

UNITED STATES INTERNATIONAL TRADE COMMISSION

CERTAIN WELDED LARGE DIAMETER LINE PIPE FROM JAPAN

Investigation No. 731-TA-919 (Final)

DETERMINATION AND VIEWS OF THE COMMISSION

(USITC Publication No. 3464, November 2001)

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### CERTAIN WELDED LARGE DIAMETER LINE PIPE FROM JAPAN

#### DETERMINATION

On the basis of the record<sup>1</sup> developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Japan of certain welded large diameter line pipe, provided for in subheadings 7305.11.10, 7305.11.50, 7305.12.10, 7305.12.50, 7305.19.10, and 7305.19.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

#### BACKGROUND

The Commission instituted this investigation effective January 10, 2001, following receipt of a petition filed with the Commission and Commerce by Berg Steel Pipe Corp. (Panama City, FL); American Steel Pipe Division of American Cast Iron Pipe Co. (Birmingham, AL); and Stupp Corp. (Baton Rouge, LA). The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of certain welded large diameter line pipe from Japan 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 Commission's investigation 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 July 9, 2001 (66 FR 35811). The hearing was held in Washington, DC, on October 9, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

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The Commission transmitted its determination in the investigation to the Secretary of Commerce on October 25, 2001. The views of the Commission are contained in USITC Publication 3464 (November 2001), entitled *Certain Welded Large Diameter Line Pipe from Japan*: Investigation No. 731-TA-919 (Final).

By order of the Commission.

Donna R. Koehnke  
Secretary

Issued:



## VIEWS OF THE COMMISSION

Based on the record in these final investigations, we determine that an industry in the United States is materially injured by reason of imports of certain welded large diameter line pipe (“CWLDLP”) from Japan that the U.S. Department of Commerce (“Commerce”) has determined to be sold in the United States at less than fair value (“LTFV”).<sup>1 2 3</sup>

### **I. DOMESTIC LIKE PRODUCT AND INDUSTRY**

#### **A. In General**

To determine whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”<sup>4</sup> Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant domestic industry as the “producers as a {w}hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>5</sup> In turn, the Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation.”<sup>6</sup>

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.<sup>7</sup> No single factor is dispositive, and the Commission

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<sup>1</sup> The petition underlying these investigations was filed with respect to imports of CWLDLP from Mexico and Japan. On September 4, 2001, Commerce made its final determination with respect to imports from Japan. 66 Fed. Reg. 47172 (Sept. 11, 2001). Commerce postponed its final determination with respect to imports from Mexico until December 28, 2001. 66 Fed. Reg. 49634 (Sept. 28, 2001). At this point in the proceedings, we reach a final material injury determination only with respect to subject imports from Japan.

<sup>2</sup> Commissioner Bragg notes that she did not support the Commission majority’s decision to transmit these views to Commerce subsequent to the statutory deadline for transmittal of views. See Commissioner Bragg’s Memorandum to the Commission (September 17, 2001, C071-Y-004). Despite the impact of the tragic events of September 11, 2001 on the schedule in these investigations, Commissioner Bragg believes the Commission had ample opportunity and resources to complete its work in these investigations as required by law.

<sup>3</sup> Chairman Koplun, Vice Chairman Okun, Commissioner Miller, and Commissioner Hillman note that the schedule in these investigations was amended due to the tragic events of September 11, 2001, which compelled the Commission to adjourn its September 11th hearing prior to completion. The parties consented to the amended schedule, which called for the Commission to transmit its determination by the statutory deadline, and its views to Commerce within a reasonable time thereafter. Consequently, these views are transmitted according to the amended schedule. We note this extension beyond the statutory deadline is unprecedented and should not be interpreted as a change of Commission practice.

<sup>4</sup> 19 U.S.C. § 1677(4)(A).

<sup>5</sup> Id.

<sup>6</sup> 19 U.S.C. § 1677(10).

<sup>7</sup> See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749, n.3 (Ct Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number

(continued...)

may consider other factors it deems relevant based on the facts of a particular investigation.<sup>8</sup> The Commission looks for clear dividing lines among possible like products and disregards minor variations.<sup>9</sup> Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise that has been found to be subsidized or sold at less than fair value, the Commission determines what domestic product is like the imported articles Commerce has identified.<sup>10</sup>

## **B. Product Description**

In its final determination, Commerce defined the imported merchandise within the scope of this investigation as:

certain welded carbon and alloy line pipe, of circular cross section and with an outside diameter greater than 16 inches, but less than 64 inches, in diameter, whether or not stenciled. This product is normally produced according to American Petroleum Institute (“API”) specifications, including Grades A25, A, B, and X grades ranging from X42 to X80, but can also be produced to other specifications. The product currently is classified under U.S. Harmonized Tariff Schedule (HTSUS) item numbers 7305.11.10.30, 7305.11.10.60, 7305.11.50.00, 7305.12.10.30, 7305.12.10.60, 7305.12.50.00, 7305.19.10.30, 7305.19.10.60, and 7305.19.50.00. . . . Specifically not included within the scope of this investigation is American Water Works Association (AWWA) specification water and sewage pipe and the following size/grade combinations; of line pipe:

- Having an outside diameter greater than or equal to 18 inches and less than or equal to 22 inches, with a wall thickness measuring 0.750 inch or greater, regardless of grade.
- Having an outside diameter greater than or equal to 24 inches and less than 30 inches, with wall thickness measuring greater than 0.875 inches in grades A, B, and X-42, with wall thickness measuring greater than 0.750 inches in grades X52 through X56, and with wall thickness measuring greater than 0.688 inches in grades X60 or greater.

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<sup>7</sup> (...continued)

of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 & n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct Int’l Trade 1996).

<sup>8</sup> See, e.g., S. Rep. No. 96-249, at 90-91 (1979).

<sup>9</sup> Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249, at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”).

<sup>10</sup> Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

- Having an outside diameter greater than or equal to 30 inches and less than 36 inches, with wall thickness measuring greater than 1.250 inches in grades A, B, and X42, with wall thickness measuring greater than 1.000 inches in grades X52 through X56, and with wall thickness greater than 0.875 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 36 inches and less than 42 inches, with wall thickness measuring greater than 1.375 inches in grades A, B, and X42, with wall thickness measuring greater than 1.250 inches in grades X52 through X56, and with wall thickness greater than 1.125 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 42 inches and less than 64 inches, with wall thickness measuring greater than 1.500 inches in grades A, B, and X42, with wall thickness measuring greater than 1.375 inches in grades X52 through X56, and with wall thickness greater than 1.250 inches in grades X60 or greater.
- Having an outside diameter equal to 48 inches, with a wall thickness measuring 1.0 inch or greater, in grades X-80 or greater.<sup>11</sup>

This merchandise, CWLDLP, is intended for the conveyance of oil and natural gas or other fluids in pipe lines, but also has other uses, such as piling and structural applications.<sup>12</sup> Line pipes, both welded and seamless, are produced to the American Petroleum Institute (“API”) 5L specification, which addresses a variety of acceptable welding methods.<sup>13</sup> Welded, large diameter pipes are formed into cylinders by the application of pressure to flat-rolled steel, which is then welded, tested, and finished.<sup>14</sup> In the United States, the predominant form of welded line pipe in sizes greater than 16 inches in outside diameter is produced using the submerged arc welding (“SAW”) method; such pipe accounted for 53 to 71 percent of reported U.S. mill shipments of the domestic like product during the period examined.<sup>15</sup> The remainder of reported U.S. shipments of the domestic like product consisted of line pipe produced through the electric resistance welding (“ERW”) method.<sup>16</sup>

### C. Domestic Like Product

*General.* In its preliminary determination in these investigations, the Commission found a single domestic like product coextensive with the scope of the investigations. The Commission indicated, however, that it would examine more closely the question of whether CWLDLP made by the ERW process

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<sup>11</sup> Notice of Final Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe from Japan, 66 Fed. Reg. 47172, 47173 (Sep. 11, 2001). After initiating its investigations, Commerce amended the scope of its investigations (with Petitioners’ consent) to exclude the size/grade combinations listed above.

<sup>12</sup> Confidential Report (“CR”) at I-7; Public Report (“PR”) at I-6.

<sup>13</sup> CR at I-6 and n.14, PR at I-5 and n.14 (citing *Specification for Line Pipe*, API Specification 5L, 42<sup>nd</sup> edition, January 2000, at 1). Acceptable welding methods include electric resistance welding, laser welding, and submerged arc welding. The submerged arc welding method includes a single longitudinal seam process, a double longitudinal seam process, and a helical or spiral seam process. CR at I-8-12, PR at I-7-11.

<sup>14</sup> CR at I-8-14, PR at I-7-11.

<sup>15</sup> CR/PR at Table I-2, Table D-1.

<sup>16</sup> CR at I-8-9, PR at I-7-8.

and by the SAW process should be treated as separate domestic like products.<sup>17</sup> After careful consideration of this question, we have again determined that there is a single domestic like product coextensive with the scope of the investigations.

*Physical Characteristics and Uses.* There is information in the record concerning five defining physical characteristics of ERW and SAW line pipe: outside diameter, wall thickness, weld, joint size, and the physical and metallurgical properties.

ERW and SAW line pipe are produced in an overlapping range of outside diameters. ERW line pipe within the scope of these investigations is produced domestically in outside diameter sizes between 16 and 24 inches, and SAW line pipe within the scope of these investigations is produced domestically in outside diameter sizes from 18 to 64 inches.<sup>18</sup> Thus, there is an overlap between the ERW and SAW outside diameter ranges between 18 and 24 inches. During the period examined, nearly 40 percent of U.S. producers' U.S. CWLDLP shipments were in sizes in this overlapping outside diameter range.<sup>19</sup>

ERW and SAW line pipe are also produced in an overlapping range of wall thicknesses. ERW line pipe is produced in the United States in wall thicknesses between 0.188 and 0.625 inch, while SAW line pipe is produced in the United States in wall thicknesses between 0.250 and 1.375 inches.<sup>20</sup> Thus, there also is an overlap between the ERW and SAW line pipe wall thickness ranges between 0.250 and 0.625 inch.

Both ERW and SAW line pipe are, by definition, welded pipe. ERW pipe is welded without the use of filler metal in the weld, whereas SAW pipe is produced using a filler metal in the weld. The SAW pipe weld is generally considered to be stronger and more reliable, and thus SAW pipe is preferred for low-temperature or deep water environments in oil and gas transmission.<sup>21</sup> For structural applications, ERW pipe is sometimes preferred for cosmetic reasons, because it has a less prominent weld seam.<sup>22</sup>

The Japanese Respondents claim that ERW pipe can be produced in longer joint sizes (lengths) than SAW pipe, thus making it less costly to install.<sup>23</sup> Although one purchaser also identified this distinction,<sup>24</sup> it is not otherwise borne out by the record. SAW pipe made by one producer, Berg, by the

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<sup>17</sup> Certain Welded Large Diameter Line Pipe From Japan and Mexico, Invs. Nos. 731-TA-919-920 (Preliminary), USITC Pub. 3400 at 7 (March 2001) ("Preliminary Determination").

<sup>18</sup> The low end of the outside diameter size range is 24 inches for two of the four domestic SAW producers, and 20 inches and 18 inches for the other two companies. CR/PR at Table I-1.

<sup>19</sup> U.S. producers shipped 2.1 million tons of CWLDLP between 1998 and 2000; shipments of line pipe greater than 16 inches in outside diameter and up to 24 inches in outside diameter accounted for \*\*\* tons. CR/PR at Table D-1.

<sup>20</sup> CR/PR at Table I-1. As noted above, however, the product at issue does not include thick-walled pipe. In particular, in the size ranges in which ERW pipe and SAW pipe overlap, line pipe having an outside diameter greater than or equal to 18 inches and less than or equal to 22 inches, with a wall thickness measuring 0.750 inch or greater, regardless of grade, is excluded. Also excluded are line pipe having an outside diameter greater than or equal to 24 inches and less than 30 inches, with wall thickness measuring greater than 0.875 inches in grades A, B, and X-42, with wall thickness measuring greater than 0.750 inches in grades X52 through X56, and with wall thickness measuring greater than 0.688 inches in grades X60 or greater.

<sup>21</sup> *E.g.*, CR/PR at E-3-4 (\*\*\*) description of the superiority of the weld of SAW pipe to that of ERW pipe).

<sup>22</sup> CR/PR at E-20 (comments of \*\*\*).

<sup>23</sup> Japanese Respondents' Prehearing Brief at 18-19.

<sup>24</sup> CR/PR at E-20 (comments of \*\*\*).

pyramid-rolling process is limited to shorter 40 foot lengths, but otherwise the maximum length of ERW and SAW pipe is similar (approximately 80-85 feet).<sup>25</sup>

The evidence as to the physical and metallurgical properties of ERW and SAW pipe is mixed. Some importers and purchasers reported that the physical and metallurgical characteristics of ERW and SAW pipe are virtually identical,<sup>26</sup> although others identified differences.<sup>27</sup> ERW line pipe is made from coiled plate, and SAW line pipe is usually made from cut-to-length plate.<sup>28</sup> There is apparently no difference in the chemistry of the steel used to produce ERW and SAW line pipe. The API specifications for line pipe permit both ERW and SAW processes in all grades and classes of CWLDLP.<sup>29</sup>

Both ERW and SAW pipe are used for the same general purpose, namely the transmission of oil and natural gas,<sup>30</sup> however, SAW pipe may be used for more demanding conditions (e.g., high pressure or extreme temperatures).<sup>31</sup> Both ERW and SAW pipe are also used in structural applications. Depending upon the nature of the application, end-users may prefer ERW pipe (e.g., for ornamental poles because it has no visible seam)<sup>32</sup> or SAW pipe (e.g., for offshore platform construction).<sup>33</sup>

In sum, ERW and SAW pipe have both common and divergent physical characteristics. The common characteristics include steel chemistry, API specifications, similar joint size, and dimensional overlap in outside diameter and wall thickness. The differences are in the ranges of outside diameter and wall thickness, and in the nature of the pipe's weld. The record also indicates that ERW and SAW pipe have the same general uses (i.e., the transmission of oil and gas and structural applications), although in certain circumstances, SAW line pipe may be preferable to ERW line pipe.<sup>34</sup>

*Interchangeability.* There is conflicting evidence on the record as to the extent of the interchangeability between ERW and SAW line pipe. On the one hand, Petitioners assert that ERW and SAW line pipe are fully interchangeable when produced to the same specifications and dimensions, and have provided requests for quotations ("RFQs") and other documentation suggesting that purchasers consider both ERW and SAW line pipe to be acceptable when produced to the same specifications and

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<sup>25</sup> CR/PR at Table I-1.

<sup>26</sup> E.g., CR/PR at E-9 (comments of \*\*\*) and E-18 (comments of \*\*\*)).

<sup>27</sup> E.g., CR/PR at E-9 (comments of \*\*\*)).

<sup>28</sup> CR at I-11 and I-13, PR at I-8 and I-11. While accurate for domestically produced CWLDLP, we recognize that this characterization is not universally applicable for SAW pipe. Helical SAW pipe (spiral weld pipe) is produced from hot-rolled coils. CR at I-7 n.17, PR at I-6 n.17; Petitioners' Posthearing Brief at exh. 18.

<sup>29</sup> CR at I-9, PR at I-7.

<sup>30</sup> CR at I-6-7, PR at I-5-6.

<sup>31</sup> CR at I-7-8, PR at I-5-6.

<sup>32</sup> CR/PR at E-20 (comments of \*\*\*)).

<sup>33</sup> Japanese Respondents' Posthearing Brief at Q-5.

<sup>34</sup> The record clearly demonstrates that, within the size range of ERW line pipe, there are few applications for which ERW line pipe is not acceptable. *See, e.g.*, CR/PR at Tables D-1 and D-2 (indicating that for CWLDLP in diameters greater than 16 inches and less than or equal to 24 inches, ERW constituted \*\*\* percent of domestic shipments by volume in 1998, \*\*\* percent of domestic shipments by volume in 1999, and \*\*\* percent of domestic shipments by volume in 2000). Moreover, this comparison is not meaningfully affected by the exclusion of thick-walled pipe, as the data are similar to those in the preliminary phase of these investigations (i.e., ERW constituted between \*\*\* and \*\*\* percent of domestic shipments by volume). *See* Preliminary Determination at Tables D-1 and D-2.

dimensions.<sup>35</sup> Witnesses for Petitioners testified that their customers frequently do not specify the desired weld type.<sup>36</sup> On the other hand, the Japanese Respondents maintain that ERW and SAW pipe are not commercially interchangeable, and have provided a number of RFQs and other correspondence with examples of customers specifying a particular weld type.<sup>37</sup> Witnesses for respondents testified that their customers always specify the desired weld type.<sup>38</sup> Based on this mixed evidence in the record, it appears that there is a moderate degree of interchangeability between ERW and SAW line pipe in the outside diameter, wall thickness, and grade ranges in which ERW and SAW pipe overlap.<sup>39</sup>

*Channels of Distribution.* ERW and SAW line pipe share the same channels of distribution. Purchasers of CWLDLP include both end-users who require CWLDLP for new pipeline projects and distributors who purchase CWLDLP and generally resell it to their own customers for the repair and maintenance of existing pipelines and, in some instances, for structural applications.<sup>40</sup> In 2000, domestic producers shipped \*\*\* percent of their ERW line pipe to end-users and \*\*\* percent to distributors. Similarly, domestic producers shipped \*\*\* percent of their SAW line pipe to end-users and \*\*\* percent to distributors.<sup>41</sup> Moreover, ERW producers and SAW producers sell to the same specific customers, with varying degrees of frequency. ERW producers Camp Hill, Stupp Corp., and American Steel Pipe sold \*\*\* of their 2000 volume to the same customers as at least one of the SAW producers.<sup>42</sup> SAW producers Saw Pipes, Berg Steel, and Napa Pipe sold \*\*\* of their 2000 volume to the same customers as at least one of the ERW producers.<sup>43</sup>

*Common Manufacturing Facilities, Employees and Methods.* Domestic welded pipe manufacturers employ a variety of techniques to produce welded line pipe from flat-rolled steel. Four U.S. producers manufacture CWLDLP utilizing the ERW production method, two U.S. producers manufacture CWLDLP utilizing the U-O-E process of SAW production, and one U.S. producer manufactures CWLDLP utilizing the pyramid rolling process of SAW production.<sup>44</sup> Individual U.S. mills specialize in a single form of production but, unlike Tubacero of Mexico and the Japanese mills, do not maintain both ERW production lines and SAW production lines. Therefore, ERW and SAW pipe are not made in the

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<sup>35</sup> Petitioners' Posthearing Brief at Exhibit 3.

<sup>36</sup> E.g., Hearing Tr. at 75 (Williamson, Berg Steel Pipe Corporation).

<sup>37</sup> Japanese Respondents' Posthearing Brief at Exhibit 9. We note that much of this documentation relates to line pipe with an outside diameter substantially greater than 24 inches. Since ERW line pipe is not produced in these sizes, the documentation is not indicative of customers expressing a preference for SAW pipe as opposed to ERW pipe, although it may reflect a preference for longitudinally welded DSAW pipe as opposed to spiral SAW pipe. See also Mexican Respondent \*\*\* Posthearing Brief at Exhibit A (purchase orders from \*\*\* and from \*\*\* specify \*\*\* in sizes of \*\*\* and \*\*\*, respectively).

<sup>38</sup> E.g., Hearing Tr. at 238 (Gutierrez, Tubacero S.A. de C.V.).

<sup>39</sup> We observe, for example, that in at least two instances gleaned from a limited universe of anecdotal evidence, purchasers initially solicited bids for ERW pipe but ultimately purchased SAW pipe. CR at V-23 and V-24, PR at V-13.

<sup>40</sup> CR at II-1, PR at II-1.

<sup>41</sup> CR/PR at Tables I-5 and I-6.

<sup>42</sup> Questionnaire responses of the U.S. producers. This comparison is based on the top 10 customers by volume during the period 1998-2000. Accordingly, Bethlehem's customer lists are included (as they were active in 1998 and into 1999), although their 2000 shipments are not included.

<sup>43</sup> \*\*\*, likely explaining its lower overlap. Petition at 1 and Exh. 1 (Jan. 10, 2001).

<sup>44</sup> CR at I-11 to I-16, PR at I-8-14, CR/PR at Table I-1.

United States in the same manufacturing facilities, using the same employees, or by common manufacturing methods.<sup>45</sup>

*Producer and Customer Perceptions.* Producers, importers, and purchasers responding to the Commission's questionnaire generally reported that the physical and metallurgical properties of ERW and SAW pipe are similar, that both ERW and SAW line pipe are manufactured according to the same API specification, and that both ERW and SAW pipe are used for oil and gas transmission.<sup>46</sup> Producers and purchasers generally agreed that there was competition between ERW and SAW line pipe within the overlapping dimensions and grades, although many producers and purchasers observed that ERW line pipe typically has a distinct advantage in terms of price.<sup>47</sup>

*Price.* ERW line pipe was less expensive than SAW pipe during the period examined. The differential, based on average unit values, for domestically produced ERW pipe relative to SAW pipe was 25.9 percent in 1998 and 39.2 percent in 1999, but then decreased to 21.2 percent in 2000.<sup>48</sup> The price differential for ERW pipe relative to SAW pipe continued to narrow in the first half of 2001, declining to 2.7 percent.<sup>49</sup>

*Conclusion.* We recognize that there are merits to both petitioners' and respondents' arguments concerning the domestic like product. On balance, however, we find that the evidence on the record supports a finding of a single like product.

ERW line pipe and SAW line pipe are sold through similar channels of distribution. The evidence with respect to physical characteristics, uses, interchangeability and producer and customer perceptions is mixed, but, on balance, we find that CWLDLP should be treated as a single domestic like product. ERW line pipe and SAW line pipe share the same general physical characteristics and are used primarily for the same general purpose, namely the transmission of oil and gas. The record reflects at least a moderate degree of interchangeability between ERW and SAW line pipe, and producers and customers typically perceive ERW and SAW line pipe as meeting overlapping needs in the transmission of oil and gas and in structural applications. The evidence, on balance, supports the view that ERW line pipe and SAW line pipe represent a continuum of CWLDLP production.

ERW line pipe and SAW line pipe do not have common manufacturing facilities, employees, or methods. The weight we give this factor is lessened by the fact that, while a distinction may be drawn

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<sup>45</sup> We note that the use of multiple methods of manufacturing and/or finishing tubular products, sometimes as a reflection of dimensional requirements, is not unique to the line pipe industry in question. See, e.g., Certain Welded Stainless Steel Pipe from Korea and Taiwan, Invs. Nos. 731-TA-540 and 541 (Review), USITC Pub. 3351 at I-12 (Sept. 2000); Circular Seamless Stainless Steel Hollow Products from Japan, Inv. No. 731-TA-859 (Final), USITC Pub. 3344 at I-6 (Aug. 2000); Certain Seamless Carbon and Alloy Standard, Line, and Pressure Pipe from Japan and South Africa, Invs. Nos. 731-TA-847 and 850 (Final), USITC Pub. 3311 at I-13 (June 2000); Circular Welded Carbon Quality Line Pipe, Inv. No. TA-201-70, USITC Pub. 3261 at II-7 (Dec. 1999); Circular Welded Nonalloy Steel Pipe from Romania and South Africa, Invs. Nos. 731-TA-732 and 733 (Final), USITC Pub. 2973 at I-5 (July 1996); and Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain, Invs. Nos. 701-TA-363 and 364 & 731-TA-711-717 (Final), USITC Pub. 2911 at II-7 and II-14 (Aug. 1995).

<sup>46</sup> CR/PR at E-3-5 (producers), E-9-12 (importers), and E-18-19 (purchasers). Some of the questionnaire respondents noted caveats with respect to wall thickness and outside diameter. In addition, most responding purchasers characterized ERW and SAW pipe as broadly interchangeable, although this view was not universally held, particularly among purchasers concerned with the use of welded line pipe under extreme conditions. Compare the responses of \*\*\*, \*\*\*, \*\*\*, \*\*\*, \*\*\*, \*\*\*, and \*\*\* with those of \*\*\*, \*\*\*, and \*\*\*.

<sup>47</sup> CR/PR at E-7-8 (producers) and E-21-23 (purchasers). Importers generally described less competition between ERW and SAW pipe. CR/PR at E-15-17.

<sup>48</sup> CR at I-23, PR at I-15.

<sup>49</sup> Id.

between SAW and ERW manufacturing methods, similar distinctions also exist among various SAW manufacturing methods, thus blurring the significance of dividing lines with respect to this factor.<sup>50</sup> Also, while there was a price differential between ERW and SAW line pipe during the period examined, this differential declined sharply at the end of the period examined.

#### **D. Domestic Industry**

Section 771(4) of the Act defines the relevant industry as “the producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes the major proportion of that product.”<sup>51</sup> In defining the domestic industry, the Commission’s general practice has been to include in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.<sup>52</sup> Based on our definition of the like product, we find that the domestic industry consists of all domestic producers of CWLDLP.<sup>53</sup>

## **II. CUMULATION**<sup>54</sup>

### **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 assess cumulatively the volume and effect of imports of the subject merchandise 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 product in the U.S. market.<sup>55</sup> In assessing whether subject

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<sup>50</sup> CR at I-9-13, PR at I-7-11.

<sup>51</sup> 19 U.S.C. § 1677(4)(A).

<sup>52</sup> See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (CIT 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

<sup>53</sup> We note that one of the firms identified as a producer of CWLDLP (U.S. Steel) has its product produced by another firm (Camp Hill Corp.) under a toll processing arrangement. The Commission generally does not include tollees (such as U.S. Steel in this case) that merely supply raw materials and pay a fabrication fee in the domestic industry. It does include tollers (such as Camp Hill Corp. in this case) that engage in significant production activity. Ferrovandium and Nitrided Vanadium From Russia (“Ferrovandium”), Inv. No. 731-TA-702 (Review), USITC Pub. 3420 at 6, n. 34 (May 2001); but see, Ferrovandium at 21-22 (“Separate Views of Commissioner Marcia E. Miller on the Definition of the Domestic Industry”); Furfuryl Alcohol from China and Thailand, Invs. Nos. 731-TA-703 and 705 (Review), USITC Pub. 3412 at 6, n. 23 (April 2001). No party raised the issue of toll production in these investigations. The record shows that the inclusion of financial data for Camp Hill Corp. in the data of the domestic industry, and the exclusion of the financial data for U.S. Steel, would not have any material effect on our consideration of the industry’s overall performance. CR at VI-7-8, PR at VI-4-5, CR/PR at Table VI-2. We further note that there are no related party issues in these investigations.

<sup>54</sup> Commissioner Bragg notes that negligibility is not an issue in these investigations.

<sup>55</sup> 19 U.S.C. § 1677(7)(G)(i).

imports compete with each other and with the domestic like product,<sup>56</sup> 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.<sup>57</sup>

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.<sup>58</sup> Only a “reasonable overlap” of competition is required.<sup>59</sup>

## **B. Analysis**

We find it appropriate to cumulate the volume and price effects of the subject imports from Japan and Mexico. The petitions in this investigation and the investigation concerning imports from Mexico were filed on the same day. Based on the record in these final investigations, we find that there is a reasonable overlap of competition between imports from the subject countries and between subject imports and the domestic like product.

First, as we did in the preliminary phase of these investigations, we find there is a moderate to high degree of fungibility between the subject imports and domestically produced CWLDLP, and between the subject imports.<sup>60</sup> The record indicates that CWLDLP is imported from Japan and Mexico within the same ranges of weld types, sizes, and grades of line pipe that are produced by the domestic industry.<sup>61</sup>

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<sup>56</sup> The Uruguay Round Agreements Act (URAA) Statement of Administrative Action (“SAA”) expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” SAA, H.R. Rep. 316, 103d Cong., 2d Sess. at 848 (1994), citing, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int’l Trade 1988), aff’d, 859 F.2d 915 (Fed. Cir. 1988).

<sup>57</sup> See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff’d, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int’l Trade), aff’d, 859 F.2d 915 (Fed. Cir. 1988).

<sup>58</sup> See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

<sup>59</sup> See Goss Graphic System, Inc. v. United States, 33 F. Supp.2d 1082, 1087 (Ct. Int’l Trade 1998) (“cumulation does not require two products to be highly fungible”); Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); Wieland Werke, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

<sup>60</sup> Preliminary Determination at 10.

<sup>61</sup> CR at I-14; PR at I-11-13; CR/PR at Table I-2 and Appendix D, Table D-1. U.S importers report that certain line pipe manufactured in Japan is not manufactured by any domestic producers. The Petitioners, however, have excluded some of these products from these investigations. CR at I-17-18, PR at I-13, CR/PR at Table I-3; Hearing Tr. at 16, 87-89.

Specifically, the record shows that there is considerable overlap between subject imports of SAW pipe and domestically produced SAW pipe, and between subject imports of SAW pipe from Japan and Mexico. SAW line pipe comprised more than half of U.S. shipments of domestically produced CWLDLP, almost half of U.S. shipments of subject imports from Japan, and nearly all of U.S. shipments of subject imports from Mexico from 1998 to 2000. There also was considerable overlap between subject imports of ERW pipe from Japan and domestically produced ERW pipe throughout the period examined, although virtually no overlap between Japanese or U.S. product and subject imports of ERW pipe from Mexico after 1998.<sup>62</sup> The record also shows that more than half of all U.S. shipments of domestically produced CWLDLP and subject imports from Japan during 1998-2000 consisted of CWLDLP with outside diameters of 16 to 24 inches and 30 to 42 inches, as did 23 to 53 percent of all U.S. shipments of subject imports from Mexico during the same period.

When analyzed by grade, grades X-40-59 and grades X-60-69 together comprised 20 to 54 percent of all U.S. shipments of domestically produced CWLDLP, more than 81 percent of U.S. shipments of subject imports from Japan, and more than half of U.S. shipments of subject imports from Mexico during 1998-2000. On the whole, despite the more limited product mix available from Mexico, there is sufficient overlap between product from Mexico and, for the same grades and sizes, both U.S. and Japanese product. We therefore find that, on the balance, the record demonstrates a reasonable degree of overlap between and among the domestic like product and imports of the subject merchandise from Japan and Mexico.<sup>63</sup>

Moreover, subject imports from both countries and domestically produced CWLDLP made to the same specifications can be used interchangeably.<sup>64</sup> Both U.S. producers and importers found domestically produced CWLDLP and subject imports to be always or sometimes interchangeable in most cases and reported using CWLDLP from all sources in the same applications.<sup>65</sup> Specifically, the majority of U.S. producers found domestically produced CWLDLP, Japanese CWLDLP, and Mexican CWLDLP to be always interchangeable with each other. The majority of U.S. importers generally agreed with the U.S. producers that CWLDLP from the United States, Japan, and Mexico is interchangeable, but not to the same degree. They found subject imports from Japan and domestically produced CWLDLP to be always or sometimes interchangeable, and their interchangeability to be limited by the narrower range of line pipe products manufactured by the domestic industry.<sup>66</sup> Imports from Japan of products allegedly not produced in the United States accounted for only \*\*\* percent of total imports of CWLDLP from Japan in 1998, \*\*\* percent in 1999, and \*\*\* percent in 2000.<sup>67</sup> The majority of U.S. importers also found that subject imports from Mexico were always or frequently interchangeable with domestically produced CWLDLP and always or sometimes interchangeable with subject imports from Japan, and that the interchangeability of subject imports from Mexico with both is limited only by certain buyers' perceptions that Mexican line pipe is of a lesser quality than domestically produced or Japanese line pipe.<sup>68</sup> However, record information suggests

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<sup>62</sup> CR/PR at Table I-2; Appendix D, Table D-1. ERW line pipe comprised more than 29 percent of U.S. shipments of domestically produced CWLDLP and 50 to 55 percent of U.S. shipments of subject imports from Japan during 1998-2000, but it comprised only 15 percent of U.S. shipments of subject imports from Mexico in 1998 and *de minimis* levels of subject imports from Mexico during 1999 and 2000. *Id.*

<sup>63</sup> CR/PR at Appendix D, Table D-1.

<sup>64</sup> CR at I-14, PR at I-11-13.

<sup>65</sup> CR at II-8, II-10-11; PR at II-5, II-7; CR/PR at Table II-3.

<sup>66</sup> CR at II-10, PR at II-7, CR/PR at Table II-3.

<sup>67</sup> CR/PR at Table I-3, Table IV-1.

<sup>68</sup> CR at II-10-11, PR at II-7, CR/PR at Table II-3. In particular, \*\*\* reported that it did not consider any Mexican line pipe suppliers to be qualified to supply its pipeline projects. CR at II-10 n.15; PR at II-7 n.15.

(continued...)

that subject imports from Mexico successfully competed with Japanese and domestically produced CWLDLP for pipeline project business during the period examined.<sup>69</sup>

Second, we find that there is a geographic overlap in sales both between the subject imports and with the domestic like product. The record indicates that the majority of U.S. imports of CWLDLP from both Japan and Mexico were entered through ports in Texas and Louisiana.<sup>70</sup> All U.S. producers reported having a geographic market encompassing the continental United States. Almost half of all U.S. importers importing the subject product also reported having market areas encompassing the continental United States, with the rest focusing their sales primarily in the southeastern and southwestern states.<sup>71</sup>

Third, we find that the domestic, Japanese, and Mexican CWLDLP were present to varying degrees in both the distributor and end-user/projects channels of distribution during the period examined. U.S. producers reported encountering and competing against subject imports from Japan and Mexico in both the distributor channel and the end-user/projects channel.<sup>72</sup> Specifically, the record shows that the majority of domestically produced CWLDLP was shipped to the end-user/projects channel throughout the period examined, while the majority of subject imports from Japan shifted from the end-user/projects channel in 1998 to the distributor channel by 2000 and interim 2001. The record also shows that all of the subject imports from Mexico were shipped to the distributor channel in 1998, then were nearly evenly split between the distributor channel and the end-user/projects channel in 1999 and 2000 before shifting almost completely to the end-user/projects channel in interim 2001.<sup>73</sup>

Finally, significant volumes of domestically produced CWLDLP and subject imports from Japan and Mexico were present in the United States throughout the period examined.<sup>74</sup>

In sum, we find that there is a reasonable overlap of competition between the subject merchandise from Japan and Mexico, and between subject imports and the domestic like product. Consequently, we cumulate subject imports from Japan and Mexico for purposes of this final determination on Japan.

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<sup>68</sup> (...continued)

Mexican producer \*\*\* likewise reported that some U.S. construction companies consider Mexican pipe to be a lower quality product than Japanese line pipe. CR at II-11, PR at II-7.

<sup>69</sup> CR/PR at Table I-6. Petitioners testified at the hearing that they bid against the Mexican Respondents for nineteen projects and lost a Florida project being offered by Enron, a pipeline company, during the period examined. Hearing Tr. at 23, 124-25. They also noted that Mexican Respondent \*\*\*. Petitioners' Posthearing Brief at 14. See also Hearing Tr. at 217-18 (testimony of Mr. Camacho regarding projects awarded to PMT).

<sup>70</sup> CR at IV-15; PR at IV-12.

<sup>71</sup> CR at V-2; PR at V-1.

<sup>72</sup> Hearing Tr. at 23-24, 33, 36-37, 40, 93-94, 124-125, 127, 248-49, 255.

<sup>73</sup> CR at I-18, II-1; PR at I-15, II-1; CR/PR at Tables I-4, I-5, I-6. On a country-by-country basis in 2000, 74.5 percent of U.S. shipments of subject imports from Japan were to distributors and 25.5 percent were to end-users, whereas 49.2 percent of U.S. shipments of subject imports from Mexico were to distributors and 50.8 percent were to end-users. CR/PR at Table I-4. U.S. producers reported that 29.9 percent of their domestic CWLDLP shipments were to distributors, while 70.1 percent were to end-users. CR/PR at Table I-4.

<sup>74</sup> CR/PR at Tables IV-1, IV-2, IV-3. See also CR/PR Appendix D, Tables D-1, D-2, D-3.

### III. MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.<sup>75</sup> In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.<sup>76</sup> The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”<sup>77</sup> 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.<sup>78</sup> 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.”<sup>79</sup>

For the reasons discussed below, we determine that the domestic industry is materially injured by reason of subject imports of CWLDLP from Japan that are sold in the United States at less than fair value.

#### A. Conditions of Competition

We find several conditions of competition relevant to our analysis in these investigations. CWLDLP is used primarily for the transmission of oil and gas in pipelines. As noted above, there are two types of purchasers of CWLDLP in the U.S. market, end-users who require CWLDLP for new pipeline projects and distributors who purchase CWLDLP and generally resell it to their own customers for the repair and maintenance of existing pipelines and, in some instances, for structural applications. There is greater demand volatility in sales to end-users than in sales to distributors.<sup>80</sup>

Questionnaire responses indicate that most sales of CWLDLP in the United States are made on a transaction-by-transaction basis, with project business typically involving a closed bidding process initiated by end-users, and maintenance, repair, and other business typically involving spot sales to distributors. In the former, an oil and gas transmission company formulates a technical plan for a particular project and issues RFQs to approved CWLDLP manufacturers, who in turn make bids for the project based on the project’s estimated cost and their available production capacity. Over a period of one to two months, the oil and gas company reviews the initial bids and selects one or more manufacturers who are in compliance with the project’s technical specifications and will offer the best value within the project deadlines. The CWLDLP manufacturer produces and delivers the line pipe six to twelve months after being awarded the purchase order.<sup>81</sup>

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<sup>75</sup> 19 U.S.C. § 1673d(b).

<sup>76</sup> 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).

<sup>77</sup> 19 U.S.C. § 1677(7)(A).

<sup>78</sup> 19 U.S.C. § 1677(7)(C)(iii).

<sup>79</sup> Id.

<sup>80</sup> CR at II-1, PR at II-1.

<sup>81</sup> CR at V-4-5, PR at V-3-4. One large purchaser, \*\*\*, reported that it increasingly utilizes an on-line reverse auction to award its project business. As with the closed bidding process, the purchaser formulates a project plan, submits RFQs to qualified CWLDLP manufacturers, collects and reviews the manufacturers’ technical proposals, and selects qualified manufacturers to participate in an on-line bidding process. The purchaser then informs

(continued...)

Because most CWLDLP is used in the transmission of oil and gas, demand for CWLDLP depends to a large degree on oil and gas prices and the level of activity in that sector. Following the completion of the Alliance Pipeline project in early 1999, project demand declined sharply as no other large-scale pipeline projects were initiated until the Gulfstream project was awarded in late 2000.<sup>82</sup> End users of CWLDLP products also began to consolidate rapidly during the remainder of the period examined.<sup>83</sup> Consequently, overall demand for CWLDLP in the United States declined between 1998 and 2000, and apparent U.S. consumption of CWLDLP decreased from \*\*\* short tons in 1998, to \*\*\* short tons in 1999, and \*\*\* short tons in 2000.<sup>84</sup> The decline in demand for CWLDLP in the latter part of the period examined appears to reflect a global phenomenon. Specifically, the domestic industry's export shipments of CWLDLP also fell, from 315,797 short tons in 1998, to 51,905 short tons in 1999, and to 10,085 short tons in 2000.<sup>85</sup> Similarly, Japanese exports of CWLDLP to non-U.S. markets declined by 482,108 short tons, from 775,443 short tons in 1998 to 293,335 short tons in 2000, while Mexican exports of CWLDLP to non-U.S. markets declined from \*\*\* short tons in 1998 to \*\*\* short tons in 2000.<sup>86</sup>

The largest supplier of CWLDLP to the U.S. market during the period examined was the domestic industry, which held as much as \*\*\* percent of the market in 1999.<sup>87</sup> However, the domestic industry's share of the U.S. market fell to \*\*\* percent in 2000.<sup>88</sup> The domestic industry's production capacity declined 2.3 percent from 1998 to 2000, but total production declined 73.5 percent in the same period.<sup>89</sup>

Nonsubject imports were an important source of CWLDLP during the period examined, falling from \*\*\* percent of apparent U.S. consumption in 1998, to \*\*\* percent in 1999, but then rising to \*\*\* percent in 2000.<sup>90</sup>

## **B. Volume of Subject Imports**

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<sup>81</sup> (...continued)

selected manufacturers of a ceiling price for each bid and then allows them to bid on specific portions of the project, called "lots," for 15 minutes. During this time, the manufacturers may view their competitors' bids on-line but not their identities, and they may bid more than once, though each of their successive bids must be lower than their previous one. However, no manufacturer is required to submit a market-leading bid. If a market leading bid is submitted near the end of the bidding period, the purchaser may extend the bidding period by another 10 to 15 minutes to allow the manufacturers to rebid, if they choose. Once the bidding period closes, the purchaser reviews the final bids and chooses the bid or bids of the manufacturer who it believes will provide the best combination of cost and quality. The lowest bid frequently wins the project, though not always. This entire process can take 4 to 5 months. CR at V-5-6, PR at V-4-5.

<sup>82</sup> CR at II-4, V-17; PR at II-3, V-12.

<sup>83</sup> CR at II-4, PR at II-3.

<sup>84</sup> CR at II-4, PR at II-3, CR/PR at Table IV-4. Apparent U.S. consumption was substantially higher in the first half of 2001 (\*\*\*) than in the first half of 2000 (\*\*\*). Id.

<sup>85</sup> CR/PR at Table III-4.

<sup>86</sup> CR/PR at Tables VII-4 and VII-7. Importantly, Japanese and Mexican exports of CWLDLP to the United States experienced only modest declines during 1998-2000. Subsequent to the filing of the petition, exports from Japan declined. Id.

<sup>87</sup> CR/PR at Table IV-7.

<sup>88</sup> Id.

<sup>89</sup> CR/PR at Table III-2.

<sup>90</sup> CR/PR at Table IV-7.

Section 771(7)(C)(i) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”<sup>91</sup>

The absolute volume of subject imports declined from 241,691 short tons in 1998 to 173,525 short tons in 1999, but then increased to 200,689 short tons in 2000.<sup>92</sup> The subject imports’ share of apparent U.S. consumption similarly declined from \*\*\* percent in 1998 to \*\*\* percent in 1999, but then rose to \*\*\* percent in 2000.<sup>93</sup> These trends, and in particular the rise in subject import market share, occurred as apparent U.S. consumption declined by \*\*\* percent, from \*\*\* short tons in 1998 to \*\*\* short tons in 2000, and as the domestic industry’s share of apparent U.S. consumption sharply declined from \*\*\* percent in 1999 to \*\*\* percent in 2000.<sup>94</sup>

Over the interim periods, subject imports declined from 126,655 short tons with a market share of \*\*\* percent in interim 2000, to 50,588 short tons with a market share of \*\*\* percent in interim 2001.<sup>95</sup> Apparent U.S. consumption rose from \*\*\* short tons in interim 2000, to \*\*\* short tons in interim 2001, and the domestic industry’s market share rose from \*\*\* percent in interim 2000 to \*\*\* percent in interim 2001.<sup>96</sup>

Producers of the subject imports responded to the decline in U.S. and global demand for CWLDLP by increasingly concentrating sales of their product to distributors during the period examined. The record shows that U.S. shipments of cumulated subject imports to distributors increased steadily throughout the period examined. U.S. shipments of cumulated subject imports to end users declined overall during the same period, despite increasing relative to domestic sales to end users. In 1998, 45.0 percent of cumulated subject imports were directed to distributor sales and 55.0 percent were directed to end-user sales. As previously noted, project demand deteriorated in the U.S. market and globally after early 1999, after which the foreign producers shifted the composition of their subject imports in the U.S. market. During 2000, 72.2 percent of subject import sales were being directed to distributors and 27.8 percent were being directed to end-users.<sup>97</sup> The cumulated subject imports thus took distributor business away from the domestic industry, which had become increasingly reliant upon sales to distributors following the steep decline in project demand. The quantity of domestic producers’ sales to distributors declined noticeably in 1999 and remained essentially flat in 2000, while their sales to end-users dropped off dramatically in 2000.<sup>98</sup>

Finally, we find it likely that the filing of the petition underlying these investigations contributed to the declining volumes of cumulated subject imports that were being shipped to both U.S. distributors and U.S. end-users when the interim periods are compared. In interim 2000, 81,506 short tons of cumulated subject imports were being directed to U.S. distributors, while 33,406 short tons were being directed to U.S. end-users. Following the filing of these petitions in January 2001, U.S. shipments of cumulated subject imports to distributors fell 65.5 percent to 28,129 short tons and U.S. shipments of cumulated

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<sup>91</sup> 19 U.S.C. § 1677(7)(C)(i).

<sup>92</sup> CR/PR at Table IV-1.

<sup>93</sup> CR/PR at Table IV-7. Relative to production in the United States, the volume of subject imports was 20.0 percent in 1998 and 19.2 percent in 1999, but then soared to 62.6 percent in 2000. CR/PR at Table C-1.

<sup>94</sup> *Id.*

<sup>95</sup> CR/PR at Tables IV-1 and IV-7.

<sup>96</sup> CR/PR at Table IV-7.

<sup>97</sup> CR/PR at Table I-4.

<sup>98</sup> CR/PR at Table I-4.

subject imports to end-users fell 26.9 percent to 24,413 short tons in interim 2001.<sup>99</sup> These declines occurred even though U.S. demand for CWLDLP recovered somewhat during interim 2001, as evidenced by the increased volumes of domestically produced CWLDLP being shipped to distributors and end-users over interim 2000 levels.<sup>100 101</sup>

For all the reasons discussed above, in light of the increase in the volume of subject imports between 1999 and 2000, and the sharp increase in their market share in the same period, we find the volume of subject imports of CWLDLP to be significant.

### **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.<sup>102</sup>

Subject imports and the domestic like product are generally substitutable, since API specifications establish a baseline, if not a standard, for sales in the United States. This substitutability, however, may be somewhat moderated by the fact that the domestic industry does not make some line pipe products and by the fact that the subject imports from Mexico are sometimes viewed as being less substitutable for the domestic like product than the subject imports from Japan.<sup>103</sup>

Prices for CWLDLP typically are established on a spot basis for sales to distributors, and through a standard closed bidding process for sales for use in the project portion of the market.

The Commission collected pricing data for a range of CWLDLP products. For each of the four products on which data was collected, domestic prices fluctuated but declined sharply through early 2001. The subject imports undersold the domestic product in 30 out of 46 calendar quarters in which pricing

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<sup>99</sup> CR/PR at Table I-4.

<sup>100</sup> U.S. shipments of domestically produced CWLDLP to distributors increased from 44,195 short tons in interim 2000 to 89,078 short tons in interim 2001, or by 102 percent. Shipments of domestically produced CWLDLP to end-users displayed an even more dramatic increase, rising from 84,722 short tons in interim 2000 to 269,585 short tons in interim 2001, or by 218 percent. CR/PR at Table I-4.

<sup>101</sup> Concerning the events in 2000 in particular, we have considered the Respondents' arguments regarding market and customer segmentation, domestic producers' ability to supply distributors, and the duration of "peak" import levels. Respondents' Prehearing Brief at 58-79.

In light of the domestic industry's demonstrated ability to sell CWLDLP in virtually every grade and size range (CR/PR at Table D-1); the domestic industry's substantial available capacity in 1999 and 2000 relative to proven production levels (CR/PR at Table III-2) and evident ability to sell substantial volumes to distributors (CR/PR at Table I-4, comparing 1998 and 2001 to 1999 and 2000); and the sustained high market share held by subject imports in the first and second half of 2000 (CR/PR at Table IV-4), we do not share Respondents' view that there was no significant increase in the subject imports' volume and market share.

<sup>102</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>103</sup> CR/PR at Tables I-3 and II-3. As discussed in part II-B of these Views, the volume of product not manufactured by U.S. producers and not excluded from the scope of these investigations is quite limited.

comparisons were possible, generally by significant margins.<sup>104</sup> We also find it significant that the highest quarterly incidence of underselling occurred for those products (Products 1 and 3) in which import volumes were the highest.<sup>105</sup>

While we are mindful of the limited utility of data based on average unit values when assessing a product such as CWLDLP (where such average values can be influenced by changes in product mix and variations in grade), we note that such data at least generally confirm price trends. In these investigations, the average unit values of sales of both the domestic product and subject imports from Japan declined in each full year of the period examined.<sup>106</sup> The average unit values of subject imports from Mexico declined from 1998 to 1999, and then rose slightly in 2000, although remaining at relatively low levels.<sup>107</sup>

The record in these investigations contains evidence of sales lost by domestic producers. The confirmed instances of lost sales/revenues provide further support for the evidence of underselling arising from the pricing comparisons discussed above, particularly insofar as most of the instances of lost sales coincided with the decline in the domestic industry's performance in late 1999 and early 2000.<sup>108</sup>

In sum, we find that subject imports significantly undersold the domestic product during the period examined. In light of the general decline in price levels during most of the period examined, and the widespread underselling by subject imports, we find that imports of the subject merchandise depressed domestic prices to a significant degree.

#### **D. Impact of the Subject Imports**

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.<sup>109</sup> These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive

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<sup>104</sup> The margins of underselling for imports from Japan averaged 13.4 percent for Product 1 and 8.4 percent for Product 3. The margins were \*\*\* percent in one quarter for Product 2 and \*\*\* percent and \*\*\* percent in two quarters for Product 4. The margins of underselling for imports from Mexico were \*\*\* percent and \*\*\* percent in two quarters for Product 1, \*\*\* percent in one quarter for Product 3, and \*\*\* percent for one quarter for Product 4. CR at V-8 and V-15, PR at V-6.

<sup>105</sup> Although prices for Products 1 and 3 recovered in interim 2001, that price recovery coincided with a sharp drop in subject import volumes. Furthermore, as noted above, we have discounted somewhat developments in interim 2001, which occurred after the filing of the petition leading to these investigations.

<sup>106</sup> The average unit values of U.S. shipments of the domestic product were \$659.19 in 1998, \$641.02 in 1999, and \$565.88 in 2000. The average unit values of U.S. shipments of subject imports from Japan were \$703.49 in 1998, \$473.45 in 1999, and \$451.08 in 2000. CR/PR at Table C-1.

<sup>107</sup> The average unit values of U.S. shipments of subject imports from Mexico were \$532.03 in 1998, \$449.57 in 1999, and \$456.62 in 2000. Id.

<sup>108</sup> CR at V-22-24, PR at V-13, CR/PR at Table V-5 and Table V-6. In addition, petitioners' posthearing brief (at 13-14) describes one project that was awarded to a Mexican producer in 2000 on the basis of that producer's low bid, and notes that the award may be reversed as a result of any duties imposed pursuant to these investigations.

<sup>109</sup> 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." Id. at 885.).

and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>110 111 112</sup>

Virtually all of the indicators of the domestic industry’s condition deteriorated from 1999 to 2000, many of them very sharply. Modest improvements occurred in January-June 2001 (the period after the petition was filed and the volume of subject imports decreased) relative to January-June 2000. The domestic industry’s operating income rose slightly between 1998 and 1999, as declining unit cost of goods sold (“COGS”) more than offset a decline in unit sales values. In 2000, however, unit net sales decreased dramatically, while unit COGS and SG&A increased substantially, resulting in a significant operating loss. In the first half of 2001, decreasing unit COGS and SG&A contributed to a modest rebound in operating income levels.<sup>113</sup> The domestic industry’s gross profitability increased somewhat from 1998 to 1999, became a loss in 2000 and interim 2000, and then showed signs of a moderate recovery in interim 2001.<sup>114</sup>

Domestic production capacity remained relatively stable throughout the period examined, yet capacity utilization declined sharply during the period examined before showing signs of recovery between the interim periods.<sup>115</sup> Domestic production of CWLDLP fell sharply, declining 25.5 percent from 1998 to 1999 and 64.5 percent from 1999 to 2000. Domestic production more than doubled between the interim periods.<sup>116</sup> The domestic industry’s end-of-period inventories declined in absolute terms between 1998 and

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<sup>110</sup> 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851 and 885 and Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386 and 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25, n.148.

<sup>111</sup> The statute instructs the Commission to consider the “magnitude of the dumping margin” in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii) (V). In its final antidumping determination for imports from Japan, Commerce assigned a margin of 30.80 percent to all respondents. This margin was based on the application of facts available and an adverse inference, and was the highest margin alleged in the petition. Notice of Final Determinations of Sales at Less Than Fair Value: Welded large Diameter Line Pipe From Japan, 66 Fed. Reg. 47172, 47173 (Sept. 11, 2001). In its preliminary antidumping determination for imports from Mexico, Commerce assigned a margin of 49.86 percent to all respondents. This margin was based on the application of facts available, and was based in part on information contained in the petition. Notice of Preliminary Determinations of Sales at Less Than Fair Value: Welded large Diameter Line Pipe From Mexico, 66 Fed. Reg. 42841, 42843 (Aug. 15, 2001).

<sup>112</sup> Commissioner Bragg notes that she does not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on the domestic producers. See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996); Anhydrous Sodium Sulfate from Canada, Inv. No. 731-TA-884 (Preliminary), USITC Pub. 3345 (Sept. 2000) at 11, n.63.

<sup>113</sup> The domestic industry’s operating income rose from \$56.8 million in 1998, to \$62.2 million in 1999, before becoming an operating loss of \$22.2 million in 2000. The domestic industry shifted from an operating loss of \$12.8 million in interim 2000, to an operating income of \$7.3 million in interim 2001. CR at VI-1, PR at VI-1, CR/PR at Table VI-1. Decreasing unit raw material costs between 1998 and 2000 were more than offset by increases in direct labor, factory overhead, and SG&A. CR/PR at Table VI-3.

<sup>114</sup> The domestic industry’s gross profits rose from \$82.4 million in 1998, to \$98.0 million in 1999, before becoming a gross loss of \$2.5 million in 2000. In interim 2001, the domestic industry returned to overall profitability, turning a gross profit of \$22.7 million, as compared with a gross loss of \$2.5 million in interim 2000. CR/PR at Table VI-1.

<sup>115</sup> Domestic production capacity hovered at about 2.3 million short tons from 1999 to 2000 and 1.2 million short tons between interim 2000 and interim 2001. However, capacity utilization declined from 51.0 percent in 1998, to 38.6 percent in 1999, 13.8 percent in 2000, and 13.5 percent in interim 2000 before recovering to 36.9 percent in interim 2001. CR/PR at Table III-2.

<sup>116</sup> Domestic production of CWLDLP declined from 1.2 million short tons in 1998, to 902 thousand short tons

(continued...)

2000, but increased sharply relative to total shipments, rising from 8.3 percent to 16.8 percent.<sup>117</sup> The domestic industry's market share, as measured on the basis of apparent consumption quantity, rose from \*\*\* percent in 1998 to \*\*\* percent in 1999 before declining to \*\*\* percent in 2000. Market share rose between the interim periods, from \*\*\* percent in interim 2000 to \*\*\* percent in interim 2001.<sup>118</sup>

Other indicators of the performance of the domestic CWLDLP industry also declined as U.S. producers curtailed or suspended their CWLDLP production during the period examined. In particular, the employment of production-and-related-workers (PRWs), the number of hours worked by PRWs, and the total wages paid to PRWs all declined significantly from 1998 to 2000. However, each of these indicators showed some recovery when the interim periods are compared.<sup>119</sup> The productivity of U.S. producers' PRWs manufacturing CWLDLP followed an irregular pattern during the period examined, dropping by 20.0 percent from 1998 to 2000, but increasing by 57.9 percent between the interim periods.<sup>120</sup>

Only \*\*\* U.S. producers of CWLDLP reported having any research and development expenses during the period examined, but these expenses were \*\*\*.<sup>121</sup> Capital expenditures decreased slightly from 1998 to 1999, then declined significantly from 1999 to 2000 before recovering marginally between the interim periods.<sup>122</sup> Finally, several domestic producers reported that they experienced problems raising capital, making capital investments, and getting a return on their investments during the period examined. These problems included denial or rejection of investment proposals, lower credit ratings, cancelled or rejected expansion projects, rejected bank loans, and reduced capital investments.<sup>123</sup>

We recognize that the domestic industry's export sales declined during the period examined. Nonetheless, the most significant drop in export sales occurred between 1998 and 1999,<sup>124</sup> and thus did not

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<sup>116</sup> (...continued)

in 1999, and 320 thousand short tons in 2000 before more than doubling from 156 thousand short tons in interim 2000 to 433 thousand short tons in interim 2001. CR/PR at Table III-2.

<sup>117</sup> The domestic industry's end-of-period inventory volumes were 97.8 thousand short tons in 1998, 53.7 thousand short tons in 1999, 54.3 thousand short tons in 2000, 60.9 thousand short tons in interim 2000, and 104.5 thousand short tons in interim 2001. CR/PR at Table III-5.

<sup>118</sup> CR at IV-11, PR at IV-11, CR/PR at Table IV-7.

<sup>119</sup> The average number of PRWs employed by the domestic industry declined from 1,318 in 1998, to 979 in 1999, and 520 in 2000, but rose from 518 in interim 2000, to 789 in interim 2001. The aggregate number of hours these PRWs worked declined from 2.7 million in 1998, to 1.9 million in 1999, and 899 thousand in 2000, but rose from 366 thousand in interim 2000, to 642 thousand in interim 2001. The aggregate wages paid to these PRWs likewise declined from \$50.5 million in 1998, to \$37.7 million in 1999, and \$17.0 million in 2000, but rose from \$8.8 million in interim 2000, to \$15.9 million in interim 2001. CR/PR at Table III-6.

<sup>120</sup> Average worker productivity rose from 445.7 tons per 1,000 hours in 1998 to 482.4 tons per 1,000 hours during 1999 but declined to 356.5 tons per 1,000 hours in 2000. Average productivity increased significantly between the interim periods, rising from 427.1 tons per 1,000 hours in interim 2000 to 674.5 tons per 1,000 hours in interim 2001. CR/PR at Table III-6.

<sup>121</sup> Research and development expenses increased slightly from \*\*\* in 1998 to \*\*\* in 1999, then declined to \*\*\* in 2000. They increased from \*\*\* in interim 2000 to \*\*\* in interim 2001. CR/PR at Table VI-6.

<sup>122</sup> Capital expenditures declined from \$13.7 million in 1998, to \$12.6 million in 1999, then plummeted to \$4.1 million in 2000. They increased from \$1.76 million in interim 2000, to \$1.84 million in interim 2001. CR/PR at Table VI-6.

<sup>123</sup> CR/PR at Appendix F; Hearing Tr. at 22, 27, 32.

<sup>124</sup> The domestic industry's export sales declined from 316 thousand short tons in 1998, to 52 thousand short tons in 1999 (the most profitable year of the period examined for the domestic industry), and to 10 thousand short tons in 2000. CR/PR at Table C-1.

coincide with the period in which the domestic industry's condition deteriorated the most, which occurred between 1999 and 2000, the time of the greatest increase in subject import penetration of the market.<sup>125</sup> In fact, the domestic industry's performance actually improved slightly from 1998 to 1999. The domestic industry also experienced a sharp drop in CWLDLP demand for project uses beginning in early 1999. As noted earlier, this drop in project-related demand made sales to distributors all the more important for the domestic industry. At the same time as project sales were declining, the low-priced subject imports were increasing and captured a greater share of sales to distributors.

We also recognize that there were large volumes of non-subject imports present in the U.S. market during the period examined, especially in 2000.<sup>126</sup> However, based on the limited data available for non-subject imports, there are some indications in the record that these non-subject imports were sold primarily for project uses,<sup>127</sup> and not to distributors, where the domestic industry suffered its most significant loss of sales.<sup>128</sup> We note also that the average unit value of non-subject imports in 2000 (the year in which the domestic industry's condition deteriorated) was considerably higher than that of subject imports, and in interim 2001, the average unit value of non-subject imports was considerably higher than that of the domestic like product.<sup>129</sup> Moreover, the trends in the average unit values of subject and non-subject imports between 1999 and 2000 were quite different.<sup>130</sup> Thus, the presence of nonsubject imports does not detract from our finding of both a significant volume of subject imports and significant underselling and price depressing effects caused by the subject imports, particularly in sales to distributors.<sup>131</sup>

In sum, the record indicates there have been significant increases in the volume and market share of the subject imports, and that the subject imports undersold the domestic merchandise and have had a significant depressing effect on domestic prices. Declining market share and lower prices led to financial losses and a decline in the overall condition of the domestic industry during the period. Accordingly, we find that the subject imports are having a significant adverse impact on the domestic industry.

## CONCLUSION

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<sup>125</sup> See *infra pp.* 21-22, the discussion of declining of global demand.

<sup>126</sup> Non-subject imports accounted for \*\*\* percent of apparent U.S. consumption in 1998, \*\*\* percent in 1999, and \*\*\* percent in 2000. CR/PR at Table C-1.

<sup>127</sup> Hearing Tr. at 122-23 (Schagrin and O'Leary); Petitioners' Posthearing Brief at Exhibits 17 and 18; Respondent \*\*\* Importers' Questionnaire Response at 7-8.

<sup>128</sup> CR/PR at Table I-4. See also, *infra p.* 24, the discussion of the impact that cumulated subject imports had on the domestic industry's distributor sales during the period examined.

<sup>129</sup> The average unit values of non-subject imports and subject imports in 2000 were \*\*\* and \$451.84, respectively. CR/PR at Table C-1. Although we recognize the limited utility of average unit values, as stated earlier, we find such data are helpful in the evaluation of relative price levels.

<sup>130</sup> The average unit value of subject imports declined by 3.7 percent between 1999 and 2000, while the average unit value of non-subject imports increased by \*\*\* percent. CR/PR at Table C-1.

<sup>131</sup> The Petitioners noted that a large portion of the non-subject imports from Canada over the period resulted from a "successful" and "fair" bid by a Canadian producer to supply various segments of a "very complicated project". Petitioners' Posthearing Brief at A-28-29; Hearing Tr. at 120-23.

The Japanese Respondents pointed to data provided by one importer of CWLDLP from Canada, and to bid data from several purchaser questionnaire responses, for the proposition that non-subject imports from Canada were priced lower than subject imports. Japanese Respondents' Posthearing Brief at 11-13. These data are limited and do not provide a sufficient basis for us to form a general impression of the pricing of all non-subject imports.

For the foregoing reasons, we determine that an industry in the United States is materially injured by reason of imports of CWLDLP from Japan that are being sold in the United States at less than fair value.