

UNITED STATES INTERNATIONAL TRADE COMMISSION

NON-MALLEABLE CAST IRON PIPE FITTINGS FROM CHINA

Investigation No. 731-TA-990 (Preliminary)

DETERMINATION AND VIEWS OF THE COMMISSION

(USITC Publication No. 3500, April 2002)

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DETERMINATION

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), 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 non-malleable cast iron pipe fittings, provided for in subheadings 7307.11.00 and 7307.19.30 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

BACKGROUND

On February 21, 2002, a petition was filed with the Commission and Commerce by Anvil International, Inc., Portsmouth, NH, and Ward Manufacturing, Inc., Blossburg, PA., alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of non-malleable cast iron pipe fittings from China. Accordingly, effective February 21, 2002, the Commission instituted antidumping duty investigation No. 731-TA-990 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of February 27, 2002 (67 FR 9004). The conference was held in Washington, DC, on March 14, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

VIEWS OF THE COMMISSION

Based on the record in this investigation, we find a reasonable indication that an industry in the United States is materially injured by reason of imports of non-malleable and certain ductile cast iron pipe fittings from China that are allegedly sold in the United States at less than fair value.

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.² In applying this standard, the Commission weighs the evidence before it and determines whether “(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation.”³

II. DOMESTIC LIKE PRODUCT

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”⁴ 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.”⁵ 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”⁶

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.⁷ No single factor is dispositive, and the Commission

² 19 U.S.C. §§ 1671b(a), 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354-55 (1996). We note that no party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

³ American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

⁴ 19 U.S.C. § 1677(4)(A).

⁵ Id.

⁶ 19 U.S.C. § 1677(10).

⁷ 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.⁸ The Commission looks for clear dividing lines among possible like products, and disregards minor variations.⁹ Although the Commission must accept the determination of the Department of Commerce (“Commerce”) as to the scope of the imported merchandise allegedly subsidized or sold at less than fair value, the Commission determines what domestic product is like the imported articles Commerce has identified.¹⁰

B. Product Description

The scope of this investigation as defined by Commerce in its notice of initiation covers the following imported merchandise:

finished and unfinished non-malleable cast iron pipe fittings with an inside diameter ranging from 1/4 inch to 6 inches, whether threaded or unthreaded, regardless of industry or proprietary specifications. The subject fittings include elbows, ells, tees, crosses, and reducers as well as flanged fittings. These pipe fittings are also known as cast iron pipe fittings or gray iron pipe fittings. These cast iron pipe fittings are normally produced to [American Standards of Testings and Materials] ASTM A-126 and [American Society of Mechanical Engineers] ASME B.16.4 specifications and are threaded to ASME B1.20.1 specifications. Most building codes require that these products are Underwriters Laboratories (UL) certified. The scope does not include cast iron soil pipe fittings or grooved fittings or grooved couplings. Fittings that are made out of ductile iron that have the same physical characteristics as the gray or cast iron fittings subject to the scope above or which have the same physical characteristics and are produced to ASME B.16.3, ASME B.16.4, or ASTM A-395 specifications, threaded to ASME B1.20.1 specifications and UL certified, regardless of metallurgical differences between gray and ductile iron, are also included in the scope of this petition. These ductile fittings do not include grooved fittings or grooved couplings. Ductile cast iron fittings with mechanical joint ends (MJ), or Push On ends (PO), or flanged ends and produced to the American Water Works Association (AWWA) specifications - AWWA C110 or AWWA C153 are not included.¹¹

⁷ (...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).

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

⁹ 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 domestic 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.”).

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

¹¹ See 67 Fed. Reg. 12966 (March 20, 2002).

Accordingly, the subject imports include non-malleable as well as certain ductile cast iron pipe fittings that can be used in traditionally non-malleable pipe fitting applications. Pipe fittings are generally used for connecting the bores of two or more pipes or tubes, connecting a pipe to other apparatus, changing the direction of fluid flow, or closing a pipe. Cast iron, the material from which the subject fittings are made, is a general term for alloys which are primarily composed of iron, carbon (more than two percent) and silicon.¹²

Non-malleable fittings are cast from iron in which fine graphite flakes are formed during cooling.¹³ Non-malleable iron has excellent machinability, wear resistance, and high hardness value.¹⁴ Non-malleable irons exhibit no elastic behavior and have a tensile strength ranging from 20,000 to 58,000 psi.¹⁵ Pipe fittings produced from non-malleable cast iron are used primarily in fire protection/sprinkler systems, accounting for approximately 90 to 95 percent of shipments, but are also used in the steam conveyance heating systems in older buildings. The steam conveyance market represents 5 percent of shipments, and other uses constitute less than 5 percent of shipments.^{16 17}

Ductile iron fittings are cast from iron that has a very small amount of magnesium added in the liquid state to induce the formation of graphites as spheroids or nodules, accounting for ductile fittings' exceptional tensile strength, good machinability, high impact resistance, and corrosion resistance.¹⁸ The tensile strength of ductile iron ranges from 60,000 to 100,000 psi.¹⁹

Ductile iron is inferior to non-malleable iron in ease of machining, and vibration damping. Ductile iron is comparable to non-malleable iron in castability, surface hardenability, and corrosion resistance, and superior in elastic properties, impact resistance, yield strength/weight, and wear resistance.²⁰ Notwithstanding similarities and differences in the types of iron, domestic and subject non-malleable cast iron fittings and subject ductile cast iron fittings are both used primarily in fire protection/sprinkler applications.²¹

C. Domestic Like Product

Parties' Arguments. The petitioners argue that the Commission should find one domestic like product consisting of non-malleable cast iron pipe fittings coterminous with the non-malleable fittings within the scope of the investigation.²² JDH Pacific, an importer of ductile cast iron pipe fittings from China, argues that ductile and non-malleable cast iron fittings should be defined as separate like products.

¹² Confidential Report ("CR") at I-6, Public Report ("PR") at I-4.

¹³ CR at I-7, PR at I-4.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. Non-malleable cast iron pipe fittings are primarily produced to ASTM A-126 and ASME B.16.4 specifications. Id.

¹⁸ CR at I-8, PR at I-5.

¹⁹ Id.

²⁰ Id.

²¹ CR at I-8 - I-9, PR at I-5 - I-6. There is no known U.S. production of ductile fittings of the types included within the scope. Conference Transcript at 163-164. Subject ductile cast iron fittings are typically produced to ASME B.16.3 specifications. CR at I-8 - I-9, PR at I-5 - I-6.

²² Petitioners Postconference Brief at 4-8. Petitioners also noted that there is no domestic production of the types of ductile fittings included in the scope. Id. at 7.

Smith-Cooper, an importer of subject merchandise, appears to argue that the like product should be defined more broadly than the scope to include ductile grooved and flanged fittings and dimensions greater than 6 inches in inside diameter.

Analysis. We considered, first, whether ductile cast iron pipe fittings are a like product separate from non-malleable cast iron pipe fittings. JDH Pacific acknowledges that there is no U.S. production of ductile cast iron pipe fittings that would satisfy the scope definition.²³ The record otherwise confirms the absence of domestically-produced ductile fittings corresponding to the scope definition of those articles.²⁴ As the Commission has noted “use of the term ‘domestic’ in the statutory term ‘domestic like product’ plainly indicates that such product is one produced in the United States.”²⁵ When there is no domestic product “like” the subject imports, the “domestic like product” is the product “most similar in characteristics and uses with” the subject imports.²⁶ The domestic product most similar in characteristics and uses with the subject imported ductile fittings is non-malleable cast iron pipe fittings.²⁷ Accordingly, we do not find that ductile fittings are a separate like product.

We find no basis in the record of this preliminary investigation to broaden the like product beyond the articles coterminous with the scope.²⁸ Ductile grooved fittings are not interchangeable with fittings corresponding to the scope definition, and differ from the latter fittings in physical characteristics and methods of production. Concerning production differences, although grooved fittings can be produced on the same equipment and machinery used to produce the merchandise like the subject merchandise,²⁹ the company believed to account for the vast majority of grooved ductile fittings, Victaulic, ***.³⁰ Moreover, grooved fittings have unique physical characteristics and methods of attaching to pipe.³¹

²³ JDH Pacific Postconference Brief at 1, 19.

²⁴ A witness for Smith-Cooper stated at the conference that there is no known U.S. producer of ductile fittings for non-malleable applications. Conference Transcript at 164. A questionnaire response furnished *** by a domestic jobber, Buck Co., Inc., indicated ***. Accordingly, there is no basis for concluding that ***. Buck’s production of fittings like the non-malleable subject fittings accounted for *** percent of total reported domestic production in 2001. CR at I-2, n.5; III-1; III-1, n.1; III-3, n.4; Table III-1, n..2; PR at I-2, n.5; III-1; III-1, n.1; III-2, n.4; Table III-1, n.2. The firms that JDH Pacific identifies as U.S. producers of ductile fittings in fact produce ductile fittings that are not like those within the scope, but rather that are like excluded, nonsubject fittings, e.g., those for use in waterworks and soil pipe applications. See CR at III-4, n.8; PR at III-3, n.8.

²⁵ Certain Cold-Rolled Steel Products From Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, The Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, Inv. Nos. 701-TA-422-425 and 731-TA-964-983 (Preliminary), USITC Pub. 3471 at 5-6, n.21 (Nov. 2001).

²⁶ 19 U.S.C. § 1677(10).

²⁷ See, e.g., Hot Rolled Steel Products from Argentina and South Africa, Inv. Nos. 701-TA-404, 731-TA-898 and 905 (Final), USITC Pub. 3446 at 6, n.11 (Aug. 2001) (hot rolled steel would be the like product in the absence of domestic production of a product like the specific subject imports).

²⁸ Smith-Cooper appears to be asking the Commission to broaden the like product simply to compensate for what it views as Commerce’s “errors” in defining the scope. Any objections to the scope definition, however, must be directed to Commerce. The Commission’s role is to apply its six traditional criteria to identify a domestic product that “is like, or in the absence of like, most similar in characteristics and uses with” the imported articles subject to investigation. 19 U.S.C. § 1677(10).

²⁹ CR at II-3, PR at II-2.

³⁰ See questionnaire response of ***; CR at III-1 and III-4, n.11; PR at II-1 and III-3, n.11.

³¹ Grooved fittings and couplings attach to a circumferential groove near the end of each piece to be joined. A gasket inside the coupling serves as a seal for the pipe and the coupling. CR at I-10, I-11; PR at I-7, I-8. In

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The record also shows that nearly all domestic fittings in the non-malleable applications are six inches or less in inside diameter.³² Thus, exclusion or inclusion of the larger dimension fittings within the like product would have little impact upon the data collected. For purposes of the preliminary determination, we decline to expand the like product to include larger-sized fittings.³³

We also decline to include ductile flanged fittings within the like product. In any final phase investigation, however, we intend to explore further whether ductile flanged fittings, as with non-malleable flanged fittings, should be included within the like product.³⁴

For the reasons stated above, we define the domestic like product as non-malleable cast iron pipe fittings, coextensive with the non-malleable fittings within the scope of investigation.

III. DOMESTIC INDUSTRY

The domestic industry is defined as “the producers as a [w]hole of a domestic like product”³⁵ In defining the domestic industry, the Commission’s general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.³⁶

Based on our domestic like product finding, we determine that the domestic industry consists of all producers of non-malleable cast iron pipe fittings.

IV. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LESS THAN FAIR VALUE IMPORTS

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially

³¹ (...continued)

investigations of malleable fittings, the Commission has consistently declined to expand the like product to include grooved fittings. Certain Malleable Cast-Iron Pipe Fittings from Japan, Inv. No. 731-TA-347 (Final), USITC Pub. 1987 at 5, n.10 (June 1987) (noting “the lack of interchangeability between these two types of pipe fittings and their differences in physical characteristics and methods of production”); Certain Malleable Cast-Iron Pipe Fittings from Thailand, Inv. No. 731-TA-348 (Final), USITC Pub. 2004 at 4-5 (August 1987) (rejecting request that the domestic like product be expanded beyond definition corresponding to the scope to include grooved and/or non-malleable pipe fittings); Malleable Cast-Iron Pipe Fittings from Brazil, Japan, Korea, Taiwan, and Thailand, Inv. Nos. 731-TA-278-280 and 731-TA-347-348 (Review), USITC Pub. 3274 at 5 (February 2000) (defining the like product to be malleable cast iron pipe fittings other than grooved and defining the domestic industry as producers of the like product).

³² ***. Commission Staff Notes (Bonnie Noreen), March 29, 2002 (notes of phone conversation with counsel for petitioners).

³³ We intend in any final phase investigation to explore, and would ask the parties to address, whether there is a clear dividing line between fittings with an inside diameter from 1/4 inch to 6 inches and those with an inside diameter greater than 6 inches.

³⁴ It appears that only a small percentage of flanged ductile fittings are used in non-malleable applications. CR at I-11, PR at I-7. However, the record does not indicate whether such flanged fittings constitute an identifiable set of products that have similar physical characteristics to, and are made to the same product specifications as, non-malleable fittings.

³⁵ 19 U.S.C. § 1677(4)(A).

³⁶ See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int’l Trade 1994), aff’d, 96 F. 3d 1352 (Fed. Cir. 1996).

injured by reason of the imports under investigation.³⁷ 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.³⁸ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”³⁹ In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.⁴⁰ 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.”⁴¹

For the reasons discussed below, we determine that there is a reasonable indication that the domestic industry producing non-malleable cast iron pipe fittings is materially injured by reason of subject imports from China that are allegedly sold in the United States at less than fair value.

A. Conditions of Competition

Demand for use of subject cast iron fittings and the domestic like product is ultimately derived from demand for end uses in which they are employed.⁴² Subject cast iron pipe fittings are sold in a variety of configurations, dimensions and compositions, and the decision to use a particular fitting depends upon the system into which the fittings will be integrated. Approximately 90 to 95 percent of cast iron pipe fittings are used in fire protection/sprinkler systems.⁴³ Apparent U.S. consumption of non-malleable/ductile cast iron fittings, by quantity, increased from *** short tons in 1999 to *** short tons in 2000, then decreased to *** short tons in 2001.⁴⁴

Use of the domestic like product may be required in government projects under which “buy American” provisions apply, estimated to account for 5 to 10 percent of all projects.⁴⁵ There appears to be at least a moderate degree of substitutability among subject imports, nonsubject imports, and domestically produced non-malleable/ductile cast iron pipe fittings for all but the “buy American” segment of the market.^{46 47}

³⁷ 19 U.S.C. §§ 1671b(a), 1673b(a).

³⁸ 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).

³⁹ 19 U.S.C. § 1677(7)(A).

⁴⁰ 19 U.S.C. § 1677(7)(C)(iii).

⁴¹ 19 U.S.C. § 1677(7)(C)(iii).

⁴² CR at II-4 - II-5, PR at II-2. Nonresidential building construction decreased by 4 percent between 2000 and 2001, while apparent domestic consumption of non-malleable/ductile cast iron pipe fittings declined by *** percent. Star Pipe Postconference Brief, exhibit 2 at 3; CR and PR at Table C-1.

⁴³ CR at I-7, PR at I-5. Shipments for heat conveyance applications account for 5 percent of total U.S. shipments. Id.

⁴⁴ CR and PR at Table C-1.

⁴⁵ CR at II-6, PR at II-4.

⁴⁶ CR at II-6 - II-8, PR at II-4 - II-5. All domestic producers and eight of nine importers reported that U.S. and subject Chinese non-malleable/ductile cast iron pipe fittings are used interchangeably. CR at II-7, PR at II-5. Another importer reported that, although the U.S. and Chinese products are used interchangeably, ductile fittings are not produced in the United States and, therefore, the U.S. and Chinese product are not interchangeable to that extent. Id. One importer reporting that the U.S. and Chinese products are interchangeable also reported that many

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The petitioners, Anvil and Ward, accounted for almost all domestic production of non-malleable cast iron pipe fittings in 2001.⁴⁸ Anvil and Ward also named three jobbing facilities that cast approximately *** percent of their production.⁴⁹ Toward the end of the period, Anvil closed its non-malleable cast iron pipe fitting facilities in Statesboro, Georgia and moved the casting equipment to Anvil's Columbia, Pennsylvania facility, where it formerly produced only malleable fittings. Anvil now produces both products at the Columbia facility, sharing production equipment and employees across product lines.⁵⁰

The record indicates that there is no market for the subject merchandise in China, that all Chinese production is exported, that *** exports from China of the merchandise were to the United States, and that Canada is the only alternative export market.⁵¹

Nonsubject cast iron pipe fittings were imported during the period of investigation.⁵² Shipments of nonsubject imports increased from *** short tons in 1999 to *** short tons in 2000, then declined, while remaining above the 1999 level, to *** short tons in 2001.⁵³ The increase in share of the market gained by the nonsubject imports was only about *** percent of the increase in share captured by subject imports from China.⁵⁴

⁴⁶ (...continued)

distributors do not handle imports because they can only be used on non-government jobs and ones without union labor. Id. That importer also reported that it sells its imports of non-UL listed merchandise to the steam heat market. *** reported no differences in product characteristics or sales conditions between the domestic and Chinese products. *** reported that the U.S. product has an advantage in terms of technology, quality, and distribution while imports have an advantage in terms of price. Id. While three of the eight importers that answered the question reported no differences in product characteristics or sales conditions between domestic and Chinese product, differences reported by the other five importers included that some projects require U.S. produced fittings, that distributors working on such projects that do not want to mix inventories do not stock imported product, that the U.S. producers do not make ductile fittings, and that sales conditions differ. CR at II-8, PR at II-5.

⁴⁷ Commissioner Bragg finds that subject imports, nonsubject imports, and the domestic like product, are largely substitutable for one another. See supra n.45.

⁴⁸ CR and PR at III-1.

⁴⁹ CR and PR at III-1.

⁵⁰ See CR at III-2, PR at III-1.

⁵¹ CR at II-4, PR at II-3.

⁵² CR and PR at Table IV-2.

⁵³ CR and PR at Table IV-3

⁵⁴ CR and PR at Table C-1.

B. Volume

Section 771(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.”⁵⁵

The volume of subject imports, the quantity of U.S. shipments of subject imports, and the market penetration of the subject imports, were each greater in 2001 than in 1999. Measured by quantity, subject imports increased from *** short tons in 1999 to *** short tons in 2001, after peaking at *** short tons in 2000.⁵⁶ This reflects a *** percent increase between 1999 and 2001. U.S. shipments of subject imports, measured by quantity, increased steadily from *** short tons in 1999 to *** short tons in 2000, and to *** short tons in 2001.⁵⁷ This reflects a *** percent increase from 1999 to 2001.⁵⁸ The quantity of shipments of subject imports as a share of the total quantity of U.S. consumption increased from *** percent in 1999 to *** percent in 2000, and to *** percent in 2001.⁵⁹

The increase in subject import market share came at the expense of the domestic industry. Domestic producers’ market share, measured by quantity, decreased from *** percent in 1999 to *** percent in 2000 and *** percent in 2001.⁶⁰ Thus, subject import market penetration was higher in 2001 than in 1999, and domestic industry market share was lower in 2001 than in 1999. This increase in subject import market penetration occurred in the context of declining U.S. consumption over the latter part of the period of investigation. From 1999 to 2001, the market share of subject imports increased by ***, which was greater than the *** by which the market share of nonsubject imports increased.⁶¹

Accordingly, we find that the increased volume of subject imports, both in absolute terms and relative to consumption in the United States, is significant.

C. Price Effects of the Subject Imports

Section 771(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.⁶²

⁵⁵ 19 U.S.C. § 1677(7)(C)(I).

⁵⁶ CR and PR at Table IV-2.

⁵⁷ CR and PR at Table IV-3.

⁵⁸ CR and PR at Table C-1.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Id.

⁶² 19 U.S.C. § 1677(7)(C)(ii).

As discussed above, the evidence gathered in this investigation indicates that there is at least a moderate degree of substitutability between the subject merchandise and the domestic like product.⁶³ During this investigation, we obtained price data for two non-malleable and two ductile cast iron pipe fitting products. The price of each of two domestic non-malleable products was compared to the price of the comparable non-malleable, as well as the comparable ductile, products from China.⁶⁴ The price comparison data indicate significant underselling by both the imported non-malleable and ductile product in every comparison in each of the twelve quarters of the period of investigation, with generally increasing margins of underselling ranging from *** percent to *** percent.⁶⁵ The data also show, however, that while prices for three of the four Chinese products declined and the price for the other Chinese product rose only slightly over the period of investigation, prices for the domestic products increased over the period by as much as *** percent.^{66 67}

Because domestic prices rose over the period of investigation, the price data does not evidence that prices for the domestic like product were being depressed. While the financial data for the industry show that costs rose more than prices over the period of investigation, providing some evidence of a cost/price squeeze,⁶⁸ it is less clear whether this was due, to any significant degree, to the subject imports.⁶⁹ Indeed,

⁶³ As noted above, Commissioner Bragg finds that subject imports, nonsubject imports, and the domestic like product, are largely substitutable for one another. See supra nn. 45 and 46.

⁶⁴ CR and PR at Tables V-1 and V-2.

⁶⁵ Id.

⁶⁶ Id. Average unit values of shipments showed comparable trends, with Chinese AUVs falling over the period and domestic AUVs rising, CR and PR at Table C-1. We note that AUVs may be sensitive to changes in product mix.

⁶⁷ Commissioner Bragg further notes that the average unit value of U.S. shipments of subject imports decreased from \$*** in 1999 to \$*** in 2000 and to \$*** in 2001, a decline of *** percent from 1999 to 2001. In contrast, the average unit value for nonsubject imports increased from \$*** in 1999 to \$*** in 2000 to \$*** in 2001, an increase of *** percent from 1999 to 2001. The average unit value for domestic producer's U.S. shipments increased from \$*** in 1999 to \$*** in 2000 and to \$*** in 2001, an increase of *** percent from 1999 to 2001. CR and PR at Table C-1.

⁶⁸ The domestic producers' average cost of goods sold plus SG&A per short ton increased from \$*** in 1999 to \$*** in 2000, and to \$*** in 2001. CR and PR at Table VI-4. Thus, while domestic producers' average value of net sales per short ton increased by \$***, or *** percent, from 1999 to 2001, cost of goods sold and SG&A per short ton increased by \$***, or *** percent, in that period. See CR and PR at Table C-1.

⁶⁹ Commissioner Bragg does not join in this conclusion. Commissioner Bragg finds ample record evidence in this preliminary phase investigation providing a reasonable indication of significant price suppression by reason of subject imports. Specifically, she notes that in the context of declining apparent U.S. consumption over the latter portion of the period of investigation, subject imports uniformly undersold the domestic like product and the average unit values of subject imports continued their downward trend. In contrast, the average unit values of nonsubject imports indicate substantial overselling compared to both subject imports and the domestic like product. See CR and PR at Table C-1. At the same time, domestic producers' unit COGS increased over *** percent between 2000 and 2001, while unit SG&A expenses increased over *** percent. Although domestic producers chose not to reduce prices in the face of increased volumes of low-priced subject imports, this does not mean that they were immune from pricing pressure. Indeed, the domestic industry was unable to cover these increased costs with corresponding increases in price; specifically, pricing data on the record indicate that domestic producers' prices increased roughly only *** percent between the beginning of 2000 and the end of 2001, and the average unit value of domestic producers' U.S. shipments increased only *** percent between 2000 and 2001. See CR and PR at Tables V-1 & V-2 and Table C-1. Moreover, between 2000 and 2001 the ratio of COGS/sales increased from

(continued...)

petitioners indicated that the effects of the subject imports were experienced primarily through lost volume and that they made a decision not to compete with imports from China on the basis of price.⁷⁰ Further, petitioners provided no specific information on lost sales or revenue due to subject imports. We thus intend to more closely examine in any final phase of this investigation whether subject imports suppressed prices of the domestic like product to any significant degree.

D. Impact

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.⁷¹ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”^{72 73 74}

We find that the subject imports had a significant adverse impact on the domestic industry’s performance. As the volume of subject imports increased, the domestic industry’s production capacity and production declined, and capacity utilization decreased notwithstanding declining capacity.⁷⁵ During a time of declining U.S. consumption and increasing volumes of subject imports, many of the factors concerning the domestic industry’s condition declined, while profitability declined even more sharply.

⁶⁹ (...continued)

*** percent to *** percent, further corroborating the petitioners’ claim of a cost/price squeeze. See CR and PR at Table C-1. Based upon all the foregoing, Commissioner Bragg finds that the significant volume of subject imports, which uniformly undersold the domestic like product, suppressed prices for the domestic like product to a significant degree.

⁷⁰ Petitioners Postconference Brief at 14-16. Notwithstanding their focus upon volume rather than price effects of the subject imports, petitioners allege price suppression in their posthearing discussion of impact, asserting that they have been unable to increase prices sufficiently to cover significant cost of production increases. Id. at 20.

⁷¹ 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).

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

⁷³ 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 notice of initiation, Commerce reported that petitioners had alleged an estimated dumping margin of 38.25 percent, as adjusted by Commerce. 67 Fed. Reg. 12966 (March 20, 2002).

⁷⁴ 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 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).

⁷⁵ The domestic producers’ capacity decreased from *** short tons in 1999 to *** short tons in 2001. CR and PR at Table III-2. Production declined from *** short tons in 1999 to *** short tons in 2001, while capacity utilization declined from *** percent in 1999 to *** percent in 2001. Id.

Domestic producers' U.S. shipments declined from *** short tons in 1999 to *** short tons in 2000 and to *** short tons in 2001.⁷⁶ Decreased consumption during the period would explain only part of this decline in domestic shipments. While domestic consumption of non-malleable/ductile cast iron pipe fittings declined by *** percent during the period, domestic producer shipments declined by *** percent.⁷⁷ Accordingly, as already noted, domestic producers' market share, measured by quantity, decreased from *** percent in 1999 to *** percent in 2000 and to *** percent in 2001 while subject imports gained market share at the domestic industry's expense.⁷⁸ The domestic industry's operating income declined from *** in 1999 to *** in 2000, then declined further to *** in 2001.⁷⁹ As a percentage of total net sales, operating income declined from *** percent in 1999, to *** percent in 2000, and then declined to *** percent in 2001.⁸⁰

The number of production workers in the industry also declined by *** percent over the period, from *** workers in 1999 to *** in 2000, and then declined to *** in 2001.⁸¹ Domestic producer' inventories also increased over the period.⁸²

For purposes of this preliminary determination, we find that the increased volume of subject imports adversely impacted the domestic industry, as reflected in declining profitability, capacity, capacity utilization, production, shipments, market share, and employment.⁸³

E. Conclusion

For the reasons stated above, we determine that there is a reasonable indication that the domestic industry producing non-malleable cast iron pipe fittings is materially injured by reason of imports of non-malleable/ductile cast iron pipe fittings from China that are allegedly sold in the United States at less than fair value.

⁷⁶ CR and PR at Table III-3.

⁷⁷ CR and PR at Table C-1.

⁷⁸ CR and PR at Table C-1.

⁷⁹ CR and PR at Table VI-1.

⁸⁰ Id.

⁸¹ CR and PR at Table C-1. At the same time, labor costs per short ton increased from \$*** in 1999 to \$*** in 2000 and \$*** in 2001, notwithstanding increased productivity. Id.

⁸² CR and PR at Table C-1. Inventories increased from *** percent of total shipments in 1999 to *** percent in 2001. Id. At least a part of the increased inventories toward the end of the period of investigation resulted from ***, Commission Staff Notes (John Fry), April 8, 2002.

⁸³ It appears that Anvil incurred considerable costs in consolidating its non-malleable cast iron pipe fitting operations in Georgia with its malleable cast iron pipe fitting operations in Pennsylvania. Commission Staff Notes (John Fry), April 8, 2002; Conference Transcript at 23-25. These costs explain in part the reduced profitability of Anvil and the domestic industry in 2001. We plan, in any final phase investigation, to explore the reasons for Anvil's moving its non-malleable operations and the costs incurred in the move.