Imports from Mexico–					
Inventories (*short tons*)	***	***	***	***	***
Ratio of inventories to imports (*percent*)	***	***	***	***	***
Ratio of inventories to U.S. shipments of imports (*percent*)	***	***	***	***	***
Imports from Turkey–					
Inventories (*short tons*)	***	***	***	***	***
Ratio of inventories to imports (*percent*)	***	***	***	***	***
Ratio of inventories to U.S. shipments of imports (*percent*)	***	***	***	***	***
Imports from subject sources–					
Inventories (*short tons*)	3,059	4,356	4,535	4,416	5,177
Ratio of inventories to imports (*percent*)	3.4	3.2	3.1	2.9	3.4
Ratio of inventories to U.S. shipments of imports (*percent*)	3.4	3.0	3.0	2.8	3.2

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

U.S. IMPORTERS' OUTSTANDING ORDERS

Seven U.S. importers reported that they had arranged for the importation of LWR pipe and tube after June 30, 2004: five firms reported *** tons from Mexico, and one firm reported *** tons from Turkey.

DUMPING IN THIRD COUNTRY MARKETS

On September 23, 2002, the EU imposed definitive antidumping measures on certain welded tubes and pipes of iron or non-alloy steel, of circular cross-section, from the Czech Republic, Poland, Thailand, Turkey, and Ukraine. The dumping duties applied to Turkish producers range from zero to 5.2 percent, and the country-wide rate is 6.0 percent.[7] Counsel for petitioners argued that because LWR pipe and tube capacity is a function of round welded capacity, additional welded capacity made available due to import restrictions would be diverted to the production of LWR pipe and tube.[8]

On July 14, 2003, the EU imposed provisional antidumping measures on square and rectangular welded hollow sections from Turkey, with the exception of stainless products and those with a perimeter

[7] Official Journal of the European Communities, 2002R1697, 28.9.2002, p. 12.

[8] Petitioners' posthearing brief, p. A-35.

above 600mm. The EU measures thus covered all subject merchandise in the investigation involving Turkey. Dumping duties applied to Turkish producers ranged from 4.2 percent to 14.7 percent.[9] On December 15, 2003, the EU terminated its antidumping proceeding concerning LWR pipe and tube from Turkey. The proceeding was terminated after the complaint had been formally withdrawn by the complainant.[10]

In addition, on December 2, 2003, the Canada and Customs Revenue Agency published its final determination of dumping regarding structural tubing known as hollow structural sections, made of carbon and alloy steel, welded, in sizes up to and including 16 inches in outside diameter for round products and up to and including 48 inches in outside diameter for rectangular and square products, from the Republic of Korea, South Africa, and Turkey. The determinations covered LWR pipe and tube. The final duties on imports from Turkey range from 0.9 percent to 43.3 percent. The country average rate is 17.5 percent.[11] On December 23, 2003, the Canadian International Trade Tribunal published its finding that "the dumping in Canada of the aforementioned goods has caused injury to the domestic industry."[12]

According to the petitioners, these antidumping actions are likely to divert LWR pipe and tube from Turkey to the United States.[13] Canadian imports of LWR pipe and tube from Turkey totaled 1,442 metric tons (mt) in 2000, 664 mt in 2001, 7,033 mt in 2002, 11,234 mt during January-April 2003 and appear to have ceased with the Canadian investigation.[14] During the preliminary phase investigations, counsel for Turkish respondents argued that half the cooperating companies in the only case where measures are actually in force received a zero rate, while the country-wide rate is a mere 6 percent. Counsel also argued that the preliminary EU margins are sufficiently low as to permit Turkish producers to maintain their shipment levels to those markets in the future. Hence, there is little likelihood of diversion from those markets to the United States in the immediate future.[15]

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[9] Official Journal of the European Communities, L 75/3, 15.7.2003.

[10] Official Journal of the European Communities, L 327/46, 16.12.2003.

[11] *Final Determination–Steel Structural Tubing*, Canada Customs and Revenue Agency, December 2, 2003. (retrieved from *http://www.cbsa-asfc.gc.ca/sima/anti-dumping*).

[12] *Inquiry No. NQ-2003-001*, Canadian International Trade Tribunal, *Finding*: December 23, 2003, and *Decision*: January 7, 2004 (retrieved from *http://www.citt-tcee.gc.ca/dumping*).

[13] Hearing transcript, p. 44 (Valdez Valdez).

[14] Petitioners' posthearing brief, p. A-35.

[15] European Trade Services postconference brief, p. 7, and exhibits 1-3.

APPENDIX A

FEDERAL REGISTER NOTICES

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–812]

Light-Walled Rectangular Pipe and Tube from Turkey; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

ACTION: Notice of preliminary determination of sales at less than fair value and postponement of final determination.

EFFECTIVE DATE: April 13, 2004.

FOR FURTHER INFORMATION CONTACT: Paige Rivas (Guven) at (202) 482–0651; Timothy Finn or Drew Jackson (MMZ) at (202) 482–0065, and (202) 482–4406, respectively; and Mark Manning (Ozborsan) at (202) 482–5253, AD/CVD Enforcement Office IV, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that light-walled rectangular pipe and tube (LWRPT) from Turkey is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

Case History

On September 9, 2003, the Department received a petition for the imposition of antidumping duties on LWRPT from Mexico and Turkey, filed in proper form by California Steel and Tube, Hannibal Industries, Inc., Leavitt Tube Company, LLC, Maruichi American Corporation, Northwest Pipe Company, Searing Industries, Inc., Vest

Inc., and Western Tube and Conduit Corporation (collectively, the petitioners). *See* Letter from petitioners to Secretary Evans of the Department and Secretary Abbott of the U.S. International Trade Commission (ITC), "Petition for the Imposition of Antidumping Duties: Light-Walled Rectangular Pipe and Tube from Mexico and Turkey,'' dated September 9, 2003 (Petition). The Department initiated the antidumping investigation of LWRPT from Turkey on September 29, 2003. *See Notice of Initiation of Antidumping Investigations: Light-Walled Rectangular Pipe and Tube from Mexico and Turkey,* 68 FR 57667 (October 6, 2003) (*Initiation Notice*). Since the initiation of this investigation, the following events have occurred.

On October 14 and 15, 2003, the Department issued a shortened version of section A [1] of the antidumping questionnaire to eighteen pipe and tube producers in Turkey, in which each company was asked to provide the quantity and value of its shipments of subject merchandise to the United States during the period of investigation (POI). The Department received responses from these companies during the period October 24, 2003 through November 10, 2003.

On October 17, 2003, the Department issued to interested parties a set of proposed physical product characteristics that it intends to use to make its fair value comparisons. The Department received comments on its proposed physical product characteristics from MMZ Onur Boru Profil Uretim San. Ve. Tic A.S. (MMZ) and Noksel Celik Boru Sanayi A.S. (Noksel) on October 28, 2003. The Department received rebuttal comments from the petitioners and Yucel Boru Ve Profil A.S. (Yucel Boru) on November 4, 2003.

On October 24, 2003, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of LWRPT from Mexico and Turkey that are alleged to be sold in the United States at LTFV. *See Light-Walled Rectangular Pipe and Tube from Mexico and Turkey,* 68 FR 61829 (October 30, 2003).

On November 14, 2003, the Department selected Guven Boru Ve. Profil San. Ve. Tic. Ltd. Sti. (Guven), MMZ, Ozborsan Boru San. Ve. Tic. (Ozborsan) (collectively, respondents), as mandatory respondents in this investigation. *See* Memorandum from Mark Manning, Senior Import Compliance Specialist, to Thomas F. Futtner, Acting Office Director, "Selection of Respondents for the Antidumping Investigation of Light-Walled Rectangular (LWR) Pipe and Tube from Turkey,'' dated November 14, 2003, (Respondent Selection Memo).

On November 21, 2003, the Department issued sections A-E of its antidumping questionnaire to the respondents, which included the Department's final physical product characteristics to be used to make fair value comparisons. Section D of the questionnaire included special instructions on how to report costs of production in an economy experiencing high inflation.

We received responses to section A of the questionnaire from MMZ and Ozborsan on December 17, 2003, and from Guven on January 12, 2004. We received responses to sections B, C, and D of the questionnaire from MMZ and Ozborsan in January 2004, and from Guven in February 2004. We issued supplemental questionnaires, pertaining to sections A through D of the questionnaire, to the respondents from January through March 2004. Respondents replied to these supplemental questionnaires in February and March 2004. Ozborsan filed its response and supplemental responses to the Department's questionnaires on a joint basis with its sister company, Onur Metal (Onur).

On January 28, 2004, petitioners submitted a letter in support of the postponement of the preliminary determination. On February 5, 2004, pursuant to section 733(c)(1)(B) of the Act, the Department postponed the preliminary determination of this investigation by 50 days, from February 16, 2004, until April 6, 2004. *See Light-walled Pipe and Tube from Mexico and Turkey: Notice of Postponement of Preliminary Antidumping Duty Determinations,* 69 FR 5487 (February 5, 2004).

On February 19, 2004, the Department issued the antidumping duty questionnaire to Ozdemir Boru Profil San. Ve. Tic. Ltd. Sti. (Ozdemir) in order to examine its relationship with certain other Turkish respondents. The Department requested that Ozdemir submit its response to section A of the questionnaire by March 12, 2004. On March 17, 2004, the Department notified Ozdemir that its response to section A of the questionnaire was past due and requested that Ozdemir notify the Department by March 22, 2004, if it had encountered unexpected difficulties in submitting its response. On March 18, 2004, Ozdemir sent a letter to the Department in which it requested a two week extension of the deadline for submitting its section A response. On March 22, 2004, Ozdemir provided an incomplete response to section A of the Department's questionnaire. Furthermore, Ozdemir did not provide a response to sections B, C, and D of the questionnaire, which were due on March 26, 2004, nor did it request an extension of this deadline.

Postponement of the Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On March 19, 2004, Ozborsan/Onur requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the preliminary determination. Ozborsan/Onur also included a request to extend the period for any provisional measures from a period of four months to not more than six months after the publication of the preliminary determination. Accordingly, since we have made an affirmative preliminary determination, and the requesting parties account for a significant proportion of exports of the subject merchandise, we have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination.

[1] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all of the company's home market sales of foreign like product or, if the home market is not viable, of sales of the foreign like product in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of the company's U.S. sales of subject merchandise. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.

Period of Investigation

The POI is July 1, 2002, through June 30, 2003. *See* 19 CFR 351.204(b)(1).

Scope Comments

In accordance with the preamble to the Department's regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage of the scope of the investigation and encouraged all parties to submit comments on product coverage within 20 calendar days of publication of the *Initiation Notice* (*see* 68 FR 57668). As noted above, no comments were submitted to the record of this investigation. However, certain Mexican producers and the petitioners provided comments regarding the scope of these investigations. *See* the preliminary determination of the antidumping investigation on LWRPT from Mexico.

Scope of Investigation

The merchandise covered by this investigation is LWRPT from Turkey, which are welded carbon-quality pipe and tube of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch. These LWRPT have rectangular cross sections ranging from 0.375 x 0.625 inches to 2 x 6 inches, or square cross sections ranging from 0.375 to 4 inches, regardless of specification. LWRPT are currently classifiable under item number 7306.60.5000 of the Harmonized Tariff System of the United States (HTSUS). The HTSUS item number is provided for convenience and customs purposes only. The written product description of the scope is dispositive.

The term "carbon-quality'' applies to products in which (i) iron predominates, by weight, over each of the other contained elements, (ii) the carbon content is 2 percent or less, by weight, and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickle, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium (also called columbium), or 0.15 percent of vanadium, or 0.15 percent of zirconium.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate weight-average individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either (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 of the subject merchandise from the exporting country that can reasonably be examined. As guidance in selecting respondents, the petitioners provided a copy of the chapter on Turkish companies from the 14th edition of *Iron and Steel Works of the World*, published by Metal Bulletin Books, in addition to a list of Turkish steel tube manufacturers. *See* Petition at Exhibit 7B. U.S. Customs and Border Protection (CBP) import statistics identify eighteen exporters/producers of subject merchandise during the POI. However, due to limited resources, we determined that we could investigate only the three Turkish producers/exporters that accounted for the largest volume of exports to the United States during the POI. *See* Respondent Selection Memo. Therefore, we selected Guven, MMZ, and Ozborsan as mandatory respondents in this investigation.

Collapsing

Section 771(33)(A) of the Act states that affiliated persons include, "{m}embers of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.'' In addition, section 771(33)(F) of the Act states that, "two or more persons directly or indirectly controlling, controlled by, or under common control with, any person,'' shall be considered to be affiliated. Furthermore, under 19 CFR 351.401(f), we will treat "two or more affiliated producers as a single entity where those producers (1) Have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and (2) the Secretary concludes that there is significant potential for the manipulation of price or production'' based on factors such as: (a) The level of common ownership; (b) the extent to which managerial employees or board members of one firm sit on the board of the other firm; and (c) whether operations are intertwined (*e.g.*, through sharing of sales information, involvement in production and pricing decisions, sharing facilities/employees, and/or significant transactions between the two affiliated producers).

Guven, Ozborsan, and Ozdemir are owned by three brothers, each of which owns the largest percentage of shares in his respective company. In addition, the brother who owns the largest percentage of shares of Ozborsan is also a significant shareholder of Ozborsan's sister company, Onur. The Department considers these three brothers to be "affiliated persons'' pursuant to section 771(33)(A) of the Act. *See Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipes and Tubes from Thailand*, 62 FR 53808 (October 16, 1997).

Further, the Department considers Guven, Onur, Ozborsan, and Ozdemir to be affiliated according to section 771(33)(F) of the Act ("two or more persons directly or indirectly, controlled by, or under common control with, any person,'' shall be considered to be affiliated).

Section 771(33) of the Act states that "a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.'' Although this section of the statute uses the singular phrase "any person,'' the Court of International Trade (CIT) has recognized that "the singular word 'person' can be interpreted to encompass a 'family' in order to carry out the intent of the statute.'' *See Ferro Union, Inv.* v. *United States*, 44 F. Supp. 2d at 1326 citing *St. Louis* v. *Missouri*, 263 U.S. 640, 657, 68L. ED. 486, 44 S. Ct. 213 (1924), ("words importing the singular may {not} extend and be applied to several persons or things * * * except where it is necessary to carry out the evident intent of the statute (emphasis added).'') (*Ferro Union*). As the CIT noted in *Ferro Union*, "the intent of 19 U.S.C. 1677(33) was to identify control exercised through 'corporate or family groupings.' SAA {Statement of Administrative Action} at 838. By interpreting 'family' as a control person, Commerce was giving effect to this intent.'' *See Ferro Union*, 44 F. Supp. 2d at 1325; *see also*, 19 CFR 351.102(b) ("{i}n determining whether control over another person exists, within the meaning of section 771(33) of the Act, the Secretary will consider the following factors, among others: corporate or family groupings * * *). Additionally, in past cases involving control through corporate or family groupings, the Department has noted that the control factors of individual members of the group (*e.g.*, stock ownership, management

positions, board membership) are considered in the aggregate. *See Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil; Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 5554, 5566 (February 4, 2000).

With respect to Ozborsan and Onur, the brother who owns Ozborsan is also a significant shareholder in Onur. Moreover, Ozborsan stated that Onur has the same management structure as Ozborsan (*see* Exhibit A–2 of Ozborsan's December 17, 2003, submission and Ozborsan/Onur's March 29, 2004, submission at 2). The management chart that Ozborsan provided in Exhibit A–2 indicates that the brother who owns the largest percent of shares in Ozborsan is also Ozborsan's ''Head of Company.'' Thus, this person is both a signifcant shareholder in Onur and is also the ''Head of Company'' for Onur. Furthermore, the brother who owns the largest percentage of shares in Guven is also the President of Guven. The third brother, who owns the largest percentage of shares in Ozdemir, is also the founder and Managing Director of Ozdemir.

The brothers' leadership positions within these companies, as well as the fact that the brothers own the largest percentage of shares in their respective companies, puts these brothers in a position to directly or indirectly control Guven, Onur, Ozborsan, and Ozdemir, thus satisfying the requirements of affiliation under section 771(33)(F) of the Act. Based on the Department's practice of considering companies or corporate groups under family control to be affiliated under section 771(33)(A) and (F) of the Act, the Department considers Guven, Onur, Ozborsan, and Ozdemir to be affiliated. *See* Memorandum from Thomas F. Futtner, Acting Office Director, to Holly A. Kuga, Acting Deputy Assistant Secretary, ''Decision Memorandum: Whether to Collapse Certain Turkish Pipe and Tube Producers Into A Single Entity,'' dated April 6, 2004 (Collapsing Memorandum).

Regarding the first collapsing criterion listed in 19 CFR 351.401(f) (producers with production facilities for similar or identical products), the evidence on the record indicates that Guven, Onur, Ozborsan, and Ozdemir produce subject merchandise. Ozborsan stated that it produces subject merchandise at the same production facility as Onur. Production by Ozborsan and Onur is fully integrated; workers from both companies work on the same shifts to fulfill the same production orders—whether for the home market or for export. *See* Collapsing Memorandum at 5. On this basis, we find that Onur and Ozborsan satisfy the first criterion.

Guven and Ozborsan/Onur reported in their respective responses to section D of the questionnaire the use of an identical manufacturing process to produce subject merchandise. Both companies purchase hot-rolled and cold-rolled steel in coils; the coils are first slit, then formed, welded, and cut to length. *Id.* Furthermore, Guven and Ozborsan/Onur both produce subject merchandise in a wide variety of sizes and reported sales during the POI of nearly all of the same type of products (CONNUMs) in their U.S. and comparison-market databases.

Ozdemir, in its incomplete response to section A of the questionnaire, stated that it manufactures pipes and tubes using coils of hot-rolled and cold-rolled steel. Ozdemir also indicated that it produces both square and rectangular pipe and tube, with outside perimeters and wall thicknesses covering the full range of products included in the scope of this investigation. Since all four companies manufacture a wide variety of sizes of subject merchandise utilizing a similar production process, we conclude that Guven, Onur, Ozborsan, and Ozdemir would not require substantial retooling of their facilities in order to restructure manufacturing priorities.

In analyzing the second criterion, whether there exists significant potential for manipulation of price or production, we first consider the level of ownership. We note that the three brothers own the largest percentage of shares in Guven, Ozborsan, and Ozdemir, respectively, and one of the three brothers is a significant shareholder in Ozborsan's sister company, Onur. Based upon this family ownership, we find that there is common ownership of Guven, Ozborsan/Onur, and Ozdemir and that such ownership is one factor indicating a significant potential for the manipulation of price or production. *See* Collapsing Memorandum at 6.

Second, in addition to being the shareholders owning the largest percentage of shares, as indicated above, members of this family hold senior management positions within each company. One brother, who owns the largest percentage of shares in Ozborsan, is a member of Ozborsan's Board of Directors and is also the ''Head of Company'' for both Ozborsan and Onur. Another brother is the President of Guven and his son is the General Manager of Guven, whose responsibilities include ''strategic/economic planning'' and ''procurement/sourcing.'' *See* Guven's response to the Department's section A of the questionnaire, dated January 12, 2004, at page 5. Lastly, the third brother is the founder and Managing Director of Ozdemir. This brother has ''full authorization * * * to establish prices, selling and general expenses and production costs.'' *See* Ozdemir's response to the Department's section A of the questionnaire, dated March 22, 2004, at page 2. In addition, this person has ''full control and is the decision-marker'' at Ozdemir. *See* Collapsing Memorandum at 6. Due to the fact that key senior management positions in Guven, Ozborsan/Onur, and Ozdemir are held by members of this family, we conclude that these close management relationships are another factor indicating a significant potential for the manipulation of price or production between these companies.

Third, regarding the intertwining of operations, we have already indicated that Ozborsan and Onur share the same production facilities and management executives. Even though domestic sales are credited to Onur, and export sales are credited to Ozborsan, Onur's employees do not strictly work on products sold in Turkey, and Ozborsan's employees do not strictly work on products sold in export markets.

Furthermore, Ozborsan/Onur stated that, on occasion, it and one of the other companies have swapped hot-rolled and cold-rolled coils when size availability was an issue. *Id.* at 7. Additionally, Ozborsan/Onur stated that all three of the companies occasionally use each other's trucks for shipments to the port and for transporting raw materials from the port to the factory. According to Ozborsan/Onur, because these swaps were even exchanges (*i.e.*, the quantity swapped by each company was the same), there was no financial transaction to record, and Ozborsan/Onur kept no file documenting such exchanges.

The fact that Ozborsan/Onur does not record such transactions in its inventory records and freight ledger suggests that Ozborsan/Onur and the other company with which it exchanged coils consider each other's inventory and assets as a pool from which both can freely draw. In addition, although Ozborsan/Onur characterizes such swaps as occurring ''in a few instances'' and ''occasionally,'' the fact that it did not quantify the volume of such transactions leaves open the question of how often such swaps occurred. Lastly, since Ozborsan/Onur and the other company own their own trucks, the fact that they shared these trucks with each other during the POI is evidence of shared facilities.

In addition, Guven reported that during the POI it had several transactions with one of the other two companies owned by the family. Specifically, Guven stated that it sold a significant quantity of subject and non-subject tubes, in addition to a significant quantity of hot-rolled coil, to this other company. Guven also purchased a significant quantity of tubes from this company during the POI. Lastly, Guven reported that it purchased a small amount of galvanized pipes from one of the other companies owned by the family. *Id.* at 8.

Based upon the intertwined operations described above, the Department concludes that these interactions indicate that there is a significant potential for the manipulation of price or production between these companies.

Based on these reasons, we find that Guven, Ozborsan/Onur, and Ozdemir are affiliated producers with similar or identical production facilities that would not require substantial retooling in order to restructure manufacturing priorities. We also find that there exists a significant potential for the manipulation of price or production. *See* Collapsing Memorandum. Therefore, we have collapsed Guven, Ozborsan/Onur, and Ozdemir, and are treating them as a single entity for purposes of the preliminary determination in this antidumping investigation.

Facts Available

For the reasons discussed below, we determine that the use of adverse facts available is appropriate for the preliminary determination with respect to Guven, Ozborsan/Onur, and Ozdemir.

A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the Department, fails to provide such information by the deadline or in the form or manner requested, significantly impedes a proceeding, or provides information which cannot be verified, the Department shall use, subject to section 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that if the Department determines that a response to a request for information does not comply with the Department's request, the Department shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act further states that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In this case, Guven, Ozborsan/Onur, and Ozdemir have failed to provide pertinent information requested by the Department that is necessary to properly calculate antidumping margins for its preliminary determination. Specifically, Ozborsan/Onur failed to provide the following requested information, all of which is necessary to complete the Department's calculations: (1) Product-specific costs by CONNUM; (2) an explanation why the company was unable to determine the cost differences between products, or an explanation of why the company believes that the differences are insignificant enough that there is no cost difference between products; (3) a reconciliation of the total costs in the financial statements to the total costs reported to the Department; (4) separate cost files for Ozborsan and Onur which reconcile to each company's financial accounting system; (5) a reconciliation of the production quantities to the sales quantities; (6) depreciation expense based on the revaluated fixed asset values; and (7) calculation of general and administrative and financial expense ratios based on the fiscal year that most closely coincides with the period of investigation. In addition, Ozborsan/Onur stated that it "swapped'' hot-rolled coils with one of the other companies. Ozborsan/Onur claims that no records are kept of such swaps, and Ozborsan/Onur was unable to quantify these transactions. As a result of Ozborsan/Onur's failure to provide the above requested information, the Department is unable to use the reported cost of manufacturing data to test home market sales to determine whether the sales prices can form the basis for the calculation of normal value (NV). Additionally, because of the noted omissions, the cost data cannot be used for difference in merchandise purposes or for calculating constructed value (CV).

With respect to Guven, the company failed to provide: (1) Any cost reconciliations; (2) product-specific costs and worksheets; (3) an explanation of its cost accounting system and how costs were allocated between subject and non-subject merchandise; (4) a description of its production process; (5) detailed cost build-ups for the requested models sold in the third country and home markets; (6) an explanation of its cost response methodology; (7) an explanation as to whether the reported costs were based on world-wide production quantities and not on any specific market; (8) a reconciliation of the production quantities to the sales quantities; and (9) the requested general and administrative (G&A) and financial expense ratios based on the indexed monthly historical G&A and financial expenses and cost of goods sold for the fiscal year 2003. In addition, Guven did not report significant expense items for months for which production was reported. As a result of Guven's failure to provide the above requested information, the Department is unable to use the reported cost of manufacturing data to test home market sales to determine whether the sales prices can form the basis for NV. Additionally, because of the noted omissions, the cost data cannot be used for difference in merchandise purposes or for calculating CV. Additionally, we note that Guven did not respond to the Department's supplemental section D questionnaire by the established deadline.

With respect to Ozdemir, the company provided an incomplete section A response, and failed to provide a response to sections B, C, and D of the Department's questionnaire. Because Ozdemir withheld information requested by the Department, the Department will rely on the facts otherwise available in order to determine a margin for Ozdemir.

Thus, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act, we have based Guven, Ozborsan/Onur, and Ozdemir's dumping margin on facts available.

B. Application of Adverse Inferences for Facts Available

In applying facts otherwise available, section 776(b) of the Act provides that the Department may use an inference adverse to the interests of a party that has failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil,* 67 FR 55792, 55794–96 (August 30, 2002). Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See*

Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103–316, at 870 (1994) (SAA). Furthermore, ''affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties; Countervailing Duties,* 62 FR 27355 (May 19, 1997). Although the Department provided respondents with notice of the consequences of failure to adequately respond to the questions, in this case, Guven, Ozborsan/Onur, and Ozdemir have failed to timely provide complete and useable responses to the Department's section D questionnaires. *See* the Department's letters to Ozborsan/Onur, Guven, and Ozdemir on February 27, 2004, March 12, 2004, and March 17, 2004, respectively. The original questionnaire was issued on November 21, 2003, to which Ozborsan/Onur submitted its section D response on January 12, 2004 and Guven submitted its response on February 19, 2004. In order to address the deficiencies in Ozborsan/Onur's response, the Department issued a supplemental section D questionnaire on February 27, 2004. Ozborsan/Onur's response was received on March 16, 2004. On March 12, 2004, the Department issued the supplemental section D questionnaire to Guven. Guven failed to respond to the supplemental section D questionnaire by the established deadline of March 25, 2004. In these supplemental questionnaires we noted that in the previous submissions, Guven and Ozborsan/Onur failed to provide requested detailed cost of manufacturing information necessary for the Department to adequately analyze the response. Guven and Ozborsan/Onur's failure to provide this critical information in a timely manner has rendered their entire submissions inadequate and unusable for the preliminary determination. In addition, as discussed above, Ozdemir did not provide a response to sections B, C, and D of the questionnaire, which was due on March 26, 2004. This constitutes a failure on the part of these companies to cooperate to the best of their abilities to comply with a request for information by the Department within the meaning of section 776 of the Act. Therefore, the Department has preliminarily determined that in selecting from among the facts otherwise available, an adverse inference is warranted. *See, e.g., Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan,* 65 FR 42985, 42986 (July 12, 2000) (the Department applied total adverse facts available (AFA) where respondent failed to respond to the antidumping questionnaires).

C. Selection and Corroboration of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. *See* also 19 CFR 351.308(c); SAA at 829–831. In this case, because we are unable to calculate margins based on Guven's, Ozborsan/Onur's, and Ozdemir's own data and because an adverse inference is warranted, we have assigned to all three companies the highest margin from the proceeding, which is the highest margin alleged for Turkey in the petition, as recalculated in the initiation and described in detail below. *See Initiation Notice*.

As noted in the *Corroboration of Normal Value* section below, the calculation of CV in the petition contains an amount of zero for profit because the Turkish producer relied upon for the calculation of the financial ratios reported a loss in its financial statements. Although a publicly available amount for profit is not currently on the record of this investigation, we will consider adding profit to CV for the final determination in the event we are able to identify a publicly available amount for profit that is usable given the facts of this proceeding.

When using facts otherwise available, section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition), it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.

The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See* 19 CFR 351.308(d); *see* also SAA at 870.

To assess the reliability of the petition margin for the purposes of this investigation, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the petition and during our pre-initiation analysis for both this preliminary determination. *See* Office of AD/CVD Enforcement Initiation Checklist, at 11 (September 29, 2003) (Initiation Checklist). Also, as discussed below, we examined evidence supporting the calculations in the petition to determine the probative value of the margins in the petition for use as AFA for this preliminary determination. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and NV calculations on which the margins in the petition were based. *See* Memorandum from Paige Rivas, International Trade Analyst, to Tom Futtner, Acting Director, Office 4, Re: Corroboration of Data Contained in the Petition for Assigning Facts Available Rates, dated April 6, 2004 (Corroboration Memo).

1. Corroboration of Export Price

The petitioners based EP on prices of LWRPT obtained from U.S. distributors of products that are identical in size to products manufactured and sold in Turkey. The petitioners calculated net U.S. price by deducting international freight and U.S. import duties for the U.S. price quotes. We compared the U.S. market price quotes with official U.S. import statistics and found the prices used by the petitioners to be reliable.

2. Corroboration of Normal Value

With respect to the NV, the petitioners obtained, through foreign market research, two price quotes from resellers in Turkey for products manufactured by a major Turkish producer named in the Petition. The petitioners calculated net Turkish prices by deducting the average discount offered by the Turkish resellers from the price quotes.

The petitioners also provided information demonstrating reasonable grounds to believe or suspect that sales of LWRPT in the home market were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act.

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM), selling, general, and administrative (SG&A) expenses, financial expenses, and packing expenses. The petitioners calculated COP based on the experience of a U.S. LWRPT producer, adjusted for known differences between costs incurred to produce LWRPT products in the United States and Turkey using publicly

available data. To calculate SG&A and financial expenses, the petitioners relied upon amounts reported in the 2002 financial statements of Borusan Holding A.S., which is the parent company of Mannesman Boru, a major producer of the subject merchandise in Turkey.

Based upon a comparison of the price of the foreign like product to the calculated COP, we found reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department initiated a country-wide cost investigation. For initiation purposes and for the purposes of this preliminary determination, we corrected the petitioners' conversion from dollars per metric ton to dollars per hundred feet for the 55mm x 50mm x 3mm product. See Initiation Checklist at 11 and Attachment III.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioners based NV on CV. The petitioners calculated CV using the same COM, SG&A and financial expense figures used to compute the COP. Consistent with section 773(e)(2) of the Act, the petitioners included in CV an amount for profit. For profit, the petitioners relied upon amounts reported in Borusan Holding A.S.'s 2002 financial statements. However, the profit amounted to zero because Borusan reported a loss in its financial statements.

For purposes of corroborating CV, we compared the cost data submitted in the petition to information submitted by MMZ. Specifically, we compared net CV for one CONNUM for MMZ to the CV used to calculate the highest margin the petition. This CONNUM is identified in Exhibit C2 of MMZ's March 24, 2004, submission as containing production quantities that are comparable to the product with the highest margin in the petition. We found the CV used by the petitioners to be reliable.

Therefore, based on our efforts, described above, to corroborate information contained in the petition, and in accordance with section 776(c) of the Act, we consider the highest margin in the petition to be corroborated to the extent practicable for purposes of this preliminary determination.

Accordingly, in selecting AFA with respect to Guven, Ozborsan/Onur, and Ozdemir, we have applied the margin rate of 34.89 percent, which is the highest estimated dumping margin set forth in the notice of initiation. *See Initiation Notice*, 68 FR 57667.

Product Comparisons

In accordance with section 771(16) of the Act, all products manufactured by the respondents in the home market and covered by the description contained in the *Scope of Investigation* section, above, and sold in the home market during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied upon seven criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product: steel type, galvanized coating, whether the merchandise was painted or primed, outside perimeter, wall thickness, shape, and finish. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

Fair Value Comparisons

To determine whether sales of LWRPT from Turkey were made in the United States at LTFV, we compared the EP to the NV, as described in the *Export Price* and *Normal Value* sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs. We compared these to weighted-average home market prices in Turkey.

Based on our examination of Turkey's inflation indices, we determined that the Turkish economy was experiencing high inflation during the POI. "High inflation'' is a term used to refer to a high rate of increase in price levels. Investigations covering exports from countries with highly inflationary economies require the use of special methodologies in comparing prices and calculating CV and COP. *See* Policy Bulletin No. 94.5, "Differences in Merchandise Calculations in Hyper-inflationary Economies,'' dated March 25, 1994. Generally, the Department considers the annual inflation rate to be high if it is in excess of 25 percent. Based upon our examination of the consumer price and wholesale price indices, which indicate that Turkey experienced an inflation rate over 25 percent during the POI, we find Turkey's economy experienced high inflation. *See* 2002 and 2003 issues of the International Monetary Fund's *International Financial Statistics*.

Because Turkey's economy experienced high inflation during the POI, as is Department practice, we limited our comparisons to home market sales made during the same month in which the U.S. sale occurred. This methodology minimizes the extent to which calculated dumping margins are overstated or understated due solely to price inflation that occurred in the intervening period between the U.S. and home market sales. *See Notice of Preliminary Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Carbon Steel Flat Products From Turkey,* 67 FR 31264 (May 9, 2002); *see* also *Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Carbon Steel Flat Products From Turkey,* 67 FR 62126 (October 3, 2002).

Export Price

In calculating U.S. price, the Department used EP, as defined in section 772(a) of the Act, because the merchandise was sold, prior to importation, by MMZ to unaffiliated purchasers in the United States. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the exporter or producer outside the United States to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection 772(c) of the Act. We calculated EP based on the packed prices charged to unaffiliated customers in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price, where applicable, for foreign movement expenses, including brokerage and handling and inland freight.

The Department interprets section 772(c)(1)(B) as requiring that any duty drawback be added to EP if two criteria are met: (1) import duties and rebates are directly linked to, and dependent upon, one another, and; (2) raw materials were imported in sufficient quantities to account for the duty drawback received on exports of the manufactured product. Since the normal criteria appear to have been met in this case, we made additions to the starting price for duty drawback in accordance with section 772(c)(1)(B) of the Act. However, we intend to further scrutinize the appropriateness of granting MMZ's requested duty drawback adjustment in light of the facts of this case in making our final determination in this investigation.

Normal Value

A. Selection of Comparison Market

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or has sufficient aggregate

value, if quantity is inappropriate) and that there is no particular market situation in the home market that prevents a proper comparison with the EP transaction. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States. Based on a comparison of aggregate quantity of home market sales and U.S. sales by MMZ, we determined that the quantity of foreign like product sold in Turkey permitted a proper comparison with the sales of subject merchandise because the quantity of sales in the home market was more than five percent of the quantity of sales to the U.S. market. Accordingly, for MMZ, we based NV on home market sales. In deriving NV, we made adjustments as detailed in the *Calculation of Normal Value Based on Constructed Value* section below.

B. Affiliated-Party Transactions and Arm's-Length Test

MMZ reported that it sold LWRPT in the comparison market only to unaffiliated customers. Therefore, application of the arm's-length test is unnecessary.

C. Cost of Production Analysis

In the original petition, the petitioners alleged that sales of LWRPT in the home market were made at prices below the fully absorbed COP, and accordingly, requested that the Department conduct a country-wide sales-below-cost investigation. Based upon the comparison of the petition's adjusted prices and COP for the foreign like product, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that sales of LWRPT in Turkey were made at prices below the COP. *See Initiation Notice.* As a result, the Department has conducted an investigation to determine whether MMZ made sales in the home market at prices below its COP during the POI within the meaning of section 773(b) of the Act. Our COP analysis is described below.

1. Calculation of Cost of Production

We determined that the Turkish economy experienced significant inflation during the POI. Therefore, in order to avoid the distortive effect of inflation on our comparison of costs and prices, we requested that each respondent submit the product-specific COM incurred during each month of the reporting period. We calculated a period-average COM for each product after indexing the reported monthly costs during to an equivalent currency level using the Wholesale Price Index for Turkey from the *International Financial Statistics* published by the International Monetary Fund. We then restated the period-average COMs in the currency values of each respective month.

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP for MMZ based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the home market G&A expenses and interest expenses. We relied on the submitted COP data except in the specific instances noted below, where the submitted costs were not appropriately quantified or valued.

We made the following adjustments to MMZ's submitted COP data: (1) Increased the reported raw material cost to disallow the claimed offset for the sales of second quality merchandise; (2) increased the reported raw material costs to include the duty cost which was claimed as a duty drawback adjustment to U.S. price but which was not included in COM; (3) increased the reported raw material cost to reflect the higher of transfer price or market price as required by section 773(f)(2) of the Act; (4) increased fixed overhead to include the full depreciation expense on assets purchased in 2002; (5) increased G&A expenses to include accrual adjustments; and (6) revised the reported financial expense ratio to include total net foreign exchange gains and losses.

2. Test of Home Market Sales Prices

As required by section 773(b) of the Act, we compared MMZ'a adjusted weighted-average COP to the comparison-market sales prices of the foreign like product, in order to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the revised COP to the comparison-market prices, less any applicable movement charges, taxes, rebates, commissions, and other direct and indirect selling expenses.

3. Results of the COP Test

We disregarded below-cost sales where (1) 20 percent or more of a respondent's sales of a given product during the POI were made at prices below the COP and thus such sales were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on comparisons of price to weighted-average COPs for the POI, we determined that the below-cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act.

We found that for certain products, MMZ made home market sales at prices below the COP within an extended period of time in substantial quantities. Further, we found that these sales prices did not permit the recovery of costs within a reasonable period of time. Therefore, we excluded these sales from our analysis in accordance with section 773(b)(1) of the Act.

D. Calculation of Normal Value Based on Comparison-Market Prices

We determined price-based NVs for MMZ as follows. Where applicable, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (COS) attributed to billing adjustments and imputed credit expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We also made adjustments, pursuant to 19 CFR 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset). Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

E. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, for those models of LWRPT for which we could not determine the NV based on comparison-market sales, either because there were no sales of a comparable product or all sales of the comparison products failed the COP test, we based NV on CV.

In accordance with sections 773(e)(1) and (e)(2)(A) of the Act, we calculated CV based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling expenses, G&A, interest, profit and U.S. packing costs. We calculated the cost of materials and fabrication based on the methodology described in the ''Calculation of Cost of Production'' section of this notice. In accordance with section 773(e)(2)(A) of the Act, we

based selling expenses, G&A, and profit on the amounts incurred and realized by MMZ, in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country.

F. Level of Trade/Constructed Export Price Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practical, the Department determined NV based on sales in the home market at the same level of trade (LOT) as the EP sales. The NV LOT is that of the starting-price sales in the home market. For EP sales, the U.S. LOT is also the level of the starting-price sale.

To determine whether NV sales are at a different LOT than the EP sales, we examined stages in the marketing process and selling activities along the chain of distribution between the producer and the unaffiliated customer. If the home market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the home market sales on which NV is based and the home market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

In determining whether separate LOTs exist, we obtained information from MMZ about the marketing stages for the reported U.S. and home market sales, including a description of the selling activities performed by MMZ for each channel of distribution. In identifying LOTs for EP and home market sales, we considered the selling functions reflected in the starting price before any adjustments. *See* 19 CFR 351.412(c)(1)(i) and (iii). We expect that, if claimed LOTs are the same, the selling functions and activities of the seller at each level should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the selling functions and activities of the seller for each group should be dissimilar.

In its questionnaire responses, MMZ reported that during the POI, it sold the foreign like product in the home market through one channel of distribution and in the United States through two channels of distribution. We found that MMZ engaged in similar selling activities for all home market sales. However, we found that there are also no differences in the selling functions performed in the U.S. channels of distribution. Based on the similarity of the selling functions, we have determined that MMZ sold LWRPT at one LOT in the home market and one LOT in the U.S. market. We also found that the selling activities performed by MMZ in the home market are similar to those performed in the U.S. market, with the exception that MMZ provided freight and delivery in the U.S. market but did not provide this service in the home market. Specifically, MMZ engaged in sales forecasting, strategic/economic planning, packing, order/input processing, and use of direct sales personnel in both markets. Therefore, we have preliminarily determined that the LOTs in the home and U.S. markets are the same LOT. Thus, a LOT adjustment is not required for comparison of U.S. sales to home market sales.

G. Currency Conversions

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for Turkish Lira. Therefore, we made currency conversions based on exchange rates from the Dow Jones News/Retrieval Service.

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

All Others Rate

Section 735(c)(5)(A) of the Act provides for the use of an "all others'' rate, which is applied to non-investigated firms. *See* SAA at 873. This section states that the all others rate shall generally be an amount equal to the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins based entirely upon the facts available. Therefore, we have preliminarily assigned to all other exporters of LWRPT from Turkey a margin that is based on the margin calculated for the mandatory respondent.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing CBP to suspend liquidation of all entries of LWRPT from Turkey that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the U.S. price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
Guven	34.89
MMZ	4.75
Ozborsan/Onur	34.89
Ozdemir	34.89
All Others	4.75

Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties to the proceeding in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary sales at LTFV determination. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threatening material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, the Department respectfully requests that all parties submitting written comments also provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in an investigation, the hearing normally will be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the

time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

As noted above, the Department will make its final determination within 135 days after the date of the publication of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: April 6, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–8377 Filed 4–12–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–832]

Light-Walled Rectangular Pipe and Tube from Mexico: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

ACTION: Notice of preliminary determination of sales at less than fair value and postponement of final determination.

EFFECTIVE DATE: April 13, 2004.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor (Prolamsa) at (202) 482-5831, Richard Johns (Galvak/Hylsa) at (202) 482–2305, Magd Zalok (LM) at (202) 482–4162, or Crystal Crittenden (Regiomontana) at (202) 482–0989; AD/CVD Enforcement, Office IV, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Preliminary Determination

We preliminarily determine that light-walled rectangular pipe and tube (LWRPT) from Mexico is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

SUPPLEMENTARY INFORMATION:

Case History

On September 9, 2003, the Department of Commerce (the Department) received a petition for the imposition of antidumping duties on LWRPT from Mexico, filed in proper form, by California Steel and Tube, Hannibal Industries, Inc., Leavitt Tube Company, LLC, Maruichi American Corporation, Northwest Pipe Company,

Searing Industries, Inc., Vest Inc., and Western Tube and Conduit Corporation (collectively, petitioners). *See* Letter from petitioners to Secretary Evans of the Department and Secretary Abbott of the U.S. International Trade Commission (ITC), "Petition for the Imposition of Antidumping Duties: Light-Walled Rectangular Pipe and Tube from Mexico and Turkey,'' dated September 9, 2003 (Petition). The Department initiated this antidumping investigation of LWRPT from Mexico on September 29, 2003. *See Notice of Initiation of Antidumping Investigations: Light-Walled Rectangular Pipe and Tube from Mexico and Turkey*, 68 FR 57668 (October 6, 2003) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage of the scope of the investigation. *See Initiation Notice*, at 68 FR 57668. On October 27, 2003, Productos Laminados de Monterrey, S.A. de C.V (Prolamsa) and IMSA–MEX, S.A. de C.V. and IMSA, Inc. (collectively, IMSA) submitted comments on product coverage. Petitioners and Prolamsa submitted rebuttal comments in November 2003, January 2004, and March 2004. *See Scope Comments* section below.

On October 23, 2003, the Department selected Prolamsa, Galvak, S.A. de C.V. (Galvak), Perfiles y Herrajes LM, S.A. de CV (LM), and Regiomontana De Perfiles Y Tubos (Regiomontana) (collectively, respondents), as mandatory respondents in this investigation. *See* Memorandum from Maisha Cryor, Analyst, to Thomas F. Futtner, Acting Office Director, Re: Selection of Respondents for the Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from Mexico, dated October 23, 2003 (Respondent Selection Memo), on file in the Central Records Unit (CRU), Room B–099 of the Main Commerce Building.

On October 24, 2003, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of LWRPT imported from Mexico that is alleged to be sold in the United States at LTFV. *See Light-Walled Rectangular Pipe and Tube from Mexico and Turkey*, 68 FR 61829 (October 30, 2003).

On October 28, 2003, the Department issued to respondents sections A-E of its antidumping questionnaire, which included proposed product characteristics that the Department intends to use to make its fair value comparisons.[1] After setting aside a period of time for all interested parties to provide comments on the proposed product characteristics, the Department received comments from Galvak and petitioners on November 4, 2003, and from Prolamsa on November 5, 2003. On November 10, 2003, Galvak and petitioners submitted rebuttal comments.

After reviewing interested parties' comments, the Department revised the proposed product characteristics and instructed Prolamsa, Galvak, LM, and Regiomontana, to report their product characteristics according to the revised requirements for sections B and C of the Department's questionnaire. *See* Memorandum from Maisha Cryor, Analyst, to the File, RE: Revision to Product Characteristics, dated November 21, 2003.

In December 2003, we received responses to sections A-C of the antidumping questionnaire from all of the respondents. We issued supplemental questionnaires, pertaining to sections A, B, and C of the questionnaire, in December 2003, January 2004 and February 2004. Respondents replied to these supplemental questionnaires in January, February, and March of 2004. On January 9, 2004, in accordance with 19 CFR 351.301(d)(2)(i)(B), petitioners submitted allegations that home market sales were made at prices below the cost of production (COP) by each respondent in this investigation. After reviewing petitioners' allegations, the Department, in accordance with section 773(b)(2)(A)(i) of the Act, concluded that there was a reasonable basis to suspect that each respondent is selling LWRPT in Mexico at prices below the COP and initiated cost investigations on February 2, 2004, (Prolamsa)[2], February 3, 2004 (Regiomontana)[3], and February 4, 2004, (Galvak/Hylsa[4] and LM[5]).

On January 28, 2004, petitioners submitted a letter in support of the postponement of the preliminary determination. On February 5, 2004, pursuant to section 733(c)(1)(B) of the Act, the Department postponed the preliminary determination of this investigation by 50 days, from February 16, 2004, until April 6, 2004. *See Light-Walled Rectangular Pipe and Tube from Mexico and Turkey: Notice of Postponement of Preliminary Antidumping Duty Determinations*, 69 FR 5487 (February 5, 2004).

On February 23, 2004, all of the respondents submitted responses to section D of the Department's antidumping questionnaire. The Department issued supplemental section D questionnaires to respondents, and received timely responses in March of 2004.

Postponement of the Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On March 15, 2004, Galvak/Hysla requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until

[1] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation, and the manner in which the company sells that merchandise in all markets. Section B requests a complete listing of all of the company's home market sales on the foreign like product or, if the home market is not viable, sales of the foreign like product in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of the company's U.S. sales of subject merchandise. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.

[2] *See* Memo to Howard Smith from Maisha Cryor, James Balog and Gina Lee regarding Light-walled Rectangular Pipe and Tube from Mexico, RE: Petitioners' Allegation of Sales Below the Cost of Production for Productos Laminados de Monterrey, S.A. de C.V. (Prolamsa Cost Memo).

[3] *See* Memo to Thomas Futtner from Crystal Crittenden, Trinette Ruffin, and Gina Lee regarding Light-walled Rectangular Pipe and Tube from Mexico, RE: Petitioners' Allegation of Sales Below the Cost of Production for Regiomontana de Perfiles y Tubos, S.A. de C.V. (Regiomontana Cost Memo).

[4] *See* Memo to Thomas Futtner from magd Zalok, Richard Johns, Gina Lee, and James Balog regarding Light-walled Rectangular Pipe and Tube from Mexico, RE: Petitioners' Allegation of Sales Below the Cost of Production for Galvak, S.A. de C.V. and Hylsa, S.A. de C.V. (Galvak/Hylsa Cost Memo).

[5] *See* Memo to Thomas Futtner from Magd Zalok, Trinette Ruffin,k and Gina Lee regarding Light-walled Rectangular Pipe and Tube from Mexico, RE: Petitioners' Allegation of Sales Below the Cost of Production for Perfiles y Herrajes L.M., S.A. de C.V. (LM Cost Memo).

135 days after the publication of the preliminary determination. Galvak/Hylsa also included a request to extend the provisional measures to not more than 135 days after the publication of the preliminary determination. Accordingly, because we have made an affirmative preliminary determination, and the requesting party accounts for a significant proportion of exports of the subject merchandise, we have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination.

Period of Investigation

The period of investigation (POI) is July 1, 2002, through June 30, 2003. *See* 19 CFR 351.204(b)(1).

Scope Comments

In accordance with the preamble to the Department's regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*)), in the *Initiation Notice*, we set aside a period of time for parties to raise issues regarding the product coverage of the scope of the investigation and encouraged parties to submit comments on product coverage within 20 calendar days of publication of the *Initiation Notice*. *See Initiation Notice*, 68 FR at 57668. On October 27, 2003, Prolamsa requested that the Department exclude pre-primered products from the scope of the investigation because it claims that petitioners do not produce pre-primered products and, therefore, they do not have a legitimate interest in including such items in the scope of this investigation. Further, Prolamsa argued that pre-primered LWRPT should be excluded from the scope because the unique properties of the production process ensure that it is only purchased by a particular customer type. In addition, Prolamsa requested that the Department expressly state whether the subject merchandise includes all specifications and product categories of LWRPT (*i.e.*, mechanical, ornamental, etc.).

On October 27, 2003, IMSA requested that the Department exclude galvanized LWRPT from the scope of the investigation because it claims that petitioners do not produce such products and that the unique properties of galvanized LWRPT limit its interchangeability with respect to other products.

On November 3, 2003, petitioners requested that the scope of the investigation not exclude those products specified by Prolamsa and IMSA. Specifically, petitioners contend that domestic petitioning firms produce both pre-primered and galvanized LWRPT and, therefore, they have a legitimate interest in including such products within the scope of this investigation. Petitioners also argue that exclusion of pre-primered LWRPT would enable respondents to circumvent any antidumping order on LWRPT simply by applying a primer coat to un-coated LWRPT.

Prolamsa rebutted petitioners comments in a January 23, 2004, submission, by stating that one of the petitioning domestic producers, identified in petitioners' rebuttal comments as a producer of pre-primered LWRPT (Searing Industries), did not, in fact, produce pre-primered LWRPT during the POI. In addition, Prolamsa included an affidavit from a non-petitioning domestic producer, who opposes the inclusion of pre-primered LWRPT in this investigation. *See* Prolamsa's January 23, 2004, rebuttal comments at Exhibit 1. On March 4, 2004, petitioners submitted an affidavit from petitioning producer Searing Industries, stating that Searing Industries does, in fact, produce and sell pre-primered LWRPT in the normal course of business.

On March 24, 2004, Prolamsa rebutted petitioners comments and argued that the affidavit submitted by petitioners fails to establish that Searing Industries has or is currently producing pre-primered LWRPT in the United States. In addition, Prolamsa countered petitioners argument that exclusion of pre-primered LWRPT from the scope of the investigation would result in circumvention of any antidumping order.

We have not adopted the change to the scope of the investigation proposed by Prolamsa. Prolamsa argues that pre-primered LWRPT should be excluded from the scope of the investigation because petitioners do not manufacture the product and because the unique properties of the pre-priming production process dictate that only particular customers will purchase it. However, petitioners submitted an affidavit by a petitioning domestic producer which states that it does produce pre-primered LWRPT. In addition, the statute does not require that petitioners produce every type of product covered by the scope of the investigation. *See Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan*, 65 FR 42985 (July 12, 2000) and accompanying *Issues and Decision Memorandum*, at Comments 1 and 2 (*Hollow Products*). Moreover, Prolamsa has not provided any basis to distinguish pre-primered LWRPT from the class or kind of merchandise subject to this investigation. For these reasons, we find no reason to exclude pre-primered LWRPT from the scope of this investigation. *See* Memorandum from Maisha Cryor, Analyst, to Thomas F. Futtner, Acting Office Director Re: Consideration of Scope Exclusion Request, dated April 6, 2004 (Scope Exclusion Request Memo).

Similarly, we have not adopted the change to the scope of the investigation proposed by IMSA. IMSA also argues that galvanized LWRPT should be excluded from the scope of this investigation because petitioners do not manufacture the product and because the unique properties of LWRPT restricts its ability to be interchangeable with other products. However, also in this case, petitioners submitted evidence demonstrating that a petitioning domestic producer does, in fact, produce galvanized LWRPT. In addition, as indicated above, the statute does not require that petitioners produce every type of product covered by the scope of the investigation. *See Hollow Products* 65 FR 42985 (July 12, 2000) and accompanying *Issues and Decision Memorandum*, at Comments 1 and 2. Moreover, IMSA has not provided any basis to distinguish galvanized LWRPT from the class or kind of merchandise subject to this investigation. For these reasons, we find no reason to exclude galvanized LWRPT from the scope of this investigation. *See* Scope Exclusion Request Memo.

With respect to Prolamsa's request that the Department expressly state whether the subject merchandise includes all specifications and product categories of LWRPT, we note that the scope of this investigation reads, in relevant part, "[t]hese LWRPT have rectangular cross sections ranging from 0.375 x 0.625 inches to 2 x 6 inches, or square cross sections ranging from 0.375 to 4 inches, *regardless of specification*.'' (emphasis added). Thus, the scope language explicitly states that LWRPT of a certain size is covered by this investigation, regardless of specification. Moreover, the phrase "regardless of specification'' means that the scope covers any product meeting the physical characteristics described therein, regardless of product category. Therefore, there is no need to modify the scope language as suggested by Prolamsa. *See* Scope Exclusion Request Memo.

Scope of Investigation

The merchandise covered by this investigation is LWRPT from Mexico,

which is welded carbon-quality pipe and tube of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch. These LWRPT have rectangular cross sections ranging from 0.375 x 0.625 inches to 2 x 6 inches, or square cross sections ranging from 0.375 to 4 inches, regardless of specification. LWRPT are currently classifiable under item number 7306.60.5000 of the Harmonized Tariff System of the United States (HTSUS). The HTSUS item number is provided for convenience and customs purposes only. The written product description of the scope is dispositive.

The term ''carbon-quality'' applies to products in which (i) Iron predominates, by weight, over each of the other contained elements, (ii) the carbon content is 2 percent or less, by weight, and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickle, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium (also called columbium), or 0.15 percent of vanadium, or 0.15 percent of zirconium.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual weighted-average dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all of the known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either (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 of the subject merchandise from the exporting country that can reasonably be examined. The petitioners identified nine Mexican exporters/producers of subject merchandise. *See* Petition at Exhibit 7A. U.S. Customs and Border Protection (CBP) import statistics for the POI identified twenty-four exporters/producers of subject merchandise during the POI. Due to limited resources, we determined that we could investigate only the four Mexican producers/exporters that accounted for the largest volume of exports of subject merchandise during the POI. *See* Respondent Selection Memo. Therefore, we selected Prolamsa, Galvak, LM, and Regiomontana as mandatory respondents in this investigation.

Collapsing Affiliated Parties

Section 771(33) of the Act defines affiliated persons. Moreover, 19

CFR 351.401(f) identifies the criteria that must be met in order to treat two or more affiliated producers as a single entity (*i.e.*, ''collapse'' the firms) for purposes of calculating a dumping margin.

Specifically, 19 CFR 351.401(f)(1) provides that affiliated producers of subject merchandise will be treated as a single entity (*i.e.*, collapsed), where (1) Those producers have production facilities for similar or identical products that would not require substantial retooling in order to restructure manufacturing priorities, and (2) the Department concludes that there is a significant potential for manipulation of price or production. 19 CFR 351.401(f)(2) of the Department's regulations provides factors the Department may consider in determining whether there is significant potential for manipulation of price or production, namely (i) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.

Galvak and Hylsa are wholly-owned subsidiaries of Hylsamex, a Mexican holding company, which is 90-percent owned by Alfa, S.A. de C.V. Galvak and Hylsa requested that they be treated as affiliated parties. *See* Galvak/Hylsa's section A questionnaire response at 15. Pursuant to section 771(33)(F) of the Act, the Department has preliminarily determined that Galvak and Hylsa are affiliated because Galvak and Hylsa are both wholly-owned subsidiaries of Hylsamex, and thus, are ''two persons controlled by {a} person.''.[6]

Galvak and Hylsa also satisfy the first requirement of the collapsing test, as they both possess production facilities of identical or similar types of merchandise, and these facilities would not require substantial retooling to restructure manufacturing priorities. In addition, they also satisfy the second requirement of the collapsing test, because there is a significant potential for manipulation of price or production given that Galvak and Hylsa are owned by the same company, have a significant overlap of management positions and have intertwined operations. Therefore, we are treating Galvak and Hylsa as a single entity for purposes of our antidumping analysis. For a more detailed analysis, *see* Memorandum from Maisha Cryor and Richard Johns, Analysts, to Thomas F. Futtner, Acting Office Director, Regarding ''Whether to Collapse Galvak, S.A. de C.V. and Hylsa, S.A. de C.V., dated February 13, 2004 (Collapsing Memo). This single entity is hereafter referred to as Galvak/Hylsa.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the ''Scope of Investigation'' section of this notice, above, that were sold in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. We have relied upon seven criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product. These criteria, in order of importance are: (1) Steel type, (2) galvanized coating, (3) whether the merchandise was painted or primed, (4) outside perimeter, (5) wall thickness, (6) shape, and (7) finish. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed above. Where we were unable to match U.S. sales to home market sales of the foreign like product, we based normal value (NV) on constructed value (CV).

Fair Value Comparisons

To determine whether sales of LWRPT from Mexico were made in the United States at LTFV, we compared the export price (EP) or constructed export price (CEP) to the NV, as described in the *Export Price and Constructed Export Price* and *Normal Value* sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs. We compared these to weighted-average NVs in Mexico.

Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP as defined in sections 772(a) and (b) of the Act, respectively. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold (or

[6] *See* Galvak's January 5, 2004 supplemental section A response at 2 (supplemental response).

agreed to be sold) before the date of importation by the exporter or producer outside the United States to an unaffiliated purchaser for exportation to the United States. We based EP on packed and delivered prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2) of the Act, we reduced the starting price by movement expenses and export taxes and duties, if appropriate. These deductions included, where appropriate, foreign inland freight, foreign brokerage and handling, international freight, marine insurance and U.S. customs duties.

Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold in the United States before or after the date of importation, by or for the account of the producer or exporter of the merchandise, or by a seller affiliated with the producer or exporter, to an unaffiliated purchaser, as adjusted under sections 772(c) and (d) of the Act. We based CEP on packed prices to unaffiliated purchasers in the United States. In accordance with section 772(c)(2) of the Act, we reduced the starting price by movement expenses U.S. duties, if appropriate. Movement expenses include, where applicable, expenses incurred for foreign inland freight, international freight, marine insurance, foreign and U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland insurance, U.S. inland freight, and warehousing. In accordance with section 772(d)(1) of the Act we made additional adjustments to the starting price in order to calculate CEP, by deducting direct and indirect selling expenses related to commercial activity in the United States. Pursuant to section 772(d)(3) of the Act, where applicable, we made an adjustment to the starting price for CEP profit.

We determined the EP or CEP for each company as follows:

Prolamsa

We calculated a CEP for all of Prolamsa's U.S. sales because the subject merchandise was sold directly to Prolamsa Inc., Prolamsa's U.S. affiliate, prior to being sold to the first unaffiliated purchaser in the United States. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These items include expenses incurred for inland freight, domestic brokerage and handling, U.S. brokerage and handling and U.S. customs duties. In addition, we made deductions from the U.S. starting price for discounts and rebates. Additionally, we made adjustments to the U.S. starting price for billing adjustments.

LM

We calculated an EP for all of LM's sales because the merchandise was sold directly by LM to the first unaffiliated purchaser in the United States prior to importation. We made deductions from the FOB, duty paid, starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These items include expenses incurred for inland freight, domestic brokerage and U.S. customs duties, when applicable. In addition, we made deductions from the starting price for discounts, where appropriate.

Regiomontana

We calculated an EP for all of Regiomontana's sales because the merchandise was sold directly by Regiomontana to the first unaffiliated purchaser in the United States prior to importation.[7] We made deductions from the FOB starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These items include inland freight, international freight, and U.S. and domestic brokerage and handling. Additionally, we adjusted for billing adjustments in accordance with 19 CFR 351.401(c).

Galvak/Hylsa

On December 2, 2003, in accordance with the instructions provided in the Department's questionnaire regarding reporting requirements for affiliated companies, Galvak and Hylsa submitted a single response to section A of the Department's questionnaire. Galvak and Hylsa, collectively, continued to submit responses to the Department's questionnaire and supplemental questionnaires. Due to the Department's decision to collapse the two companies, we accepted and conducted an analysis of the collapsed data. *See* Collapsing Memo.

We calculated an EP for all of Galvak/Hylsa's sales because the merchandise was sold directly by Galvak/Hylsa to the first unaffiliated purchaser in the United States prior to importation.[8] We note that Galvak/Hylsa's affiliated reseller in the United States provided certain administrative services pertaining to a small percentage of U.S. sales.

See Galvak/Hylsa's December 31, 2003, questionnaire response at 8.

However, the sales documents provided in the questionnaire response indicate that these services were minor and that the invoicing was done by Galvak/Hylsa. Further, the merchandise was shipped directly from Galvak/Hylsa's production facility in Mexico to the unaffiliated U.S. customer. *Id.* Therefore, we have preliminarily concluded that the sales were, in fact, EP sales. We made deductions from the FOB starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These items include inland freight, domestic brokerage, U.S. brokerage, and warehousing. In accordance with 19 CFR 351.401(c), we increased the starting price for freight fees, brokerage and handling fees, insurance fees, and duty fees, charged to the customer, and adjusted for billing adjustments. In addition, we made deductions from the starting price for discounts, where appropriate.

Normal Value

A. Selection of Comparison Market

Section 773(a)(1) of the Act directs the Department to base NV on the price at which the foreign like product is sold in the home market, provided that, among other things, the merchandise is sold in sufficient quantities in the home market (or has sufficient aggregate value, if quantity is inappropriate). The statute provides that the total quantity of home market sales of foreign like product (or value) will normally be considered sufficient if it is five percent or more of the aggregate quantity (or value) of sales of the subject merchandise. Based on a comparison of the aggregate quantity of home market sales of foreign like product and U.S. sales of subject merchandise by Prolamsa, LM, Galvak/Hylsa, and Regiomontana, we determined that the quantity of foreign like product sold in Mexico is more than five percent of the quantity of U.S. sales of subject merchandise for each

[7] Petitioners requested that the Department treat Regiomontana's sales made through unaffiliated U.S. commissioned selling agents as CEP sales, and deduct the commission expense from the CEP. *See* Petitioners March 25, 2004, letter at 8–9. However, because all of Regiomontana's U.S. sales were made by Regiomontana to the first unaffiliated purchaser in the United States prior to importation, in accordance with section 772(a) of the Act we have treated all U.S. sales as EP sales.

[8] Petitioners requested that the Department treat Galvak/Hylsa's U.S. sales as CEP transactions, because Galvka/Hylsa was the importer of record for its own sales of subject merchandise during the POI. *See* Petitioners March 25, 2004, letter at 9–10. However, where the same party is both the foreign producer/exporter, as well as the importer of record, the Department's practice is to treat such sales as EP transactions. *See Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review,* 69 FR 10659, 10661–10662 (March 8, 2004). Therefore, consistent with the Department's practice, we have continued to treat Galvak/Hylsa's U.S. sales as EP transactions.

respondent. Accordingly, for each of the respondents, we based NV on home market sales.

In deriving NV, we made adjustments as detailed in the *Calculation of Normal Value Based on Comparison-Market Prices* and *Calculation of Normal Value Based on Constructed Value* sections below.

B. Affiliated-Party Transactions and Arm's-Length Test

During the POI, Prolamsa, Regiomontana, LM, and Galvak/Hylsa sold foreign like product to affiliated customers.

To test whether these sales were made at arm's-length prices, we compared, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all discounts and rebates, movement charges, direct selling expenses, commissions, and home market packing. Where the price to the affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to unaffiliated parties, we determined that sales made to the affiliated party were at arm's-length. *See* 19 CFR 351.403(c); *see also, Preamble,* 69 FR at 69186. Sales to affiliated customers in the home market that were not made at arm's-length prices were excluded from our analysis because we considered them to be outside the ordinary course of trade. *See* 19 CFR 351.102(b).

C. Cost of Production Analysis

Based on timely allegations filed by the petitioners, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that LWRPT sales were made at prices below the COP. As a result, we initiated sales below cost investigations on February 2, 2004 (Prolamsa),[9] on February 4, 2004 (LM [10] and Galvak/Hylsa),[11] and on February 3, 2004 (Regiomontana)[12] to determine whether sales were made at prices below the COP.

We conducted the COP analysis as described below.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP for each respondent based on the sum of the cost of materials and fabrication of the foreign like product, plus amounts for the home market general and administrative (G&A) expenses and interest expenses. We relied on the submitted COP data, except as noted below:

Galvak/Hylsa

We revised the financial expense ratio by including the full amount of net exchange losses and net gain on monetary positions instead of the selected portions of the net exchange losses and net gains that were reported. In addition, we added back certain interest income items. We also recalculated the rate based on the figures from the parent company's 2002 consolidated income statement instead of using the average of the parent company's 2002 and 2003 income statements.

For both Galvak and Hylsa, we revised their G&A ratios by using the administrative expenses, including charges from their parent companies and debt restructuring expenses, and COGS figures from Hylsa and Galvak's respective 2002 unconsolidated income statements instead of an average of their respective 2002 and 2003 income statements. *See* Galvak/Hylsa's Analysis Memorandum, dated April 6, 2004.

Prolamsa

We adjusted the reported total cost of manufacturing to include the depreciation expense related to the revaluation of fixed assets recorded in Prolamsa's audited financial statements in accordance with Mexican generally accepted accounting principles. *See* Prolamsa's Analysis Memorandum, dated April 6, 2004.

We adjusted the G&A ratio to reflect the 2002 profit sharing costs included in Prolamsa's 2002 audited financial statements. *Id.*

LM

We adjusted the reported total cost of manufacturing to include the depreciation expense related to the revaluation of fixed assets recorded in LM's audited financial statements in accordance with Mexican generally accepted accounting principles. We adjusted the G&A ratio to reflect the 2002 profit sharing costs included in LM's 2002 audited financial statements. In addition, we adjusted the reported interest expenses for exchange gains and losses, interest paid to affiliates and the gain on monetary position. *See* LM's Analysis Memorandum, dated April 6, 2004.

Regiomontana

We adjusted the G&A ratio to reflect the 2002 profit sharing costs included in Regiomontana's 2002 audited financial statements. We adjusted the reported interest expense for the gain on monetary position. *See* Regiomontana's Cost Analysis Memorandum, dated April 6, 2004.

2. Test of Home Market and Third-Country Market Sales Prices

As required by section 773(b)(1) of the Act, for each respondent subject to a cost investigation, we compared, on a product-specific basis, the adjusted weighted average COP to the comparison-market prices, less any applicable movement charges, taxes, rebates, commissions, and other direct and indirect selling expenses to determine whether these sales had been made at prices below the COP. For those sales that we determined were made below COP, we examined whether they had been made within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. *See* sections 773(b)(1)(A) and (B) of the Act.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, when less than 20 percent of the respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of the respondent's sales of a given product during the POI were at prices less than the COP, we disregarded the below-cost sales because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act and because, based on comparisons of prices to weighted-average COPs for the POI, we determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Based on this test, we disregarded below-cost sales with respect to Galvak/Hylsa. *See* Analysis Memorandum to the file dated April 6, 2004, for additional information. For the remaining respondents, less than 20 percent of sales of a given product were at prices less than COP. Therefore, we did not disregard any below-cost sales for these respondents.

D. Calculation of Normal Value Based on Comparision-Market Prices

We determined price-based NVs for respondent companies as follows. For all respondents, we made adjustments to the starting price for any differences

[9] *See* Prolamsa Cost Memo.

[10] *See* LM Cost Memo.

[11] *See* Galvak/Hylsa Cost Memo.

[12] *See* Regiomontana Cost Memo.

in packing costs, in accordance with section 773(a)(6) of the Act, and we deducted from starting prices movement expenses pursuant to section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments to starting prices to account for differences in cost attributable to differences in the physical characteristics of the merchandise sold in the U.S. and home markets pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We also made adjustments, pursuant to 19 CFR 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not in the other market, where applicable.

Company-specific adjustments are described below.

Prolamsa

We based NV for Prolamsa on prices to unaffiliated customers or, as indicated above, affiliated customers, if affiliated party home market sales satisfied the arm's-length test. We reduced the home market starting price for rebates in accordance with 19 CFR 351.401(c). In addition, we reduced the starting price for inland freight pursuant to section 773(a)(6)(B) of the Act. In accordance with 19 CFR 351.401(c), we increased the starting price for interest revenue and adjusted for billing adjustments and discounts. We also made COS adjustments to the starting price for imputed credit expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. Finally, we deducted home market packing costs from, and added U.S. packing costs to the starting price in accordance with sections 773(a)(6)(A) and (B) of the Act.

LM

We based NV for LM on prices to unaffiliated customers or, as indicated above, affiliated customers, if affiliated party home market sales satisfied the arm's-length test. We reduced the home market starting price for rebates in accordance with 19 CFR 351.401(c). We reduced the home market starting price for discounts and inland freight pursuant to section 773(a)(6)(B) of the Act. We also made COS adjustments to the starting price for imputed credit expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. Finally, we deducted home market packing costs from, and added U.S. packing costs to the starting price in accordance with sections 773(a)(6)(A) and (B) of the Act.

Galvak/Hylsa

We based NV for Galvak/Hylsa on prices to unaffiliated customers or, as indicated above, affiliated customers, if affiliated party home market sales satisfied the arm's-length test. In accordance with 19 CFR 351.401(c), we increased the starting price for freight fees charged to the customer and interest revenue, and adjusted for billing adjustments. We reduced the home market starting price for movement expenses such as inland freight and warehousing pursuant to section 773(a)(6)(B) of the Act. We also made COS adjustments to the starting price for imputed credit expenses and warranty expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We deducted home market packing costs from, and added U.S. packing costs to, the starting price in accordance with sections 773(a)(6)(A) and (B) of the Act.

Regiomontana

We based NV for Regiomontana on prices to unaffiliated customers or, as indicated above, affiliated customers, if affiliated party home market sales satisfied the arm's-length test. Where applicable, we made an adjustment for inland freight pursuant to section 773(a)(6)(B) of the Act. In accordance with 19 CFR 351.401(c), we increased the starting price for handling fees charged to the customer and interest revenue and adjusted for billing adjustments and discounts. We also made COS adjustments to the starting price for imputed credit expenses in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. Finally, we deducted home market packing costs from, and added U.S. packing costs to, the starting price in accordance with sections 773(a)(6)(A) and (B) of the Act.

E. Calculation of Normal Value Based on Constructed Value

Section 773(b)(1) of the Act provides that if, after disregarding all sales made at prices below the COP, there are no comparison market sales made in the ordinary course of trade, NV shall be based on constructed value (CV). We calculated CV in accordance with section 773(e) of the Act. Specifically, section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general and administrative expenses (SG&A), profit, and U.S. packing.

In accordance with section 773(e)(2)(A) of the Act, we used the actual amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the comparison market to calculate SG&A expenses and profit. For price-to-CV comparisons, we made adjustments to CV for COS differences, pursuant to section 773(a)(8) of the Act.

F. Level of Trade/Constructed Export Price Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determined NV based on sales in the comparison market at the same level of trade (LOT) as the U.S. sales (either EP or CEP transactions). The NV LOT is that of the starting-price sale in the comparison market or, when the NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP sales, the U.S. LOT is also the level of the starting-price sale, which is usually the price of the sale from the exporter to the importer. For CEP sales, it is the level of the constructed sale from the exporter to the importer.

To determine whether comparison market sales are at a different LOT than EP or CEP transactions, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability with U.S. sales, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment pursuant to section 773(a)(7)(A) of the Act. For CEP sales, if the LOT of the home market sale is more remote from the factory than the CEP level and there is no basis for determining whether the difference between the LOT of the home market sale and the CEP transaction affects price comparability, we adjust NV pursuant to section 773(a)(7)(B) of the Act (the CEP offset provision). *See Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada,* 67 FR 8781 (February 26, 2002).

To determine whether a LOT adjustment is warranted, we obtained information from each respondent about the marketing stages at which its reported U.S. and comparison-market sales were made, including a description of the selling activities performed by the respondent for each of its channels of distribution. In identifying LOTs for EP and comparison market sales, we considered the selling

functions reflected in the starting price before any adjustments. For CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses and profit pursuant to section 772(d) of the Act. Generally, if the claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar.

In conducting our LOT analysis for each respondent, we took into account the specific customer types, channels of distribution, and selling functions of each respondent. For Galvak/Hylsa, Regiomontana, Prolamsa and LM, we found that there was a single LOT in the United States and a single, identical, LOT in the comparison market. Therefore, it was not necessary to make a LOT or CEP offset adjustment. For a further discussion of our LOT analysis for each respondent, *see* their respective Level of Trade Memorandums, dated April 6, 2004.

G. Currency Conversions

We made currency conversions to U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank, the Department's preferred source for exchange rates.

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

All Others Rate

Section 735(c)(5)(A) of the Act provides for the use of an "all others'' rate, which is applied to non-investigated firms. *See Statement of Administrative Action,* H.R. Doc. No. 103–316, Vol. I (1994). This section states that the all others rate shall generally be an amount equal to the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins based entirely upon the facts available. Therefore, we have preliminarily assigned to all other exporters of LWRPT from Mexico a margin that is based on the weighted-average margins calculated for all mandatory respondents.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing CBP to suspend liquidation of all shipments of LWRPT from Mexico that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the U.S. price, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
Prolamsa	5.56
LM	13.61
Galvak/Hylsa	19.89
Regiomontana	4.45
All Others	11.59

Disclosure

The Department will disclose to the parties to the proceeding the calculations performed in the preliminary determination within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary sales at LTFV determination. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring or threatening material injury to the U.S. industry. The deadline for the final ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, the Department respectfully requests that all parties submitting written comments also provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in an investigation, the hearing normally will be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

As noted above, the Department will make its final determination within 135 days after the date of the publication of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: April 6, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–8376 Filed 4–12–04; 8:45 am]

BILLING CODE 3510–DS–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–1054 and 1055 (Final)]

Light-Walled Rectangular Pipe and Tube From Mexico and Turkey

AGENCY: International Trade Commission.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations Nos. 731–TA–1054 and 1055 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Mexico and Turkey of light-walled rectangular (''LWR'') pipe and tube, provided for in subheading 7306.60.50 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: April 13, 2004.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''welded carbon-quality pipe and tube of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch. These LWR pipe and tube have rectangular cross sections ranging from 0.375 x 0.625 inches to 2 x 6 inches, or square cross sections ranging from 0.375 to 4 inches, regardless of specification.'' 69 FR 19403, Apr. 13, 2004. The written description of the scope is dispositive.

SUPPLEMENTARY INFORMATION:

Background

The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of LWR pipe and tube from Mexico and Turkey are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on September 9, 2003, by California Steel and Tube, City of Industry, CA; Hannibal Industries, Los Angeles, CA; Leavitt Tube Co., Chicago, IL; Maruichi American Corp., Santa Fe Springs, CA; Northwest Pipe Co., Portland, OR; Searing Industries, Inc., Rancho Cucamongo, CA; Vest, Inc., Los Angeles, CA; and Western Tube and Conduit Corp., Long Beach, CA.

Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

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 the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on August 17, 2004, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on August 31, 2004, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before August 25, 2004. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on August 27, 2004, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 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 August 24, 2004. 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 September 7, 2004; 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 on or before September 7, 2004. On September 22, 2004, 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 September 24, 2004, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. 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 FR 68036 (November 8, 2002).

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: April 20, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–9243 Filed 4–22–04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–812]

Light-Walled Rectangular Pipe and Tube From Turkey: Notice of Final Determination of Sales at Less Than Fair Value

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

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: September 2, 2004.

FOR FURTHER INFORMATION CONTACT: Paige Rivas (Guven) at (202) 482–0651; Drew Jackson (MMZ) at (202) 482–4406; and Mark Manning (Ozborsan/Onur and Ozdemir) at (202) 482–5253; Office of AD/CVD Enforcement, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW. Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Final Determination

The Department of Commerce (the Department) has determined that light-walled rectangular pipe and tube (LWRPT) from Turkey is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the *Final Determination of Investigation* section of this notice.

Case History

On April 13, 2004, the Department published the preliminary determination of sales at LTFV in the antidumping duty investigation of LWRPT from Turkey. *See Light-Walled Rectangular Pipe and Tube from Turkey; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 69 FR 19390 (April 13, 2004) (*Preliminary Determination*). Since the preliminary determination, the following events have occurred.

The Department received a timely supplemental section D questionnaire response from MMZ Onur Boru Profil Uretim Sanayi Ve. Ticaret A.S. (MMZ) on April 15, 2004. On April 15 and April 19, 2004, the Department returned untimely filed supplemental section D questionnaire responses to Guven Boru Ve. Profil San. Ve. Ticaret Ltd. Sti. (Guven). We conducted a verification of the sales and cost questionnaire responses of MMZ from April 19, 2004, through April 30, 2004. MMZ timely filed its supplemental section C questionnaire response on May 7, 2004. On June 22, 2004, the Department returned an untimely filed, and improperly served, supplemental section A questionnaire response to Ozdemir Boru Profil Sanayi Ve. Ticaret Ltd. Sti. (Ozdemir). We gave interested parties an opportunity to comment on our *Preliminary Determination* and our findings at verification. On July 7, 2004, the petitioners,[1] MMZ, and Ozborsan Boru Sanayi Ve. Ticaret and its affiliated sister company Onur Metal (collectively, Ozborsan/Onur) submitted case briefs. On July 12, 2004, these parties submitted rebuttal briefs. The Department did not receive a request for a public hearing; consequently, no public hearing was held.

Period of Investigation

The period of investigation (POI) is July 1, 2002, through June 30, 2003. *See* 19 CFR 351.204(b)(1).

Scope of Investigation

The merchandise covered by this investigation is LWRPT from Turkey, which are welded carbon-quality pipe and tube of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch. These LWRPT have rectangular cross sections ranging from 0.375 x 0.625 inches to 2 x 6 inches, or square cross sections ranging from 0.375 to 4 inches, regardless of specification. LWRPT are currently classifiable under item number 7306.60.5000 of the Harmonized Tariff System of the United States (HTSUS). The HTSUS item number is provided for convenience and customs purposes only. The written product description of the scope is dispositive.

The term ''carbon-quality'' applies to products in which (i) iron predominates, by weight, over each of the other contained elements, (ii) the carbon content is 2 percent or less, by weight, and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickle, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of

[1] The petitioners in this investigation are California Steel and Tube, Hannibal Industries, Inc., Leavitt Tube Company, LLC, Maruichi American Corporation, Northwest Pipe Company, Searing Industries, Inc., Vest Inc., and Western Tube and Conduit Corporation (collectively, the petitioners).

niobium (also called columbium), or 0.15 percent of vanadium, or 0.15 percent of zirconium.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Memorandum from Jeffrey A. May, Deputy Assistant Secretary Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, ''Issues and Decision Memorandum,'' (*Decision Memorandum*) dated concurrently with this notice, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099, of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at: *http://ia.ita.doc.gov/frn/index.html*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Facts Available

In the *Preliminary Determination*, we based the dumping margin for the respondents Guven, Ozborsan/Onur, and Ozdemir on total adverse facts available (AFA) pursuant to sections 776(a) and 776(b) of the Act. The use of AFA was warranted in this investigation because Guven, Ozborsan/Onur, and Ozdemir failed to timely provide complete and useable responses to the Department's antidumping questionnaire and supplemental questionnaires. *See Preliminary Determination*, 69 FR at 19393–96. The failure to provide the requested information significantly impeded this proceeding because the Department cannot determine a margin without complete and accurate responses to our questionnaires. As AFA, we assigned Guven, Ozborsan/Onur, and Ozdemir the rate of 34.89 percent, the highest margin listed in the notice of initiation. *See Notice of Initiation of Antidumping Investigations: Light-Walled Rectangular Pipe and Tube from Mexico and Turkey*, 68 FR 57667 (October 6, 2003). A complete explanation of the selection, corroboration, and application of AFA can be found in the *Preliminary Determination*. *See Preliminary Determination*, 69 FR at 19393–96. The Department received comments and rebuttal from Ozborsan/Onur and the petitioner regarding this issue. *See Decision Memorandum* at Comment 11. Nothing has changed since the *Preliminary Determination* was issued that would affect the Department's selection and application of facts available. Accordingly, for the final determination, we continue apply as AFA the rate of 34.89 percent to Guven, Ozborsan/Onur, and Ozdemir.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by MMZ for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made certain adjustments to the margin calculations used in the *Preliminary Determination*. These adjustments are discussed in detail in the *Decision Memorandum* and are listed below:

1. Duty Drawback Adjustment

The Department disregarded the amount of duty drawback reported by MMZ under the yield rate for coils established by the government of Turkey (GOT) and instead calculated the duty drawback using MMZ's own yield rate for steel coils. However, since MMZ does not separately track its consumption of zinc, the Department relied upon the yield rate established by the GOT for the duty drawback on zinc. *See* Memorandum to the File from Drew Jackson, International Trade Compliance Analyst, ''Calculation Memorandum for the Final Determination,'' dated August 26, 2004 (Final Sales Calculation Memorandum).

2. Reclassification of Certain Selling Expenses

Based on comments made by petitioners, we have reclassified the bank commissions and letter of credit fees as direct selling expenses, rather than indirect selling expenses, for the final determination. *See* Final Sales Calculation Memorandum.

3. Revised Production Quantity for Non-Prime Products

Pursuant to a minor error reported on the first day of verification, we have revised the production quantity for non-prime products. *See* Final Sales Calculation Memorandum.

4. Adjustment to MMZ's Raw Material Costs

Based on comments made by MMZ, we have made an adjustment to MMZ's raw material costs to account for an overstatement in these raw material costs discovered during verification. *See* Memorandum from Margaret M. Pusey, Case Accountant, to Neal M. Halper, ''Cost of Production and Constructed Value Calculation Adjustments for the Final Determination—MMZ Onur Boru Profil Uretim Sanayi ve Ticaret A.S.,'' dated August 26, 2004 (Final Cost Calculation Memorandum).

5. Adjustment to MMZ's Calculated Financial Expenses

Based on comments made by MMZ, we have made an adjustment to MMZ's calculated financial expense. Specifically, we have granted an adjustment to allow the income on certain investments to offset financial expenses because this income was found to be interest on short-term bank accounts. *See* Final Cost Calculation Memorandum.

6. Adjustment to MMZ's Calculated General and Administrative Expenses

Based upon verification findings, we have adjusted MMZ's calculated general and administrative expenses. *See* Final Cost Calculation Memorandum.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of LWRPT from Turkey that are entered, or withdrawn from warehouse, for consumption on or after April 13, 2004, the date of publication of the *Preliminary Determination* in the **Federal Register**. We will instruct CBP to continue to require a cash deposit or the posting of a bond for each entry equal to the weighted-average amount by which the normal value exceeds the export price, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

Final Determination of Investigation

We determine that the following weighted-average dumping margins exist for the period July 1, 2002, through June 30, 2003:

Manufacturer/exporter	Weighted-average margin (percent)
Guven Boru Ve. Profil San. Ve. Ticaret Ltd. Sti/Ozborsan Boru Sanayi Ve. Ticaret and Onur Metal/Ozdemir Boru Profil Sanayi Ve. Ticaret Ltd. Sti	34.89
MMZ Onur Boru Profil Uretim Sanayi Ve. Ticaret A.S	6.12
All Others	6.12

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

August 26, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

Part I—MMZ

Comment 1: Whether the Department Should Deny MMZ's Duty Drawback Claim Because MMZ Did Not Use Imported Inputs to Produce Finished Merchandise Sold in the Home Market.

Comment 2: Whether the Department Should Add Duty Drawback to MMZ's Cost of Production and Constructed Value.

Comment 3: Whether the Department Should Classify Certain Bank Commissions and Letter of Credit Fees as Direct Selling Expenses Instead of Indirect Selling Expenses.

Comment 4: Whether the Department Should Classify Sales Made Through the U.S. Commissioned Selling Agent as CEP Transactions.

Comment 5: Whether the Department Should Collapse MMZ and Company A for Purposes of Calculating MMZ's Coil Cost.

Comment 6: Whether the Department Should Find that the Transfer Price Between Company A and MMZ Was Above the Market Price.

Comment 7: Whether the Upward Adjustment for Imported Coil Purchased Through Company A to the Price Paid to Home Market Suppliers in Effect Double-Counts the Duty-Drawback Adjustment to Cost of Production and Constructed Value.

Comment 8: Whether the Department Should Exclude Foreign Exchange Losses Incurred on Payables from MMZ's Computed Financial Expense.

Comment 9: Whether the Department Should Adjust MMZ's Reported Costs to Correct for the Overstatement in MMZ's Raw Material Cost Discovered During Verification.

Part II—Ozborsan/Onur, Guven, and Ozdemir

Comment 10: Whether the Department Erred in its Decision to Collapse Ozborsan/Onur, Guven, and Ozdemir Into a Single Entity.

Comment 11: Whether the Department Erred in Finding that Ozborsan/Onur Metal Failed to Provide Requested Information to the Department and in its Application of Total Adverse Facts Available.

[FR Doc. E4–2044 Filed 9–1–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–832]

Light-Walled Rectangular Pipe and Tube From Mexico: Notice of Final Determination of Sales at Less Than Fair Value

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

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: September 2, 2004.

FOR FURTHER INFORMATION CONTACT: Magd Zolak (LM) at (202) 482–4162; Richard Johns (Galvak/Hylsa) at (202) 482–2305, Crystal Crittenden (Regiomontana) at (202) 482–0989, and Maisha Cryor (Prolamsa) at (202) 482–5831; Office of AD/CVD Enforcement, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Final Determination

The Department of Commerce (the Department) has determined that light-walled rectangular pipe and tube (LWRPT) from Mexico is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the *Final Determination of Investigation* section of this notice.

Case History

On April 13, 2004, the Department published the preliminary determination of sales at LTFV in the antidumping duty investigation of LWRPT from Mexico. *See Light-Walled Rectangular Pipe and Tube from Mexico; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 69 FR 19400 (April 13, 2004) (*Preliminary Determination*). Since the *Preliminary Determination*, the following events have occurred.

The Department received a timely supplemental questionnaire response from Perfiles y Herrajes LM, S.A. de CV (LM) on April 6, 2004, and Regiomontana de Perfiles Y Tubos, S.A. de C.V. (Regiomontana) on April 8, 2004. The Department received a post preliminary determination submission from Galvak, S.A. de C.V. and Hylsa, S.A. de C.V. (Galvak/Hylsa) on April 12,

2004. On April 14, 2004, Galvak/Hylsa submitted a ministerial error allegation regarding the Department's calculations in the *Preliminary Determination*. Because the alleged ministerial errors were not significant within the meaning of section 351.224(g)(1) of the Department's regulations, the Department did not issue an amended preliminary determination but has instead addressed the ministerial errors in the *Changes Since the Preliminary Determination* section of this notice. *See* Memorandum from Maisha Cryor, Senior International Trade Compliance Analyst, to Thomas F. Futtner, Acting Office Director, ''Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from Mexico: Analysis of Ministerial Error Allegations,'' dated May 12, 2004. We conducted verification of the sales and cost questionnaire responses of the respondents LM, from April 19, 2004, through April 30, 2004; Galvak/Hylsa from April 19, 2004, through April 30, 2004; Regiomontana from April 26, 2004, through May 7, 2004; and Productos Laminados de Monterrey, S.A. de C.V. (Prolamsa) from May 3, 2004, through May 18, 2004. Regiomontana submitted revisions and data resulting from minor corrections made at verification on May 15, 2004. On July 26, 2004, the Department requested that Galvak/Hylsa submit new sales and cost databases and provided an itemized list of changes to be made to the data. Galvak/Hylsa complied with that request and submitted its post-verification databases on August 5, 2004. We gave interested parties an opportunity to comment on our *Preliminary Determination* and our findings at verification. On July 15, 2004, the petitioners [1], LM, Galvak/Hylsa, Regiomontana, and Prolamsa submitted case briefs. On July 23, 2004, these parties submitted rebuttal briefs. On May 13, 2004, Galvak submitted a request for a public hearing, but subsequently withdrew its request on July 21, 2004; consequently, no public hearing was held.

Period of Investigation

The period of investigation (POI) is July 1, 2002, through June 30, 2003. *See* 19 CFR 351.204(b)(1).

Scope of Investigation

The merchandise covered by this investigation is LWRPT from Mexico, which are welded carbon-quality pipe and tube of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch. These LWRPT have rectangular cross sections ranging from 0.375 x 0.625 inches to 2 x 6 inches, or square cross sections ranging from 0.375 to 4 inches, regardless of specification. LWRPT are currently classifiable under item number 7306.60.5000 of the Harmonized Tariff System of the United States (HTSUS). The HTSUS item number is provided for convenience and customs purposes only. The written product description of the scope is dispositive.

The term ''carbon-quality'' applies to products in which (i) iron predominates, by weight, over each of the other contained elements, (ii) the carbon content is 2 percent or less, by weight, and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickle, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium (also called columbium), or 0.15 percent of vanadium, or 0.15 percent of zirconium.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Memorandum from Jeffrey A. May, Deputy Assistant Secretary for Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, ''Issues and Decision Memorandum,'' (*Decision Memorandum*) dated concurrently with this notice, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099, of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov.frn*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Use of Partial Adverse Facts Available

With respect to Prolamsa, we have determined that the use of partial adverse facts available is warranted, in accordance with sections 776(a)(2)(B) and 776(b) of the Act, to calculate the dumping margin because the respondent did not provide information critical to the calculation of a dumping margin and impeded the conduct of the administrative review by providing information that could not be substantiated. These inadequacies relate to Prolamsa's sales to affiliated resellers. Prolamsa stated that it would not provide the Department with its affiliated resellers downstream sales because sales to its affiliated reseller were made at arm's-length. The Department informed Prolamsa that, pursuant to section 351.403(d) of the Department's regulations, it would allow the exclusion of these sales from Prolamsa's reported data, as long as its statements concerning the arm's-length nature of these sales could be substantiated. However, there were sales made by Prolamsa to its affiliated resellers that failed the arm's-length test. Therefore, the Department determined that partial adverse facts available should be applied to the sales that failed the arm's-length test because Prolamsa failed to provide accurate information concerning its sales to affiliated resellers. To address this inadequacy, we selected the highest gross unit price of comparable merchandise sold to another customer that passed the arm's-length test.

We have considered the arguments raised by petitioners and Prolamsa regarding this issue of partial adverse facts available and have addressed them in the *Decision Memorandum* at Comment 3. Based on our analysis of the parties' comments, we have determined that partial adverse facts available is applicable in this instance.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Changes Since the Preliminary Determination

Based on our findings at verification and analysis of comments received, we have made certain adjustments to the margin calculations used in the *Preliminary Determination*. These adjustments are discussed in detail in the *Decision Memorandum* each respondent's respective calculation memoranda and are listed below:

[1] The petitioners in this investigation are California Steel and Tube, Hannibal Industries, Inc., Leavitt Tube Company, LLC, Maruichi American Corporation, Northwest Pipe Company, Searing Industries, Inc., Vest Inc., and Western Tube and Conduit Corporation (collectively, the petitioners).

1. LM: Based on the verification of LM's responses, we made a revision to the calculation of the U.S. inventory carrying costs to account for a correction relating to the number of days in inventory and correct the formula used to calculate inventory carrying costs by deducting certain discounts from the gross unit price.

2. LM: Based on verification findings, we revised the calculation of the U.S. brokerage and handling charges.

3. LM: We noted that LM inadvertently reported certain expenses as warehousing expenses incurred at the factory, although these expenses are properly categorized as indirect selling expenses. Accordingly, for purposes of the final determination, we set the reported expenses for that warehouse to zero.

4. LM: We deducted, when applicable, warehousing expenses, incurred by the remote warehouses after the merchandise left the factory, from home market prices. The adjustment for these warehousing expenses was inadvertently omitted from the Department's margin calculation in the preliminary determination.

5. LM: We recalculated indirect selling expenses to reflect a correction relating to the indirect selling expense ratio used to calculate these expenses.

6. LM: Since LM was unable during verification to sufficiently document its revisions of the reported charges for freight from its factory to certain of its warehouses, we disallowed any adjustment to home market prices for the freight charges relating to these warehouses.

7. LM: We revised the financial expense ratio calculation to correctly include the monetary correction under Mexican GAAP Bulletin B–10, thus lowering the financial expense ratio.

8. LM: We adjusted the G&A expense ratio calculation for the effect of double counting of indirect selling expenses. This adjustment had the effect of lowering G&A ratio.

9. LM: We adjusted total cost of manufacturing to include the effects of yield loss.

10. Prolamsa: We applied partial adverse facts available to certain sales from Prolamsa to affiliated resellers that failed the arm's-length test, where information concerning downstream sales was not on the record of this investigation.

11. Prolamsa: We excluded inventory carrying costs from the calculation of constructed export price indirect selling expenses.

12. Prolamsa: For certain expenses, we converted the currency by dividing, rather than multiplying.

13. Prolamsa: We increased the reported total cost of manufacturing (TOTCOM) for the unreconciled difference between Prolamsa's cost accounting system and the extended TOTCOM reported to the Department. We also increase the reported TOTCOM to include an amount for the expenses related to the importation of raw material *i.e.*, freight, insurance, and handling charges.

14. Galvak/Hylsa: We corrected the error in the margin calculation program which incorrectly converted U.S. dollar amounts into Mexican pesos using the exchange rate on the date of the home-market sale. The program incorrectly multiplied the U.S. dollar amounts by the dollar-to-peso exchange rate instead of dividing them by the exchange rate. The program then converted the calculated peso amounts back into dollars using the weighted-average exchange rate based on the date of the U.S. sales.

15. Galvak/Hylsa: We corrected the error in the margin calculation program which failed to convert home-market sales prices that were denominated in U.S. dollars into Mexican pesos when determining whether those sales were made at below-cost prices. Instead, the preliminary program incorrectly compared the U.S. dollar prices to the Mexican peso costs.

16. Galvak/Hylsa: We recalculated home market credit expenses to exclude value added taxes.

17. Galvak/Hylsa: We corrected a calculation error for the galvanizing expense variance and applied it to each of the galvanized products.

18. Galvak/Hylsa: In addition to the changes we made to the financial expense ratio at the preliminary determination, we subtracted Galvak and Hylsa's packing expenses from the cost of goods sold denominator. We revised the ratio to include an offset in the numerator of the current portion of the gain on debt restructure from the parent company's 2002 financial statements.

19. Galvak/Hylsa: In addition to the changes we made to the general and administrative expense ratio at the preliminary determination, we subtracted Galvak's packing expenses from the cost of goods sold denominator.

20. Galvak/Hylsa: We revised the reported costs for the coils that were obtained from Hylsa to reflect the major input adjustment made to Hylsa's iron ore purchases.

21. Galvak/Hylsa: We revised the financial expense ratio by including the current portion of the gain on debt restructure as an offset to the numerator and also subtracted Hylsa and Galvak's packing expenses from the denominator.

22. Galvak/Hylsa: We revised the general and administrative expense ratio by adding the income for the sale of land, the gain on restructuring bank liability, and bonus expense to and subtracting debt restructuring expenses and general and administrative expenses attributable to affiliates from the numerator as well as subtracting packing expenses from the denominator.

23. Galvak/Hylsa: We adjusted the per-unit total cost of manufacturing for certain control numbers to include costs that were mis-classified as costs related to products sold to third countries and not reported.

24. Galvak/Hylsa: We revised the reported cost of iron ore obtained from affiliated suppliers and adjusted reported direct material costs to reflect the higher of the transfer price, market price, or cost of production in accordance with the major input rule.

25. Regiomontana: We corrected the error in the comparison market calculation program which incorrectly compared theoretical quantities for home market sales with gross unit prices and adjustments based on actual quantities.

26. Regiomontana: We recalculated credit expense for sales in the U.S. and home market due to minor corrections made at verification.

27. Regiomontana: We included the cost of scrap from all production processes and included all corrections of errors found while preparing supporting documentation for the cost of scrap.

28. Regiomontana: For the interest expense, we included the monetary effect from Regiomontana's financial statements and deducted the year end adjustment for inflation from the cost of goods sold. We also added the depreciation from the revaluation of fixed assets to the cost of goods sold.

29. Regiomontana: We adjusted G&A expense to included the employee profit sharing expense and to exclude the year end adjustment for inflation from the cost of goods sold. We also added the depreciation from the revaluation of fixed assets to the cost of goods sold.

30. Regiomontana: We included the unreconcilable difference from the reconciliation of Regiomontana's cost of manufacture to the reported cost in the RECON field.

31. Regiomontana: We revised the per unit fabrication costs and per unit paint costs to reflect the first day corrections submitted by Regiomontana.

32. Regiomontana: We used the direct material cost from the COP/CV file

submitted with the minor corrections on the first day of corrections.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of LWRPT from Mexico that are entered, or withdrawn from warehouse, for consumption on or after April 13, 2004, the date of publication of the *Preliminary Determination* in the **Federal Register**. We will instruct CBP to continue to require a cash deposit or the posting of a bond for each entry equal to the weighted-average amount by which the normal value exceeds the export price or constructed export price, where appropriate, as indicated below. These instructions suspending liquidation will remain in effect until further notice.

Final Determination of Investigation

We have determined that the following weighted-average dumping margins exist for the period July 1, 2002, through June 30, 2003:

Manufacturer/exporter	Weighted-average margin (percent)
Galvak, S.A. de C.V. and Hylsa, S.A. de C.V	17.46
Perfiles y Herrajes LM, S.A. de C.V	14.45
Productos Laminados de Monterrey, S.A. de C.V	6.08
Regiomontana de Perfiles y Tubos, S.A. de C.V	6.36
All Others	11.23

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse for consumption, on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: August 26, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

I. SALES

General Issues

Comment 1: Whether the Department Should Deny Certain Home Market Billing Adjustments, Rebates and Discounts Not Allocated on a Product-Specific or Sale-Specific Basis.

Comment 2: Whether the Department Properly Indicated Where Sales of Respondents Failed the Cost Test.

Prolamsa

Comment 3: Whether the Department Should Apply Partial Adverse Facts Available (AFA) for Home Market Sales to Affiliated Resellers that Failed the Arm's-Length Test.

Comment 4: Whether the Department Should Apply Partial AFA to Account for Unreported Sales Discovered at Verification.

Comment 5: Whether the Department Should Exclude Pre-Primered LWRPT from the Scope of Any Antidumping Duty Order Issued in this Investigation.

Comment 6: Whether the Department Should Make an Adjustment for Differences in Prolamsa's Coil Costs.

Comment 7: Whether the Department Should Correct Certain Clerical Errors in its Comparison Market and Margin Programs.

Comment 8: Whether the Department Should ''Zero'' Negative Dumping Margins.

Galvak/Hylsa

Comment 9: Whether Galvak and Hylsa's U.S. Sales Should Be Classified as Constructed Export Price Transactions Because Galvak and Hylsa Were the U.S. Importers of Record.

Comment 10: Whether Galvak and Hylsa's U.S. Sales Made Through an Affiliated U.S. Reseller Should be Classified as Constructed Export Price Transactions.

Comment 11: Whether There Should be a Commission Offset.

Comment 12: Whether Movement Expenses and Value-Added Taxes Should be Excluded from the Calculation of Credit Expense.

Comment 13: Whether the ASTM Grade Should be Considered in the Department's Product Matching Criteria.

Comment 14: Whether the Department Should Revise its Preliminary Level-of-Trade Analysis.

Comment 15: Whether the Department Should Correct Minor Errors in its Preliminary Margin Calculation Program and in Data Submitted by Galvak/Hylsa.

Regiomontana

Comment 16: Whether to Calculate Normal Value and Export Price Based on an Actual or Theoretical-Weight Basis.

Comment 17: Whether the Department Correctly Calculated the Reconciliation of Regiomontana's Home Market Sales in Regiomontana's Sales Verification Report.

Comment 18: Whether the Department Should Classify Sales Made Through U.S. Commissioned Selling Agents as Constructed Export Price Transactions.

LM

Comment 19: Whether the Department Should Deny an Adjustment for Home Market Freight to the Customer for Sales from Warehouses.

Comment 20: Whether the Department Should Deduct Home Market Prices For Warehousing at the Monterrey Warehouse.

II. COST OF PRODUCTION

Comment 21: Whether the Department Should Adjust Depreciation.

Comment 22: Whether the Department Should Account for Total Foreign. Exchange Gains and Losses in Interest Expense.

Comment 23: Whether the Department Should Make a Monetary Correction.

Comment 24: Whether the Department Should Use Period of Investigation. (POI) Data for Calculation of General and Administrative and Interest Expense Rates.

Comment 25: Whether the Department Should Accept a Layered General and Administrative Expense Calculation.

Comment 26: Whether a Reorganization Charge for Transfer of Administrative Activities to an Affiliate Should be Included as an Offset to General and Administrative Expenses.

Comment 27: Whether Labor Charges for Affiliates Should be Included in Hylsa's General and Administrative Expenses.

Comment 28: Whether Gain on Debt Restructuring Should be Included in Interest Expense.

Comment 29: Whether Bonus Compensation Should be Included in Calculating Hylsa's General and Administrative Expense Ratio.

Comment 30: Whether Certain Product Costs Were Mis-Classified.

Comment 31: Whether the Value of Iron Ore Should Reflect the Higher of Transfer Price or Production Costs.

Comment 32: Whether LM's Financial Expenses Are Overstated.

Comment 33: Whether General and Administrative Expenses Should be Reduced to Correct Double Counting.

Comment 34: Whether Overhead Expenses from Affiliates are Overstated.

Comment 35: Whether Yield Loss Should be Adjusted.

Comment 36: Whether Labor Costs Excluded Social Security Taxes.

Comment 37: Whether the Total Cost of Manufacturing Should be Adjusted for an Unreconciled Difference.

Comment 38: Whether Freight, Insurance, and Handling Charges Should be Included in Reported Costs.

Comment 39: Whether the Department Should Correct Minor Errors Relating to Total Cost of Manufacturing.

[FR Doc. E4–2045 Filed 9–1–04; 8:45 am]

BILLING CODE 3510–DS–P

APPENDIX B

HEARING WITNESSES

CALENDAR OF THE PUBLIC HEARING

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

LIGHT-WALLED RECTANGULAR PIPE AND TUBE FROM MEXICO AND TURKEY
Investigations Nos. 731-TA-1054 and 1055 (Final)

The hearing was held in Room 101 (Main Hearing Room) of the United States International Trade Commission Building, 500 E Street, SW, Washington, DC, on August 31, 2004.

In Support of the Imposition of Countervailing/Antidumping Duties:

Schagrin Associates
Washington, D.C.
on behalf of

Parry Katsafanas, President, Leavitt Tube Company

Jack Meyer, President, Bull Moose Tube Company

Terry Mitchell, Senior Vice President, Tubular Products Group, Northwest Pipe Company

Glenn Baker, Vice President, Marketing, Searing Industries

Michael Dustman, Vice President, Business Development, Bull Moose Tube Company

Robert A. Blecker, Professor of Economics, American University

Roger B. Schagrin
Frances Valdez Valdez) – OF COUNSEL

In Opposition to the Imposition of
Antidumping Duties:

Preston Gates Ellis & Rouvelas Meeds, LLP
Washington, D.C.
on behalf of

Jaime Trevino, Export Manager, Tubular Division,
Hysla, S.A. de C.V.

Jeffrey M. Winton) – OF COUNSEL

White & Case LLP
Washington, D.C.
on behalf of

Jean-Marie Diederich, President, Prolamsa, Inc.

David E. Bond)
Frank H. Morgan) – OF COUNSEL
Miguel Mayorga)

APPENDIX C

SUMMARY DATA

Table C-1
All LWR pipe & tube: Summary data concerning the U.S. market, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table C-2
Black LWR pipe & tube: Summary data concerning the U.S. market, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table C-3
Corrosion-resistant LWR pipe & tube: Summary data concerning the U.S. market, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

APPENDIX D

QUESTIONNAIRE RESPONSES REGARDING THE DOMESTIC LIKE PRODUCT

LIKE PRODUCT COMMENTS

The Commission's questionnaires in these final phase investigations requested comments regarding the differences and similarities between black and corrosion-resistant LWR pipe and tube in terms of certain of the Commission's like product factors, including (1) physical properties; (2) manufacturing processes; (3) end uses; (4) channels of distribution; and (5) price. The following comments were received:

Physical Properties

PRODUCERS

***

"The dimensional/mechanical characteristics of black LWR and corrosion resistant LWR are basically the same, the most significant difference being the exterior corrosion resistant coating. ***'s products are ***."

***

"Similar physical properties other than coating."

***

"Basically no difference in product or usage except for a pre-galvanized coating. Manufacturing process is very similar."

***

"*** produced black LWR but not C-R LWR. Physical properties are similar - corrosion-resistant LWR typically higher in strength (Yield & Tensile) vs. black, but not always."

***

"Comparison between black light wall rectangular (LWR) pipe and tube and corrosion-resistant LWR pipe and tube."

"Generally speaking, the difference between the above products is the coating applied to the corrosion resistant LWR pipe and tube. Zinc is commonly used as a coating and the LWR is called "galvanized". Corrosion resistant LWR can be manufactured using pre-coated steel, hot dipped in zinc after manufacture or coated in line as part of the tube making process. The corrosion resistance is dependent on the amount of zinc applied to the steel surface."

"Customers do take our product to a contract galvanized "dipper" who hot dips our black tubing. Three that we know about are ***, which are located *** and ***, which services customers in the same geographic area as our *** plant."

"The physical properties (strength, hardness and ductility) of the LWR pipe or tube depends on the chemistry of the steel used for manufacture and the amount of cold work involved in the tube making process. The coating has no affect on these properties. Typically, for a 2" x 2" x0.125"

LWR section using a SAE 1015 steel chemistry black or galvanized you can expect the following minimum properties:"

"Yield Strength - 46,000 Psi"
"Tensile Strength - 58,000 Psi"
"Elongation - 20% in 2""
"Hardness - 65 Rockwell B"

***

"Both products come from base melted steel. Black can be a HR bond or pickled, even CR product. Corrosion resistant can be base HR. HRPO or CR coil that has coating added Coating can be added at steel mill (galvanized) or at tube mill process (galvanized, or painted)."

***

"*** makes Black LWR pipe and tube to ASTM 513 specifications with a yield strength of 35,000 psi. *** makes galvanized (corrosion-resistance) pipe and tube to ASTM 500 specifications with yield strength of *** psi."

IMPORTERS

***

"Even though Black and Corrosion-Resistant LWR tube and pipe are similar in strength, we don't handle the Corrosion-Resistant LWR tube and pipe."

***

"The main difference is regarding the coating of the pipe and tube. While black LWR pipe and tube is not galvanized, corrosion resistance pipe and tube is galvanized."

***

"Black LWR pipe and tube is much more susceptible to rust and needs to be painted after the end product is made, unless rust is not a concern. It is basically the same physical shape and characteristics except for the surface. Corrosion-resistant (I have bought galvanized tube) has a zinc coating which helps protect from the elements."

***

"Galvanizing, which is involves the coating of steel with zinc, protects steel from rusting (which it tends to do almost immediately if bare) by forming a protective barrier between the steel and the environment. Galvanized and other corrosion-resistant light-walled tube is manufactured from hot-rolled and cold-rolled sheet that is zinc coated, and sometimes painted or covered in an organic material. Some producers apply a number of layers of protection to this product. The light-walled pipe and tube may be produced from sheet that is galvanized, or produced from tube that is subject to a process known as hot-dipped galvanization and immersion. In contrast,

manufacturers of light-walled tube that is blackened, pickled and oiled do not apply a zinc coating to the steel finish."

"Galvanizing is the only choice for corrosion protection because the stable, non-reactive zinc patina that develops after several months of atmospheric exposure provides a coating that delivers maintenance-free performance for decades. Galvanized steel has a corrosion rate 1/10 to 1/30 that of ungalvanized steel (as determined by ASTM in-field studies since the 1920's), depending on the environment (industrial being the most aggressive, rural being the least aggressive)."

"For example, a structure of 1/4" (6.5 mm) thick steel and galvanized to ASTM A 123 with a minimum of 3.9 mils (99 microns) of zinc, located in industrial Bethlehem, PA, where the average rainfall is 37" (94 cm), salinity is 3 mg/m^2/day, sulfur dioxide is 25 mg/m^2day, and the relative humidity is 68%, will not need any maintenance for 82 years."

"To reach this protection level requires a large capital investment in the rolling line as you have to add different machinery to be able to apply the zinc coating inside and outside of the tubing in hot-dipped conditions, or if you spray it on line. ***:"

PURCHASERS

***

"Structurally there are no physical differences between black and corrosion resistant."

***

"Corrosion resistant LWP pipe & tube tends to have higher yield strength (stronger) than black LWR pipe & tube."

***

"When using ASTM A-36 carbon steel the physical properties would be similar."

***

"Black and CR would be similar in strength and formability. Welding and forming practices would bye slightly different depending on the CR type coating."

***

"Similar to domestically produced material."

***

"Used for similar purposes but CR is more difficult to fabricate."

***

"All black pipe and tube that we purchase can be referred to as black lwr with the consideration that it is coated with a water soluble oil during production. Some mills produce a primer coated LWR called redcoat or blackcoat and advertise it as corrosion resistant. We do not stock this material."

FOREIGN PRODUCERS

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"Corrosion-resistant LWR pipe and tube is manufactured from hot-rolled and cold-rolled sheet that is zinc-coated with a number of layers of protection to this product. Manufacturers of black LWR pipe and tube do not apply a zinc coating to the steel finish product."

***

"The main difference is regarding the coating of the pipe and tube. While black LWR pipe and tube is not galvanized, corrosion resistant is galvanized."

***

"(1) Similarities: Both black steel tubing and corrosion-resistant steel tubing would, in most cases share similar strength or yield properties, as well as cold forming and welding traits. (2) Differences: In most cases, corrosion resistant materials (ASTM A242) are slightly stronger than commercial grade steels (ASTM A36). Black carbon steel slowly begins to oxide in normal atmospheric conditions and if left unprotected will continue to rust throughout its lifespan. Corrosion resistant steel are usually made with a higher copper content than black carbon steels and offer more than double the life span of black carbon steels when subject to similar environments. This added life span is the result of a tightly formed layer of oxide which develops rapidly when the material is left unprotected. After forming the layer of oxide impedes further oxidation from occurring. Simply put, unprotected black steel starts to rust slowly after it is made and continue to rust at the same rate or faster throughout its life span. Unprotected corrosion resistant steel rusts rapidly after it is produced and then continues to rust at a very slow rate thanks to the protection of the initial layer of rust."

***

"Galvanizing, which involves the coating of steel with zinc, protects steel from rusting (which it tends to do almost immediately if bare) by forming a protective barrier between the steel and the environment. Galvanized and other corrosion-resistant light-walled tube is manufactured from hot-rolled and cold-rolled steel sheet that is zinc coated, and sometimes painted or covered in an organic material. Some producers apply a number of layers of protection to this product. The light-walled pipe and tube may be produced from sheet that is galvanized, or produced from tube that is subject to a process known as hot-dipped galvanization and immersion. In contrast,

manufacturers of light-walled tube that is blackened, pickled and oiled do not apply a zinc coating to the steel finish."

"Galvanizing is the only choice for corrosion protection because the stable, non-reactive zinc patina that develops after several months of atmospheric exposure provides a coating that delivers maintenance-free performance for decades. Galvanized steel has a corrosion rate 1/10 to 1/30 that of ungalvanized steel (as determined by ASTM in-field studies since the 1920s), depending on the environment (industrial being the most aggressive, rural being the least aggressive."

"For example, a structure of 1/4" (6.5 mm) thick steel and galvanized to ASTM A 123 with a minimum of 3.9 mils (99 microns) of zinc, located in industrial Bethlehem, PA, where the average annual rainfall is 37" (94 cm), salinity is 3 mg/m^2/day, sulfur dioxide is 25 mg/m^2/day and the relative humidity is 68%, will not need any maintenance for 82 years."

"To reach this protection level requires a large capital investment in the rolling line as you have to add different machinery to be able to apply the zinc coating inside and outside of the tubing in hot-dipped conditions, or if you spray it on line."

Manufacturing Processes

PRODUCERS

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"***."

***

"Similar process, except the corrosion-resistant product using pre-galvanized steel strip requires a re-metalizing of the weld area."

***

"Our company produces only the black LWR and does not produce the corrosion-resistant LWR. The manufacturing processes are the same for both products but we do not produce the corrosion-resistant product because our manufacturing process uses galvanized slit coil and we add a zinc over-spray on the weld to also make the weld corrosion-resistant. The preferable method is a flow-cost application to the fabricated tube."

***

"Black strip is run into a tube mill, welded, shaped, cut to length, and packaged. Corrosion resistant is one of 2 ways: (a) galvanized mill strip run as in item 1; (b) black strip run into mill and a coating process added in line for corrosion resistant. Both processes are done on same type mill."

***

"We use *** raw material for black LWR. We slit the mother coil to desired strip for tubing and we put the slit coil into the tube mill and the rolls form it. Then we weld it and it is then squared after welding and then it goes through the cutoff. We have many, many competitors in this product. Galvanized (corrosion-resistant tube) tube is made similarly through welding but ***. The tube is *** the galvanizing. The galvanizing is ***. That is our method ***. There are many competitors that make this product out of pre-galvanized strip."

IMPORTERS

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"There are significant differences between the production processes for black and corrosion-resistant (galvanized) LWR pipe and tube. Black LWR pipe and tube are generally produced using steel sheets that already have the desired surface finish. Galvanized LWR pipe and tube can be produced either by forming galvanized steel sheets into the desired tubular form, or by forming non-galvanized sheets into the desired tubular form and then galvanizing th tubes in a hot-dip process."

***

"Black is simply HR coil or pickled and oiled coil that is slit and rolled into tubing. Corrosion resistant (galvanized) is either made from galvanized coil or is hot dipped in zinc after roll forming. The galvanized tube has a smoother finish when made from galvanized coil, but the seam must be zinc coated. Hot dipped tube has a thicker coat of zinc, but a thicker finish and rough surface."

FOREIGN PRODUCERS

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"Corrosion-resistant LWR pipe and tube may be produced from sheet is galvanized or produced from black sheet that is made into tube and subject to a process known as hot-dipped galvanization and immersion, that requires additional equipment that is expensive in terms of capital investment."

***

"There are significant differences between the production processes for black and corrosion-resistant (galvanized) LWR pipe and tube. Black LWR pipe and tube is produced using steel sheets that already have the desired surface finish. ***'s galvanized LWR pipe and tube is produced by ***."

***

"The production process for manufacturing galvanized light-walled pipe and tube is distinct from that used for the manufacture of tube that is blackened or oiled. Light-walled pipe and tube may be produced from sheet that is galvanized (galvanized sheet is made from hot-rolled or cold-rolled steel), or produced from black sheet that is made into tube and subject to a process known as hot-dipped galvanization and immersion. Galvanized light-walled pipe and tube requires additional, specially designed equipment that is expensive both in terms of capital investment and maintenance. Steel sheet that is galvanized or zinc-iron alloy coated (galvannealed) by the hot-dipped process is manufactured according to ASTM A 653/a 653m specifications. The process is more expensive as you have to re-metalize the weld if you buy galvanized sheet to form in tubing, in order to ensure that the coil and/or tubing will be perfectly protected against corrosion. For example, one would expect a hot-roll tube to start showing a start in the rusting process in about 30-60 days and a galvanized tube not before 25-70 years. In addition, the galvanized tube is difficult to maintain in storage as the contact of one tube against another may accelerate the rust process in a humid atmosphere, obliging the warehouse to use spacers and wrapping paper to store the merchandise under optimal conditions. It is important to note that the cost of galvanized tubing compared to hot-rolled tubing is about $*** per ton."

End Uses

PRODUCERS

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"End uses include, but are not limited to: playground equipment, scaffold, farmstead, carport, conveyor, greenhouse, ornamental and steel picket fencing. Some LWR products are interchangeable within the above markets while some configurations are unique to a specific application. We estimate actual usage of LWR in these applications to be 80-85% overall."

***

"Corrosion-resistant LWR pipe and tube is used in applications requiring corrosion-resistant coating. End uses are generally distinct from black LWR."

***

"Both the black and corrosion-resistant products can be used for the same applications. The outside surface is the only factor between the two products with the black being manufactured from hot rolled or pickled and oiled products while the corrosion-resistant is made from a zinc coated product. Generally the LWR is painted prior to becoming a finished product so the outside surface is covered."

***

"Furniture, railings, livestock confinement equipment, display racks, light structural applications."

***

"Both products normally are used in much the same end products. Depending on customer specification and quality. Black can be coated, painted or even galvanized after it is in tube form. Products go into fencing, posts, frames, scaffolding, furniture."

***

"Corrosion resistant tube is usually used for freight container members."

***

"(1) The primary use for both black and corrosion-resistant tube is ornamental iron fencing. The black tube would cost less however it requires paint and upkeep. Galvanized (corrosion-resistant) requires little upkeep, but is more expensive."
"(2) Window guards"
"(3) Security doors around retail centers"
"(4) Patio furniture"
"(5) Construction related products; i.e., carports, greenhouses. For these applications, galvanized tube is the preferred product."

IMPORTERS

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"Regarding the efficiency of the material, the corrosion resistant steel can replace black carbon steel most of the time (even though there is a difference on the price); but we cannot always replace corrosion resistant steel with black carbon steel."

***

"Corrosion-resistant tubing is intended to guarantee a longer life span mainly for aggressive (rusty) environments."

***

"Black LWR pipe and tube is purchased for structural, ornamental, and OEM uses. Corrosion-resistant LWR pipe and tube is used for fencing and other highly corrosive environments. The two are generally not interchangeable."

***

"Black is used for a myriad of uses such as a 2 x 4 lumber can be used for so many uses as well (gates, fence panels, pickup racks, trailer frames, etc. Galvanized corrosion resistant tube is very commonly used in the cheap carport industry. Other than that, I think it would be common among coastal areas due to salt air."

***

"There are clear differences in the uses for light-walled tube produced with galvanized coating and other corrosion-resistant coating, and subject merchandise that is blackened or oiled. These products are sold to customers that use the tube for distinct applications.

"Manufacturers of carports, garages and custom made with light frame steel structures in the United States require galvanized corrosion resistant steel to provide rust protection, and to ensure the durability and longevity of their finished product. Manufacturers of carports use galvanized tube and galvanized corrugated sheets for the production of the frame, roof and sides of the carports."

"Black pipe is not used in such applications because it does not provide adequate protection from rain, snow, and sun. End-users of carports, garages and custom made light frame steel structures frequently receive warranties that the products will last for many years. These warranties can only be fulfilled where the products are produced with corrosion-resistant material."

"Manufacturers of products such as fences, gates, railings, grill guards, and hay guards, which are also exposed to the elements, require light-walled tube produced with galvanized coating or other corrosion-resistant coating, in order to prevent rust and extend the life expectancy of the products. Steel galvanized tubing is produced for applications where corrosion resistance is an important service requirement. These applications include air conditioning equipment; automotive parts; display cases; farm buildings; equipment and machinery; guide rails; heating equipment; lighting fixtures; mailboxes post; outdoor signs, playground equipment; prefabricated buildings; and

roofing. In all of these applications, the galvanized coating is specified because it provides enhanced corrosion resistance, and thus, lengthens the useful life of the manufactured products."

"Black pipe and tube is not interchangeable with galvanized products for the end-uses for which galvanized merchandise is generally used. Light-walled tube that is blackened and oiled does not possess the same corrosion-resistant properties as subject merchandise that has been galvanized. Therefore, it is not interchangeable in the same applications and for the same end-uses. For example, as stated above, manufacturers of carports will not consider black pipe and tube for the production of their end products. When exposed to the elements (rain, snow or sun), or to air moisture in coastal regions, black pipe and tube is susceptible to rust or oxidation. The corrosive effect reduces longevity and durability to such a degree that light-walled tube that is blackened and oiled cannot be interchanged with galvanized products demanded by importers, distributors and commercial end-users for the applications discussed above."

PURCHASERS

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"Carports and garages."

***

"Used in manufacture of tread mills."

***

"The 2 materials can be interchangeable in most applications, however welding of CR material can create some challenges not found with black. CR must be kept dry prior to being sold and in our market is rarely used."

***

"Ornamental fencing panels, posts and gates for 2 product line up. Product line up-- secure weld-welded black with powder coat, 75% product line up -- secure weld plus-- welded galv steel with powder coat."

***

"End use for CR would be more specialized."

***

"Used by ornamental fencing shops fabricators for ornamental fencing and gates."

***

"Fencing, furniture for decoration or restaurant, wrought iron and architectural railing, construction."

***

"Used in same applications."

***

"End uses are similar. The pre-primered product is ready to paint anc can be stored outdoors for longer periods of time without rust."

***

"Can be interchanged in most end uses."

FOREIGN PRODUCERS

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"The products are sold to customers that use the tube for distinct application. Manufacturers of carports use galvanized tube and galvanized corrugated sheets for the production of the frame, roof and sides of carports. Manufacturers of products that are also exposed to elements requires tube produced with galvanized coating. Black LWR tube and pipe do not possess the same corrosion-resistant properties."

***

"Black LWR pipe and tube is purchased for structural, ornamental, and OEM uses. Corrosion-resistant LWR pipe and tube is used for fencing and other highly corrosive environments. The two are generally not interchangeable."

Channels of Distribution/Customers

PRODUCERS

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"*** sells raw and corrosion resistant LWR in truckload quantities through a distribution network and direct to OEM accounts. Our distributors resell the product, while OEM accounts fabricate LWR lengths into finished product."

***

"Our limited sales of corrosion-resistant product is primarily to OEMs. Whereas a significant proportion of Black LWR is through distributors."

***

"Both products would be sold to distributors who would then resell the products to an end user. We would sell direct to an end user if the quantity of the sale was adequate."

***

"Direct sales to end users, steel service centers and distributors."

***

"Our black or our corrosion resistant is sold by our sales people to other end users or redistributed by distributors."

***

"Corrosion resistant is typically customer direct. Black goes to trade."

***

"*** sells primarily to large end users, manufacturers of ornamental iron fencing. We also sell ornamental iron to steel service centers (wholesalers) whom in turn sell to end-users."

IMPORTERS

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"Black tubing is focused for furniture and ironworks customers. It is usually sold to distributors. Corrosion-resistant tubing is focused for construction customers. It is usually sold directly to steel processors."

***

"Both black and galvanized LWR pipe and tube are sold to steel service distributors, and industrial end users."

***

"Black–Nearly all of my customers are retail yards or service centers. I tend to cater to the *** type of market that does not normally do much more than sell to *** industry, and small welder/contractors. Corrosion resistant–Small percentage to same type of customer as Black, but most is to carport industry."

***

"The channels of distribution for light-walled tube produced with galvanized coating and black pipe and tube are distinct. Galvanized product is not generally available from U.S. producers and is not available from any of the Petitioners. Some of the mills may have the capability to produce galvanized product: however, most of the service centers do not stock it - therefore, making it commercially unattractive for U.S. manufacturers to manufacture and sell this product. It is generally a product sold to customer specifications in the OEM market, and sold directly from the plant to the customer. Moreover, distributors in the United States and Mexico are typically engaged either in the importation and distribution of galvanized corrosion resistant product, or black pipe and tube, but not both. There are some distributors in Mexico and the United States that are focused exclusively on the distribution of galvanized corrosion resistant product."

FOREIGN PRODUCERS

***

"Galvanized product is not generally available from U.S. producers and is not available from any of the petitioners. There are some distributors in the United States and Mexico that exclusively distribute galvanized corrosion-resistant product but not LWR black pipe and tube."

***

"Both black and galvanized LWR pipe and tube are sold to steel service centers, distributors, and industrial end users."

***

"The channels of distribution for light-walled tube produced with galvanized coating and black pipe and tube are distinct. Galvanized product is not generally available from U.S. producers and is not available from any of the Petitioners. Some of the mills may have the capacity to produce galvanized product; however, most of the service centers do not stock it–therefore, making it commercially unattractive for U.S. manufacturers to manufacture and sell this product. It is generally a product sold to customer specifications in the OEM market, and sold directly from the plant to the customer. Moreover, distributors in the United States and Mexico are typically engaged either in the importation and distribution of galvanized corrosion resistant product, or black pipe and tube, but not both. There are some distributors in Mexico and the United States that are focused exclusively on the distribution of galvanized corrosion resistant product."

Price

PRODUCERS

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"Prices are predicated on the type of product required for a specific application."

***

"As indicated in Part II-13, pricing for corrosion-resistant material is significantly more than Black LWR."

***

"No major difference in price of the product. Both the black and corrosion-resistant are used in the same application and contain similar features. Based on which product is less expensive, the customer will use the price as the final determining factor."

***

"Corrosion-resistant carries an extra for the steel of approximately $*** per short ton."

***

"Our corrosion resistant is a value added product. We offer both a galvanized product and a in line painted product."

***

"*** sells its galvanized (corrosion-resistant) tube at approximately ***% above the HRP&O black tube. We compete with domestic and foreign producers. Foreign and domestic tube is totally interchangeable."

IMPORTERS

***

"Black LWR pipe and tube is generally less expensive than corrosion-resistant (galvanized) LWR pipe and tube. In Galvak's experience, galvanized tubing is approximately 25 percent more expensive than non-galvanized pipe and tubing. The market prices for black and galvanized tubing products sometimes move independently of one another."

***

"Normally LWR tubing is more expensive than pipe & corrosion-resistant tends to be more expensive than black."

***

"Black is always significantly cheaper than corrosion resistant material. Corrosion resistant usually costs around 15-20 cents per pound more than Black tube."

PURCHASERS

***

"CR price higher so it is not attractive to our cost conscious customers."

***

"Galvanized 35% higher than black."

***

"CR price always higher."

***

"Can carry a slight discount to domestic pricing."

***

"The black LWR pipe and tube with the water soluble oil is a standard price. The primer coated product costs 2-3 dollars per hundred weight extra."

***

"CR is more expensive and harder to fabricate therefor making it less used."

FOREIGN PRODUCERS

***

"The manufacture of corrosion-resistant galvanized product and/or its raw materials involve further processing as described above, which carries a price premium in the range of 30% to 45%."

APPENDIX E

U.S. SHIPMENTS BY PRODUCT TYPES

Table E-1
LWR pipe and tube: U.S. producers' U.S. shipments and U.S. shipments of imports, by product type, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

APPENDIX F

QUESTIONNAIRE RESPONSES REGARDING INDUSTRY DEVELOPMENTS

COMMENTS ON INDUSTRY DEVELOPMENTS

The Commission's questionnaires in these final phase investigations requested comments regarding the impact of industry developments on LWR pipe and tube operations since January 1, 2001. The following comments were received:

Imposition, Modification, and Termination of U.S. Safeguard Tariffs on LWR Pipe and Tube

U.S. PRODUCERS

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"We have been impacted minimally to not at all by these events. Market conditions have had more influence than tariffs, particularly since major sources such as Mexico and Turkey were not covered."

***

"Difficult to determine impact versus if no action had taken place."

***

"Countries that were covered by 201 helped in reduction, but Countries that were not covered increased imports."

***

"Production fell by 500%."

***

"As LWR products are a price driven commodity and imported tubing, any changes to the market through U.S. tariffs impacts our *** market. Imported product at levels below our raw materials plus conversion costs greatly limits our ability to sell our product in our region. When tariffs are imposed, our market becomes accepted of our pricing, but as tariffs are modified or terminated, we are unable to compete. LWR products are generally sold on a CWT basis and product "appearance" is not a major factor so that "cheap import" generally is accepted by the *** consumer. The LWR safeguards did not impact Mexico and Turkey so there was an increase in the number of offers from these two countries, as well as the amount of product sold into our Region. The sales price from these countries was less than our raw material plus conversion costs."

***

"Upon imposition of safeguards we expected to see a significant decline in imports from Mexico. This did not materialize. Upon termination of safeguards we have seen an increase in offerings to our customers. This unstable environment decreases the profitability and discourages the continued investment in capital projects that have little chance for a reasonable return on investment."

***

"First year, additional tariff was 15%, but for flat-rolled steel it was 30%, so it made it easier for importers to buy LWR pipe and tubing than flat-rolled steel.

***

"No impact."

***

"None."

***

"The tariffs and imposition of these have controlled certain countries to either stopped shipments or raise selling price to fair market values in the U.S."

***

"No impact."

***

"No impact."

***

"Because Mexico was exempted from the 201 case, their imports to the U.S. have gone up both in LWR and in galvanized LWR."

U. S. IMPORTERS

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"Before the exemption on Jan. 1, 2003, tariffs for LWR pipe and tube were not important enough to make much difference on our imports from Mexico."

***

"The U.S. safeguard tariffs on LWR tubing did not have a significant impact on U.S. market conditions, because imports from Canada and Mexico (which have traditionally been the largest exporters to the United States) were not subject to the safeguard tariffs."

***

"Even though imports have diminished, the demand due to the dumping imposed on Mexico has not increased and our sales have been affected in a negative way."

***

"The impact of termination of the U.S. safeguard tariffs was not strong, but currently shortage of steel products all over the world is rather shocking."

***

"I believe that prices went up immediately at US mills around 30% within a couple of months whenever President Bush imposed the 30% tariffs on countries other than Mexico . . . causing Mexican mills to follow the US mill's example and raise their prices about nearly the same amount, staying just below them in price. These prices then fell somewhat when a glut of steel started coming in from other countries, and the prices worked their way back down, due to supply and demand. Then in January 2004, when China started buying huge amounts of the work scrap supply, and other raw materials, prices have basically doubled in cost and selling prices until today (May 11, 2004). I know that recently, and I don't remember the date, as it made no difference I believe, President Bush removed the tariffs that he had earlier imposed. It did not have any lowering effect on the market that I can tell, as the demand is far too great WORLD wide, to matter that happens to the USA tariffs. With the US dollar so weak, and China paying so much, not many, if any, countries are really that concerned about shipping material overseas to the USA at this time; China and the far east is much too good of a market, paying more money, compared to the USA."

"Mexico has continued to export to the USA, due to its proximity to this country . . . I think it matters to the industry, price-wise, much more what CHINA does, rather than what the tariffs currently are–FOR NOW at least . . ."

***

"Mexican made LWR tube and pipe have been exempt from these safe guards since Jan. 1st of 2003. Prior to this date the tariffs which applied to materials originating from Mexico were of an insignificant amount and did not have a noticeably effect on *** imports of LWR tube and pipe imports into the U.S."

***

"The imposition of the safeguard measure caused downward pressure on the operating margins of downstream users of flat products, particularly welded pipe and tube producers, because of economic consequences related to the bifurcation of duties. Greater protection was provided for flat products relative to tubular products. As a consequence, U.S. producers were faced with high costs and more limited supplies for the raw materials used to manufacture light-walled tube. U.S. producers were unable to pass long theses due to sluggish or falling demand and the relatively poor overall performance of the economy. As safeguard duties were reduced, the price of coil didn't fall correspondingly due to increased demand from China and other Asian countries. In contrast, Mexican producers were excluded from the safeguard measure and, as a consequence,

were not directly impacted by the imposition of the safeguard remedy. The exclusion benefitted Mexican producers and resulted in modest levels of increased imports."

"However, the termination of the U.S. safeguard measures has resulted in increased competition from non-NAFTA members and has allowed China and other Asian countries to sell LWR pipe and tube in the United States at substantially lower prices, due to the fact the price of the coil they purchase is approximately $140 per ton cheaper than coil available in the U.S. The price difference is caused principally by the difference in the relative availability of scrap in these markets."

***

"Imposition - availability was scarce and price increased; Modification - Same; Termination - Increased availability of imports."

***

"None"

Imposition, Modification, and Termination of U.S. Safeguard Tariffs on Flat-rolled Steel

U.S. PRODUCERS

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"We have been impacted minimally to not at all by these events. Market conditions have had more influence than tariffs, more influenced by decline of domestic suppliers."

***

"LWR pricing has been effected as steel coil pricing has moved due to imports and the 201 action."

***

"Impact was prices increasing at record rates."

***

"We've experienced supply side availability constraints and significant raw material cost increases."

***

"Initially the imposition of the tariffs caused shortages of flat-rolled steel availability and with that under supply came increased prices and volume limitations from our supplier base. There was virtually no foreign steel available as the tariffs effectively kept these countries from sending steel to the U.S. west coast. This condition lasted through much of the first half of 2002. As some of the modifications were made and developing countries were excluded (i.e. Egypt, Turkey) and others were given an exemption on some of their tons and sizes; this eased the pressure of finding enough steel to keep production running effectively. During the 4th quarter 2002 Mexico's presence in the west coast market began to be felt along with a slowing market in the Midwest, which caused some of the domestic mill there to "ship" tons to the western market. Most of 2003 was depressed in terms of demand and steel prices fell consistently through August 2003. Demand for the western region finally returned in September 2003, as the local domestic flat roll producers were able to raise price tags. The end of the safeguard did little to encourage foreign producers to re-enter the market as China was sucking up much of the world's capacity and many countries were and still are under dumping and counter veiling duty tariffs. With China's recent slow down more steel is being offered for late 2nd and 3rd quarter arrivals for 2004, but how much and how this will effect the market is still unknown."

***

"The imposition of safeguards created a hope for a climate of fair trade for flat-rolled steel which could lead to stability in raw material costs. The termination created more instability in raw material costs and inventory cost investment issues that create unmanageable risks.

***

"Additional tariff for flat-rolled steel was 30% and it was difficult to import from the point of cost. Nowadays, flat rolled is a tight situation in the world. On the other hand, 15% of additional tariff for tubing made it easier to import, and import tubing deteriorates our business."

***

"No impact. We buy domestic, & domestic supply though tight and at higher prices has been competitively priced in this market."

***

"None."

***

"Not enough steel if manufactured in the U.S. Base steel should be sold on a level playing field. If some kind of control is necessary, then that should be considered the U.S. job. However imported tubing should be considered the U.S. job. However imported tubing should be even more controlled."

***

"Imposition of steel tariffs in 2002 drove consolidation among domestic steel producers resulting in tight supply and significant price escalation in both 2002 and 2004. Global pricing pressures limit the ability of domestic manufacturers to pass these increases along to customers. As a result, domestic manufacturers face margin erosion in many key markets."

***

"Minimum impact."

***

"Surprisingly, very little even after the 201 case was dropped. There has been very little steel coil sent to the West Coast the first four months of 2004."

U.S. IMPORTERS

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"The U.S. safeguard tariffs on flat-rolled steel did not have major effect on the prices for LWR tubing. Instead the level of U.S. economic activity was the major factor affecting U.S. market prices for steel coil and for LWR tubing. Falling U.S. demand and the availability of supply from U.S. mills and from countries that were not subject to the safeguard tariffs kept U.S. prices for steel coil relatively steady through the first half of 2003. Prices for both steel coil and for LWR tubing rose when U.S. economic activity picked up during the second half of 2003. Prices for

both products have increased sharply during the first half of 2004, due to increased activity in the United States and in foreign markets (such as China)."

***

"The extra tariffs with the resulting price increases created inflation and scarcity of sheets–which now even though tariff was rescinded have not been alleviated."

***

"Although section 201 was terminated, we cannot get enough HR coil from off-shore because of the steel products shortage all over the world currently."

***

"The termination of these safeguards came occurred during a global steel shortage and therefore have little if any effect on ***."

***

"Since the termination of the safeguard measures, the relative difference in the cost of coil between the U.S. and Europe or Asia causes U.S. producers to be relatively less competitive. The difference in the exchange rates between the U.S. dollar, European and Asian currencies is also making it difficult for U.S. producers to remain competitive. In addition, U.S. mill producers of coil do not have any competition from imports at this time. Therefore, it is very difficult to purchase the coil at a price that allows a tube manufacturer to be competitive relative to such imports and, in addition, makes it extremely difficult to export merchandise to the same regions."

Closure or Relocation of LWR Pipe and Tube Capacity in the United States

U.S. PRODUCERS

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Company	Annual Capacity	Closing Date	National/Regional	Type
"Excalibur Tube	*** tons	early 2002	Regional	Raw"
"Miami Copperweld	*** tons	late 2002	Regional	Raw"
"Olympic Steel Tube	*** tons	mid 2002	Regional	Raw"

***

"Industry continues to have significant capacity. Closure of capacity has been readily absorbed by remaining capacity."

***

"None."

***

"Copperweld closed plants."

***

"We do not know of any manufacturer of LWR pipe and tube in our region (West Coast) that have closed or relocated during the period under review."

***

"Excalibur–2001; Alpha Tube–sold to AK steel due to lack of profitability; Leavitt Tube Division of Chase Brass Industries–sold to Pinkett Industrial Group for not meeting profit expectations."

***

"None."

***

"We closed our *** mill due to import competition and poor market conditions on the west coast in 2002. Moved the mill to *** and converted it to line pipe production."

***

"None."

***

"To my knowledge there is still an over capacity situation of LWR tube mills in the U.S. West Coast has same amount of companies and mills."

***

"No impact."

***

"No knowledge."

***

"Pacific Tube closed in 2001. This was the first steel tube company established on the West Coast. They were in business for over fifty years."

U.S. IMPORTERS

***

"It did not affect our sales until early this year, due to the worldwide shortage of steel, but we were able to keep our customer portfolio unaffected."

***

"We are not involved in the purchase of domestic tubing, however, that created a shortage of tube in the market which to date has not been covered."

***

"No, we did not."

***

"I don't believe I saw any impact on my firm for the following reason: I live in Texas and compete for primarily farm and ranch, or agricultural, and very light industrial or commercial end users. Many of them prior to buying import material many years ago, bought secondary tubing from the domestic mills, as it was cheaper. They simply could not afford to pay the higher prices for the prime quality material. Over the last 20 years that I have been in business, I have more and more competed with OTHER imported products, from Mexico, Turkey, or who know where."

"For the last decade or so, I have competed against some very unscrupulous companies that have misled the customer into believing that they are receiving something that they are not. THEY are the ones that have given the steel market a black eye in my opinion, and caused 11 gauge tubing for example to be sold VERY cheaply for the last several years, not the price of Mexican tube in general."

***

"*** did not notice any dramatic changes to the patterns of their sales regions during the last three years other than in early 2004 when they began to receive inquiries from all over the U.S. due to the extreme shortage of steel during the first half of the year. *** did not actively pursue any sales outside of its normal client base during this period as it has always dealt with a small group of loyal U.S. clients based in the Gulf region."

***

"There have been no closures of plants in the U.S. market in the pipe and tube business."

***

"Made no impact because critical issue is HRC availability."

***

"None"

Demand Trends Among Key End Users

U.S. PRODUCERS

***

"U.S. demand has generally been down due to decline in non-residential construction. Imports of LWR have, however, increased."

***

"End users have been impacted with the general move of manufacturing from the U.S. to China."

***

"Currently increased demand."

***

"We've noticed an increase in demand."

***

"Large consumers of LWR are looking to source their requirements from offshore to reduce their cost of production. We continue to struggle with maintaining a market share in LWR due to imported product being offered in the market at prices less than the cost of our raw material plus conversion costs, therefore reducing our ability to sell our product."

***

"Down partially due to competition from foreign finished products."

***

"Demand is stable but if we try to raise the price, end users always consider relocation or import final products from off-shore."

***

"More and more moving to just in time inventory which places the burden on manufacturers to hold and manage inventories for large, service centers. Very price sensitive and play off manufacturers against other as well as suppliers of imported pipe."

***

"With the addition of off shore tube manufacturing capacities (Mexico, Turkey, and China) the market is smaller. Customer base and demand remain stable."

***

"Global pricing pressures are driving production of many product categories such as furniture, outdoor grills and some automotive components, offshore. Rapid escalation in domestic steel prices has accelerated these trends."

***

"A lot of customers are shifting production to China. This will decrease business opportunity for domestic producers."

U.S. IMPORTERS

***

"Demand has developed together with U.S. economy. It slowed down in the period 2001-2003 but showed some recovery in 2004."

***

"We cannot speculate much aside from the area of Texas (where most of our customers are located) and where the LWR tube and pipe is firmly set to stay."

***

"Demand from key end users has tracked the level of economic activity in the United States, and has had a significant impact on the prices for LWR tubing. Falling U.S. demand kept U.S. prices for LWR tubing relatively steady through the first half of 2003. Prices for LWR tubing then rose as U.S. economic activity (and demand from key end users) picked up during the second half of 2003. As mentioned, the prices for LWR tubing have increased sharply during the first half of 2004, due to increased activity (and demand from key end users) in the United States and in foreign markets (such as China)."

***

"We do not sell to end users, but our distributors are constantly mentioning users are now requiring more painted tubing as well as galvanized in order to cut costs of painting (labor) as well as to offer a product that has longer shelf life–i.e., corrosion resistant along the coast line."

***

"We do not have many end users. They are stable. Some of them tried to import finished goods from China instead of producing in the United States."

***

"Demand have slightly increase due to increasing prices in the US (due to raw material)."

***

"I have not noticed any demand trends among key end users. My business has grown due to service and decent prices. I am not the lowest price guy on the market, that I can assure you. I make up for that with service and selection."

***

"*** sees that pre-primed LWR tube and pipe has firmly established itself in the Southern U.S. (Specifically in Texas and Oklahoma). As these states are the primary market focus for it would be speculative on the part of *** to comment on what other trends may have, or may be developing in other areas of the U.S."

***

"At the present time, the market is balanced, as supply and demand are in equilibrium. It is expected that this will change in the 3rd and 4th quarter 2004, as demand seems to be slowing slightly. The performance of the overall economy for the balance of the 2004 and beginning of 2005 will be a substantial factor in this analysis. The market was previously very sluggish in the U.S., in part because some OEMs (that manufacture furniture, for example) relocated to China, thereby decreasing overall demand. The same can be said for many maquiladoras in Mexico. However, the U.S. economy appears to be rebounding finally."

***

"Demand is much higher in 2004."

Comments On 2004 Increases In LWR Pipe and Tube Prices

U.S. PRODUCERS:

***

"A number of important events factor into this pricing environment.

Steel pricing had become relatively stable during the second half of 2003. During late October and early November general expectations in the market place called for approximately a $20 /ton increase in steel prices on January 1 and then the pricing would remain flat the balance of 2004. With this expectation, steel mills were offering tube mills during early November extended fixed steel pricing through 2004. Certain tube mills were also offering customers fixed pricing through 2004.

In addition, January and February 2003 were a very weak market and many had expectations for a repeat in January 2004. The economy was growing relatively slowly in the 4th quarter of 2003 in comparison to the 3rd quarter of 2003, with modest expectations going forward into 2004. Consequently, service centers were reducing inventory levels. Inventories at steel service centers in relation to their shipments stood at the lowest supply levels since I believe 1999. The MSCI reported steel inventories at 13.6 million tons in December 2004 versus 15.14 million in December 2003.

However, during late November and December and through the first half of the 2nd quarter of 2004, the Chinese unexpectedly began purchasing all of the steel, scrap and iron ore they could on the world market to meet their growth in steel demand. The Chinese pricing was higher than "market" in order to attract their material needs to China. This caused increases in steel mill scrap, iron ore and coke prices. At the same time, the US dollar was going through a significant fall that made exporting to the US much less attractive and risky for the importers. Consequently, steel and iron ore was diverted by these market factors from the US to China. Along with this, US Steel reduced their supply of coke to other steel mills as a result of a coal mine fire during the 3rd quarter of 2003. This reduction, coupled with less scrap available due to Chinese purchases and diversion of iron ore imports to China, was effecting the supply of raw materials to the steel mills. The steel mills began to run significantly late in their deliveries and also began canceling orders due to lack of their steel making raw materials.
The above events caused certain steel mills to limit their availability of steel to tube producers in lue of certain large customers (automotive, appliance, etc.) and higher margin contribution products such as cold rolled and galvanized steel.

Also, instead of potentially weaker demand during the first quarter of 2004 as previously indicated, demand jumped as a result of a combination of the economy growing, growing concerns about availability, and attempts to hedge buy product in an increasing price market. This increased demand was met by the service centers having low inventory levels as previously mentioned and steel mills reducing supply.

Consequently, significant steel availability issues developed in the tube industry. Spot buys of steel from service centers at much higher prices, when available, were often times required in order to meet sales commitments when steel mills were late on promised deliveries or cancelled their sales orders. The tube market changed from an historical buyer's market to a supplier's market for the mills that had product.

In addition, these events led to prices swinging from a current cost plus pricing approach to pricing based on expectations of future steel replacement costs for potential steel availability."[1]

[1] E-mail from ***, Aug. 11, 2004.

***

"With the cessation of the Section 201 safeguards, the consolidation of the domestic steel industry, scrap price increases resulting in surcharges, global demand, domestic mill capacity utilization, and other factors to name just a few, pricing levels for our feedstock carbon steel coil began to significantly increase in October of 2003".[2]

***

"Our cost of raw material comprises ***% of our cost of sales and ***% of all the costs that we incur to produce, sell and administer our facility. Since January 2004 we have experienced increases in our raw material costs at levels and frequency previously unknown. Through August 2004 we have experienced increase in our raw materials ranging from ***% in Hot Roll, ***% in Cold Roll, and ***% in HRPO. During this same time period we have increased the sales price of our products by an average of ***%. Our increase in sales price has therefore tried to keep pace with the increase in our raw material costs."[3]

***

"*** has experienced steel cost increases of $*** per ton from December of 2003 to June of 2004. Another $*** to $*** per ton increase has been announced for September."[4]

***

"*** uses hot rolled coils mainly for producing tube. The rise in prices for LWR pipe & tube in 2004 is as a result of the cost of hot rolled coil increased from $***/ST in Dec, 03 to $***/ST in Jun, 04."[5]

***

"Increased demand in China; a newly consolidated US steel industry; increases in both scrap and coke. Steel became tight domestically during Q4 2003. The steel industry raised the base price and added raw material surcharges in January, 2004. The pipe and tube industry passed these increases on to our customers."[6]

***

"Starting late in 2003, and right after the 201's were withdrawn, the price of raw material started to rise dramatically. One of the main reasons was the emergence of China. They became a 30% plus player in the world steel market and in the scrap market. These increases have continued every month since. Our own US Mills have not only increased their price but added surcharges on top. This is unheard

---

[2] E-mail from ***, Aug. 11, 2004.

[3] E-mail from ***, Aug. 11, 2004.

[4] E-mail from ***, Aug. 11, 2004.

[5] E-mail from ***, Aug. 12, 2004.

[6] E-mail from ***, aug. 11, 2004.

of in US History. The Tubing mfg.'s started raising prices in Jan 2004 and have had to continue doing so every month."[7]

***

"During the time period of the questionnaire, conversion cost (labor and overhead) on a per pound basis varied very little. The change in tubing cost relates almost entirely to the change in the Steel cost."[8]

***

"In my understanding, there are several factors pushing the price upward. 1) Higher raw material, particularly scrap, 2) Trasnportation disruption, 3) Production problems and 4) Fewer number of steel companies due to reorganization, thus better control of the market."[9]

U.S. IMPORTERS:

***

"The dramatic rise in prices in 2004 is taking place not only in LWR pipe & tube, but in every steel product starting with the price of scrap. The price increase is taking place for several reasons, but the obvious one is market conditions, there is a world wide shortage of steel products caused by high demand from emerging economies such as China and India, together with the reactivation of the US Mkt have taken steel prices to where they are today."[10]

***

"Excessive demand by China of scrap as well as flat products due to their extensive expansion programs creating steel scarcity throughout the world and fuel price increases also have contributed to the rise in prices this year."[11]

***

"Dramatic price rise in 2004 is a result of the 'steel shortage' effect that the world is feeling. All steel products and raw materials used to produce them has skyrocketed in less than one year. The product in question was no exception."[12]

[7] E-mail from ***, Aug. 11, 2004.

[8] E-mail from ***, Aug. 11, 2004.

[9] E-mail from ***, Aug. 11, 2004.

[10] E-mail from ***, Aug. 13, 2004.

[11] E-mail from ***, Aug. 16, 2004.

[12] E-mail from ***, Aug. 13, 2004.

***

"To the best of my understanding, the world in general was undergoing a nice economic expansion in regards to using steel, and combine that with a rather nice economic recovery coming on board in America and you have a more than normal demand for steel products and the components that make steel. Add to that mix the economic wildcard China, with their huge number of people doing better and affording more "things", the Olympics coming in 2008 to Beijing and China wanting to "IMPRESS" the world that they have "arrived". So a whole lot of China is being remodeled, cleaned up, etc. to show off for the world in 2008. Also, China makes EVERYTHING; so many manufacturing jobs have gone overseas to China, that I understand that the Chinese are building an entire area or region with 10 new cities the size of Columbus, Ohio to house and keep the laborers necessary to run the new factories being built! All to do the work that is constantly being brought to China in pursuit of a cheaper product! Just so Walmart can save an extra nickle, we get everything from China . . . So with the need for Cities for laborers, factories for manufacuring products to resend back to USA markets, and for steel to run through those manufacturing machines, it is no wonder that they are eating up an incredible (supposedly 25% of the total world usage) amount of steel and the components that make it up- scrap, coke, pig iron, iron ore, etc. . ."

"This has lead to a classical supply and demand situation with the rest of the guys, Mexico, Turkey, and the USA in particular, having to pay the going rate for materials, otherwise the materials mentioned above will go to the highest bidder, and not remain in North America. That, is my opinion on why prices have skyrocketed in the last 8 or 9 months."[13]

***

"The rise is due to several factors:

1). Boost in the US economy that have lead to an increase in demand for manufacturing product and a need for more tubing. This has created a demand and a healthy market for all tubing manufacturer in the US avoiding a stiff price competition.

2). Unprecedented increase in raw material cost due to many repeated increases of scrap in the US and worldwide.

3). Re-structuration of the world steel manufacturing capacity of raw material (coil) and the Closing of many plants did not allow the steel industry to produce the quantity needed to satisfy the demand. Coil was delivered by quota and prices went to the roof. It is important to note that the US mill did not do anything to solve this problem but at the contrary help the process and played customers against customers creating a sense of panic that help the market to stay on the high end that is not justified.

4). The weakness of the dollar to the Euro and Asian currency did not permit or did not create enough interest for foreign steel to come to a level that will regulate and balance the market to a fair price as foreign supplier had the same difficulties.

5). Rise in the cost of transport and fuel surcharges. The logistic in the US is going through a crisis were availability of railcars and truck are reduced due to many bankruptcy of small carriers and a high demand."[14]

[13] E-mail from ***, Aug. 13, 2004.

[14] E-mail from ***, Aug. 16, 2004.

***

"Dramatic raw material price increases during end 2003 & 2004 affected slab prices which affected coil prices. Since LWR pipe & tube are manufactured from coil, LWR pipe & tube prices needed to rise dramatically to keep in line with increased raw material costs. The above coupled with steady to increased consumption of such product left no other alternative than for LWR pipe & tube prices to rise dramatically during 2004."[15]

[15] E-mail from ***, Aug. 13, 2004.

APPENDIX G

DATA TABLES FOR BLACK AND CORROSION-RESISTANT LWR PIPE AND TUBE

Table G-1
Black LWR pipe and tube: U.S. producers' shipments, by types, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table G-2
Corrosion-resistant LWR pipe and tube: U.S. producers' shipments, by types, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table G-3
LWR pipe and tube: U.S. producers' shipments, by region, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table G-4
Black LWR pipe and tube: U.S. producers' shipments, by region, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table G-5
Corrosion-resistant LWR pipe and tube: U.S. producers' shipments, by region, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table G-6
Black LWR pipe and tube: U.S. importers' shipments of imports from Mexico, by region, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table G-7
Corrosion-resistant LWR pipe and tube: U.S. importers' shipments of imports from Mexico, by region, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table G-8
LWR pipe and tube: U.S. importers' shipments of imports from Turkey, by region, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table G-9
Black LWR pipe and tube: U.S. importers' shipments of imports from subject sources, by region, 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table G-10
Black LWR pipe and tube: Results of operations of U.S. producers, fiscal years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table G-11
Corrosion-resistant LWR pipe and tube: Results of operations of U.S. producers, fiscal years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table G-12 presents data on total net sales, COGS, SG&A, and operating income for black LWR pipe and tube, while table G-13 presents data for the same items for corrosion-resistant LWR pipe and tube on a firm-by-firm basis. Data were sorted from highest to lowest based on the value of net sales in 2003.

Table G-12
Black LWR pipe and tube: Results of operations of U.S. producers, by firm, fiscal years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Table G-13
Corrosion-resistant LWR pipe and tube: Results of operations of U.S. producers, by firm, fiscal years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

Tables G-14 and G-15 present variance analyses for black LWR pipe and tube and corrosion-resistant LWR pipe and tube, respectively.

Table G-14
Black LWR pipe and tube: Variance analysis on results of operations of domestic producers, fiscal years 2001-03, and January-June 2003-04

* * * * * * *

Table G-15
Corrosion-resistant LWR pipe and tube: Variance analysis on results of operations of domestic producers, fiscal years 2001-03, and January-June 2003-04

* * * * * * *

Table G-16
Black LWR pipe and tube: Data for producers in Mexico, 2001-03, January-June 2003, January-June 2004, and projected 2004-05

* * * * * * *

Table G-17
Corrosion-resistant LWR pipe and tube: Data for producers in Mexico, 2001-03, January-June 2003, January-June 2004, and projected 2004-05

* * * * * * *

APPENDIX H

ANALYSIS OF THE EFFECT OF FIFO INVENTORY ACCOUNTING ON INDUSTRY PROFITABILITY

During the final phase of these investigations, parties described the U.S. LWR pipe and tube industry's profitability levels for the period January-June 2004 as "remarkable", "record", and "incredible".[1] Counsel for petitioners argued that the U.S. industry was able to pass on the "extraordinary" raw material steel price increases of 2004, but that the industry's profitability was "exaggerated" and "distorted" by the effect of first in/first out (FIFO) inventory accounting in calculating operating income.[2] Respondents argued that a recalculation of profitability to adjust for FIFO effects in costing raw materials would not change the overall trend, and that the U.S. industry would be remarkably profitable under any calculation.[3]

This appendix addresses the effect of FIFO inventory accounting on the U.S. industry's profitability, and presents an analysis of respondents' and petitioners' methodologies for recalculation of industry profitability, as well as presenting a calculation developed by Commission staff. In each of the calculations, the U.S. industry's operating income is adjusted downward. None of these calculations or adjustments to raw material costs should be considered sufficient to supplant data that have been provided by the firms themselves and as certified by officials of those firms. These calculations are not in accordance with GAAP; nor would these calculations reconcile with companies' books and records. Finally, staff is not aware of any Commission recalculations of industry financial data of this significance in previous investigations. Therefore, the calculations and adjustments should be used with caution.

RESPONDENTS' CALCULATION

Respondents employed a two-step calculation. First, they separated total sales of LWR pipe and tube into sales of black LWR pipe and tube and corrosion-resistant LWR pipe and tube, utilizing tables G-10 and G-11 in the prehearing staff report. Next, they recalculated the raw materials costs by multiplying the respective sales quantities by the average unit value ("AUV") of the U.S. producers' purchases of hot-rolled and galvanized steel sheet for the corresponding periods as contained in tables VI-3 and VI-5 of the prehearing staff report. All other costs were left undisturbed.

Using 2001 as an example, the raw materials costs for black LWR pipe and tube were calculated as equal to *** short tons times $*** per short ton, or $*** million, while the raw materials costs for corrosion-resistant LWR pipe and tube were calculated as equal to *** short tons times $*** per short ton, or $*** million.[4] Using respondent's methodology, and based upon the revenue and cost data in the final staff report (tables VI-I, VI-3, VI-5, G-10, and G-11), the domestic industry's operating income and operating margins (operating income as a percent of net sales) are as follows:

Item	Fiscal year			January-June	
	2001	2002	2003	2003	2004
Operating income (*$1,000*)	***	***	***	***	***
Operating margin (*percent*)	***	***	***	***	***

Petitioners' criticized respondents' methodology as grossly understating the current period costs of steel because (1) it fails to account for yield loss, and (2) it does not include other factory costs relating to corrosion-resistant LWR pipe and tube. Although petitioners' posthearing brief was responding to the

[1] Petitioners' prehearing brief, p. 28, and hearing transcript, p. 15 (Winton).

[2] Petitioners' prehearing brief, p. 28, and hearing transcript, p. 21 (Katsafanas).

[3] Galvak/Hylsa prehearing brief, p. 17.

[4] Galvak/Hylsa posthearing brief, p. 6 and Attachment 4.

calculations in respondents' prehearing brief, since the methodology employed in both the prehearing and posthearing briefs is essentially the same, the arguments are still valid. With respect to the first point, it is true that respondent's calculation does not account for yield loss. Regarding the second point, counsel for respondents has advised staff that the omission of other factory costs relating to corrosion-resistant LWR pipe and tube was inadvertent, and that such costs were intended to be included.[5] Staff note such costs are included in the operating margins above.

In addition to petitioners' comments, staff notes that respondents' assumptions that black LWR pipe and tube is manufactured exclusively from hot-rolled sheet, and that corrosion-resistant LWR pipe and tube is manufactured exclusively from galvanized sheet are not correct. An analysis of questionnaire data indicates domestic producers use both hot-rolled and cold-rolled sheet in their production of black LWR pipe and tube. Such analysis also indicates that they use hot-rolled sheet in the production of corrosion-resistant LWR pipe and tube and then galvanize the finished product, and that little or no galvanized sheet is used at all.

PETITIONERS' CALCULATION

Petitioners employed a much more involved calculation. First, they derived the ratio of 2001 raw materials costs to 2001 conversion costs (direct labor and other factory costs). Next, they multiplied this ratio (***) by the unit conversion costs for each year to arrive at a "benchmark" raw material price. They then calculated the material purchase price increase for each year by multiplying the "benchmark" raw material price by the percentage increase in the weighted-average AUVs of the U.S. producers' purchases of hot-rolled, cold-rolled, and galvanized steel sheet (per tables VI-3-VI-5 in the prehearing staff report) relative to 2001. This material purchase price increase was then added to the "benchmark" raw material price to arrive at the restated raw material price. All other costs were left undisturbed.

Using 2002 as an example, the 2001 ratio of raw materials costs ($***) to conversion costs ($***). Next, this ratio multiplied by the conversion cost AUV for ($*** per short ton), equals the "benchmark" raw materials cost of $*** per short ton. This value was then multiplied by the percentage increase in the weighted-average AUV of the U.S. producer's purchases of hot-rolled, cold-rolled, and galvanized steel sheet relative to 2001 (*** percent, which = $*** per short ton less $*** per short ton divided by $*** per short ton). The resulting value – $*** per short ton – was then added to the "benchmark" raw material cost of $*** per short ton to arrive at a restated raw material cost of $*** per short ton.[6]

Using petitioners' methodology, and based upon the revenue and cost data in the final staff report (tables VI-I and VI-3-VI-5), the domestic industry's operating income and operating margins (operating income as a percent of net sales) are as follows:

Item	Fiscal year			January-June	
	2001	2002	2003	2003	2004
Operating income (*$1,000*)	***	***	***	***	***
Operating margin (*percent*)	***	***	***	***	***

Respondents did not have an opportunity to comment on petitioners' methodology. Nonetheless, staff believes petitioners' methodology is overly reliant upon the use of ratios. Staff realizes many companies employ ratios to determine at least a portion of their costs. However, staff believes it is

[5] September 14, 2004, voice mail message from Jeffrey Winton to John Ascienzo.

[6] Petitioners' posthearing brief, Attachment 12.

inappropriate to estimate raw materials costs based upon ratios when these costs account for close to two-thirds of the domestic industry's operating costs (cost of goods sold plus SG&A expenses) every period. This is especially true, when, as is the case here, (1) costs are rapidly rising, (2) the ratios are used over several years (costs and cost relationships change over time), and (3) actual reported data is available.[7]

STAFF CALCULATION AND ASSESSMENT

Staff also prepared an estimate of the effect of rapidly rising steel input costs upon the domestic industry's costs and profitability. As an initial matter, staff separated the domestic industry into those who did (10 firms) and those who did not (5 firms) utilize FIFO accounting. No changes were made to the data of the producers that did not utilize FIFO accounting. However, changes were made to the data of those firms that did utilize FIFO accounting.

These changes were as follows. First, in an attempt to estimate the effects of yield loss, staff has utilized the yield loss data contained in the petition.[8] The petitioners indicated that their yield loss in the production of certain LWR pipe and tube is *** percent. Staff applied this yield loss to the weighted-average AUVs of the U.S. producers' purchases of hot-rolled, cold-rolled, and galvanized sheet (i.e., multiplied the AUVs by ***). Next, staff utilized the weighted-average AUV of all purchases of hot-rolled, cold-rolled, and galvanized sheet in each period. Staff believes this is a more accurate reflection of the actual activities of the domestic producers. Finally, the revenues and costs of the firms that did not utilize FIFO accounting were added in with the revenues and estimated restated costs of the firms that did utilize FIFO accounting. The domestic industry's raw materials purchases AUVs, operating income, and operating margins (operating income as a percent of net sales) are as follows in summary form:

Item	Fiscal year			January-June	
	2001	2002	2003	2003	2004
Steel sheet purchases unit value (*$ per ton*)	***	***	***	***	***
Operating income (*$1,000*)	***	***	***	***	***
Operating margin (*percent*)	***	***	***	***	***

The recalculated results of U.S. producers' LWR pipe and tube operations are presented in table H-1.

Table H-1
LWR pipe and tube: Results of operations of U.S. producers restated for yield loss and the cost of steel purchases in the calculation of raw material costs, fiscal years 2001-03, January-June 2003, and January-June 2004

* * * * * * *

[7] To further illustrate these points, after corrections and additional questionnaire data were received, the ratio of raw materials to conversion costs fell from *** to ***; overall, this ratio ranged from *** to *** during the periods examined.

[8] Petition, Exhibit 11E.

APPENDIX I

U.S. PRODUCER COMMENTS ON FACTORS AFFECTING RAW MATERIAL SUPPLY

AND

ALLEGED EFFECTS OF SUBJECT IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

Responses of U.S. producers to questions regard factors affecting raw material supply and the effects on Section 201 relief on their operations are shown in the tabulation below.

Responses to the question, "Did your firm change suppliers or increase/decrease the number of raw material suppliers during the period? If so, why?"	
***	"No." ***
***	"No significant changes during the period other than the resulting impact of consolidation of steel suppliers by the steel industry."
***	"National Steel bankruptcy." *** "We needed to change suppliers during the period of section 201 because of the difficulty in getting offers from foreign sources." ***
***	"Yes, due to price changes and material availability." ***
***	"Yes, with the limited supply of domestic suppliers we were required to find additional suppliers." ***
***	"The number of suppliers is our best estimate. Steel tightened in 2002 so we increased our foreign purchases with several mills. Imported coil became less available in 2003."
***	"Decreased due to no imports and the consolidation of the market." ***; "No change." ***
***	"Yes, depending on price, availability, and existing and/or new contracts." ***
***	"No." ***
***	"No, but there was a wait on raw materials, deliveries were behind in 2004."
***	"No." ***
***	"Resellers of foreign steel had nothing to sell. Consolidation of U.S. steel suppliers."
***	"No." ***

Tabulation continued on following page.

Responses to the question, "Did your firm experience difficulty in obtaining supply of the raw material used in your production of LWR pipe and tube? If yes, please explain."	
***	"No issues during 2001 through 2003. Certain plants experienced short-term (one to two days) difficulty on a spot basis during 2004 due to steel mill problems (raw materials, equipment outage, lack of trucks for delivery) in delivering as promised."
***	"Yes–shortage of supply domestically and few imports." (Same for HR and CR).
***	"Yes. The local domestic suppliers limited (allocated) the quantity of tons available to our company."
***	"No."
***	"No, but we received raw materials late sometimes."
***	"Yes, since repeal of section 201 remedy."
***	"No."
***	"Yes, after issue of section 201, most of coil consumers in west coast shifted to CSI and they introduced a kind of allocation system."
***	"No."
***	"Yes. Supply of foreign steel dried up at same time. Scrap became short."
***	"No."
***	"This year, because of booming economy in China."
***	"No."

Tabulation continued on following page.

Responses to the question, "Please comment on whether the steel safeguard measures (Section 201 relief) were the primary cause of price changes of your raw material input. What other factors caused raw material prices to change?	
***	'Steel imports were a significant factor in 2001. The resulting section 201 relief is considered the primary reason for changes in 2002. The steel price changes in 2004 are primarily associated with impact of Chinese actions in the market."
***	"Yes–price increases due to shortage of supply."
***	"No. the primary cause of price changes of our raw material input was the consolidation of domestic suppliers."
***	"Market pricing, short raw material supply."
***	"Yes and global consumption increased."
***	"Initially yes and ultimately yes. The reduction of suppliers (consolidation of remaining producers) lessened competition. Also supply has been reduced. China's expansion cannot be ignored."
***	"Right after the President announced the 201 tariffs the steel industry raised their prices as import offers began to diminish. In late 2003, shortages of scrap and coke impacted pricing. Also contributing to price pressure was the newly consolidated U.S steel industry began to exert pricing power. World-wide steel demand increased late in 2003 and into 2004."
***	"Yes, one of the other factors is the capacity of domestic mills."
***	"Not the primary cause, consolidation amongst domestic steel producers, mill closures and increased exports of U.S. steel raw materials and finished goods also led to price increases in late 2003 and first half 2004."
***	"This year, because of booming economy in China."
***	"201 started consolidation and price increases. However, China's thirst for steel and raw materials then caused increases not heard of in steel industry history including surcharges."
***	"Big impact since foreign steel was no longer available. Scrap shortage also fueled price increases later."
***	"It was not the 201 case, it was the world market. Steel became more expensive because of market conditions."

Source: Tabulated from company responses to the Commission's questionnaire.

Responses of U.S. producers to the following question are shown in the tabulation below: Since January 1, 2000 has your firm experienced any actual negative effects on its return on investment or its 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 LWR pipe and tube from Mexico or Turkey?

Firm	"No"	"Yes": Item number[1]						Other comments
		1	2	3	4	5	6	
***								"Yes." (Comment follows tabulation.)
***								"Yes. Owner is on the verge of selling our division."[2]
***				√				"Reduced our investment in PPE for LWR production due to lower gross margin."
***			√					
***				√				
***				√				
***		√						"Loss of business resulting in lower volume and lower margins."
***	√							
***				√				"At 2003 prices we were unable to secure internal capital for needed improvements to remain competitive. With no payback on investment, internal capital went elsewhere."
***								"Yes. Lost sales and price erosion."
***		√		√				
***	√							
***				√				"Capital investment was put on hold because of uncertainty."
***	√							

[1] 1–the cancellation or rejection of expansion projects
2–denial or rejection of investment proposal
3–reduction in the size of capital investments
4–rejection of bank loans
5–lowering of credit rating
6–problem related to the issue of stocks or bonds

Source: Compiled from responses to Commission questionnaires.

Company responses are shown below regarding (1) the exact nature and timing of the action that the firm would have taken but for the imports of LWR pipe and tube from Mexico and/or Turkey, and (2) an explanation of why imports from Mexico and/or Turkey caused the action not to be taken.

***

"Yes. Imports with lower selling prices than domestic goods of like manufacture suppress domestic prices. At price levels experienced in 2003 due to impact pressures we were negatively impacted in this market segment."

***

"*** This loss in market share is generally attributed to the gain in market share by the Mexican mills through significantly lower pricing. Consequently, *** production into another product line and looked beyond its historical geographic area for customers. (In 2002 and 2003, *** largest LWR customer, representing *** of its LWR volume, was located West of the Rocky Mountains.)

During 2000, the *** facility's large mechanical mill and structural mill operated on 3 shifts and 2 shifts, respectively. This was reduced in 2001 to 2 shifts and 1 shift, respectively, due in part to our inability to compete with Turkey and Mexican import pricing. (The structural mill returned to a 2-shift operation in the 4th quarter of 2003, however, the large mechanical mill remains on a 2-shift operation.)

As a company, *** only ships approximately *** of its LWR shipments into the aforementioned West South Central region. (This compares to the region's population representing 13% of the total U.S. population less the Pacific states.) This lower than average percentage is primarily attributed to the lower pricing in the region due to the influence of Mexican imports."

***

"Our Company has not been in a financial position to invest in any equipment that would result in productivity improvements. We had planned to put in *** in our *** plant, but were forced to indefinitely postpone this investment due to the volume loss and profit margin squeeze due to the significant increase of Mexican and Turkish LWR tubing during this time. Our company *** because our company was not generating an acceptable return."

***

"No."

***

"(1) In 2002, *** considered expanding our product line to include easy to assemble ***, using corrosion-resistant LWR. Considerable effort and money was expended in style and accessory development, including having ***. We decided however, not to move forward with out proposed product line. In addition, we also scaled back our plans for an in-line *** in ***.
(2) We made the decision not to proceed based on market information received indicating that lower prices were available on import LWR, including from Mexico and Turkey. We could not anticipate a reasonable return on our continued investment if the market was accepting import LWR in place of domestic."

***

"Our financial results from 2001-2003 were very poor. Whenever this occurs we impose a restriction on capital expenditures. We will only approve requests that involve safety and regulatory compliance, or replacing equipment that is deemed as an operational necessity."

***

"We did install *** to produce corrosion resistant tubing. This mill only produces a small share of market sizes. We had plans to install *** of these. In addition, we are going to install a new mill to put *** on. This new mill will run LWR tubing, round tubing, and corrosion resistant tubing. With the large amount of tubing products coming in from Mexico and Turkey below our market prices, we have decided not to approach this yet."

***

"Yes. Corrosion-resistant products. Listed below are three lost customers who have become major importers of LWR from Mexico: *** These are not allegations, these are facts. If you call these customers they will not deny that we have lost this tonnage to Mexico."[1]

Company responses to the following question are shown below: Does your firm anticipate any negative impact of imports of LWR pipe and tube from Mexico or Turkey?

***

"Yes. Reduced selling price.".

***

"Yes. I anticipate that imports of Turkish LWR pipe and tube will negatively affect our business."

***

"Yes. Consumption of LWR tube from Mexico and/or Turkey. Substantially low prices will reduce volume sold by domestic producers and/or reduce return on investment."

***

"Yes. Whenever LWR pipe and tube from Mexico and/or Turkey comes to our market, the market price is affected negatively, creating an unfavorable situation because they offer lower prices which penetrate into the market."

***

"Yes. We anticipate fewer sales with smaller profit margins."

[1] These customers were repeated, with the contact information, in the "lost sales" part of the Commission's questionnaire.

***[2]

"Yes. We already have experienced negative effects (currently operating less than 1 shift as opposed to 2 shifts previously."

***

"Yes. Turkey and Mexican LWR (and other tube and pipe) delivered prices are routinely cited in the market by customers as significantly lower than domestic pricing in order to influence pricing downward. Turkey's offers are currently approximately delivered $200/ton below domestic pricing."

***

"Yes. With many of our mechanical and structural customers leaving our market, our growth was projected to come in LWR products. The increased imports will reduce our efforts to increase our market share as this product is sold on a "price basis," and foreign tube is dumped below our total cost of tube."

***

"Yes. If the volume from these two countries is allowed to grow, it will have an adverse impact on the profitability of our company because we do not anticipate overall consumption to grow at the same rates as the imports from these two countries have grown in the past and appear to be growing. We don't anticipate margins growing to help offset this loss of volume."

***

"Yes. A. Black–absolutely yes, there is an impact when these countries send fax's to customers offering below market prices. Large quantities have been proven to have been received. This has affected sales and pricing. B. Corrosion resistant–same applies for Mexican product."

***

"No."

***

"Yes. Lower market pricing and less business opportunities. Imports created adverse effect on market place."

***

"Yes. Corrosion-resistant products." Listed three lost customers."

[2] Comments refer to black LWR pipe and tube only.