

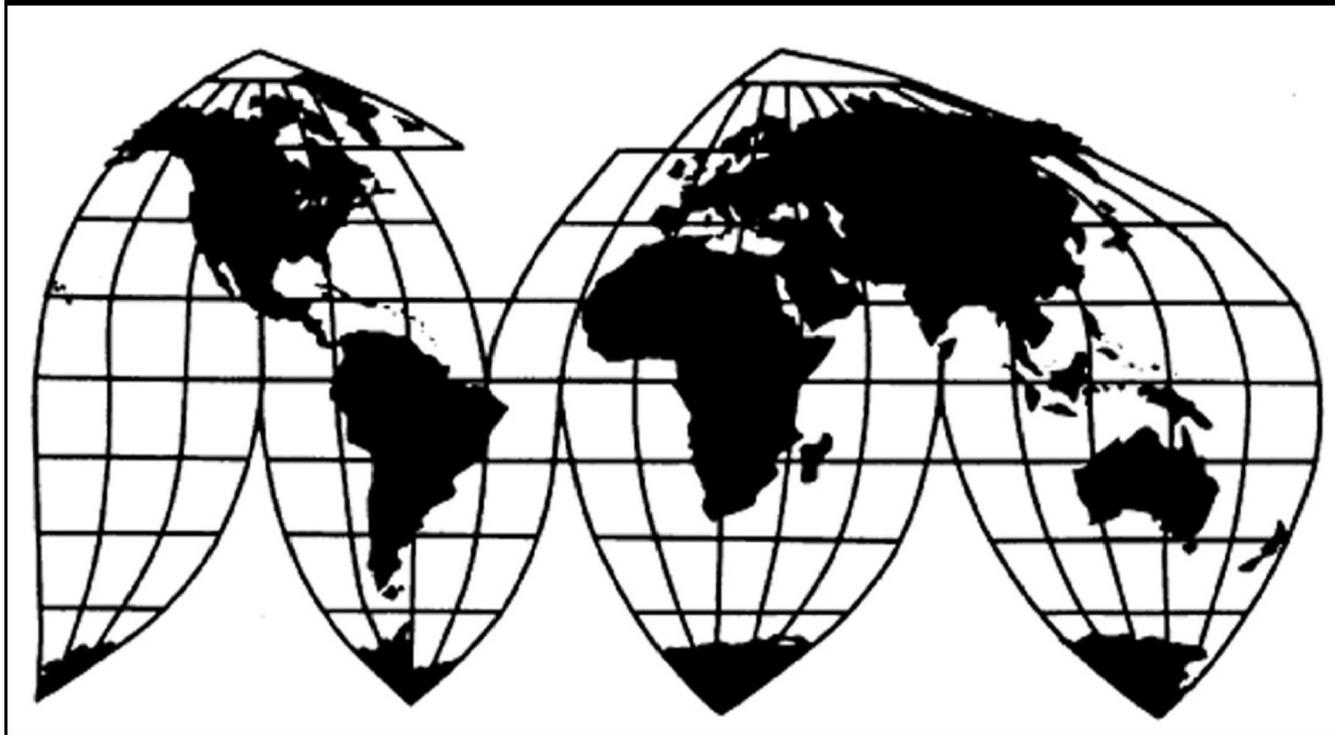
Light-Walled Rectangular Pipe and Tube from China, Korea, and Mexico

Investigation Nos. 701-TA-449 and 731-TA-1118-1120 (Final)

Publication 4024

July 2008

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been replaced with asterisks in this report.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-449 and 731-TA-1118-1120 (Final)

LIGHT-WALLED RECTANGULAR PIPE AND TUBE FROM CHINA, KOREA, AND MEXICO

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b) & 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China, Korea, and Mexico of light-walled rectangular pipe and tube, provided for in subheading 7306.61.50 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) and by imports from China of light-walled rectangular pipe and tube found by Commerce to be subsidized by the Government of China.^{2 3}

BACKGROUND

The Commission instituted these investigations effective June 27, 2007, following receipt of a petition filed with the Commission and Commerce by twelve U.S. producers.⁴ The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of light-walled rectangular pipe and tube from China were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)) and that imports of light-walled rectangular pipe and tube from China, Korea, and Mexico 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 February 5, 2008 (73 FR 6740). The hearing was held in Washington, DC, on April 11, 2008, 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)).

² Commissioner Dean A. Pinkert is recused from these investigations.

³ The Commission also finds that imports subject to Commerce's affirmative critical circumstances determination are not likely to undermine seriously the remedial effect of the antidumping duty order on China.

⁴ Allied Tube and Conduit, Harvey, IL; Atlas Tube, Plymouth, MI; California Steel and Tube, City of Industry, CA; EXLTUBE, Kansas City, MO; Hannibal Industries, Los Angeles, CA; Leavitt Tube Company LLC, Chicago, IL; Maruichi American Corporation, Sante Fe Springs, CA; Searing Industries, Rancho Cucamonga, CA; Southland Tube, Birmingham, AL; Vest Inc., Los Angeles, CA; Welded Tube, Concord, Ontario (Canada); and Western Tube and Conduit, Long Beach, CA.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we determine that an industry in the United States is materially injured by reason of imports of light-walled rectangular pipe and tube (“LWR pipe and tube”) from China that have been found by the Department of Commerce (“Commerce”) to be subsidized and further determine that an industry in the United States is materially injured by reason of imports of LWR pipe and tube from China, Korea, and Mexico that have been found by Commerce to be sold in the United States at less than fair value (“LTFV”).^{1 2}

I. THE COMMISSION ADOPTS THE VIEWS STATED IN LWR PIPE AND TUBE FROM TURKEY

The petitions alleging that subject imports from China, Korea, Mexico, and Turkey are materially injuring or threaten to materially injure an industry in the United States were filed on June 27, 2007.³ On May 30, 2008, the Commission published its determination with respect to LWR pipe and tube from Turkey.⁴ The Commission was required to issue its determination in the investigation of LWR pipe and tube from Turkey in May 2008 because Commerce issued its final determination in that investigation earlier than it did in the current investigations of LWR pipe and tube from China, Korea, and Mexico. Under section 771(G)(iii) of the Tariff Act of 1930, as amended, (“the Act”), we are required to make our material injury determinations in the instant investigations on the same record as that of the determination regarding imports from Turkey, except that the record in these investigations also includes Commerce’s final determination in the investigations of LWR pipe and tube from China, Korea, and Mexico and the parties’ final comments on those determinations.⁵ Petitioners and Mexican Respondent Nacional de Acero S.A. de C.V. (“Nacional”) filed party comments, as did MB Metals Inc., a U.S. importer of LWR pipe and tube from China, specifically addressing the issue of critical circumstances for China.⁶

We note that, in its final determination on Mexico, Commerce modified the dumping margins somewhat from its preliminary determination. Specifically, in its preliminary determination concerning Mexico, Commerce found that Mexican producer Prolamsa had a zero percent weighted-average dumping

¹ Commissioner Pinkert did not participate in these determinations.

² Pursuant to the statute and our regulations, we have disregarded new factual information in the Final Comments filed by Mexican Respondents, including references to information first raised in their rejected May 6, 2008 filings. 19 U.S.C. § 1677m(g); 19 C.F.R. § 207.3(b).

³ The petitioners are Allied Tube & Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, EXL Tube, Hannibal Industries, Leavitt Tube Co., Maruichi American Corporation, Searing Industries, Southland Tube, Vest, Inc., Welded Tube, and Western Tube & Conduit (“Petitioners”). EXL Tube is not a petitioner in the investigation regarding imports of LWR pipe and tube from Mexico.

⁴ 73 Fed. Reg. 31,144 (May 30, 2008). See Light-Walled Rectangular Pipe and Tube from Turkey, Inv. No. 731-TA-1121 (Final), USITC Pub. 4001 (May 2008) (“LWR Pipe and Tube from Turkey”).

⁵ 19 U.S.C. § 1677(7)(G)(iii).

⁶ See Petitioners’ Final Comments (June 20, 2008); Nacional’s Final Comments (June 20, 2008), MB Metal’s’ Final Comments (June 20, 2008). Representatives from Allied Tube, Leavitt Tube, Searing Industries, Bull Moose Tube, Hannibal Industries, Southland Tube, Vest Inc, and U.S. Wholesale Pipe and Tube Co., appeared at the hearing. Petitioners also filed prehearing and posthearing briefs. Nacional filed a prehearing and posthearing brief. Mexican producer Hylsa S.A. de C.V. (“Hylsa”) filed a posthearing brief. Representatives on behalf of Nacional and Hylsa (“Mexican Respondents”) appeared at the hearing, as did a representative of Mueller Metals, Inc., a purchaser and importer of LWR pipe and tube from Mexico, and representatives from the Embassy of Mexico.

margin for its exports of LWR pipe and tube to the United States, and therefore for the Commission's determination regarding LWR Pipe and Tube from Turkey, data relating to Prolamsa were classified as nonsubject. In its final determination, however, Commerce calculated a 5.73 percent dumping margin for Prolamsa, and accordingly, Prolamsa is now a subject exporter for purposes of the Commission's final determinations on China, Korea, and Mexico.

For purposes of these determinations, we adopt the findings and analysis in the Commission's views in LWR Pipe and Tube from Turkey for domestic like product, domestic industry, including related parties, and conditions of competition, in part.

II. CUMULATION

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.⁷ 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.^{8 9}

⁷ 19 U.S.C. § 1677(7)(G)(i).

⁸ See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. 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).

⁹ Commissioner Lane notes with respect to the first factor that her analysis does not require such similarity of products that a perfectly symmetrical fungibility is required and that this factor would be better described as an analysis of whether subject imports from each country and the domestic like product could be substituted for each other. See Separate Views of Commissioner Charlotte R. Lane, Certain Lightweight Thermal Paper from China, Germany, and Korea, Inv. Nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary), USITC Pub. 3964 (Nov. 2007).

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.¹⁰ Only a “reasonable overlap” of competition is required.¹¹

B. Analysis

Petitioners contend that subject imports from China, Korea, Mexico, and Turkey should be cumulated on the basis that they are fungible with the domestic product and each other, are sold in the same geographic markets, through common or similar channels of distribution, and were all present in the U.S. market throughout the period of investigation.¹² Petitioners also argue that the inclusion of Prolamsa’s imports supports the Commission’s cumulation finding in LWR Pipe and Tube from Turkey.¹³ Mexican Respondents do not challenge that subject imports from all subject countries should be cumulated for the purpose of the Commission’s present injury analysis.¹⁴ Based on the discussion that follows, we cumulate subject imports from China, Korea, Mexico, and Turkey for purposes of our present material injury analysis.

The threshold requirement for cumulation is satisfied because Petitioners filed a petition with respect to imports from each of the four subject countries on the same day, June 27, 2007. None of the statutory exceptions to cumulation is applicable.¹⁵ We next examine the four factors that the Commission customarily considers in determining whether there is a reasonable overlap of competition.

1. Fungibility

In LWR Pipe and Tube from Turkey, the Commission found that subject imports are fungible with both the domestic like product and each other.¹⁶ Prolamsa’s witness at the staff conference agreed with the parties that LWR pipe and tube is a commodity product.¹⁷

¹⁰ See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

¹¹ The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 848 (1994) (“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 at 848 (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. 1988). See Goss Graphic Sys., 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”); Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

¹² Petitioners’ Prehearing Brief at 4-7.

¹³ Petitioners’ Final Comments at 1-2.

¹⁴ Hearing Transcript (“Tr.”) at 193 (Pierce).

¹⁵ See 19 U.S.C. § 1677(7)(G)(ii).

¹⁶ LWR Pipe and Tube from Turkey at 10.

¹⁷ Staff Conference Tr. at 138 (Diedrichs).

2. Same Geographical Markets

There appears to be significant geographical overlap among the subject merchandise from each subject country and the domestic like product during the period of investigation. In LWR Pipe and Tube from Turkey, the Commission found that the “record demonstrates that imports from China, Korea, Mexico and Turkey and the domestic like product were each marketed and sold in common geographic regions.”¹⁸ With the inclusion of Prolamsa’s data, subject imports from Mexico were present throughout the United States, providing additional support for the Commission’s previous finding.¹⁹

3. Channels of Distribution

Domestic producers and importers sold the majority of their LWR pipe and tube to distributors during the period of investigation. In LWR Pipe and Tube from Turkey, the Commission found that “domestic producers and importers sold the majority of their LWR pipe and tube to distributors during the period of investigation ..., with U.S. producer sales of 81.5 percent and U.S. importer sales of 91.7 percent to distributors.”²⁰ With the addition of Prolamsa’s imports, *** percent of subject imports were sold to distributors in 2007, a level that is now *** to U.S. producer sales.²¹ The record therefore demonstrates a substantial overlap in the channels of distribution through which subject imports and the domestic like product are distributed in the United States.

4. Simultaneous Presence

In LWR Pipe and Tube from Turkey, the Commission found that “imports from each of the subject countries have been present in the United States throughout the period of investigation.”²² The addition of subject imports from Prolamsa further supports this finding.

5. Conclusion

The record in these investigations consequently indicates that the domestic like product and imports from each of the four subject countries are sufficiently similar in characteristics to satisfy the fungibility criterion. The criteria concerning geographic overlap, simultaneous presence, and channels of distribution are also satisfied. Accordingly, we cumulate imports from all four subject countries for our analysis of material injury by reason of subject imports.

¹⁸ LWR Pipe and Tube from Turkey at 11.

¹⁹ See Staff Report dated May 28, 2008 at CR at I-12.

²⁰ LWR Pipe and Tube from Turkey at 11.

²¹ See CR/PR Staff Report dated July 8, 2008 at Table 8.

²² LWR Pipe and Tube from Turkey at 12.

III. MATERIAL INJURY BY REASON OF SUBJECT IMPORTS²³

In the final phase of antidumping or countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.²⁴ In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.²⁵ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”²⁶ 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.²⁷ 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.”²⁸

For the reasons stated below, we determine that the domestic industry producing LWR pipe and tube is materially injured by reason of subject imports from China, Korea, and Mexico.

A. Conditions of Competition and the Business Cycle

We adopt our finding on conditions of competition in LWR Pipe and Tube from Turkey.²⁹ We note that with the inclusion of Prolamsa as a subject exporter, the relative shares of subject versus nonsubject imports differ from those described in LWR Pipe and Tube from Turkey.

²³ No party argues that negligibility is an issue in these investigations under 19 U.S.C. § 1677(24). Subject imports from each of the subject countries were above three percent of total imports for the most recent 12-month period preceding the filing of the petitions (June 2006 to May 2007). Specifically, subject imports from China accounted for 26.4 percent, subject imports from Korea accounted for *** percent, subject imports from Mexico accounted for 37.0 percent, and subject imports from Turkey accounted for 12.8 percent of total imports of the subject merchandise in that period. CR/PR Staff Report dated July 8 at I-7; CR/PR Staff Report dated May 28 at Table IV-7. Consequently, we find that subject imports are not negligible.

²⁴ 19 U.S.C. §§ 1671d(a) and 1673d(a).

²⁵ 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).

²⁶ 19 U.S.C. § 1677(7)(A).

²⁷ 19 U.S.C. § 1677(7)(C)(iii).

²⁸ 19 U.S.C. § 1677(7)(C)(iii).

²⁹ LWR Pipe and Tube from Turkey at 13.

B. Volume of the Subject Imports

Section 771(7)(c) 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.”³⁰

Cumulated subject import volume increased from *** short tons in 2005 to *** short tons in 2006, before declining to *** short tons in 2007, for a period increase of *** percent.³¹ The ratio of subject imports to U.S. production increased over the period by *** percentage points.³² The total market share held by subject imports increased from *** percent of apparent U.S. consumption in 2005 to *** percent in 2007, for a period increase of *** percentage points.³³ The U.S. market share held by nonsubject imports, an overwhelming majority of which were imported from Canada, and to a lesser extent a nonsubject producer in Korea (Nexteel), declined throughout the period, from *** percent of apparent U.S. consumption in 2005 to *** percent in 2007, for a period decline of *** percentage points.³⁴ The U.S. market share held by the domestic industry declined from 65.1 percent in 2005 to 60.8 percent in 2006, before increasing to 64.8 percent in 2007, for an overall period decline of 0.3 percentage points.³⁵ As the data reflect, increasing subject import volumes took market share from the domestic industry and nonsubject imports over the period of investigation.

The above data showing that subject imports increased both in absolute terms over the period and relative to production and consumption while taking market share from the domestic industry must also be viewed in light of a decline in apparent U.S. consumption of 7.0 percent over the period, and a 12.7 percent drop from 2006 to 2007. Despite this drop in apparent U.S. consumption, and a slowing of LWR pipe and tube demand at the beginning of 2007 due to a general economic downturn and a decrease in the residential construction and home improvement sectors, subject import volume for the first six months of 2007 slightly exceeded subject import volume for the same period in 2006.³⁶ It was not until after June 2007, the month in which the petitions in these investigations were filed, that cumulated subject import levels began to decline. As discussed above, even with this sharp decline in the second half of 2007, subject import volume in 2007 was still greater than in 2005. In conducting our analysis, we have given less weight to the decline in subject imports that occurred in the last six months of 2007, since we find that it was due in part to the effects of the filing of the petitions.³⁷

For the foregoing reasons, we find that the subject import volume and the increase in that volume are significant, both in absolute terms and relative to consumption and production in the United States.

³⁰ 19 U.S.C. § 1677(7)(C)(i).

³¹ CR/PR Staff Report dated July 8 at Table C-1.

³² CR/PR Staff Report dated July 8 at Table 11.

³³ CR/PR Staff Report dated July 8 at Table 10.

³⁴ CR/PR Staff Report dated July 8 at Table 10.

³⁵ CR/PR Staff Report dated July 8 at Table C-1.

³⁶ CR/PR Staff Report dated July 8 at Table 5. Subject U.S. imports were *** short tons from January through June 2007 compared to *** short tons from January through June 2006.

³⁷ See 19 U.S.C. § 1677(7)(I).

C. Price Effects of the 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.³⁸

As discussed in LWR pipe and Tube from Turkey, LWR pipe and tube is largely a commodity product that is commonly produced to ASTM specifications, and a high degree of fungibility exists between the domestic like product and subject imports. A majority of market participants found subject imports and the domestic like product to be always or frequently interchangeable.³⁹ Price plays an important role in sales of LWR pipe and tube. The vast majority of purchasers stated that price was very important to their purchasing decisions, and listed price as either the most important or second most important factor in purchasing decisions.⁴⁰ The inclusion of Prolamsa as a subject exporter has only affected our price data to a limited degree, and has not materially altered the Commission's price findings from LWR Pipe and Tube from Turkey.

The Commission collected quarterly weighted-average price data from U.S. producers and importers on five LWR pipe and tube products.⁴¹ Price data reported by U.S. producers accounted for approximately 19.0 percent of U.S. producers' commercial shipments during the period and the following percentages of subject import shipments from each country: China - 24.3 percent, Korea - 20.3 percent, Mexico - 14.1 percent, and Turkey - 33.9 percent.⁴²

Price comparisons between U.S.-produced LWR pipe and tube and cumulated subject imports were possible in a total of 56 quarters. In 46 quarters, cumulated subject imports undersold the domestic

³⁸ 19 U.S.C. § 1677(7)(C)(ii).

³⁹ CR/PR Staff Report dated May 28 at Table II-5.

⁴⁰ CR/PR Staff Report dated May 28 at Table II-3 and Table II-2. Availability/reliability of supply was cited by purchasers most frequently as the primary factor in purchasing decisions, with price a close second (14 to 13). The majority of purchasers ranked the U.S. product superior to subject product from each of the subject countries in terms of availability/reliability of supply. CR/PR Staff Report dated May 28 at Table II-4.

⁴¹ The five types of LWR pipe and tube for which pricing data were requested are: 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, not pickled and oiled, 1 inch square, 0.065 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 0.120 inch + or -10 percent wall, three inch square to four inches square, or in rectangular circumferences of 12 inches to 16 inches, lengths of 20 or 24 feet; Product 4 - ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), 16 gauge or .065 inch + or -10 percent wall, galvanized, one inch square, lengths of 20 or 24 feet; Product 5 - 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 or 24 feet.

⁴² Staff Report dated May 28 at CR at V-9, PR at V-7; CR/PR Staff Report dated July 8 at Tables 12-16 and Table C-1.

product, by margins ranging from 6.0 percent to 36.6 percent.⁴³ The average margin of underselling for subject imports over the period was 14.9 percent.⁴⁴

We have also considered movements in LWR pipe and tube prices over the period of investigation. Prices for LWR pipe and tube for products 1 to 5 generally fell in 2005, stabilized and increased slightly in 2006, and then fell to period lows in 2007. Overall, during the period of investigation, domestic prices for all five pricing products declined. For pricing products 1 and 3, which accounted for a significant majority of the volume of domestic sales of the pricing products, domestic prices ended 2007 at levels that were 9.2 percent and 18.9 percent, respectively, lower than the levels at the start of 2005.⁴⁵ We find that the persistent underselling by subject imports depressed prices during the period of investigation, and by 2007, caused domestic mills to institute pricing programs in which they offered product to customers at greatly reduced prices to remain competitive with imported product and maintain volumes. Additionally, the Commission confirmed multiple instances in which domestic producers lost sales to subject imports or had to lower their prices in response to low-priced offers for subject imports.⁴⁶ These instances help to confirm that the underselling had an effect in the market and that subject imports played a role in causing domestic prices to decline.⁴⁷ Therefore, we find that subject imports depressed prices to a significant degree.

We also find that lower-priced subject imports suppressed domestic prices to a significant degree.⁴⁸ The domestic industry's cost of goods sold ("COGS") as a share of net sales increased from 2005 to 2007 by 3.1 percentage points.⁴⁹ Although unit COGS declined slightly over the period from \$764 to \$761, for a period decline of 0.4 percent, unit sales values were also lower, falling from \$912 to \$876, or by 3.9 percent, and thus were still not sufficient to cover costs and expenses.⁵⁰ These data indicate that the domestic producers were unable to raise their prices sufficiently to cover costs due to significant volumes of lower-priced subject imports entering the U.S. market. We therefore find significant price suppression by subject imports.

Mexican Respondents argue that there is no causal link between underselling by subject imports and domestic prices because, for the first three quarters of 2006 when subject imports' largest underselling margins occurred, domestic prices for the two pricing products sold in the largest volumes (products 1 and 3) rose, yet in 2007, when underselling margins tightened for these products, U.S. prices

⁴³ CR/PR Staff Report dated July 8 at Tables 12-16. In ten quarterly comparisons, nine for Product 5 and one for Product 2, for which there were significantly fewer sales of both the domestic like product and subject imports than products 1 and 3, cumulated subject imports oversold the domestic like product by margins ranging from *** percent to *** percent.

⁴⁴ CR/PR Staff Report dated July 8 at Table 18.

⁴⁵ CR/PR Staff Report dated July 8 at Table 17.

⁴⁶ Tr. at 41 (Montgomery).

⁴⁷ The Commission confirmed six lost sales allegations totaling \$*** of the alleged \$*** in lost sales over the period of investigation. Staff Report dated May 28 at CR V-22, PR at V-17 and CR/PR at Table V-8. The Commission also confirmed six lost revenue allegations totaling \$*** in lost revenues over the period. Staff Report dated May 28 at CR V-22, PR at V-17 and CR/PR at Table V-9.

⁴⁸ Chairman Aranoff and Commissioner Okun, having found that subject imports depressed domestic prices to a significant degree, do not reach the issue of price suppression and do not join this paragraph.

⁴⁹ CR/PR Staff Report dated July 8 at Table C-1. COGS/sales declined from 83.8 percent in 2005 to 82.6 percent in 2006, before increasing to 86.9 percent in 2007.

⁵⁰ CR/PR Staff Report dated July 8 at Table C-1.

dropped.⁵¹ We find that in 2006, the domestic industry was able to raise its prices despite large underselling margins by the subject imports because the price of subject imports also rose due to continued strong demand for LWR pipe and tube. Although the domestic industry was able to raise prices in 2006, as discussed above, the domestic industry still lost market share to subject imports. By the end of the first quarter of 2007, domestic prices for LWR pipe and tube were already below the prices at the start of the period for all pricing products except product 5, as significant volumes of low-priced subject imports continued to undersell the domestic like product by significant margins, and apparent consumption declined. Despite the drop in apparent consumption in 2007, subject import volume was actually greater for the first six months of 2007 than for the same period in 2006, and only declined after the petitions in these investigations were filed in late June of 2007. Accordingly, we find that the significant volumes of low-priced subject imports caused domestic producers to reduce their prices throughout 2007, to the point that domestic prices were at or near their period lows by the last quarter of 2007.⁵² These depressed prices explain to a large degree why underselling margins were somewhat lower at the end of 2007.

In sum, the record indicates significant underselling by subject imports during the period of investigation, and that subject imports have depressed and/or suppressed domestic prices to a significant degree. Accordingly, we find that subject imports have had significant adverse effects on domestic prices during the period of investigation.

⁵¹ Nacional's Posthearing Brief at 4-5.

⁵² Mexican Respondents argue that raw material costs, specifically those for hot-rolled steel and zinc (for galvanized product), drive pricing for the U.S. industry, not subject imports. Nacional's Prehearing Brief at 13. Although raw material costs can be a factor influencing prices, in this case the correlation between raw material costs and domestic prices is weak. In 2006, when prices for all five pricing products increased to varying degrees, the cost of raw materials declined from \$602 per short ton in 2005 to \$592 per short ton in 2006. In 2007, when U.S. prices for all five pricing products dropped sharply, raw material costs declined only slightly. CR/PR Staff Report dated May 28 at Table VI-4.

Mexican Respondents also argue that the pricing data collected in these investigations should be viewed with skepticism because subject imports are more heavily concentrated in sales to lower-priced distributors than are domestic mills' sales, resulting in exaggerated margins of underselling. Nacional's Prehearing Brief at 13. For domestic producers, shipments to distributors ranged between 81 percent and 82 percent of sales over the period of investigation, while shipments of imports from subject sources to distributors ranged between *** percent and *** percent. CR/PR Staff Report dated May 28 at Table II-1; CR/PR Staff Report dated July 8 at Table 8. Thus, the data show that a vast majority of both domestic producers' shipments and shipments of subject imports were sold to distributors, and based on the large underselling margins for subject imports throughout the period, we do not find that this slight difference in the distribution of shipments compromises the pricing data. At any rate, there is no record evidence that end users uniformly pay higher prices than all distributors, as the few end users who purchase directly from the mills are often very large and purchase significant volumes. Tr. at 147 (Psooy, Mueller Metals) ("This price {\$57} is only given to what we refer to in our industry as the 'big dogs,' which consist of large distributors, large manufacturers, and large retail chains, many of which have more than 10 outlets. Smaller distributors typically pay substantially more than the 'big dog' clients.")

D. Impact of the Subject Imports on the Domestic Industry⁵³

Section 771(7)(C)(iii) of the Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”⁵⁴ These factors include output, sales, inventories, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁵⁵

We have examined the performance indicators in the trade and financial data for the domestic industry producing LWR pipe and tube. These data indicate declining overall trends from 2005 to 2007, with significant declines in most indicators occurring in 2007.

U.S. production, capacity, capacity utilization, and shipments all declined overall from 2005 to 2007. U.S. production of LWR pipe and tube increased from 2005 to 2006, but declined in 2007 for an overall decline of 7.2 percent from 2005 to 2007.⁵⁶ Domestic producers’ capacity and U.S. shipments of LWR pipe and tube declined each year for an overall decline of 6.5 percent and 7.4 percent, respectively, from 2005 to 2007.⁵⁷ Capacity utilization followed production trends, increasing from 2005 to 2006, then declining in 2007.⁵⁸

During the period 2005-2007, domestic producers’ ending inventories of LWR pipe and tube declined by 13.0 percent, and relative to the quantity of total shipments, ending inventories fell by 0.7 percentage points over the period.⁵⁹ Over this same period, U.S. importers’ inventories of subject merchandise increased by *** percent.⁶⁰

Employment-related indicators, such as average number of production-related workers, hours worked, and wages paid for producing LWR pipe and tube, declined steadily from 2005 to 2007, by 12.7

⁵³ 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). On April 11, 2008, Commerce found final antidumping duty margins ranged from 27.04 percent to 41.71 percent for subject imports from Turkey. On June 24, 2008, Commerce found final antidumping duty margins ranged from 249.12 percent to 264.64 percent for subject imports from China, 15.98 percent to 30.66 percent for subject imports from Korea, and 2.92 percent to 11.50 percent for subject imports from Mexico.

⁵⁴ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 (“In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.”). SAA at 885.

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

⁵⁶ U.S. production increased from 625,933 short tons in 2005 to 631,842 short tons in 2006 and then declined to 580,847 short tons in 2007. CR/PR Staff Report dated July 8 at Table C-1.

⁵⁷ U.S. shipments declined from 625,967 short tons in 2005 to 623,389 short tons in 2006 and 579,559 short tons in 2007. CR/PR Staff Report dated July 8 at Table C-1.

⁵⁸ CR/PR Staff Report dated July 8 at Table C-1. Capacity utilization increased from 64.9 percent in 2005 to 66.7 percent in 2006, before declining to 64.4 percent in 2007.

⁵⁹ CR/PR Staff Report dated July 8 at Table C-1.

⁶⁰ CR/PR Staff Report dated July 8 at Table C-1.

percent, 15.6 percent, and 7.0 percent, respectively.⁶¹ The domestic industry's average unit labor costs fluctuated between years and rose slightly by 0.2 percent from 2005 to 2007. Productivity rose by 9.9 percent over the period.⁶²

The domestic industry's financial indicators, including operating income and operating margins, improved from 2005 to 2006, but then fell to their lowest levels of the period in 2007. Operating income rose from \$53.6 million in 2005 to \$61.7 million in 2006, before falling to \$30.9 million in 2007, for a period decline of 42.4 percent.⁶³ The industry's ratio of operating income to net sales followed a similar trend, growing from 9.9 percent in 2005 to 11.4 percent in 2006, before declining to 6.4 percent in 2007.⁶⁴ By 2007, seven out of 22 domestic producers reported operating losses, more than triple the number of firms reporting losses in 2005.⁶⁵

Net sales volume declined throughout the period from 591,721 short tons in 2005 to 549,260 short tons in 2007, a period decline of 7.2 percent.⁶⁶ The decline in net sales value occurred at even a greater rate, falling by 10.8 percent over the period.⁶⁷ As discussed previously, COGS as a ratio to sales increased overall from 2005 to 2007 by 3.1 percentage points.⁶⁸

The industry's capital expenditures declined irregularly from \$12.0 million in 2005 to \$9.3 million in 2007.⁶⁹ R&D expenses fell steadily throughout the period from \$*** in 2005 to \$*** in 2007.⁷⁰

As described in earlier sections, the subject imports have increased in volume and market share, have undersold domestic product, and have depressed and/or suppressed domestic prices. In this section, we have described how these volume and price effects have led to declines in many of the industry's performance indicators, such as capacity, production, capacity utilization, shipments, and employment. Especially significant has been the decrease in industry profitability, due mainly to falling prices brought about by the subject imports.

Mexican Respondents argue that the domestic industry continued to be profitable and maintained the same market share over the period of investigation despite a significant decrease in U.S. demand for LWR pipe and tube.⁷¹ Mexican Respondents argue that this decrease in demand had nothing to do with subject imports, and that any declining indicators reflect the overall economic recession, particularly the

⁶¹ CR/PR Staff Report dated July 8 at Table C-1. The average number of production workers declined from 1,114 in 2005 to 973 in 2007. While hours worked also decreased from 2.0 million in 2005 to 1.7 million in 2007, hourly wages increased from \$16.99 in 2005 to \$18.71 in 2007. Additionally, wages paid decreased from \$33.9 million in 2005 to \$31.5 million in 2007. CR/PR Staff Report dated July 8 at Table C-1.

⁶² CR/PR Staff Report dated July 8 at Table C-1. Productivity increased from 314.1 short tons per 1,000 hours in 2005 to 346.9 short tons per 1,000 hours in 2006, and then declined to 345.3 short tons per 1,000 hours in 2007.

⁶³ CR/PR Staff Report dated July 8 at Table C-1.

⁶⁴ CR/PR Staff Report dated May 28 Table VI-1. The domestic industry's return on investment increased from 18.7 percent in 2005 to 21.2 percent in 2006, before falling to 10.0 percent in 2007. CR/PR Staff Report dated May 28 at Table VI-8.

⁶⁵ CR/PR Staff Report dated May 28 at Table VI-3.

⁶⁶ CR/PR Staff Report dated July 8 at Table C-1.

⁶⁷ CR/PR Staff Report dated July 8 at Table C-1. Net sales value declined from \$539.8 million in 2005 to \$481.4 million in 2007.

⁶⁸ CR/PR Staff Report dated July 8 at Table C-1.

⁶⁹ CR/PR Staff Report dated May 28 at Table VI-6.

⁷⁰ CR/PR Staff Report dated May 28 at Table VI-6.

⁷¹ Nacional's Prehearing Brief at 9.

general decline of the U.S. housing and construction sectors.⁷² We disagree. We find that while the drop in apparent U.S. consumption from 2006 to 2007 likely had a negative impact on the domestic industry in 2007, that impact was exacerbated by significant volumes of low-priced subject imports entering the market.⁷³ Although apparent consumption dropped from 2006 to 2007, subject imports were still entering the market at rates that exceeded the volumes for 2006 until the filing of the petitions in late June. As noted above, by 2007, the substantial and growing presence of dumped and subsidized subject imports reportedly forced domestic mills to institute pricing programs in which they offered product to certain customers at deeply discounted prices in order to remain competitive with imported product and to maintain volumes.⁷⁴

The Commission's pricing data confirm the significant declines in the domestic industry's prices for all five pricing products in 2007. Even with prices falling dramatically in 2007, cumulated subject imports continued to undersell the domestic like product in the vast majority of quarters, often by double-digit margins. Moreover, the Commission's variance analysis shows that out of the \$22.7 million decline in operating income between 2005 and 2007, \$19.7 million was directly attributable to the negative effect of decreased prices.⁷⁵

⁷² There is some disagreement among market participants about whether there was an actual decline in demand for LWR pipe and tube or for the downstream products that incorporate it. Most producers but relatively few importers reported a decrease in demand for LWR from 2005 to 2007. Staff Report dated May 28 CR at II-8, PR at II-5. Relatively few purchasers reported decreased demand for their end products that incorporate LWR. Staff Report dated May 28 CR at II-9, PR at II-5. Some producers and importers who reported demand growth attributed it to increased demand outside of the United States, while others attributed the increase in U.S. demand to the growth in the construction sector and to a strong U.S. economy. Staff Report dated May 28 CR at II-8, PR at II-5.

⁷³ Declining consumption would be expected to result in reduced production and reductions in trade indicators such as shipments and sales, which could lead to lower profitability. However, in this case the main factor driving the industry's lower profits was the decline in prices, which we have shown to be tied directly to the subject imports. CR/PR Staff Report dated May 28 at Table VI-5. Moreover, as described above, the filing of the petitions and institution of the investigations precipitated the reduction in the volume of subject imports; this decreased volume of imports helped to moderate the decline in domestic industry indicators in 2007.

⁷⁴ Tr. at 41 (Montgomery). As a representative from petitioner Welded Tube testified at the hearing:

... I can't ever remember them {sales staff in the field} coming back to me and saying in the period in question, that customers would say to them: Gee, the price has to come down because we're not that busy. The price has to come down because the Chinese or Mexican product is all the way down here. And unless you get your price over here, we're not going to be able to do business. In other words, it wasn't the activity level was necessarily dampened, the reference that constantly, exclusively, was to where the imported price was.

Tr. at 94-95 (Mandel).

⁷⁵ CR/PR Staff Report dated May 28 at Table VI-5. Mexican Respondents also argue that the domestic industry has recently announced massive price increases that far outstripped the increases in their raw material costs, leading to much higher profits in the first quarter of 2008, and therefore the Commission may not find that the domestic industry is currently experiencing injury. Hylsa's Posthearing Brief at 6-8. We note that, unlike the pricing and cost data gathered for the period of investigation (2005-2007) through questionnaire responses, we do not have questionnaire data for 2008 to place any evidence on price or raw material cost increases in 2008 in its proper context. Nevertheless, information on the record from 2007 shows that announced price increases by the domestic industry were ultimately not accepted, as reported prices declined throughout 2007. Record evidence provided by Petitioners shows that ***. See Petitioners' Posthearing Brief at A-22 and Exhibit 8 (showing that Bull Moose

(continued...)

Consequently, based on the record in the final phase of these investigations, we conclude that subject imports had an adverse impact on the condition of the domestic industry during the period of investigation. In particular, we find that the absolute and relative volume of subject imports, and the increase in those volumes, are significant and that subject imports have undersold the domestic product and have depressed and suppressed domestic prices to a significant degree. The pattern of consistent underselling by the subject imports, which depressed and suppressed domestic prices, has caused declines in the domestic industry's relevant economic factors over the period of investigation.

IV. APPLICATION OF THE *BRATSK ALUMINIUM SMELTER v. UNITED STATES* REPLACEMENT/BENEFIT TEST

Having reached an affirmative determination by application of the statutorily mandated factors, the Federal Circuit's decision in *Bratsk Aluminium Smelter v. United States* requires that we turn to an additional analysis which can, in some circumstances, negate an affirmative determination.⁷⁶ The Federal Circuit directed the Commission to undertake an "additional causation inquiry" whenever certain triggering factors are met: "whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market."⁷⁷ The additional inquiry required by *Bratsk*, which we refer to as the *Bratsk* replacement/benefit test, is "whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers."⁷⁸

As noted in other investigations, we respectfully disagree with *Bratsk* that the statute requires any analysis beyond that already included in our discussion of volume, price, and impact above, and do not reiterate the Commission's interpretation of the statutory scheme here.⁷⁹ The Commission has a well

⁷⁵ (...continued)

achieved *** on LWR pipe and tube in 2008). Moreover, while there is some information on the record regarding announced price increases, there is also information on the record showing that costs, particularly for hot-rolled steel, have also increased dramatically in 2008. CR/PR Staff Report dated May 28 at Figure V-1. As a representative from Petitioner Southland Tube testified at the hearing:

{S}ince the fourth quarter of last year I have paid over \$380 a ton increase for my flat-rolled steel, and my increase announcements to the trade for tubing have amounted to \$280, so I'm \$100 a ton behind the eight ball. I have not recovered all my costs yet.

Tr. at 79 (Montgomery). Finally, any announced price increases in 2008 occurred not only after the petitions in these investigations were filed, but also after Commerce announced its affirmative preliminary antidumping and countervailing duty determinations. For these reasons, we are not persuaded that price increase announcements made by the domestic industry in 2008 are entitled to much weight in our material injury determination.

⁷⁶ 444 F.3d at 1369 (Fed. Cir. 2006).

⁷⁷ *Bratsk*, 444 F.3d at 1375.

⁷⁸ *Bratsk*, 444 F.3d at 1375.

⁷⁹ For a full discussion of our views on the applicability of *Bratsk*, see our Views in the Remand Determination for *Silicon Metal from Russia*, Inv. No. 731-TA-991 (Final) (Second Remand), USITC Pub. 3910 (March 2007) and Views of the Commission in *Certain Polyester Staple Fiber from China*, Inv. No. 731-TA-1104 (Final), USITC Pub. 3922 at 24-26 (June 2007). For a full discussion of Chairman Pearson's views on the applicability of *Bratsk*, see his Separate and Additional Views in *Silicon Metal from Russia*. For a full discussion of Vice Chairman Aranoff's views on the applicability of *Bratsk*, see the Views of the Commission in *Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago*, Inv. No. 731-TA-961 (Final) (Remand), USITC Pub. 3903 (January 2007). For a full discussion of Commissioner Okun's views of the applicability of *Bratsk*, see her Separate and Dissenting Views in (continued...)

established approach to addressing causation.⁸⁰ However, we apply the Bratsk replacement/benefit test to our analysis because the Federal Circuit has directed us to do so, notwithstanding that, in our considered view, this test is not required by, or consistent with, the statute.

The Bratsk analysis “is triggered whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market.”⁸¹ If both Bratsk triggering factors are satisfied, we apply the “replacement/benefit” test required under Bratsk.

Petitioners state that the Bratsk analysis is inapplicable to the present investigations. While Petitioners acknowledge that the first Bratsk triggering factor (whether the investigation involves a commodity product) is met they argue that the second triggering factor (whether price competitive nonsubject imports are a significant factor in the market) is not met.⁸²

As discussed below, while we find that the first Bratsk triggering factor is satisfied, we find that that the second triggering factor is not met.

Triggering Factors

We find that LWR pipe and tube qualifies as a commodity product based upon Bratsk’s definition of “commodity product” as “meaning that it is generally interchangeable regardless of its source.”⁸³ No party argues otherwise.⁸⁴ The record indicates that LWR pipe and tube is broadly interchangeable regardless of where it is produced. U.S. producers and most importers and purchasers reported that the U.S. product, the subject imports, and nonsubject imports are frequently or always comparable.⁸⁵

With respect to the second triggering factor (whether price-competitive nonsubject imports are a significant factor in the U.S. market), nonsubject imports declined from *** percent of total imports (on a

⁷⁹ (...continued)

Certain Lined Paper School Supplies from China, India, and Indonesia, Inv. Nos. 701-TA-442-443, 731-TA-1095-1097 (Final), USITC Pub. 3884 (Sept. 2006).

⁸⁰ See Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand), USITC Pub. 3910 (Mar. 2007), at 3-8 (articulating in detail the Commission’s long-standing interpretation of the “by reason of” causation standard).

⁸¹ Bratsk, 444 F.3d at 1375.

⁸² Petitioners’ Final Comments at 4. Mexican Respondents argued prior to Commerce’s final determination on Mexico that the Bratsk replacement/benefit analysis was triggered for nonsubject imports from Mexico (i.e., those produced by Prolamsa), and that Prolamsa would gain all the benefits from an antidumping duty order on LWR pipe from Mexico, with no benefit flowing to the U.S. industry. Nacional’s Posthearing Brief at Exhibit 1, p. 1. This argument has been rendered inapplicable due to Commerce’s final determination finding Prolamsa to be a subject exporter. Mexican Respondents raised no arguments in their final comments concerning the applicability of Bratsk based on Commerce’s final determination.

⁸³ We note that it is improper to assume that simply because goods are generally interchangeable for purposes of the “reasonable overlap of competition” analysis for cumulation, or are interchangeable for purposes of defining the domestic like product, that they are necessarily “commodities” for purposes of assessing causation, which is the function of the Bratsk “test.” See Silicon Metal from Russia, USITC Pub. 3910 at 10-11 (footnotes omitted), citing BIC Corp. v. United States, 964 F. Supp. 391, 397, 399 (Ct. Int’l Trade 1997) ([L]ike product, cumulation and causation are functionally different inquiries because they serve different statutory purposes As a result, each inquiry requires a different level of fungibility. Hence the record may contain substantial evidence that two products are fungible enough to support a finding in one context (e.g., one like product), but not in another (e.g., cumulation or causation.”)).

⁸⁴ Both Petitioners and Mexican Respondents acknowledge that LWR pipe and tube is a commodity product. Petitioners’ Posthearing Brief at 13; Nacional’s Posthearing Brief at Exhibit 1, p. 1.

⁸⁵ CR/PR Staff Report dated May 28 at Table II-5.

quantity basis) in 2005, to *** percent in 2007.⁸⁶ By comparison, subject imports increased from *** percent of total imports (on a quantity basis) in 2005, to *** percent in 2007.⁸⁷ The U.S. market share of nonsubject imports declined from *** percent in 2005 to *** percent in 2007, while that of subject imports increased irregularly from *** percent in 2005 to *** percent in 2007.⁸⁸ While subject imports increased in absolute volume and market share from 2005 to 2007, nonsubject imports declined during this period.

The information in the record on the pricing of nonsubject imports presents a mixed picture. The quarterly pricing data that were collected for non-subject imports show a mixture of overselling and underselling of the domestic like product by nonsubject imports.⁸⁹ The average selling price of nonsubject imports was nearly uniformly *** than the average selling price from all subject sources for all of the pricing products where a price comparison was possible.⁹⁰

Accordingly, we find that the second triggering factor, that price-competitive nonsubject imports have been a significant factor in the market, is not satisfied on either a volume or market share basis over the period of investigation, and need not apply the Bratsk replacement/benefit test.^{91 92}

⁸⁶ CR/PR Staff Report dated July 8 at Table 4.

⁸⁷ CR/PR Staff Report dated July 8 at Table 4.

⁸⁸ CR/PR Staff Report dated July 8 at Table 10. In LWR Pipe and Tube from Turkey, we found that the “evidence is mixed regarding whether the second triggering factor is met.” LWR Pipe and Tube from Turkey at 23. In that case, in which Prolamsa’s imports were considered nonsubject, nonsubject imports declined from *** percent of total imports (on a quantity basis) in 2005, to *** percent in 2007. By comparison, subject imports increased from *** percent of total imports (on a quantity basis) in 2005, to *** percent in 2007. The U.S. market share of nonsubject imports declined from *** percent in 2005 to *** percent in 2007, while that of subject imports increased irregularly from *** percent in 2005 to *** percent in 2007.

⁸⁹ CR/PR Staff Report dated July 8 at Tables 12 through 14. For example, nonsubject imports *** the domestic like product in *** quarters for pricing product 1, and in *** quarters for pricing product 2, but *** the domestic like product in *** comparisons for pricing product 3.

⁹⁰ CR/PR Staff Report dated July 8 at Tables 12 through 14. Specifically, in only two instances were subject prices higher than nonsubject prices.

⁹¹ During this period, U.S. apparent consumption declined by 7.0 percent. On an absolute volume basis, nonsubject imports declined by *** percent during the period. See CR/PR Staff Report dated July 8 at Table C-1. By contrast, subject imports increased by *** percent from 2005 to 2007. See CR/PR Staff Report dated July 8 at Table C-1.

⁹² Even assuming arguendo that both Bratsk triggering factors are met, we find that nonsubject imports at most would have partially replaced subject imports, and that, even if there were full replacement, the domestic industry still would have benefitted from an antidumping duty order on subject imports. In LWR Pipe and Tube from Turkey, the Commission found that although the largest nonsubject exporters of LWR pipe and tube had enough nameplate capacity to ***, subject imports in theory, based on actual excess capacity and even assuming that the major nonsubject producers could shift all of their other export shipments to the U.S. market, it appears that nonsubject producers could have replaced only approximately *** percent of subject imports in 2007. LWR Pipe and Tube from Turkey at 25. In these investigations, with Prolamsa now a subject exporter, although the largest nonsubject exporters still have enough nameplate capacity to theoretically *** subject imports, actual excess capacity of nonsubject exporters dropped to *** percent of subject imports in 2007. Calculated from Staff Report dated May 28, 2008 at Table IV-2 (***) short tons of subject imports), Table VII-19 (excess capacity of approximately ***), and Table VII-21 (excess capacity of approximately ***). We note, moreover, that it appears that even if nonsubject imports would have fully or partially replaced subject imports, the domestic industry still would have benefitted from an antidumping duty order on subject imports as the pricing data continues to show that the average prices for nonsubject LWR pipe and tube were *** than the average prices for subject LWR pipe and

(continued...)

V. CRITICAL CIRCUMSTANCES

In its final antidumping duty determinations concerning LWR pipe and tube from China, Commerce found that critical circumstances exist with respect to LWR pipe and tube for firms subject to the PRC-wide rate.⁹³ Because we have determined that the domestic industry is materially injured by reason of subject imports from China, we must further determine “whether the imports subject to the affirmative {Commerce critical circumstances} determination . . . are likely to undermine seriously the remedial effect of the antidumping order to be issued.”⁹⁴ The Statement of Administrative Action (“SAA”) indicates that the Commission is to determine “whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order.”⁹⁵

The statute further provides that in making this determination the Commission shall consider, among other factors it considers relevant –

- (I) the timing and the volume of the imports,
- (II) a rapid increase in inventories of the imports, and
- (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.⁹⁶

In considering the timing and volume of subject imports, the Commission’s practice is to consider import quantities prior to the filing of the petition with those subsequent to the filing of the petition⁹⁷ using monthly statistics on the record regarding those firms for which Commerce has made an affirmative critical circumstance determination.⁹⁸

Petitioners argue that the Commission should make an affirmative critical circumstances finding.⁹⁹ Petitioners note that volumes of imports from China surged in July of 2007, right after the petitions were filed, as well as in September 2007. Petitioners assert that subject import volumes declined rapidly in the fourth quarter only because the preliminary countervailing duties went into effect in November. MB Metals argues that there had been no massive increase in subject imports from China

⁹² (...continued)

tube, often by *** margins. CR/PR Staff Report dated July 8, 2008 at Tables 12-14.

⁹³ See Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, In Part: Light-Walled Rectangular Pipe and Tube from the People’s Republic of China, 73 Fed. Reg. 35,652, 35,653 (June 24, 2008).

⁹⁴ 19 U.S.C. § 1673d(b)(4)(A)(i).

⁹⁵ SAA at 877.

⁹⁶ 19 U.S.C. § 1673d(b)(4)(A)(ii).

⁹⁷ The legislative history for the critical circumstances provision indicates that the provision was designed “to deter exporters whose merchandise is subject to an investigation from circumventing the intent of the law by increasing their exports to the United States during the period between initiation of an investigation and a preliminary determination by [Commerce].” ICC Industries, Inc. v. United States, 812 F.2s 694, 700 (Fed. Cir. 1987), quoting H.R. Rep. No. 317, 96th Cong., 1st Sess. 63 (1979).

⁹⁸ See Certain Lined School Paper Supplies from China, India, and Indonesia, USITC Pub. 3884 at 47; Carbozole Violet Pigment from China and India, Inv. Nos. 701-TA-437 and 731-TA-1060 and 1061 (Final), USITC Pub. 3744 (December 2004) at 26; Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Final), USITC Pub. 3617 (August 2003) at 20-22.

⁹⁹ Petitioners’ Prehearing Brief at 17. Petitioners did not address this issue in their Final Comments.

after the filing of the petition.¹⁰⁰ In fact, MB Metals notes that imports from China actually declined in the six month period following the filing of the petition when compared to the previous six months.

Consistent with Commission practice,¹⁰¹ in considering the timing and volume of subject imports, we have considered import quantities prior to the filing of the petition with those subsequent to the filing of the petition using monthly statistics on the record regarding imports of LWR pipe and tube from Chinese producers or exporters that are subject to Commerce's critical circumstances finding.¹⁰² In these investigations, we have considered data for the six months prior to and including the month in which the petition was filed (June 2007) and data for the six months following that month. The import volume was *** short tons for the six-month period prior to the filing of the petition, and *** short tons for the six-month period following the filing of the petition.¹⁰³ Given that the subject import volume shown in these data decreased following the filing of the petition, rather than increased, they do not support an affirmative finding of critical circumstances.^{104 105} Accordingly, we determine that critical circumstances do not exist with respect to the subject imports from China covered by Commerce's affirmative critical circumstances determination, and therefore make a negative critical circumstances determination.

V. CONCLUSION

For the reasons stated above, we find that the domestic industry producing LWR pipe and tube is materially injured by reason of subject imports of LWR pipe and tube from China that have been found to be subsidized and by subject imports of LWR pipe and tube from China, Korea, and Mexico that are sold in the United States at less than fair value.

¹⁰⁰ MB Metals Final Comments at 3.

¹⁰¹ See, e.g., Folding Metal Tables and Chairs from China, Inv. No. 731-TA-932 (Final), USITC Pub. 3515 (June 2002) at 20-21 (chairs) and 25-26 (tables), for purposes of its critical circumstances finding, the Commission compared import data six months prior to and including the month in which the petition was filed, and six months after that month. Counsel for Petitioners stated at the hearing that Petitioners were not asking the Commission "for any change in the Commission's normal analysis," and that a review of the six months periods before and after the filing of the petition "is perfectly fine." Tr. at 115 (Schagrin).

¹⁰² CR/PR Staff Report dated July 8, 2008 at Appendix B, Table B-1. These data reflect U.S. imports of LWR pipe and tube from firms other than those that received firm-specific weighted average dumping margins in Commerce's preliminary antidumping determination on China as Commerce found that the critical circumstances allegations did not apply to those firms and only applied to firms subject to the PRC-wide rate, as well as modifications to official Commerce statistics in the final phase of these investigations to remove U.S. imports by *** from compiled imports. Moreover, these data exclude entries for two additional firms, ***. Id.

¹⁰³ CR/PR Staff Report dated July 8, 2008 at Appendix B, Table B-1.

¹⁰⁴ We also note that U.S. importers end-of period inventories in 2007 of subject merchandise from China was actually less than beginning-of-year inventories for that same year, which contravenes any allegation that U.S. importers were stockpiling LWR pipe and tube from China after the filing of the petition in June of 2007. CR/PR Staff Report dated May 28, 2008 at Table VII-13.

¹⁰⁵ Commissioner Williamson notes that, even if one were to exclude the period after the preliminary countervailing duties went into effect in November 2007 by comparing five month periods before and after the petition was filed, the import volume was only slightly greater in the post-petition period, *** as compared to ***.

INTRODUCTION

BACKGROUND

These investigations result from a petition filed on behalf of 12 U.S. producers¹ of carbon-quality light-walled rectangular pipe and tube (“LWR pipe and tube”) 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 LWR pipe and tube from China, Mexico, Korea, and Turkey and by reason of imports of subsidized LWR pipe and tube from China. Information relating to the background of these investigations is provided below.

Effective date	Action
June 27, 2007	Petition filed with Commerce and the Commission; institution of Commission investigations. (72 FR 36479, July 3, 2007)
July 24, 2007	Commerce’s notices of initiation of antidumping duty investigations on China, Korea, Mexico, and Turkey (72 FR 40274) and notice of initiation of countervailing duty investigation on China. (72 FR 40281)
August 28, 2007	Commission’s preliminary affirmative determinations. (72 FR 49310)
November 30, 2007	Commerce’s preliminary affirmative countervailing duty determination and alignment with final antidumping duty determination. (72 FR 67703)
January 28, 2008	Commission’s notification by letter from Commerce of affirmative LTFV determinations for each subject country.
January 28, 2008	Commission’s scheduling of final phase investigations. (73 FR 6740, February 5, 2008)
January 30, 2008	Commerce’s publication of preliminary LTFV determinations for China, Mexico, and Turkey. (73 FR 5500, 73 FR 5515, and 73 FR 5508, respectively)
January 31, 2008	Commerce’s publication of preliminary affirmative LTFV determination for Korea. (73 FR 5794)
February 28, 2008	Commerce’s postponement of its final LTFV determination on Mexico. (73 FR 10743)
April 11, 2008	Commission’s hearing.
April 11, 2008	Commerce’s final LTFV determination on Turkey. (73 FR 19814)
May 14, 2008	Commission’s vote on Turkey.
May 23, 2008	Commission’s affirmative determination and views on Turkey transmitted to Commerce (73 FR 31144, May 30, 2008).
May 30, 2008	Commerce’s antidumping duty order on imports of LWR pipe and tube from Turkey (73 FR 31065).
June 24, 2008	Commerce’s final affirmative countervailing duty determination on China and final affirmative LTFV determinations on China, Korea, and Mexico (73 FR 35642, 35652, 35655, and 35649, respectively). ¹
July 17, 2008	Commission’s vote on China, Korea, and Mexico.
July 28, 2008	Commission’s determination and views on China, Korea, and Mexico transmitted to Commerce.

¹ Federal Register notices relating to Commerce’s final determinations are presented in appendix A of this report.

¹ Allied Tube and Conduit, Harvey, IL; Atlas Tube, Plymouth, MI; California Steel and Tube, City of Industry, CA; EXL Tube, Kansas City, MO (now called Steel Ventures, LLC); Hannibal Industries, Los Angeles, CA; Leavitt Tube Company LLC, Chicago, IL; Maruichi American Corporation, Sante Fe Springs, CA; Searing Industries, Rancho Cucamonga, CA; Southland Tube, Birmingham, AL; Vest Inc., Los Angeles, CA; Welded Tube, Concord, Ontario (Canada); and Western Tube and Conduit, Long Beach, CA. Bull Moose Tube, Inc., joined the original 12 petitioning firms over the course of these investigations.

The information contained in this report is intended to be used in conjunction with data presented in the Commission's report *Light-Walled Rectangular Pipe and Tube from Turkey, Inv. No. 731-TA-1121 (Final)*, USITC Publication 4001, May 2008 ("USITC Publication 4001") and its corresponding confidential version contained in memorandum No. INV-FF-049, *Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey* ("INV-FF-049").² No new information except for Commerce's final affirmative determination of countervailable subsidies of LWR pipe and tube from China, Commerce's final determination of sales of imports of LWR pipe and tube from China, Korea, and Mexico at LTFV, and parties' comments thereon is included in the record for this proceeding. Nonetheless, certain data tables relating to imports, consumption, pricing, and the foreign industry in Mexico are herein revised to take into account the reclassification of imports from the Mexican producer Productos Laminados de Monterrey ("Prolamsa") as subject to the investigation on Mexico. In USITC Publication 4001 and INV-FF-049, data relating to the Mexican producer Prolamsa were classified as nonsubject due to Commerce's preliminary determination that Prolamsa had a zero percent weighted-average dumping margin for its exports of LWR pipe and tube to the United States. In its final determination, Commerce calculated a 5.73 percent dumping margin for Prolamsa. Additionally, certain data (channels of distribution, pricing, inventories) were adjusted to excluded data reported by one U.S. importer, ***, to reflect the fact that this firm was not the importer of record for the LWR pipe and tube that it entered from Mexico.

NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV

On June 24, 2008, the Commission received Commerce's final determination of countervailable subsidies for producers and exporters of LWR pipe and tube in China.³ Table 1 presents Commerce's final countervailable subsidy margins.⁴

Table 1
LWR pipe and tube: Commerce's final subsidy determination

Country	Entity	Final countervailable subsidy margin (percent)
China	Kunshan Lets Win Steel Machinery Co., Ltd.	2.17
	Qingdao Xiangxing Steel Pipe Co.	200.58
	Zhangjiagang Zhongyuan Pipe-making Co., Ltd., Jiangsu Qiyuan Group Co., Ltd.	15.28
	All others	15.28
Source: 73 FR 35642, June 24, 2008.		

² As revised by memorandum No. INV-FF-052, May 6, 2008.

³ *Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Final Affirmative Countervailing Duty Investigation Determination*, 73 FR 35642, June 24, 2008.

⁴ Table 1 of this report corresponds to table I-2 of USITC Publication 4001 and INV-FF-049.

On June 24, 2008, the Commission received Commerce's final determinations of sales at LTFV with respect to imports from China,⁵ Korea,⁶ and Mexico,⁷ and final finding of critical circumstances with respect to imports from China.⁸ Table 2 summarizes Commerce's final LTFV findings.⁹

Table 2
LWR pipe and tube: Commerce's final weighted-average LTFV margins

Country / status	Entity	Dumping margin (percent)
China	Zhangjiangang Zhongyuan Pipe Making Co., Ltd.	264.64
	Kunshan Lets Win Steel Machinery Co., Ltd.	249.12
	Wuxi Baishun Steel Pipe Co., Ltd.	249.12
	Guangdong Walsall Steel Pipe Industrial Co., Ltd.	249.12
	Wuxi Worldunion Trading Co., Ltd.	249.12
	Weifang East Steel Pipe Co., Ltd.	249.12
	Jiangyin Jianye Metal Products Co., Ltd.	249.12
	PRC-Wide Rate	264.64
Korea	Nexteel Co., Ltd.	1.30 (<i>de minimus</i>)
	Dong-A Steel Pipe Co. Ltd.	30.66
	HiSteel Co. Ltd.	30.66
	Jinbang Steel Co. Ltd.	30.66
	Joong Won	30.66
	Miju Steel Mfg. Co., Ltd.	30.66
	Yujin Steel Industry Co.	30.66
	Ahshin Pipe & Tube	30.66
	Han Gyu Rae Steel Co., Ltd.	30.66
	Kukje Steel Co., Ltd.	30.66
	SeAH Steel Corporation, Ltd.	15.98
	All others	15.98

Table continued on next page.

⁵ *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 73 FR 35652, June 24, 2008.

⁶ *Notice of Final Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube from the Republic of Korea*, 73 FR 35655, June 24, 2008.

⁷ *Notice of Final Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube from Mexico*, 73 FR 35649, June 24, 2008.

⁸ Data on monthly import volumes for the Commission's own critical circumstances analysis, which were previously presented in Part IV of USITC Publication 4001 and INV-FF-049, are presented in appendix B.

⁹ Table 2 of this report corresponds to table I-3 of USITC Publication 4001 and INV-FF-049.

Table 2--Continued
LWR pipe and tube: Commerce's final weighted-average LTFV margins

Country	Entity	Dumping margin (percent)
Mexico	Maquilacero S.A. de C.V.	2.92
	Productos Laminados de Monterrey S.A. de C.V. (Prolamsa)	5.73
	Arco Metal S.A. de C.V.	4.33
	Hylsa S.A. de C.V.	4.33
	Industrias Monterrey S.A. de C.V.	11.50
	Internacional de Aceros, S.A. de C.V.	4.33
	Nacional de Acero S.A. de C.V.	11.50
	PEASA-Productos Especializados de Acero	11.50
	Perfiles y Herrajes LM, S.A. de C.V.	4.33
	Regiomontana de Perfiles y Tubos	4.33
	Talleres Acero Rey S.A. de C.V.	4.33
	Tuberias Aspe	11.50
	Tuberia Laguna, S.A. de C.V.	4.33
	Tuberias y Derivados S.A. de C.V.	11.50
	All others	4.33

Source: 73 FR 35652 (China), 73 FR 35655 (Korea), and 73 FR 35649 (Mexico), June 24, 2008.

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

U.S. IMPORTERS

Table 3 presents data on U.S. importers of LWR pipe and tube from Mexico.¹⁰ There are no changes to the comparable data on U.S. importers of LWR pipe and tube from China, Korea, or Turkey.

Table 3
LWR pipe and tube: U.S. importers of Mexican-origin product and their U.S. imports, 2005-07

Source	Firm	Submitted a questionnaire response	U.S. imports between 2005 and 2007	
			Quantity (short tons)	Share of quantity by source (percent)
Mexico	Prolamsa	Yes	***	***
	Maquilacero S.A. de C.V.	Yes	***	***
	Regiomontana de Perfiles y Tubos	Yes	***	***
	Perfiles y Herrajes LM, S.A. de C.V.	Yes	***	***
	Hylsa S.A. de C.V.	Yes	***	***
	Nacional de Acero, S.A. de C.V.	Yes	***	***
	Imsa Steel, Inc.	Yes	***	***
	Mario Pena, Inc.	Yes	***	***
	International Tube & Pipe Sales, Inc.	Yes	***	***
	EXIM America Trading, Inc.	Yes	***	***
	Ternium International USA Corp.	Yes	***	***
	Subtotal, top 11 firms		***	***
	All other firms' imports		***	***
	Total U.S. imports from Mexico		***	***

Source: U.S. Customs data.

U.S. IMPORTS

Table 4 and figures 1 through 3 present data on U.S. imports of LWR pipe and tube.¹¹

¹⁰ Table 3 of this report corresponds to table IV-1 of USITC Publication 4001 and INV-FF-049. Data on U.S. importers of Chinese-origin and Korean-origin LWR pipe and tube as reported in table IV-1 of USITC Publication 4001 and INV-FF-049 have not changed.

¹¹ Table 4 and figures 1 through 3 of this report correspond to table IV-2 and figures IV-1 through IV-3 of USITC Publication 4001 and INV-FF-049.

Table 4
LWR pipe and tube: U.S. imports, by source, 2005-07

Source	Calendar year		
	2005	2006	2007
Quantity (short tons)			
China	39,945	81,657	88,879
Korea (subject)	***	***	***
Mexico	156,263	144,925	140,937
Turkey	30,517	55,952	14,511
Subtotal, subject	***	***	***
Canada	76,231	71,142	48,899
Korea (nonsubject)	***	***	***
All other sources	10,569	17,451	5,643
Subtotal, nonsubject	***	***	***
Total U.S. imports	336,258	402,295	315,412
Value (1,000 dollars)			
China	27,040	47,605	52,939
Korea (subject)	***	***	***
Mexico	122,203	113,714	102,714
Turkey	23,264	35,584	9,192
Subtotal, subject	***	***	***
Canada	69,074	65,584	43,262
Korea (nonsubject)	***	***	***
All other sources	7,586	11,778	5,298
Subtotal, nonsubject	***	***	***
Total U.S. imports	264,904	294,805	226,400
Unit value (per short ton)			
China	\$677	\$583	\$596
Korea (subject)	***	***	***
Mexico	782	785	729
Turkey	762	636	633
Subtotal, subject	***	***	***
Canada	906	922	885
Korea (nonsubject)	***	***	***
All other sources	718	675	939
Subtotal, nonsubject	***	***	***
Total U.S. imports	788	733	718

Table continued on next page.

Table 4--Continued
LWR pipe and tube: U.S. imports, by source, 2005-07

Source	Calendar year		
	2005	2006	2007
Share of quantity (percent)			
China	11.9	20.3	28.2
Korea (subject)	***	***	***
Mexico	46.5	36.0	44.7
Turkey	9.1	13.9	4.6
Subtotal, subject	***	***	***
Canada	22.7	17.7	15.5
Korea (nonsubject)	***	***	***
All other sources	3.1	4.3	1.8
Subtotal, nonsubject	***	***	***
Total U.S. imports	100.0	100.0	100.0

Source: Official Commerce statistics with modifications based on U.S. Customs data.

Figure 1
LWR pipe and tube: U.S. imports, by status, 2005-07

* * * * *

Figure 2
LWR pipe and tube: U.S. imports, by source, 2005-07

* * * * *

Figure 3
LWR pipe and tube: Average unit value of U.S. imports, by source, 2005-07

* * * * *

In terms of the share of U.S. imports by source in the 12-month period preceding the petition used in the Commission's negligibility determination, the reclassification of U.S. imports from Mexico produced by Prolamsa as subject increased the share of subject U.S. imports from Mexico from *** percent to 37.0 percent, and overall subject imports from *** percent to *** percent. All other countries' shares remained the same.¹²

With U.S. importer Prolamsa now considered subject, Mexico is the single largest source of subject imports in the U.S. market on an aggregated basis throughout the period for which data were gathered. Additionally, with Prolamsa now included, the average unit values for U.S. imports of subject Mexican LWR pipe and tube are slightly higher than previously reported.

¹² These data correspond to data presented in table IV-7 of USITC Publication 4001 and INV-FF-049.

Table 5 and figures 4 through 6 present data on monthly U.S. imports of LWR pipe and tube.¹³

Table 5
LWR pipe and tube: Monthly subject U.S. imports, by source, 2005-07

Year / month		Subject source				
		China	Korea	Mexico	Turkey	Total
		Quantity (short tons)				
2005	January	1,504	***	9,367	0	***
	February	2,192	***	9,811	7,894	***
	March	4,323	***	11,101	1,612	***
	April	3,833	***	13,191	2,818	***
	May	4,681	***	14,524	552	***
	June	2,709	***	14,567	4,344	***
	July	4,075	***	12,958	2,050	***
	August	1,544	***	13,141	2,005	***
	September	3,189	***	13,145	1,499	***
	October	2,881	***	15,470	2,370	***
	November	3,978	***	15,414	569	***
	December	5,037	***	13,572	4,804	***
2006	January	3,444	***	8,787	925	***
	February	1,677	***	9,635	2,387	***
	March	2,056	***	12,261	977	***
	April	3,121	***	11,808	3,835	***
	May	8,011	***	16,146	3,767	***
	June	5,723	***	18,001	8,702	***
	July	10,055	***	16,171	9,090	***
	August	11,147	***	15,395	0	***
	September	11,312	***	11,849	4,945	***
	October	6,184	***	11,289	3,601	***
	November	11,846	***	7,234	15,666	***
	December	7,082	***	6,348	2,057	***

Table continued on next page.

¹³ Table 5 and figures 4 through 6 of this report correspond to table IV-3 and figures IV-4 through IV-6 of USITC Publication 4001 and INV-FF-049.

Table 5--Continued
LWR pipe and tube: Monthly subject U.S. imports, by source, 2005-07

Year / month		Subject source				
		China	Korea	Mexico	Turkey	Total
		Quantity (<i>short tons</i>)				
2007	January	9,348	***	7,478	1,548	***
	February	6,329	***	9,637	90	***
	March	8,785	***	13,474	4,150	***
	April	7,112	***	13,363	0	***
	May	9,191	***	15,780	647	***
	June	8,521	***	12,614	4,394	***
	July	19,896	***	12,555	2,156	***
	August	3,477	***	10,473	0	***
	September	8,683	***	10,703	0	***
	October	3,959	***	13,881	1,527	***
	November	3,180	***	11,986	0	***
	December	397	***	8,993	0	***

Source: Official Commerce statistics with modifications based on U.S. Customs data.

Figure 4
LWR pipe and tube: Monthly U.S. imports, by status, 2005-07

* * * * *

Figure 5
LWR pipe and tube: Monthly subject U.S. imports, by source, 2005-07

* * * * *

Figure 6
LWR pipe and tube: Monthly subject U.S. imports, 2005-07

* * * * *

Table 6 presents data on U.S. importers' U.S. shipments of imports by region.¹⁴ With the inclusion of U.S. importer Prolamsa's U.S. shipments of its Mexican-origin LWR pipe and tube, subject Mexican imports were present throughout the entire United States in 2007 but were still primarily concentrated in the Central Southwest.

Table 6
LWR pipe and tube: U.S. importers' U.S. shipments, by region, 2007

* * * * *

¹⁴ Table 6 corresponds to table IV-6 of USITC Publication 4001 and INV-FF-049.

Table 7 presents data on U.S. imports from Mexico by Customs district.¹⁵

Table 7
LWR pipe and tube: U.S. imports from Mexico, by Customs entry district, 2005-07

Source / Entry region	Calendar year			2005-07	
	2005	2006	2007	Quantity (short tons)	Share (percent)
	Quantity (short tons)				
Mexico--					
Laredo, TX	154,765	144,134	140,395	439,294	99.4
El Paso, TX	1,261	735	542	2,538	0.6
Subtotal	156,026	144,869	140,937	441,832	99.9
All other districts	237	56	0	293	0.1
Total	156,263	144,925	140,937	442,125	100.0

Source: Official Commerce statistics with modifications based on U.S. Customs data.

CHANNELS OF DISTRIBUTION

Table 8 presents data on channels of distribution for U.S. importers' U.S. shipments of LWR pipe and tube from Mexico, subject sources, nonsubject sources, and total imports.¹⁶

Table 8
LWR pipe and tube: Shares of U.S. importers' U.S. shipments, by source and channel of distribution, 2005-07

Item	2005	2006	2007
	Share of reported shipments (percent)		
Shipments of imports from Mexico:			
To distributors	79.3	75.1	76.5
To end users	20.7	24.9	23.5
Shipments of imports from all subject sources:			
To distributors	***	***	***
To end users	***	***	***
Shipments of imports from nonsubject sources:			
To distributors	***	***	***
To end users	***	***	***
Total imports:			
To distributors	80.7	82.3	81.8
To end users	19.3	17.7	18.2

Note.—The slight change in the channels of distribution for total imports compared with data previously reported in USITC Publication 4001 and INV-FF-049 relates to data reported by ***. *** data were removed to reflect the fact that it was not the importer of record for the LWR pipe and tube that it brought in from Mexico.

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

¹⁵ Table 7 corresponds to table IV-8 of USITC Publication 4001 and INV-FF-049. There were no changes to the data reported previously for the other countries.

¹⁶ Table 8 corresponds to table II-1 of USITC Publication 4001 and INV-FF-049. There were no changes to the data reported previously for the other countries.

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Table 9 presents apparent U.S. consumption and table 10 presents U.S. market shares for the 2005 to 2007 period.¹⁷

Table 9
LWR pipe and tube: Apparent U.S. consumption and average unit values, 2005-07

Item	Calendar year		
	2005	2006	2007
Quantity (short tons)			
U.S. producers' U.S. shipments	625,967	623,389	579,559
Imports from--			
China	39,945	81,657	88,879
Korea (subject)	***	***	***
Mexico	156,263	144,925	140,937
Turkey	30,517	55,952	14,511
Subtotal, subject sources	***	***	***
Canada	76,231	71,142	48,899
Korea (nonsubject)	***	***	***
All other sources	10,569	17,451	5,643
Subtotal, nonsubject sources	***	***	***
All sources	336,258	402,295	315,412
Apparent U.S. consumption	962,225	1,025,684	894,973
Value (1,000 dollars)			
U.S. producers' U.S. shipments	569,288	574,517	504,081
Imports from--			
China	27,040	47,605	52,939
Korea (subject)	***	***	***
Mexico	122,203	113,714	102,714
Turkey	23,264	35,584	9,192
Subtotal, subject sources	***	***	***
Canada	69,074	65,584	43,262
Korea (nonsubject)	***	***	***
All other sources	7,586	11,778	5,298
Subtotal, nonsubject sources	***	***	***
All sources	264,904	294,805	226,400
Apparent U.S. consumption	834,193	869,323	730,480

Table continued on next page.

¹⁷ Tables 9 and 10 in this report correspond to tables IV-10 and IV-11 of USITC Publication 4001 and INV-FF-049.

Table 9--Continued

LWR pipe and tube: Apparent U.S. consumption and average unit values, 2005-07

Item	Calendar year		
	2005	2006	2007
Unit value (per short ton)			
U.S. producers' U.S. shipments	\$909	\$922	\$870
Imports from--			
China	677	583	596
Korea (subject)	***	***	***
Mexico	782	785	729
Turkey	762	636	633
Average, subject sources	***	***	***
Canada	906	922	885
Korea (nonsubject)	***	***	***
All other sources	718	675	939
Average, nonsubject sources	***	***	***
Average, all import sources	788	733	718
Average unit value, all sources	867	848	816
Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics with modifications based on Customs data.			

Table 10
LWR pipe and tube: U.S. market shares, 2005-07

Item	Calendar year		
	2005	2006	2007
Quantity (short tons)			
Apparent U.S. consumption	962,225	1,025,684	894,973
Value (1,000 dollars)			
Apparent U.S. consumption	834,193	869,323	730,480
Market share by quantity (percent)			
U.S. producers' U.S. shipments	65.1	60.8	64.8
Imports from--			
China	4.2	8.0	9.9
Korea (subject)	***	***	***
Mexico	16.2	14.1	15.7
Turkey	3.2	5.5	1.6
Subtotal, subject sources	***	***	***
Canada	7.9	6.9	5.5
Korea (nonsubject)	***	***	***
All other sources	1.1	1.7	0.6
Subtotal, nonsubject sources	***	***	***
All sources	34.9	39.2	35.2
Share of value (percent)			
U.S. producers' U.S. shipments	68.2	66.1	69.0
Imports from--			
China	3.2	5.5	7.2
Korea (subject)	***	***	***
Mexico	14.6	13.1	14.1
Turkey	2.8	4.1	1.3
Subtotal, subject sources	***	***	***
Canada	8.3	7.5	5.9
Korea (nonsubject)	***	***	***
All other sources	0.9	1.4	0.7
Subtotal, nonsubject sources	***	***	***
All sources	31.8	33.9	31.0
¹ Less than 0.05 percent.			
Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics with modifications based on Customs data.			

RATIO OF IMPORTS TO U.S. PRODUCTION

Table 11 presents data on ratios of U.S. imports of LWR pipe and tube to U.S. production over the period for which data were collected.¹⁸

Table 11
LWR pipe and tube: Ratio of U.S. imports to U.S. production, 2005-07

Source	Calendar year		
	2005	2006	2007
Quantity (<i>short tons</i>)			
U.S. production	625,933	631,842	580,847
Ratio of imports to production (<i>percent</i>)			
Mexico	25.0	22.9	24.3
All subject sources	***	***	***
All nonsubject sources	***	***	***
Total import sources	53.7	63.7	54.3
Source: Compiled from data submitted in response to Commission questionnaires and from table 4.			

PRICE DATA

Tables 12 through 16 present price data.¹⁹ Only data on U.S.-origin, Mexican-origin, total subject, and total nonsubject pricing products are presented in this report as pricing product data for other individual subject sources remain unchanged from data presented in USITC Publication 4001 and INV-FF-049. In addition to reclassifying Prolamsa's pricing product data as subject, pricing product data of Mexican-origin LWR pipe and tube reported by one U.S. firm, ***, were removed from this compilation to reflect the fact that this firm was not the importer of record for the material reported.

¹⁸ Table 11 in this report corresponds to tables IV-12 of USITC Publication 4001 and INV-FF-049.

¹⁹ Tables 12 through 16 in this report correspond to tables V-1 through V-5 of USITC Publication 4001 and INV-FF-049.

Table 12
LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 1, and
margins of underselling/(overselling), 2005-07¹

Period	United States		Mexico		
	Price	Quantity	Price	Quantity	Margin
	<i>per short ton</i>	<i>short tons</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>
2005:					
January-March	\$828	10,158	\$***	***	***
April-June	813	10,610	***	***	***
July-September	753	11,862	***	***	***
October-December	803	9,954	***	***	***
2006:					
January-March	826	11,485	***	***	***
April-June	855	13,661	***	***	***
July-September	903	10,581	***	***	***
October-December	861	9,279	***	***	***
2007:					
January-March	807	11,220	***	***	***
April-June	795	10,487	***	***	***
July-September	759	10,889	***	***	***
October-December	749	11,196	***	***	***
Period	All subject sources			Nonsubject sources ²	
	Price	Quantity	Margin	Price	Quantity
	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>
2005:					
January-March	\$***	***	***	\$***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
2006:					
January-March	***	***	***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
2007:					
January-March	***	***	***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
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.					
¹ In addition to reclassifying Prolamsa's pricing product data as subject, pricing product data reported by one U.S. firm, ***, were removed from this compilation to reflect the fact that this firm was not the importer of record for the material reported. *** quantities were equivalent to less than *** percent fo overall Mexican pricing data for product 1.					
² Nonsubject data were reported for Canada, Korea, and "all other" sources.					
Note.--Margins are calculated from unrounded data.					
Source: Compiled from data submitted in response to Commission questionnaires.					

Table 13

LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 2, and margins of underselling/(overselling), 2005-07

Period	United States		Mexico		
	Price	Quantity	Price	Quantity	Margin
	<i>per short ton</i>	<i>short tons</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>
2005:					
January-March	\$932	2,791	\$***	***	***
April-June	944	2,992	***	***	***
July-September	930	2,948	***	***	***
October-December	920	2,650	***	***	***
2006:					
January-March	893	3,190	***	***	***
April-June	909	3,198	***	***	***
July-September	923	2,383	***	***	***
October-December	897	2,112	***	***	***
2007:					
January-March	853	2,542	***	***	***
April-June	844	2,458	***	***	***
July-September	811	2,556	***	***	***
October-December	814	2,220	***	***	***
Period	All subject sources			Nonsubject sources ¹	
	Price	Quantity	Margin	Price	Quantity
	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>
2005:					
January-March	\$***	***	***	***	***
April-June	***	***	***	\$***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
2006:					
January-March	***	***	***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
2007:					
January-March	***	***	***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***

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.

¹ Nonsubject data were reported for Canada.

Note.--Margins are calculated from unrounded data.

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

Table 14
LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 3, and
margins of underselling/(overselling), 2005-07¹

Period	United States		Mexico		
	Price	Quantity	Price	Quantity	Margin
	<i>per short ton</i>	<i>short tons</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>
2005:					
January-March	\$912	7,436	\$***	***	***
April-June	847	8,329	***	***	***
July-September	775	9,953	***	***	***
October-December	823	9,946	***	***	***
2006:					
January-March	845	13,634	***	***	***
April-June	860	14,221	***	***	***
July-September	908	12,267	***	***	***
October-December	868	10,025	***	***	***
2007:					
January-March	811	12,152	***	***	***
April-June	806	12,581	***	***	***
July-September	749	12,364	***	***	***
October-December	740	10,991	***	***	***
Period	All subject sources			Nonsubject sources ²	
	Price	Quantity	Margin	Price	Quantity
	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>
2005:					
January-March	\$***	***	***	\$***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
2006:					
January-March	***	***	***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
2007:					
January-March	***	***	***	***	***
April-June	***	***	***	***	***
July-September	***	***	***	***	***
October-December	***	***	***	***	***
Product 3 – ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), hot-rolled, not pickled and oiled, 11 gauge or 0.120 inch +/- 10% wall, three inch square to four inches square, or in rectangular circumferences of 12 inches to 16 inches, lengths of 20 to 24 feet.					
¹ In addition to reclassifying Prolamsa's pricing product data as subject, pricing product data reported by one U.S. firm, ***, were removed from this compilation to reflect the fact that this firm was not the importer of record for the material reported. *** quantities were equivalent to less than *** percent fo overall Mexican pricing data for product 3.					
² Nonsubject data were reported for Canada, Korea (nonsubject suppliers), and "all other" sources.					
Note.--Margins are calculated from unrounded data.					
Source: Compiled from data submitted in response to Commission questionnaires.					

Table 15
LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 4, and margins of underselling/(overselling), 2005-07

* * * * *

Table 16
LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 5, and margins of underselling/(overselling), 2005-07

* * * * *

Table 17 presents data on the average prices for all pricing products.²⁰ Table 18 presents summary data on the margins of overselling and underselling over the period for which data were collected.²¹

²⁰ Table 17 of this report corresponds to table V-6 of USITC Publication 4001 and INV-FF-049.

²¹ Table 18 of this report corresponds to table V-7 of USITC Publication 4001 and INV-FF-049.

Table 17
LWR pipe and tube: Summary of weighted-average f.o.b. prices for products 1-5, by country¹

Country	Number of quarters	Highest price	Lowest price	Percentage increase (decrease) in price ²
		<i>Per short ton</i>	<i>Per short ton</i>	<i>Percent</i>
Product 1				
United States	12	\$903	\$749	(9.2)
China	12	***	***	***
Korea	12	770	636	(12.4)
Mexico	12	***	***	***
Turkey	12	***	***	***
Product 2				
United States	12	944	811	(12.6)
China	9	***	***	***
Korea	11	***	***	***
Mexico	12	***	***	***
Turkey	1	***	***	-
Product 3				
United States	12	912	740	(18.9)
China	8	***	***	***
Korea	12	***	***	***
Mexico	12	***	***	***
Turkey	12	***	***	***
Product 4				
United States	12	***	***	***
China	6	***	***	***
Korea	3	***	***	***
Mexico	5	***	***	***
Product 5				
United States	12	***	***	***
Korea	11	***	***	***
Mexico	12	***	***	***

¹ In addition to reclassifying Prolamsa's pricing product data as subject, pricing product data reported by one U.S. firm, ***, were removed from this compilation to reflect the fact that this firm was not the importer of record for the material reported.

² Percentage change from the first quarter in which price data were available to the last quarter in which price data were available.

Note.-- Only countries where price data were reported are listed.

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

Table 18
LWR pipe and tube: Summary of underselling/overselling¹

Country	Number of quarters of underselling	Number of quarters of overselling	Average margin ²
China:			
2005	5	1	21.4
2006	13	0	25.2
2007	14	1	16.3
Subtotal	32	2	20.5
Korea:			
2005	13	2	12.9
2006	17	0	20.6
2007	16	1	9.9
Subtotal	46	3	15.0
Mexico:			
2005	13	4	9.1
2006	12	4	6.5
2007	16	4	10.3
Subtotal	41	12	8.8
Turkey:			
2005	8	0	14.6
2006	8	0	26.7
2007	8	0	18.3
Subtotal	24	0	19.9
All subject sources:			
2005	39	7	12.9
2006	50	4	18.4
2007	55	6	13.2
Total	144	17	14.9

¹ In addition to reclassifying Prolamsa's pricing product data as subject, pricing product data reported by one U.S. firm, ***, were removed from this compilation to reflect the fact that this firm was not the importer of record for the material reported.

² The average margin column represents the average of underselling and overselling margins.

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

THREAT CONSIDERATIONS

THE INDUSTRY IN MEXICO

Table 19 presents data on the foreign producers and exporters identified in U.S. Customs data for subject U.S. imports from Mexico.²² With Prolamsa now considered a subject source in these proceedings, Prolamsa is the single largest subject Mexican producer of LWR pipe and tube present in the U.S. market.

Table 19
LWR pipe and tube: Foreign producers/exporters for subject Mexican-origin LWR pipe and tube, 2005-07

* * * * *

Tables 20 and 21 present data on the LWR pipe and tube industry in Mexico including Prolamsa.²³

²² Table 19 in this report corresponds to table VII-7 of USITC Publication 4001 and INV-FF-049.

²³ Tables 20 and 21 of this report correspond to tables VII-8 and VII-9 of USITC Publication 4001 and INV-FF-049.

Table 20
LWR pipe and tube: Operations for subject producers in Mexico, 2005-07 and projected 2008-09

Item	Actual experience			Projections	
	2005	2006	2007	2008	2009
	Quantity (<i>short tons</i>)				
Capacity	667,859	681,864	709,797	707,742	709,508
Production	547,504	576,244	586,601	591,188	608,515
End-of-period inventories	32,470	38,393	42,980	38,694	41,002
Shipments:					
Internal consumption/transfers	7,408	12,250	7,037	9,644	9,644
Home market	386,661	426,190	448,889	460,866	473,692
Exports to:					
United States	149,461	130,829	125,602	123,450	122,347
All other markets	480	417	447	501	524
Total exports	149,941	131,246	126,049	123,951	122,871
Total shipments	544,010	569,686	581,975	594,461	606,207
	Ratios and shares (<i>percent</i>)				
Capacity utilization	82.0	84.5	82.6	83.5	85.8
Inventories/production	5.9	6.7	7.3	6.5	6.7
Inventories/shipments	6.0	6.7	7.4	6.5	6.8
Share of total shipments:					
Internal consumption/transfers	1.4	2.2	1.2	1.6	1.6
Home market	71.1	74.8	77.1	77.5	78.1
Exports to:					
United States	27.5	23.0	21.6	20.8	20.2
All other markets	0.1	0.1	0.1	0.1	0.1
Total exports	27.6	23.0	21.7	20.9	20.3

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

Table 21

Steel products: Mexican producers' production of tubular and roll-form products on light-walled capable mills, 2005-07 and projected 2008-09

Item	Actual experience			Projections	
	2005	2006	2007	2008	2009
	Quantity (<i>short tons</i>)				
Capacity:					
Nameplate capacity	1,410,674	1,455,756	1,510,303	1,527,631	1,536,703
Average production capacity	1,018,764	1,050,866	1,098,451	1,101,596	1,101,596
Production:					
LWR pipe and tube	547,504	576,244	586,601	591,188	608,515
Circular mechanical tubing	186,268	183,443	163,027	166,279	170,331
Other light-walled products	73,772	78,945	86,273	87,889	89,772
Subtotal, all light-walled products	807,544	838,632	835,901	845,356	868,618
All heavy-walled products	43,515	56,329	75,562	79,173	81,117
Total, all products	851,059	894,961	911,463	924,529	949,735
Ratio (<i>percent</i>)					
Capacity utilization	83.5	85.2	83.0	83.9	86.2
Shares (<i>percent</i>)					
LWR pipe and tube	64.3	64.4	64.4	63.9	64.1
Circular mechanical tubing	21.9	20.5	17.9	18.0	17.9
Other light-walled products	8.7	8.8	9.5	9.5	9.5
Subtotal, all light-walled products	94.9	93.7	91.7	91.4	91.5
All heavy-walled products	5.1	6.3	8.3	8.6	8.5
Total, all products	100.0	100.0	100.0	100.0	100.0
Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. INVENTORIES OF IMPORTED SUBJECT MERCHANDISE

Table 22 presents data on U.S. inventories of imported LWR pipe and tube.²⁴

Table 22

LWR pipe and tube: U.S. importers' end-of-period inventories, 2005-07

* * * * *

²⁴ Table 22 in this report corresponds to table VII-14 of USITC Publication 4001 and INV-FF-049.

APPENDIX A
FEDERAL REGISTER NOTICES

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Failure to comply is a violation of the APO.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: June 16, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

Appendix I: Decision Memorandum**I. Summary****II. Background****III. Application of Facts Available and Use of Adverse Inferences**

- A. Application of Facts Available, Including the Application of Adverse Inferences
- B. Selection of the Adverse Facts Available

IV. Critical Circumstances**V. Subsidies Valuation Information**

- A. Attribution of Subsidies and Cross-Ownership
- B. Loan Benchmarks and Discount Rate

VI. Analysis of Programs

- A. Programs Determined to Be Countervailable
- B. Program Determined to Be Not Countervailable
- C. Programs Determined to Be Not Used by Aifudi
- D. Programs Determined to Be Terminated

VII. Analysis of Comments

Comment 1: Application of the Countervailing Duty Law to Non-Market Economy Countries

Comment 2: Whether the Department Can Measure Subsidies that have been Alleged to Occur Prior to the Department's Determination to Apply CVD Law to China

Comment 3: Whether the Department Should Apply Adverse Facts Available to All Mandatory Respondents

Comment 4: Whether the Department Can Find that a Program Has Been Used and Is Countervailable for Non-Cooperating Respondents

Comment 5: Whether the Calculated Rates for Aifudi Should be Applied as Adverse Facts Available to the Mandatory Respondents

Comment 6: Whether the Department Should Apply Partial Adverse Facts Available to Aifudi

Comment 7: Whether the Provision of Electricity for Less Than Adequate Remuneration Is Countervailable

Comment 8: Whether the GOC Provision of Land Can Be Countervailed

Comment 9: Whether the GOC's Sale of Land-Use Rights is Specific

Comment 10: Whether the Department Should Select Either a First-Tier or Third-Tier Benchmark for the Provision of Land-Use Rights for Less Than Adequate Remuneration

Comment 11: Whether the Department Can Lawfully Apply an External Benchmark for the Provision of Land-Use Rights for Less than Adequate Remuneration

Comment 12: Whether the Provision of Petrochemical Inputs for Less Than Adequate Remuneration by SOEs is Countervailable

Comment 13: Whether SOEs Distort the Market in the PRC

Comment 14: Alternative Benchmark for the Provision of Petrochemical Inputs for Less Than Adequate Remuneration

Comment 15: Whether the Department Can Use Data from the World Trade Atlas to Determine a Benchmark for Petrochemical Inputs

Comment 16: Whether the Sale of Petrochemical Inputs is Consistent with Market Principles

Comment 17: Whether the Department Should Make an Adjustment for Freight in the Benchmark for Petrochemical Inputs

Comment 18: Whether the GOC Provides Government Policy Lending to the LWS Industry

Comment 19: Whether the Department May Countervail the Policy Lending Program as Adverse Facts Available

Comment 20: The Appropriate Benchmark to Use for the Policy Lending Program

Comment 21: The Determination of the All Others Rate

VIII. Recommendation

[FR Doc. E8-14256 Filed 6-23-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE**International Trade Administration**

[C-570-915]

Light-Walled Rectangular Pipe and Tube From People's Republic of China: Final Affirmative Countervailing Duty Investigation Determination

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

SUMMARY: The Department of Commerce (the "Department") has made a final determination that countervailable subsidies are being provided to producers and exporters of light-walled rectangular pipe and tube ("LWR") from the People's Republic of China ("PRC"). For information on the estimated countervailing duty rates, please see the "Suspension of Liquidation" section, below.

EFFECTIVE DATE: June 24, 2008./P≤

FOR FURTHER INFORMATION CONTACT: Shane Subler, or Damian Felton, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0189, or (202) 482-0133 respectively.

Petitioner

The Petitioners in this investigation are the Allied Tube & Conduit, Atlas Tube, Bull Moose Tube, California Tube and Steel, EXLTUBE, Hannibal Industries, Leavitt Tube, Maruichi American Corporation, Searing Industries, Southland Tube, Vest, Inc. Welded Tube and Western Tube (collectively, "Petitioners").

Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2006, through December 31, 2006.

Case History

The following events have occurred since the announcement of the preliminary determination published in the **Federal Register** on November 30, 2007. See *Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Preliminary Affirmative Countervailing Duty*

Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination, 72 FR 67703 (Nov. 30, 2007) (“*Preliminary Determination*”).

On December 5, 2007, supplemental questionnaires were issued to the Government of the People’s Republic of China (“GOC”); Kunshan Lets Win Steel Machinery Co., Ltd. (“Lets Win”); and Zhangjiagang Zhongyuan Pipe-making Co., Ltd. and its affiliates, Jiangsu Zhongjia Steel Co., Ltd.; Zhangjiagang Zhongxin Steel Product Co., Ltd.; Zhangjiagang Baoshuiqu Jiaqi International Business Co.; and Jiangsu Qiyuan Group Co., Ltd. (“collectively ZZ Pipe”). We received responses to these questionnaires from Lets Win on December 18, 2007, from ZZ Pipe on December 26, 2007, and from the GOC on December 28 and December 31, 2007.

On December 27, 2007, the Department published an *Amended Affirmative Preliminary Determination* to correct a significant ministerial error in the *Preliminary Determination*. See *Light-walled Rectangular Tube and Pipe from the People’s Republic of China: Notice of Amended Affirmative Preliminary Countervailing Duty Determination*, 72 FR 73322 (Dec. 27, 2007) (“*Amended Preliminary Determination*”).

The GOC and ZZ Pipe submitted factual information regarding the GOC’s provision of land within various deadlines set by the Department subsequent to the *Preliminary Determination* for submissions of factual information and/or arguments.

From January 7 through January 18, 2008, we conducted verification of the questionnaire responses submitted by the GOC, Lets Win, and ZZ Pipe.

On April 21, 2008, we issued our post-preliminary determination regarding the provision of land for less than adequate remuneration. See Memorandum to David M. Spooner, Assistant Secretary for Import Administration, entitled *Post-Preliminary Analysis for the Provision of Land For Less Than Adequate Remuneration*, dated April 21, 2008, which is on file in the Central Records Unit (“CRU”).

We received case briefs from the GOC and Guangdong Walsall Steel Pipe Industrial Co., Ltd. (“GWSP”) and Petitioners on April 30, 2008. Rebuttal briefs were submitted by the GOC, GWSP and Petitioners on May 5, 2008, and by Lets Win on May 6, 2008. A hearing for this investigation was held on May 9, 2008.

Scope of the Investigation

The merchandise that is the subject of this investigation is certain welded carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section (LWR), having a wall thickness of less than 4mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which 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, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Injury Test

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Tariff Act of 1930, as amended, (“the Act”), section 701(a)(2) of the Act applies to this investigation. Accordingly, the International Trade Commission (“ITC”) must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to a U.S. industry. On August 28, 2007, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from China of LWR. See *ITC Affirmative Preliminary Determination*, 72 FR 49310 (August 28, 2007).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Decision Memorandum*, which is hereby adopted by this notice. Attached to this notice as an Appendix is a list of the

issues that parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Use of Adverse Facts Available

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply “facts otherwise available” if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department “shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority” if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has 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 also authorizes the Department to use as adverse facts available (“AFA”) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” See *Statement of Administrative Action* (“SAA”) accompanying the Uruguay Round Agreements Act, attached to H.R. Rep. No. 103–316, Vol. I at 870 (1994), reprinted in 1994 U.S.C.A.N. 3773, 4163 (“SAA”). Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. See SAA at 869.

The Department has concluded that it is appropriate to base the final determination for Qingdao Xiangxing Steel Pipe Co., Ltd. (“Qingdao”) on adverse facts available. Qingdao did not respond to the Department’s requests on August 7 and October 24, 2007, to respond to the CVD questionnaire. By failing to submit a response to the Department’s CVD questionnaire, Qingdao did not cooperate to the best of its ability in this investigation. Consequently, in selecting from among the facts available, the Department has determined that an adverse inference is warranted, pursuant to section 776(b) of the Act to ensure that Qingdao will not obtain a more favorable result than had it fully complied with our request in this investigation. Thus, our final determination for Qingdao is based on total AFA.

We have also concluded that it is appropriate to apply adverse facts available to determine the percentage of hot-rolled steel production accounted for by state-owned enterprises. Specifically, the GOC reported that the China Iron and Steel Association

(“CISA”) determined the ownership structure of certain hot-rolled steel producers. Subsequently, we learned that the reported ownership structures were developed by the GOC’s legal counsel, not by CISA as the GOC claimed. Therefore, the GOC misrepresented the source of the reported ownership structure of hot-rolled steel producers.

Consequently, we find that the GOC did not act to the best of its ability because they failed to properly disclose how the reported ownership structures of CISA members were obtained. In misrepresenting how the information was obtained, the GOC did not provide the Department with “full and complete answers.” See *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003). Instead, the GOC purposefully made a decision to conceal how the information on ownership structure was derived. Accordingly, in selecting from among the facts available, we are drawing an adverse inference with respect to the ownership of HRS producers in the PRC.

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. It is the Department’s practice to select, as AFA, the highest calculated rate in any segment of the proceeding. See, e.g., *Certain In-shell Roasted Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty Administrative Review*, 71 FR 66165 (November 13, 2006), and accompanying Issues and Decision Memorandum at “Analysis of Programs” and Comment 1.

The Department’s practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse “as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.” See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998). The Department’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” See SAA at 870. In choosing the appropriate balance between providing a respondent with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent’s prior

commercial activity, selecting the highest prior margin “reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.” See *Rhone Poulenc, Inc. v. United States*, 899 F. 2d 1185, 1190 (Fed. Cir. 1990).

Therefore, with respect to Qingdao, for every program based on the provision of goods for less than adequate remuneration, the Department has used ZZ Pipe’s rate for the provision of hot-rolled steel for less than adequate remuneration. For grant programs we are relying on the rate applied to ZZ Pipe in the form of revenue forgone in relation to its purchase of land-use rights. For value added tax (“VAT”) programs, we are unable to utilize company-specific rates from this proceeding because neither respondent received any countervailable subsidies from these subsidy programs. Therefore, for VAT programs, we are applying the highest subsidy rate for any program otherwise listed, which in this instance is ZZ Pipe’s rate for the provision of hot-rolled steel for less than adequate remuneration. Similarly, neither respondent received any countervailable subsidies from loan programs; hence, we are applying the highest subsidy rate for any program otherwise listed, which in this instance is ZZ Pipe’s rate for the provision of hot-rolled steel for less than adequate remuneration. Since we do not have information regarding the location of Qingdao, we are attributing all three loan programs to Qingdao, in the calculation of their AFA rate. In the instant investigation, there is no record evidence indicating that Qingdao did not operate within the provinces at issue in this investigation (i.e., Zhejiang, Liaoning). Consequently, we are including provincial-specific programs in Qingdao’s AFA rate.

Finally, for the six alleged income tax programs pertaining to either the reduction of the income tax rates or the reduction or exemption from income tax, we continue to apply an adverse inference that Qingdao paid no income tax during the period of investigation (i.e., calendar year 2006). The standard income tax rate for corporations in the PRC is 30 percent, plus a 3 percent provincial income tax rate. Therefore, the highest possible benefit for these six income tax rate programs is 33 percent. We are applying the 33 percent AFA rate on a combined basis (i.e., the six programs combined provided a 33 percent benefit). This 33 percent AFA rate does not apply to income tax

deduction or credit programs. For income tax deduction or credit programs, we are applying the highest subsidy rate for any program otherwise listed, which in this instance is ZZ Pipe's rate for the provision of hot-rolled-steel at less than adequate remuneration. For income tax deduction or credit programs, we are applying the highest subsidy rate for any program otherwise listed, which in this instance is ZZ Pipe's rate for the provision of hot-rolled-steel for less than adequate remuneration.

We do not need to corroborate these rates because they are not considered secondary information as they are based on information obtained in the course of this investigation, pursuant to section 776(c) of the Act. See also SAA at 870.

Regarding the application of adverse facts available to the GOC, we have treated companies as state-owned where the GOC did not provide information regarding the companies' ownership. See *Decision Memorandum* at "Analysis of Programs" and Comment 5.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated an individual rate for each of the companies investigated, Lets Win, ZZ Pipe and for Qingdao. Section 705(c)(5)(A)(i) of the Act states that for companies not investigated, we will determine an all-others rate equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act. As Qingdao's rate was calculated under section 776 of the Act, it is not included in the all-others rate. In addition, pursuant to 19 CFR 351.204(d)(3), we have excluded Lets Win's rate because it is a voluntary respondent. Consequently, we have assigned ZZ Pipe's rate as the all-others rate.

Exporter/Manufacturer	Net Subsidy Rate
Kunshan Lets Win Steel Machinery Co., Ltd.	2.17%
Zhangjiagang Zhongyuan Pipe-making Co., Ltd., Jiangsu Qiyuan Group Co., Ltd.	15.28 %
Qingdao Xiangxing Steel Pipe Co., Ltd.	200.58%
All-Others	15.28%

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed the U.S. Customs and Border Protection ("CBP")

to suspend liquidation of all entries of LWR from the PRC which were entered or withdrawn from warehouse, for consumption on or after November 30, 2007, the date of the publication of the *Preliminary Determination* in the **Federal Register**, except for entries from Lets Win, which had a *de minimis* rate.

On December 27, 2007, the Department issued its *Amended Affirmative Preliminary Determination* in this countervailing duty investigation. In that determination, ZZ Pipe's rate fell below the *de minimis* level. Consequently, we instructed CBP to release any suspended entries and to discontinue the suspension of liquidation for ZZ Pipe. See *Amended Affirmative Preliminary Determination*, 72 FR 73322.

In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for countervailing duty purposes on all shipments of the subject merchandise entered, or withdrawn from the warehouse, for consumption on or after March 29, 2008, but to continue the suspension of liquidation of entries made from November 30, 2007 through March 28, 2008. This did not apply to Lets Win and ZZ Pipe as their entries were not being suspended.

We will issue a countervailing duty order and suspend liquidation for Lets Win and ZZ Pipe as well as reinstate the suspension of liquidation for Qingdao and all other companies under section 706(a) of the Act if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an administrative protective order ("APO") of their responsibility concerning the destruction 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 terms of an APO is a violation which is subject to sanction.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: June 13, 2008.

David M. Spooner,
Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Decision Memorandum

Comment 1: Application of CVD Law to Non-Market Economies

Comment 2: Double Counting/ Overlapping Remedies

Comment 3: Requirement to Provide Evidence of Lower Prices

Comment 4: Proposed Cutoff Date for Identifying Subsidies

Comment 5: Purchases of Hot-rolled Steel by Respondents

Comment 6: Whether State-owned Hot-rolled Steel Suppliers are "Authorities"

Comment 7: Hot-rolled Steel Benchmark Issues

Comment 8: Use of Hot-Rolled Steel to Produce Subject merchandise Shipped to the United States

Comment 9: One Supplier Treated as State-owned is Private and the Volume of Hot-Rolled Steel Supplied by Baosteel

Comment 10: Land/Financial Contribution

Comment 11: Land/Benchmark

Comment 12: Discount Rate

Comment 13: Provision of Water

Comment 14: Government Policy Lending

Comment 15: All-Others Rate

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Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material 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 duty order directing CBP 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 APO

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. Timely notification of 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 pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: June 13, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

General Issues

Comment 1: Whether to Deny Home Market Price Adjustments

Comment 2: Whether to Accept Petitioners' Targeted Dumping Allegation

Comment 3: Whether to Subtract Negative Margins from Positive Margins ("Zeroing")

Maquilacero S.A de C.V.

Comment 4: Whether to Treat Export Rebates as an Adjustment to Sales or Cost of Production

Comment 5: Whether to Use Affiliated Party Downstream Sales in the Department's Analysis

Productos Laminados de Monterrey S.A. de C.V.

Comment 6: Whether to Apply Adverse Facts Available to PROLAMSA's Affiliated Party Downstream Sales

Comment 7: Whether to Make Changes to the Department's Programming for

Currency Conversions used in its

Preliminary Determination

Comment 8: Whether to Adjust

Reported Costs of Manufacturing
Comment 9: Whether to Use Corrected Variance Allocation Presented at Verification

Comment 10: Whether to Calculate Cost of Manufacturing using Historical Depreciation Costs

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-914]

Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China

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

EFFECTIVE DATE: June 24, 2008.

SUMMARY: The Department of Commerce (the Department) has determined that light-walled rectangular pipe and tube (LWR) from the People's Republic of China (PRC) is being, 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 final dumping margins for this investigation are listed in the "Final Determination Margins" section below. The period covered by the investigation is October 1, 2006, through March 31, 2007 (the POI).

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen or Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-2769 and 482-4406, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published its preliminary determination of sales at LTFV on January 30, 2008. See *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 73 FR 5500 (January 30, 2008) (*Preliminary Determination*). Between February 18,

2008, and February 29, 2008, the Department conducted verifications of Zhangjiagang Zhongyuan Pipe-Making Co., Ltd. (ZZPC) and Kunshan Lets Win Steel Machinery Co. Ltd. (Lets Win). See the "Verification" section below for additional information.

In response to the Department's invitation to comment on the *Preliminary Determination*, on April 2, 2008, the petitioners,¹ ZZPC, and Lets Win filed case briefs. The petitioners and ZZPC filed rebuttal briefs on April 7, 2008.

Analysis of Comments Received

All of the issues that were raised in the case and rebuttal briefs that were submitted in this investigation are addressed in the "Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from the People's Republic of China," dated June 13, 2008, which is hereby adopted by this notice (Issues and Decision Memorandum). Appendix I to this notice contains a list of the issues that are addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum, which is a public document, is on file in the Central Records Unit (CRU), at the Main Commerce Building, Room 1117, and is accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received, we have revised ZZPC's and Lets Win's dumping margins to reflect the following changes:

1. We based ZZPC's dumping margin on total adverse facts available.
2. We used different surrogates to value certain steel inputs and packing materials.
3. We averaged one additional surrogate company's data with those surrogate companies' data used in the *Preliminary Determination* to calculate the surrogate financial ratios.
4. Since the release of the preliminary determination, more recent labor data for the PRC has become available, which we have used in calculating Lets Win's final margin.

¹ The petitioners in this investigation are Allied Tube and Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, EXLTUBE, Hannibal Industries, Leavitt Tube Company, Maruichi American Corporation, Searing Industries, Southland Tube, Vest Inc., Welded Tube, and Western Tube and Conduit.

For a detailed analysis of the margin calculation for Lets Win, see "Final Determination in the Investigation of Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Analysis Memorandum for Kunshan Lets Win Steel Machinery Co. Ltd.," dated June 13, 2008.

We assigned the separate rates applicants the dumping margin that we calculated for Lets Win.

Scope of Investigation

The merchandise that is the subject of this investigation is certain welded carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which 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, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of the investigation is dispositive.

Critical Circumstances

In the *Preliminary Determination*, the Department found that there was reason to believe or suspect that critical circumstances existed for imports of subject merchandise from the PRC-wide entity, and that these imports were massive during a relatively short period. See sections 733(e)(1)(A)(ii) and (B) of the Act. However, the Department did not preliminarily find that there was reason to believe or suspect that critical circumstances existed for imports of subject merchandise from Lets Win, ZZPC, or the separate-rate companies. See *Preliminary Determination*. No parties commented on the Department's preliminary critical circumstances

determination and we find no reason to reconsider this determination.

Therefore, we determine that critical circumstances exist for the PRC-wide entity, but that critical circumstances do not exist for Lets Win, ZZPC, or the separate-rate companies.

Facts Available and Adverse Facts Available

Section 776(a)(2)(D) of the Act provides that, if an interested party provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Additionally, section 776(b) of the Act permits the Department to use an adverse inference in selecting from among the facts otherwise available if it makes the additional finding that "an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information." The Department was not able to verify the steel consumption quantities reported or the type of steel used by ZZPC. Furthermore, we have determined that the use of adverse inferences is warranted because ZZPC did not act to the best of its ability in reporting the quantity of steel consumed and the type of steel used. Given the importance of the steel input, we have based ZZPC's dumping margin on total adverse facts available. Specifically, we based ZZPC's dumping margin on the highest rate calculated in this investigation, 264.64%. See the accompanying Issues and Decision memorandum at Comment 1 for details. We do not need to corroborate this rate because it is based on information obtained during the course of this investigation rather than secondary information.²

Verification

As provided in section 782(i) of the Act, we conducted verifications of the respondents' information. See the Department's verification reports for ZZPC and Lets Win on file in the CRU. In conducting the verifications, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondents.

² Section 776(c) of the Act requires the Department to corroborate secondary information, which the SAA describes as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise." See SAA at 870.

Surrogate Country

In the *Preliminary Determination*, we selected India as the appropriate surrogate country noting that India was on the Department's list of countries that are at a level of economic development comparable to the PRC and that: (1) India is a significant producer of merchandise comparable to subject merchandise; and, (2) reliable Indian data for valuing factors of production are readily available. See *Preliminary Determination*. While parties commented on this issue (see Issues and Decision Memorandum at Comment 2), for the final determination, we continue to find India to be the appropriate surrogate country.

Separate Rates

In proceedings involving non-market-economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*); see also section 351.107(d) of the Department's regulations.

In the *Preliminary Determination*, the Department granted separate-rate status to ZZPC, Lets Win, and the separate rate applicants, Wuxi Baishun Steel Pipe Co., Ltd. (Baishun), Guangdong Walsall Steel Pipe Industrial Co., Ltd. (Walsall), Wuxi Worldunion Trading Co., Ltd. (Worldunion), Weifang East Steel Pipe Co., Ltd. (Weifang), and Jiangyin Jianye Metal Products Co., Ltd. (Jiangyin). However, the Department did not grant separate-rate status to Suns International Trading Limited, Liaoning Cold Forming Sectional Company Limited, or Dalian Brolo Steel Tubes Ltd. No parties commented on the Department's separate rate determinations. For the final determination, we continue to find that the evidence placed on the record of this investigation by ZZPC, Lets Win, Baishun, Walsall, Worldunion, Weifang, and Jiangyin demonstrate both a *de jure* and *de facto* absence of government

control, with respect to their respective exports of the merchandise under investigation and thus they are eligible for separate rate status.

The PRC-Wide Rate

In the *Preliminary Determination*, the Department considered certain non-responsive PRC producers/exporters to be part of the PRC-wide entity because they did not respond to our requests for information and did not demonstrate that they operated free of government control over their export activities. No additional information regarding these entities has been placed on the record after the *Preliminary Determination*. Since the PRC-wide entity did not provide the Department with requested information, pursuant to section 776(a)(2)(A) of the Act (which covers situations where an interested party withholds requested information), we continue to find it appropriate to base the PRC-wide rate on facts available. Moreover, given that the PRC-wide entity did not respond to our request for information, we continue to find that it failed to cooperate to the best of its ability to comply with a request for information. Thus, pursuant to section 776(b) of the Act, we have continued to use an adverse inference in selecting from among the facts otherwise available. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000) (a case in which the Department applied an adverse inference in determining the Russia-wide rate); see also “*Statement of Administrative Action*” accompanying the URAA, H.R. Rep. No. 103-316, vol. 1, at 870 (1994) (SAA). Specifically, we have assigned the

highest margin calculated in this proceeding to the PRC-wide entity (as we have done for ZZPC). We do not need to corroborate this rate because it is based on information obtained during the course of this investigation rather than secondary information.

Since we begin with the presumption that all companies within a NME country are subject to government control and only the exporters listed under the “Final Determination Margins” section below have overcome that presumption, we are applying a single antidumping rate (i.e., the PRC-wide rate) to all exporters of subject merchandise from the PRC, other than the exporters listed in the “Final Determination Margins” sections. See, e.g., *Synthetic Indigo from the People’s Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000) (applying the PRC-wide rate to all exporters of subject merchandise in the PRC based on the presumption that the export activities of the companies that failed to respond to the Department’s questionnaire were controlled by the PRC government). Thus, the PRC-wide rate will apply to all entries of subject merchandise except for entries of subject merchandise from the exporters that are listed in the “Final Determination Margins” section below (except as noted).

Combination Rates

In *Initiation of Antidumping Duty Investigation: Light-Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People’s Republic of China*, 72 FR 40274 (July 24, 2007) (*Initiation Notice*), the Department stated that it would calculate combination rates for respondents that are eligible for a

separate rate in this investigation. See *Initiation Notice*. This change in practice is described in Policy Bulletin 05.1, available at <http://ia.ita.doc.gov/>. *Policy Bulletin 05.1*, states:

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

See *Policy Bulletin 05.1*, “Separate Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries.”

Final Determination Margins

We determine that the following weighted-average dumping margins exist for the period October 1, 2006, through March 31, 2007:

Exporter / Producer	Weighted-Average Margin
Zhangjiagang Zhongyuan Pipe-Making Co., Ltd./ Zhangjiagang Zhongyuan Pipe-Making Co., Ltd.	264.64%
Kunshan Lets Win Steel Machinery Co., Ltd./ Kunshan Lets Win Steel Machinery Co., Ltd.	249.12%
Wuxi Baishun Steel Pipe Co., Ltd./ Wuxi Baishun Steel Pipe Co., Ltd.	249.12%
Guangdong Walsall Steel Pipe Industrial Co., Ltd./ Guangdong Walsall Steel Pipe Industrial Co., Ltd.	249.12%
Wuxi Worldunion Trading Co., Ltd./ Wuxi Hongcheng Bicycle Material Co., Ltd.	249.12%
Weifang East Steel Pipe Co., Ltd./ Weifang East Steel Pipe Co., Ltd.	249.12%
Jiangyin Jianye Metal Products Co., Ltd./ Jiangyin Jianye Metal Products Co., Ltd.	249.12%
PRC-Wide Rate	264.64%

Disclosure

We will disclose to parties the calculations performed within five days of the date of public announcement of this determination in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all imports of subject merchandise entered or withdrawn from

warehouse, for consumption on or after the following dates: (1) for ZZPC, Lets Win, and the separate rate companies, on or after January 30, 2008, the date of publication of the preliminary determination in the **Federal Register**, (2) for the PRC-wide entity, on or after November 1, 2007, which is 90 days prior to the publication of the

preliminary determination (consistent with our finding that critical circumstances exist for the PRC-wide entity). We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies based on the estimated weighted-average dumping margins shown above. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise within 45 days of this final determination. If the ITC determines that material injury or threat of material 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 duty order directing CBP to assess upon further instruction by the Department 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 APO

This notice also serves as a reminder to the 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. Timely notification of return or 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 and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 13, 2008.

David M. Spooner,
Assistant Secretary for Import
Administration.

Appendix I

Parties' Comments

Comment 1: Whether ZZPC's Dumping Margin Should be Based on Adverse Facts Available

Comment 2: The Appropriate Surrogate Country

Comment 3: The Appropriate Surrogate Financial Ratios

Comment 4: The Appropriate Surrogate Values for Steel Inputs Used by Lets Win

Comment 5: The Appropriate Surrogate Value for Hot-Rolled Steel

Comment 6: The Appropriate Surrogate Value for Certain Packing Materials

[FR Doc. E8-14252 Filed 6-23-08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-859]

Notice of Final Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube from the Republic of Korea

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

SUMMARY: On January 31, 2008, the U.S. Department of Commerce (the Department) published a preliminary determination in the antidumping duty investigation of light-walled rectangular pipe and tube from the Republic of Korea. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Light-Walled Rectangular Pipe and Tube From the Republic of Korea*, 73 FR 5794 (January 31, 2008) (Preliminary Determination).

We continue to find that light-walled rectangular pipe and tube from the Republic of Korea is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Tariff Act). The estimated margins of sales at LTFV are listed below in the section entitled "Continuation of Suspension of Liquidation."

EFFECTIVE DATE: June 24, 2008.

FOR FURTHER INFORMATION CONTACT: Mark Flessner or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6312 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 31, 2008, the Department published the preliminary determination and invited interested parties to comment. See *Preliminary Determination*. The petitioners in this investigation are Allied Tube and Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, EXLTUBE, Hannibal Industries, Leavitt Tube Company, Maruichi American Corporation, Searing Industries, Southland Tube, Vest Inc., Welded Tube, and Western Tube and Conduit (Petitioners). The respondents are Ahshin Pipe & Tube, Dong-A Steel Pipe Co. Ltd., Han Gyu Rae Steel, Co., Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Kukje Steel Co., Ltd., Miju Steel Mfg. Co. Ltd., Nexteel Co., Ltd. (Nexteel), SeAH Steel Corporation, Ltd., and Yujin Steel Industry Co.

Only Nexteel responded fully to the Section A, B, C, and D questionnaires. (For a complete background concerning the involvement of companies other than Nexteel, see *Preliminary Determination*.) We gave interested parties an opportunity to comment on the preliminary determination. We received a case brief from Petitioners on May 9, 2008, and a rebuttal brief from Nexteel on May 16, 2008. We did not receive a request for a public hearing.

Based upon the results of verification, we have made no changes to the dumping calculations; a revision of Nexteel's databases was, however, required. On December 26, 2007, Petitioners timely filed with the Department an allegation of targeted dumping with respect to Nexteel. Nexteel filed comments regarding Petitioners' allegation on January 3, 2008. Upon review of Petitioners' allegation, the Department determined that further information was needed in order to adequately analyze Petitioners' allegation. The Department issued a supplemental questionnaire to Petitioners on January 14, 2008, requesting that they address deficiencies identified by the Department. See Letter from Richard O. Weible, Director, Office 7, to Petitioners, dated January 14, 2008. Because there was a need for supplemental information regarding the allegation, we did not have sufficient bases for making a finding regarding Petitioners' allegations of targeted dumping prior to the preliminary determination. On January 25, 2008, Petitioners submitted a response to the

Department's supplemental targeted dumping questionnaire.

We conducted a verification of Nexteel's cost of production responses on March 6–12, 2008. See memorandum from Christopher J. Zimpo, Accountant, to the File, entitled "Verification of the Cost Response of Nexteel Co., Ltd. Antidumping Investigation of Light-Walled Rectangular Pipe and Tube From the Republic of Korea," dated April 25, 2008 (*Cost Verification Report*). We conducted a verification of Nexteel's sales responses on March 13–18, 2008. See memorandum from Mark Flessner to the file entitled "Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Verification of Nexteel Co., Ltd.," dated May 1, 2008 (*Sales Verification Report*).

On May 2, 2008, we placed on the record the memorandum from Mark Flessner, Case Analyst, to Richard O. Weible, Office Director, entitled "Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from Korea: Final Analysis on Targeting Dumping" (*Targeted Dumping Memorandum*). For a discussion of our findings, see the section below entitled "Targeted Dumping."

We received a case brief from Petitioners on May 9, 2008. We received a rebuttal brief from Nexteel on May 16, 2008. We received no request for a public hearing, so no hearing was held.

Period of Investigation

The period of investigation (POI) is April 1, 2006, through March 31, 2007.

Scope of Investigation

The merchandise that is the subject of this investigation is certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm. The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which 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, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and

tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Fair Value Comparisons

We calculated export price and normal value based on the same methodologies used in the *Preliminary Determination*. We used the home market and U.S. sales databases submitted by Nexteel after verification, which included minor corrections presented at the beginning of verification and findings from verification. See *Sales Verification Report*.

Cost of Production and Constructed Value

We calculated the cost of production and constructed value for Nexteel based on the same methodologies used in the *Preliminary Determination*.

Verification

As provided in section 782(i)(1) of the Tariff Act, we verified the information submitted by respondents during the periods March 6–12, 2008 (cost) and March 13–18, 2008 (sales) (see *Cost Verification Report* and *Sales Verification Report*). We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondents.

Analysis of Comments Received

The issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the memorandum from Stephen Claeys, Deputy Assistant Secretary for Import Administration, to David Spooner, Assistant Secretary for Import Administration, entitled "Issues and Decision Memorandum for Final Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube from the Republic of Korea" (*Issues and Decisions Memorandum*), dated June 13, 2008, which is hereby adopted by this notice. The *Issues and Decisions Memorandum* is on file in the Central Records Unit (CRU), room 1117 of the Department of Commerce main building and can be accessed directly at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the *Issues and Decisions Memorandum* are identical in content. A list of the issues addressed in

the *Issues and Decisions Memorandum* is appended to this notice.

Targeted Dumping

We determine that Petitioners' allegations of targeted dumping failed to provide a reasonable basis to find a pattern of export prices for comparable merchandise that differ significantly among purchasers or regions. We determine further that Petitioners had not demonstrated that any such differences could not be taken into account using the average-to-average methodology, pursuant to section 777A(d)(1)(B) of the Tariff Act. We conclude that, for the final determination, we should continue to utilize the average-to-average methodology in calculating the final margins for Nexteel for the reasons set forth in the *Issues and Decisions Memorandum*.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Tariff Act, we are directing U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all imports of subject merchandise from Korea that are entered, or withdrawn from warehouse, for consumption on or after January 31, 2008, the date of publication of the *Preliminary Determination* in the **Federal Register**. CBP shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, 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:

Producer/Exporter	Weighted-Average Margin (Percentage)
Nexteel Co., Ltd.	1.30 (de minimis)
Dong-A Steel Pipe Co. Ltd.	30.66
HiSteel Co. Ltd.	30.66
Jinbang Steel Co. Ltd. ..	30.66
Joong Won	30.66
Miju Steel Mfg. Co., Ltd.	30.66
Yujin Steel Industry Co.	30.66
Ahshin Pipe & Tube	30.66
Han Gyu Rae Steel Co., Ltd.	30.66
Kukje Steel Co., Ltd.	30.66
SeAH Steel Corporation, Ltd.	15.98
All others	15.98

ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission (ITC) of

our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threatening material injury to, the United States industry. If the ITC determines that material injury, or threat of material 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 duty order.

Notification to Interested Parties

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. Timely notification of return or 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 Tariff Act.

Dated: June 13, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

APPENDIX

List of Issues

1. Initiation of Targeted Dumping Analysis
2. Use of Offsets in Calculating Dumping Margin

[FR Doc. E8-14255 Filed 6-23-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-810]

Stainless Steel Bar from India: Notice of Partial Rescission of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: June 24, 2008.

FOR FURTHER INFORMATION CONTACT: Devta Ohri, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3853.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1995, the Department published in the **Federal Register** the antidumping duty order on stainless steel bar ("SSB") from India. See *Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan*, 60 FR 9661 (February 21, 1995). On February 11, 2008, the Department received a timely request from Ambica Steels Limited ("Ambica") for an administrative review of the antidumping duty order on SSB from India. Also, on February 29, 2008, we received a timely request from domestic interested parties Carpenter Technology Corp.; Crucible Specialty Metals, a division of Crucible Materials Corp.; Electralloy Co., a G.O. Carlson, Inc. company; and Valbruna Slater Stainless, Inc., for a review of Venus Wire Industries, Pvt. Ltd. ("Venus"). On March 31, 2008, the Department initiated an administrative review of Ambica and Venus. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review*, 73 FR 16837 (March 31, 2008). On May 16, 2008, Ambica withdrew its request for an administrative review. The administrative review of Venus continues.

Scope of the Order

Imports covered by the order are shipments of SSB. SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut-to-length flat-rolled products (*i.e.*, cut-to-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length,

which do not conform to the definition of flat-rolled products), and angles, shapes, and sections.

The SSB subject to these reviews is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

On May 23, 2005, the Department issued a final scope ruling that SSB manufactured in the United Arab Emirates out of stainless steel wire rod from India is not subject to the scope of this order. See Memorandum from Team to Barbara E. Tillman, "Antidumping Duty Orders on Stainless Steel Bar from India and Stainless Steel Wire Rod from India: Final Scope Ruling," dated May 23, 2005, which is on file in the CRU in room B-099 of the main Department building. See also *Notice of Scope Rulings*, 70 FR 55110 (September 20, 2005).

Partial Rescission of Review

Section 351.213(d)(1) of the Department's regulations provide that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review, or withdraws its request at a later date if the Department determines that it is reasonable to extend the time limit for withdrawing the request. Ambica withdrew its request for an administrative review on May 16, 2008, which is within the 90-day deadline. No other party had requested a review of Ambica. Therefore, the Department rescinds this administrative review of Ambica, covering the period February 1, 2007, through January 31, 2008 ("2007-2008 AR"). However, we note that the 2007-2008 AR still continues with respect to Venus Wire Industries, Pvt. Ltd.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification

The Department continues to find that critical circumstances exist for Aifudi and the Separate Rate Applicants and therefore we will instruct CBP to continue to suspend liquidation of all entries of subject merchandise from Aifudi and the Separate Rate Applicants entered, or withdrawn from warehouse, for consumption on or after November 2, 2007, which is 90 days prior to the date of publication of the preliminary determination. CBP shall continue to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. These instructions suspending liquidation will remain in effect until further notice.

In accordance with the preliminary affirmative determination of critical circumstances, we instructed CBP to suspend liquidation of all entries of the subject merchandise for Aifudi, which were entered or withdrawn from warehouse, on or after November 2, 2007, which is 90 days prior to January 31, 2008, the date of publication of the Preliminary Determination in the **Federal Register**. Because we do not find critical circumstances for the PRC-wide entity, including SSJ, for this final determination, we will instruct CBP to terminate suspension of liquidation, and release any cash deposits or bonds, on imports with respect to SSJ during the 90 day period prior to the date of publication of the *Preliminary Determination*.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material 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 duty order directing CBP 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 APO

This notice also serves as a reminder to the 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. Timely notification of return or 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 and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 16, 2008.

Stephen Claeys,

Acting Assistant Secretary for Import Administration.

Appendix I

Comment 1: Printing Cylinders

Comment 2: Ink Surrogate Value

Comment 3: BOPP Surrogate Value

Comment 4: Labor Surrogate Value

Comment 5: Boxes Surrogate Value

Comment 6: Surrogate Financial Ratios

Comment 7: Total AFA for SSJ

Comment 8: Billing Adjustments

Comment 9: Conversion Factor for Certain Inputs

[FR Doc. E8-14266 Filed 6-23-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-836]

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

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

EFFECTIVE DATE: (June 24, 2008).

SUMMARY: On January 30, 2008, the Department of Commerce (the Department) published its preliminary determination in the investigation of sales at less than fair value in the antidumping duty investigation of light-walled rectangular pipe and tube (LWR) from Mexico. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube from Mexico*, 73 FR 5515 (January 30, 2008) (*Preliminary Determination*).

The Department has determined that LWR from Mexico is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final margins of sales at less than fair value are listed below in the section entitled "Final Determination of Investigation."

FOR FURTHER INFORMATION CONTACT: Patrick Edwards or Judy Lao, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-8029 or (202) 482-7924, respectively.

SUPPLEMENTARY INFORMATION:

Background

The preliminary determination in this investigation was published on January 30, 2008. *See Preliminary Determination*. Since then, we have requested that the respondents in this proceeding, Maquilacero S.A. de C.V. (Maquilacero) and Productos Laminados de Monterrey, S.A. de C.V. (PROLAMSA) (collectively, respondents), provide the downstream sales data, regarding their affiliates' sales to the first unaffiliated customer in the comparison market (*i.e.*, Mexico). *See Letter from Angelica L. Mendoza, Program Manager, Office 7, to Maquilacero S.A. de C.V., entitled "Request for Downstream Sales Data," dated January 24, 2008; see also, letter from Angelica L. Mendoza, Program Manager, Office 7, to Productos Laminados de Monterrey, S.A. de C.V., entitled "Request for Downstream Sales Data," dated January 24, 2008.* Maquilacero filed the downstream sales response on behalf of its affiliate on February 6, 2008. PROLAMSA filed the downstream sales response on behalf of its affiliate on February 6, 2008.

We conducted sales and cost verifications of the responses (including the downstream sales responses) submitted by Maquilacero and PROLAMSA. *See Memorandum to the File from Patrick Edwards and Judy Lao, Case Analysts, through Angelica L. Mendoza, Program Manager, Office 7, entitled "Verification of the Sales Responses of Maquilacero S.A. de C.V. in the Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from Mexico," dated April 11, 2008 (Maquilacero Verification Report); see also Memorandum to the File from Patrick Edwards and Dena Crossland, Case Analysts, through Angelica L. Mendoza, Program Manager, Office 7, entitled "Verification of the Sales*

Responses of Productos Laminados de Monterrey, S.A. de C.V. in the Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from Mexico," dated April 24, 2008 (PROLAMSA Verification Report), and Memorandum to the File from Patrick Edwards, Case Analyst, through Angelica L. Mendoza, Program Manager, entitled "Verification of Sales Responses of Productos Laminados de Monterrey, S.A. de C.V. and Prolamsa, Inc. in the Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from Mexico," dated April 24, 2008 (PROLAMSA CEP Verification Report); see also Memorandum to the File through Neal M. Halper, from Gina K. Lee, entitled "Verification of the Cost Response of Productos Laminados de Monterrey, S.A. de C.V. in the Antidumping Investigation of Light-Walled Rectangular Pipe and Tube from Mexico," dated April 15, 2008 (PROLAMSA Cost Verification Report), and Memorandum to the File through Neal M. Halper, from Robert B. Gregor, entitled "Verification of the Cost Response of Maquilacero, S.A. de C.V. in the Antidumping Investigation of Light-Walled Rectangular Pipe and Tube from Mexico," dated April 15, 2008 (Maquilacero Cost Verification Report). All verification reports are on file and available in the Central Records Unit (CRU), Room 1117, of the main Department of Commerce building.

Based on the Department's findings at verification, as well as the minor corrections presented by Maquilacero and PROLAMSA at the start of their respective verifications, we requested respondents to submit revised sales databases. See Letter from Angelica L. Mendoza, Program Manager, Office 7, to Maquilacero S.A. de C.V., dated April 18, 2008; see also Letter from Angelica L. Mendoza, Program Manager, Office 7, to Productos Laminados de Monterrey, S.A. de C.V., dated April 30, 2008. As requested, Maquilacero submitted its revised sales databases on April 28, 2007, and PROLAMSA submitted its revised databases on May 7, 2008.

We have also determined that an allegation of targeted dumping submitted by petitioners on December 26, 2007, and supplemented on January 25, 2008, was inadequate. See Memorandum from Angelica L. Mendoza, Program Manager, Office 7, to Richard O. Weible, Director, Office 7, regarding "Final Analysis on Targeting Dumping," dated April 30, 2008 (Targeted Dumping Memo). Furthermore, with regard to PROLAMSA, we released an additional memorandum in which we explained

the Department's intention to revise certain aspects of the programs used to calculate PROLAMSA's margin at the *Preliminary Determination*, based on the Department's finding of inadvertent errors in the programming language. See Memorandum to the File from Patrick Edwards, Case Analyst, entitled "Intended Changes to the Comparison Market and U.S. Margin Calculation Programs for Productos Laminados de Monterrey, S.A. de C.V. and Revision to Briefing Schedule," dated May 1, 2008 (CM Program Changes Memo). We invited parties to comment on these proposed changes.

Due to the release of the Targeted Dumping Memo and the CM Program Changes Memo subsequent to the release of the verification reports in this investigation, the Department extended the briefing schedule for parties to file case and rebuttal briefs by two days. As such, we received a case brief from petitioners, PROLAMSA, and Maquilacero on May 7, 2008; the same parties filed rebuttal briefs on May 12, 2008. On May 23, 2008, the Department requested that PROLAMSA submit an electronic version of its revised cost database, reflecting the adjustments made to the database for certain minor corrections presented during its cost verification, and which was also filed in hard-copy on the official record on February 27, 2008. See Memorandum to the File from Patrick Edwards, Senior Case Analyst, through Angelica L. Mendoza, Program Manager, Office 7, titled "Request for Cost Database with Post-Cost Verification Corrections - Productos Laminados de Monterrey S.A. de C.V. (PROLAMSA)," dated May 27, 2008. PROLAMSA filed the electronic version of its revised cost database on May 27, 2008.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the "Issues and Decision Memorandum for the Final Determination of the Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from Mexico (2006-2007)" (Decision Memorandum) from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated June 13, 2008, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised

in this investigation and the corresponding recommendations in the Decision Memorandum which is on file in the CRU. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/>. The paper copy and electronic version of the Decision Memorandum are identical in content.

Targeted Dumping

We determined that Petitioners' allegations of targeted dumping failed to provide a reasonable basis to find a pattern of export prices for comparable merchandise that differ significantly among purchasers or regions. We determined further that Petitioners had not demonstrated that any such differences could not be taken into account using the average-to-average methodology, pursuant to section 777A(d)(1)(B) of the Act. We concluded that, for the final determination, we should continue to utilize the average-to-average methodology in calculating the final margins for respondents. For this final determination, we continue to utilize the average-to-average methodology in calculating the final margins for Maquilacero and PROLAMSA for the reasons set forth in the Decision Memorandum.

Scope of Investigation

The merchandise that is the subject of this investigation is certain welded carbon quality light walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon quality includes products in which 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, or 0.15 percent vanadium, or 0.15 percent of zirconium.

The description of carbon quality is intended to identify carbon quality products within the scope. The welded carbon quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for

convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation is from April 1, 2006, through March 31, 2007.

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 respondents.

Changes since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculation for both Maquilacero and PROLAMSA. For a discussion of these changes, see memoranda from Patrick Edwards to The File entitled "Light-Walled Rectangular Pipe and Tube from Mexico - Final Determination of Sales at Less Than Fair Value Analysis Memorandum for Maquilacero S.A. de C.V.," dated June 13, 2008 (Maquilacero Analysis Memo), and "Light-Walled Rectangular Pipe and Tube from Mexico - Final Determination of Sales at Less Than Fair Value Analysis Memorandum for Productos Laminados de Monterrey S.A. de C.V.," dated June 13, 2008 (PROLAMSA Analysis Memo); see also, the memorandum from Robert B. Gregor to Neal M. Halper entitled "Cost of Production and Constructed Value Calculation Adjustments for the Final Determination: Maquilacero S.A. de C.V.," dated June 13, 2008 (Maquilacero Cost Memo), and the memorandum from Gina K. Lee to Neal M. Halper entitled "Cost of Production and Constructed Value Calculation Adjustments for the Final Determination: Productos Laminados de Monterrey S.A. de C.V.," dated June 13, 2008 (PROLAMSA Cost Memo).

Adverse Facts Available

For the final determination, we continue to find that, by failing to provide information we requested, certain producers and/or exporters of LWR from Mexico did not act to the best of their ability in responding to our requests for information.¹ Thus, the

¹ These certain producers/exporters are Industrias Monterrey S.A. de C.V., Nacional de Acero S.A. de C.V., PEASA-Productos Especializados de Acero, Tuberias Aspe, and Tuberias y Derivados S.A. de C.V.

Department continues to find that the use of adverse facts available (AFA) is warranted for these companies under sections 776(a)(2) and (b) of the Act. See *Preliminary Determination*, 72 FR 5518 through 5520. As we explained in the *Preliminary Determination*, the Department assigned to these producers and/or exporters the rate of 11.50 percent, which the Department selected as the AFA rate as it was the highest estimated margin alleged in the petition. Further, as discussed in the *Preliminary Determination*, we corroborated the AFA rate pursuant to section 776(c) of the Act. No party to this investigation provided comments regarding the AFA rate. The Department considers the AFA rate to be a fully-corroborated rate and continues to find that 11.50 percent is the appropriate rate to be applied as the AFA rate for purposes of this final determination.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins and any margins determined entirely under section 776 of the Act. For this final determination, we have calculated a margin for Maquilacero and PROLAMSA that is above *de minimis*. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, because other respondents are receiving margins based on adverse facts available, we are using the weighted-average of the dumping margins which we have calculated for Maquilacero and PROLAMSA, *i.e.*, 4.33 percent, as indicated in the "Final Determination of Investigation" section below.

Final Determination of Investigation

We determine that the following weighted-average dumping margins exist for the period April 1, 2006, through March 31, 2007:

Manufacturer or Exporter	Weighted-Average Margin (Percentage)
Maquilacero S.A. de C.V.	2.92
Productos Laminados de Monterrey S.A. de C.V. (PROLAMSA)	5.73
Arco Metal S.A. de C.V.	4.33
Hylsa S.A. de C.V.	4.33
Industrias Monterrey S.A. de C.V.	11.50

Manufacturer or Exporter	Weighted-Average Margin (Percentage)
Internacional de Aceros, S.A. de C.V.	4.33
Nacional de Acero S.A. de C.V. PEASA-Productos Especializados de Acero	11.50
Perfiles y Herrajes LM, S.A. de C.V.	4.33
Regiomontana de Perfiles y Tubos	4.33
Talleres Acero Rey S.A. de C.V.	4.33
Tuberias Aspe	11.50
Tuberia Laguna, S.A. de C.V.	4.33
Tuberias y Derivados S.A. de C.V.	11.50
All-Others	4.33

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act and 19 CFR 351.211(b)(1), we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Mexico entered, or withdrawn from warehouse, for consumption on or after January 30, 2008, the date of the publication of *Preliminary Determination*, for all producers/exporters, except PROLAMSA. Because we found PROLAMSA to have a *de minimis* margin in the *Preliminary Determination*, we will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from Mexico from PROLAMSA and entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this final determination. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated in the chart above, as follows: (1) the rate for the respondents will be the rates we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 4.33 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the

Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material 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 duty order directing CBP 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 APO

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. Timely notification of 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 pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: June 13, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix

General Issues

Comment 1: Whether to Deny Home Market Price Adjustments

Comment 2: Whether to Accept Petitioners' Targeted Dumping Allegation

Comment 3: Whether to Subtract Negative Margins from Positive Margins ("Zeroing")

Maquilacero S.A de C.V.

Comment 4: Whether to Treat Export Rebates as an Adjustment to Sales or Cost of Production

Comment 5: Whether to Use Affiliated Party Downstream Sales in the Department's Analysis

Productos Laminados de Monterrey S.A. de C.V.

Comment 6: Whether to Apply Adverse Facts Available to PROLAMSA's Affiliated Party Downstream Sales

Comment 7: Whether to Make Changes to the Department's Programming for

Currency Conversions used in its

Preliminary Determination

Comment 8: Whether to Adjust

Reported Costs of Manufacturing
Comment 9: Whether to Use Corrected Variance Allocation Presented at Verification

Comment 10: Whether to Calculate Cost of Manufacturing using Historical Depreciation Costs

[FR Doc. E8-14249 Filed 6-23-08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-914]

Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China

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

EFFECTIVE DATE: June 24, 2008.

SUMMARY: The Department of Commerce (the Department) has determined that light-walled rectangular pipe and tube (LWR) from the People's Republic of China (PRC) is being, 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 final dumping margins for this investigation are listed in the "Final Determination Margins" section below. The period covered by the investigation is October 1, 2006, through March 31, 2007 (the POI).

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen or Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-2769 and 482-4406, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published its preliminary determination of sales at LTFV on January 30, 2008. See *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 73 FR 5500 (January 30, 2008) (*Preliminary Determination*). Between February 18,

2008, and February 29, 2008, the Department conducted verifications of Zhangjiagang Zhongyuan Pipe-Making Co., Ltd. (ZZPC) and Kunshan Lets Win Steel Machinery Co. Ltd. (Lets Win). See the "Verification" section below for additional information.

In response to the Department's invitation to comment on the *Preliminary Determination*, on April 2, 2008, the petitioners,¹ ZZPC, and Lets Win filed case briefs. The petitioners and ZZPC filed rebuttal briefs on April 7, 2008.

Analysis of Comments Received

All of the issues that were raised in the case and rebuttal briefs that were submitted in this investigation are addressed in the "Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from the People's Republic of China," dated June 13, 2008, which is hereby adopted by this notice (Issues and Decision Memorandum). Appendix I to this notice contains a list of the issues that are addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum, which is a public document, is on file in the Central Records Unit (CRU), at the Main Commerce Building, Room 1117, and is accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of the comments received, we have revised ZZPC's and Lets Win's dumping margins to reflect the following changes:

1. We based ZZPC's dumping margin on total adverse facts available.
2. We used different surrogates to value certain steel inputs and packing materials.
3. We averaged one additional surrogate company's data with those surrogate companies' data used in the *Preliminary Determination* to calculate the surrogate financial ratios.
4. Since the release of the preliminary determination, more recent labor data for the PRC has become available, which we have used in calculating Lets Win's final margin.

¹ The petitioners in this investigation are Allied Tube and Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, EXLTUBE, Hannibal Industries, Leavitt Tube Company, Maruichi American Corporation, Searing Industries, Southland Tube, Vest Inc., Welded Tube, and Western Tube and Conduit.

APPENDIX B
CRITICAL CIRCUMSTANCES DATA

CRITICAL CIRCUMSTANCES

In its final affirmative determination of LTFV sales of the LWR pipe and tube from China, Commerce found that critical circumstances exist for imports of LWR pipe and tube for firms subject to the PRC-wide rate.¹ Since this finding has not changed in nature since the vote on Turkey, data presented in USITC Publication 4001 and its corresponding confidential memo No. INV-FF-049 are simply reproduced here. Table B-1 and figure B-1 present data on monthly imports of LWR pipe and tube from China before and after the filing of the petition (January to December 2007).²

Table B-1
LWR pipe and tube: U.S. imports from China subject to Commerce's final affirmative critical circumstances determination, January 2007 - December 2007

* * * * * * *

Figure B-1
LWR pipe and tube: Monthly imports from China, January 2007-December 2007

* * * * * * *

¹ *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 73 FR 5500, January 30, 2008.

² Table B-1 and figure B-1 of this report are reproductions of table IV-13 and figure IV-13 from USITC Publication 4001 and INV-FF-049. These data reflect U.S. imports of LWR pipe and tube from firms other than those that received firm-specific weighted average dumping margins in Commerce's preliminary LTFV determination on China as Commerce found that the critical circumstance allegations did not apply to those firms and only applied to firms subject to the PRC-wide rate. Additionally, these statistics reflect the modifications made to official Commerce statistics in the final phase of these investigations to remove U.S. imports by *** from compiled imports.

APPENDIX C
SUMMARY DATA

Table C-1
LWR pipe & tube: Summary data concerning the U.S. market, 2005-07

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

Item	Reported data			Period changes		
	2005	2006	2007	2005-07	2005-06	2006-07
U.S. consumption quantity:						
Amount	962,225	1,025,684	894,973	-7.0	6.6	-12.7
Producers' share (1)	65.1	60.8	64.8	-0.3	-4.3	4.0
Importers' share (1):						
China	4.2	8.0	9.9	5.8	3.8	2.0
Korea (subject)	***	***	***	***	***	***
Mexico	16.2	14.1	15.7	-0.5	-2.1	1.6
Turkey	3.2	5.5	1.6	-1.6	2.3	-3.8
Subtotal (subject)	***	***	***	***	***	***
Canada	7.9	6.9	5.5	-2.5	-1.0	-1.5
Korea (nonsubject)	***	***	***	***	***	***
All other sources	1.1	1.7	0.6	-0.5	0.6	-1.1
Subtotal (nonsubject)	***	***	***	***	***	***
Total imports	34.9	39.2	35.2	0.3	4.3	-4.0
U.S. consumption value:						
Amount	834,193	869,323	730,480	-12.4	4.2	-16.0
Producers' share (1)	68.2	66.1	69.0	0.8	-2.2	2.9
Importers' share (1):						
China	3.2	5.5	7.2	4.0	2.2	1.8
Korea (subject)	***	***	***	***	***	***
Mexico	14.6	13.1	14.1	-0.6	-1.6	1.0
Turkey	2.8	4.1	1.3	-1.5	1.3	-2.8
Subtotal (subject)	***	***	***	***	***	***
Canada	8.3	7.5	5.9	-2.4	-0.7	-1.6
Korea (nonsubject)	***	***	***	***	***	***
All other sources	0.9	1.4	0.7	-0.2	0.4	-0.6
Subtotal (nonsubject)	***	***	***	***	***	***
Total imports	31.8	33.9	31.0	-0.8	2.2	-2.9
U.S. imports from:						
China:						
Quantity	39,945	81,657	88,879	122.5	104.4	8.8
Value	27,040	47,605	52,939	95.8	76.1	11.2
Unit value	\$677	\$583	\$596	-12.0	-13.9	2.2
Ending inventory quantity	***	***	***	***	***	***
Korea (subject):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Mexico:						
Quantity	156,263	144,925	140,938	-9.8	-7.3	-2.8
Value	122,203	113,714	102,713	-15.9	-6.9	-9.7
Unit value	\$782	\$785	\$729	-6.8	0.3	-7.1
Ending inventory quantity	***	***	***	***	***	***
Turkey:						
Quantity	30,517	55,952	14,511	-52.4	83.3	-74.1
Value	23,264	35,584	9,192	-60.5	53.0	-74.2
Unit value	\$762	\$636	\$633	-16.9	-16.6	-0.4
Ending inventory quantity	***	***	***	***	***	***
Subtotal (subject):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***

Table continued on next page.

Table C-1--Continued
LWR pipe & tube: Summary data concerning the U.S. market, 2005-07

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

Item	Reported data			Period changes		
	2005	2006	2007	2005-07	2005-06	2006-07
U.S. imports from:						
Canada:						
Quantity	76,231	71,142	48,899	-35.9	-6.7	-31.3
Value	69,074	65,584	43,262	-37.4	-5.1	-34.0
Unit value	\$906	\$922	\$885	-2.4	1.7	-4.0
Ending inventory quantity	***	***	***	***	***	***
Korea (nonsubject):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All other sources:						
Quantity	10,569	17,451	5,643	-46.6	65.1	-67.7
Value	7,586	11,778	5,298	-30.2	55.3	-55.0
Unit value	\$718	\$675	\$939	30.8	-6.0	39.1
Ending inventory quantity	***	***	***	***	***	***
Subtotal (nonsubject):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All sources:						
Quantity	336,258	402,295	315,414	-6.2	19.6	-21.6
Value	264,905	294,806	226,399	-14.5	11.3	-23.2
Unit value	\$788	\$733	\$718	-8.9	-7.0	-2.1
Ending inventory quantity	***	***	***	***	***	***
U.S. producers':						
Average capacity quantity	964,957	947,858	902,385	-6.5	-1.8	-4.8
Production quantity	625,933	631,842	580,847	-7.2	0.9	-8.1
Capacity utilization (1)	64.9	66.7	64.4	-0.5	1.8	-2.3
U.S. shipments:						
Quantity	625,967	623,389	579,559	-7.4	-0.4	-7.0
Value	569,288	574,517	504,081	-11.5	0.9	-12.3
Unit value	\$909	\$922	\$870	-4.4	1.3	-5.6
Export shipments:						
Quantity	4,635	7,547	9,241	99.4	62.8	22.4
Value	4,596	8,367	8,863	92.8	82.0	5.9
Unit value	\$992	\$1,109	\$959	-3.3	11.8	-13.5
Ending inventory quantity	64,764	65,118	56,366	-13.0	0.5	-13.4
Inventories/total shipments (1)	10.3	10.3	9.6	-0.7	0.1	-0.7
Production workers	1,114	1,023	973	-12.7	-8.2	-4.9
Hours worked (1,000s)	1,993	1,822	1,682	-15.6	-8.6	-7.6
Wages paid (\$1,000s)	33,854	33,343	31,485	-7.0	-1.5	-5.6
Hourly wages	\$16.99	\$18.30	\$18.71	10.2	7.8	2.2
Productivity (tons/1,000 hours)	314.1	346.9	345.3	9.9	10.4	-0.5
Unit labor costs	\$54.08	\$52.77	\$54.20	0.2	-2.4	2.7
Net sales:						
Quantity	591,721	586,896	549,260	-7.2	-0.8	-6.4
Value	539,809	542,437	481,378	-10.8	0.5	-11.3
Unit value	\$912	\$924	\$876	-3.9	1.3	-5.2
Cost of goods sold (COGS)	452,240	444,888	418,199	-7.5	-1.6	-6.0
Gross profit or (loss)	87,569	97,549	63,179	-27.9	11.4	-35.2
SG&A expenses	33,990	35,853	32,310	-4.9	5.5	-9.9
Operating income or (loss)	53,579	61,696	30,869	-42.4	15.1	-50.0
Capital expenditures	12,015	8,738	9,281	-22.8	-27.3	6.2
Unit COGS	\$764	\$758	\$761	-0.4	-0.8	0.4
Unit SG&A expenses	\$57	\$61	\$59	2.4	6.3	-3.7
Unit operating income or (loss)	\$91	\$105	\$56	-37.9	16.1	-46.5
COGS/sales (1)	83.8	82.0	86.9	3.1	-1.8	4.9
Operating income or (loss)/ sales (1)	9.9	11.4	6.4	-3.5	1.4	-5.0

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

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

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