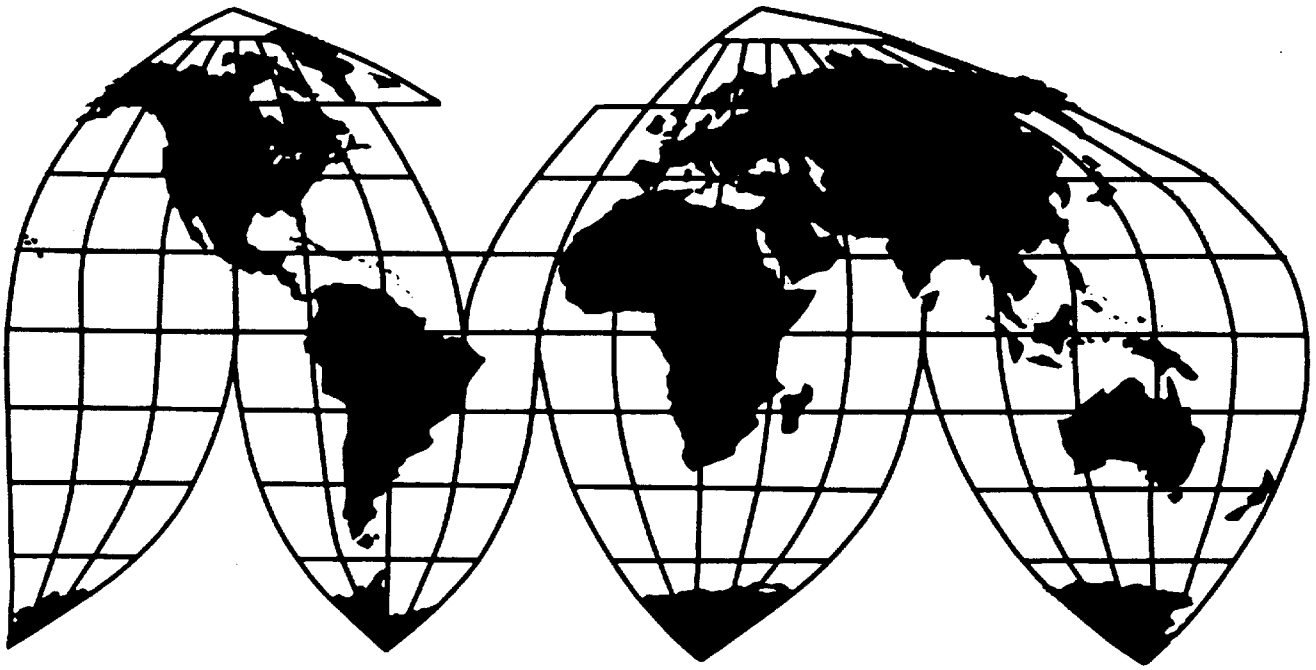
Clad Steel Plate From Japan

Investigation No. 731-TA-739 (Second Review)

Publication 3907 **March 2007**

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-739 (Second Review)
Clad Steel Plate from Japan

DETERMINATION

On the basis of the record[1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines,[2] pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted this review on October 2, 2006 (71 F.R. 57996), and determined on January 5, 2007, that it would conduct an expedited review (72 F.R. 2554, January 19, 2007). Notice of the scheduling of the Commission's reviews 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 on January 19, 2007 (72 F.R. 2554).

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

[2] Commissioners Jennifer A. Hillman and Irving A. Williamson not participating.

VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (the Act), that revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[1]

I. BACKGROUND

In June 1996, the Commission determined that an industry in the United States was materially injured by reason of imports of clad steel plate from Japan,[2] and the Department of Commerce ("Commerce") issued an antidumping duty order on such imports from Japan. In October 2001, the Commission determined in its first expedited five-year review that revocation of the antidumping duty order covering clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

The Commission instituted this second review on October 2, 2006. The only response to the notice of institution that the Commission received was from domestic producer Mittal Steel USA, Inc. ("Mittal").

On January 5, 2007, the Commission determined that the domestic interested party group response to the notice of institution was adequate, but that the respondent interested party group response was inadequate. The Commission did not find any circumstances that would warrant conducting a full review. Pursuant to 19 U.S.C. § 1675(c)(3)(B), the Commission determined to conduct an expedited review.[4]

On February 6, 2007, Mittal filed comments pursuant to 19 C.F.R. § 207.62(d) arguing, as it did in its response to the notice of institution, that revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the "domestic like product" and the "industry."[5] The Act defines the "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle."[6]

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[1] Commissioners Jennifer A. Hillman and Irving A. Williamson did not participate in this determination. Commissioner Dean A. Pinkert was not a member of the Commission at the time of the vote.

[2] Clad Steel Plate from Japan, Inv. No. 731-TA-739 (Final), USITC Pub. 2972 (June 1996) ("Original Determination").

[3] Clad Steel Plate from Japan, Inv. No. 731-TA-739 (Review) USITC Pub. 3459 (Oct. 2001) ("First Review").

[4] Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun voted to conduct a full review.

[5] 19 U.S.C. § 1677(4)(A).

[6] 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91

(continued...)

Commerce has defined the subject merchandise in this review as follows: "all clad steel plate of a width of 600 mm or more and a composite thickness of 4.5 mm or more."[7] Clad steel plate within the scope of this order is classifiable under Harmonized Tariff Schedule of the United States subheading 7210.90.10.[8]

Cladding is the association of layers of metals of different colors or natures by molecular interpenetration of the surfaces in contact. This limited diffusion is characteristic of clad products and differentiates them from products metalized in other manners (i.e., by normal electroplating). The various cladding processes include pouring molten cladding metal onto the basic metal followed by rolling; simple hot-rolling of the cladding metal to ensure efficient welding to the basic metal; and any other method of deposition or superimposing of the cladding metal followed by any mechanical or thermal process to ensure welding (i.e., electrocladding), in which the cladding metal (nickel, chromium, etc.) is applied to the basic metal by electroplating, molecular interpenetration of the surfaces in contact then being obtained by heat treatment at the appropriate temperature with subsequent cold rolling.[9]

Clad steel plate is produced to exact customer specifications. It is used to manufacture vessels or structures used in heavy industry projects where corrosion resistance qualities are essential.[10] The main end users of clad steel plate include petrochemical companies, the shipbuilding industry, electric utilities, pulp and paper companies, and other users of industrial equipment. The petrochemical industry, specifically the hydrocarbon processing industry which includes petroleum refining and petrochemical and chemical processing, consistently has been the largest market for clad steel plate.[11]

In the original investigation, no party raised any like product issues and the Commission found a single domestic like product coextensive with the scope of Commerce's investigation, i.e., all clad steel plate of a width of 600 mm or more and a composite thickness of 4.5 mm or more.[12]

In the first review, the Commission found that there had been no significant changes in the product at issue or with regard to the like product factors the Commission generally considers. No party participating in that review urged the Commission to reconsider its like product determination from the original investigation. It also did not find that any other circumstances warranted revisiting the Commission's original like product determination. Thus, consistent with its like product determination in the original investigation, the Commission again found a single like product coextensive with the scope

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[6] (...continued)
(1979).

[7] 72 Fed. Reg. 4482 (Jan. 31, 2007).

[8] Id.

[9] Confidential Report ("CR") at I-9 n.37 & I-10 to I-11; Public Report ("PR") at I-7 n.37 & I-8.

[10] Clad steel plate differs from corrosion resistant steel. Indeed, we note that the Commission has previously considered whether to include clad steel plate in the same like product as corrosion resistant steel, and declined, citing "clear distinctions in characteristics, uses, production techniques, production facilities, consumer perceptions, and price." Certain Flat-Rolled Carbon Steel Products from Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom, Invs. Nos. 701-TA-319-322, 334, 336-342, 344, and 347-353 and 731-TA-573-579, 581-592, 594-597, 599-609, and 612-619 (Final), USITC Publication 2664, August 1993, at 167.

[11] CR at I-10 to I-11; PR at I-7 to I-8.

[12] Original Determination at 4.

of Commerce's investigation, i.e., all clad steel plate of a width of 600 mm or more and a composite thickness of 4.5 mm or more.[13]

In its response to the Commission's notice of institution and comments submitted in this second five-year review, Mittal argues that the Commission should continue to find a single domestic like product coextensive with Commerce's scope. There is no new information obtained during this second review that would suggest any reason for revisiting the Commission's domestic like product definition. Accordingly, consistent with our like product definition in the original investigation and first review, we find a single domestic like product coextensive with Commerce's scope, i.e., all clad steel plate of a width of 600 mm or more and a composite thickness of 4.5 mm or more.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant domestic industry as the "producers as a whole 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."[14]

In the original investigation and first review, the Commission found a single domestic industry consisting of all domestic producers of clad steel plate at least 600 mm wide and at least 4.5 mm thick.[15] In this second review, Mittal expressly supports the Commission's previous domestic industry definition in the original investigation and first review.[16] Consistent with our like product definition, and because there is no new information obtained during this second review that would suggest any reason for revisiting the Commission's prior domestic industry definition, we find a single domestic industry consisting of all domestic producers of clad steel plate at least 600 mm wide and at least 4.5 mm thick.

III. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF ANTIDUMPING DUTY ORDER IS REVOKED

For the reasons stated below, we determine that revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury to the domestic industry producing clad steel plate within a reasonably foreseeable time.

A. Legal Standard In a Five-Year Review

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur, and (2) the Commission makes a determination that revocation of the antidumping duty order "would be likely to lead to continuation or recurrence of material injury within a reasonably

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[13] First Review at 4-5.

[14] 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

[15] Original Determination at 3-5; First Review at 4-5.

[16] Mittal's Comments at 4.

foreseeable time."[17] The Uruguay Round Agreements Act, Statement of Administrative Action, states that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."[18] Thus, the likelihood standard is prospective in nature.[19] The U.S. Court of International Trade has found that "likely," as used in the five-year review provisions of the Act, means "probable," and the Commission applies that standard in five-year reviews.[20] [21] [22]

The statute states that "the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time."[23] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' timeframe applicable in a threat of injury analysis in original investigations."[24]

Although the standard in a five-year review is not the same as the standard applied in an original antidumping duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to "consider the likely volume, price effect, and impact of imports of the subject

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[17] 19 U.S.C. § 1675a(a).

[18] The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994) (SAA). The SAA states that "[t]he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed." SAA at 883.

[19] While the SAA states that "a separate determination regarding current material injury is not necessary," it indicates that "the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked." SAA at 884.

[20] See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int'l Trade 2003) ("'likely' means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"), aff'd without opinion, 140 Fed. Appx. 268 (2005); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int'l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int'l Trade Dec. 20, 2002) ("more likely than not" standard is "consistent with the court's opinion"; "the court has not interpreted 'likely' to imply any particular degree of 'certainty'"); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int'l Trade Sept. 4, 2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int'l Trade July 19, 2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

[21] For a complete statement of Commissioner Okun's interpretation of the likely standard, see Additional Views of Vice Chairman Deanna Tanner Okun Concerning the "Likely" Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina, Brazil, Germany, and Italy, Inv. Nos. 701-TA-362 (Review) and 731-TA-707-710 (Review) (Remand), USITC Pub. 3754 (Feb. 2005).

[22] Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004) at 15-17, she does not concur with the U.S. Court of International Trade's interpretation of "likely" but she will apply the Court's standard in this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses the issue.

[23] 19 U.S.C. § 1675a(a)(5).

[24] SAA at 887. Among the factors that the Commission should consider in this regard are "the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities." Id.

merchandise on the industry if the orders are revoked or the suspended investigation is terminated."[25] It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).[26]

No respondent interested party has participated in this review. The record, therefore, contains limited information with respect to the clad steel plate industry in Japan. Accordingly, we rely on available information when appropriate, which consists primarily of information from the original investigation and the first five-year review and information collected in this five-year review, including that submitted by Mittal, the only participating domestic producer.[27] [28]

B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[29] The following conditions of competition are relevant to our determination.

Demand. In the original investigation and first review, the Commission found that demand for clad steel plate was derived from demand for the end products produced by purchasers mainly in the petrochemical industry, and to a lesser extent by purchasers in the power/utilities industry, the pulp and

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[25] 19 U.S.C. § 1675a(a)(1).

[26] 19 U.S.C. § 1675a(a)(1). Commerce did not make any duty absorption findings with respect to the order under review. See Commerce's Review Determination, 72 Fed. Reg. 4482 (Jan. 31, 2007). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

[27] 19 U.S.C. § 1677e(a) authorizes the Commission to "use the facts otherwise available" in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or other person withholds information requested by the agency, fails to provide such information in the time, form, or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a). The verification requirements in section 782(i) are applicable only to Commerce. 19 U.S.C. § 1677m(i). See Titanium Metals Corp., 155 F. Supp. 2d at 765 ("[T]he ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of a Commission investigation.").

[28] Commissioner Okun notes that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties' suggested interpretations of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. "In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive." SAA at 869.

[29] 19 U.S.C. § 1675a(a)(4).

paper industry, and the shipbuilding industry.[30] The record in this review likewise indicates that demand for clad steel plate remains derived from demand for downstream products, mainly in the petrochemical industry, but also in newer applications, namely desulfurization of flues in coal-fired power plants.[31]

In the first review, the Commission found that apparent U.S. consumption of clad steel plate had declined since the time of the original investigation, falling *** percent from 1995 to 2000.[32] This trend has continued in this second review with apparent U.S. consumption falling by *** percent between 2000 and 2005.[33]

Supply. In the original investigation, four firms (Ametek, DuPont, DMC, and Lukens Steel Co.) comprised the domestic industry.[34] In the first review, four firms also comprised the domestic industry (Ametek, DMC, Lukens (subsequently Bethlehem Lukens), and Vee Cee Metals).[35] Since the first review, Vee Cee Metals has exited the industry, leaving DMC, Ametek, and Mittal (the successor company to Bethlehem Lukens) as the three remaining domestic producers.[36] Mittal accounted for the majority of domestic production in 2005.[37]

Production of clad steel plate in the United States declined since the imposition of the antidumping duty order in July 1996, falling from 1995 to 1997, then rising in 1998 compared to 1997, and then falling again from 1998 to 2000, for an overall decline of *** percent from 1995 to 2000.[38] Domestic production of clad steel plate in 2005 was *** short tons, which was similar to the level of domestic production in the final year of the first review period (*** short tons in 2000) and below the level of domestic production in the original investigation.[39]

As in the original investigation and first review, the domestic industry remains the dominant supplier to the U.S. market in this second review.[40] Following the imposition of the antidumping duty order in July 1996, subject imports from Japan dropped to minimal levels, accounting for less than *** percent of apparent U.S. consumption in 2000 and 2005.[41] Nonsubject imports have occupied a relatively minor but growing share of the clad steel plate market since the original investigation. In 1995,

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[30] First Review at 8.

[31] CR at I-11; PR at I-8.

[32] Apparent U.S. consumption calculated using U.S. production dropped from *** short tons in 1995 to *** short tons in 2000. CR/PR at Table I-6; First Review at 7.

[33] Apparent U.S. consumption calculated using U.S. production dropped from *** short tons in 2000 to *** short tons in 2005. CR/PR at Table I-6.

[34] CR at I-16; PR at I-13.

[35] DMC acquired Dupont's clad steel plate operations in 1996 and Bethlehem Steel Corp. acquired Lukens Steel in 1998. CR at I-17; PR at I-13.

[36] Subsequent to the filing of the original petition, petitioner Lukens Steel Co. was acquired by Bethlehem Steel Corporation in 1998, and was renamed Bethlehem Lukens Steel Plate. In May 2003, the assets of Bethlehem, including Bethlehem Lukens Plate, were acquired by International Steel Group ("ISG"). In April 2005, ISG merged with and into Mittal Steel Co. and became Mittal Steel USA ISG Inc. In December 2005, the company became Mittal Steel USA, Inc. CR at I-16 n.58; PR at I-13 n.58.

[37] Mittal's Response at 4.

[38] Domestic production of clad steel plate fell from *** short tons in 1995 to *** short tons in 2000. CR/PR at Table I-6.

[39] CR/PR at Table I-6.

[40] Id.

[41] Id.

nonsubject imports accounted for *** percent of apparent U.S. consumption.[42] By 2005, however, nonsubject imports accounted for *** percent of apparent U.S. consumption.[43] We note, however, that nonsubject import market share has decreased markedly from the levels attained prior to the U.S. safeguard action, i.e., during 1997-2000.

Substitutability. In the original investigation, the Commission found that "imported clad steel plate from Japan is able to, and does, compete directly with the domestic product."[44] In the first review, the Commission observed that the U.S. market for clad steel plate is price sensitive such that price plays a key role in determining which supplier will win a bid and that, given the apparent high substitutability between domestic and Japanese clad steel plate, relatively small changes in price can result in significant shifts in market share.[45] In the first review, the Commission also found that contract negotiations in this industry are characterized by a relatively small number of major bids, and that sales are made through a multi-level, competitive bidding process.[46] Mittal maintains that these conditions continue today.[47] [48]

Based on the record evidence, we find that conditions of competition in the domestic clad steel plate market are not likely to change significantly in the reasonably foreseeable future. Accordingly, in this review, we find that current conditions in the market provide us with a reasonable basis on which to assess the likely effects of revocation of the order in the reasonably foreseeable future.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping and countervailing duty orders are revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.[49] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[50]

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[42] Id.

[43] Id.

[44] Original Determination at 4.

[45] First Review at 8-9, 13.

[46] First Review at 8-9.

[47] Mittal's Comments at 4.

[48] Other notable events during the period of review affecting the clad steel plate industry include: (1) the U.S. safeguard action on steel products, including clad steel plate (CR at I-4 to I-7; PR at I-4 to I-6); (2) the assumption of pension legacy costs by the Pension Benefit Guaranty Corporation (CR at I-20 n.72; PR at I-16 n.72); (3) the restructuring of labor contracts (CR at I-20 & n.75; PR at I-16 & n.75); and (4) the growing internationalization of the U.S. industry (CR at I-20; PR at I-16). Mittal did not comment in its submissions on these developments. We note that the safeguard measures on clad steel plate became effective on March 20, 2002. Import relief relating to clad steel plate consisted of an additional tariff of 30 percent *ad valorem* on imports in the first year, 24 percent in the second year, and 18 percent in the third year. On December 4, 2003, the President terminated the additional tariff on clad steel plate. CR at I-5 to I-6; PR at I-4 to I-5.

[49] 19 U.S.C. § 1675a(a)(2).

[50] 19 U.S.C. § 1675a(a)(2)(A)-(D).

As discussed below, we conclude from the facts available that subject import volume is likely to be significant if the order is revoked. This conclusion is based largely on the record from the original investigation and first review, and the information in this second review.

In the original investigation, the Commission found that Japanese clad steel plate producers had the ability and willingness to establish a significant presence in the U.S. market. Especially because subject imports of clad steel plate from Japan rose continuously on an annual basis during the period examined in the original investigation, the Commission concluded that the volume of subject imports was significant.[51]

In the first review, the Commission concluded that subject import volume was likely to increase significantly and would be significant if the order were revoked, explaining that "[t]his conclusion is based largely on the record from the original investigation," which "indicated that Japanese clad steel plate producers had the ability and willingness to establish a significant presence in the U.S. market."[52] Whereas total U.S. imports of clad steel plate from Japan rose continuously on an annual basis during the period examined in the original investigation, and even excluding imports under temporary import bond exhibited significant overall growth between 1993 and 1995, U.S. imports of clad steel plate from Japan dropped to minimal levels following the imposition of the antidumping order in July 1996.[53] In 2000, there were only 4 tons of clad steel plate imported from Japan. Based on this evidence as well as evidence indicating that Japanese producers were export oriented and had increased their production capacity since the order went into effect, the Commission in the first review concluded that the likely volume of subject imports would be significant absent the restraining effect of the antidumping duty order.[54]

Evidence collected in this second review indicates that Japanese producers have increased their production capability since the order went into effect.[55] Japanese producers JSW and JFE both reported large increases in sales of clad steel plate in their 2006 annual reports.[56] Similarly, overall Japanese production of clad steel plate has increased markedly since the original investigation and first review, increasing from 35,281 short tons in 1992 to 37,309 short tons in 2000 to 80,971 short tons in 2005.[57]

During the original investigation, the Japanese industry exported over one-half of its production volume.[58] Evidence collected in this second review indicates that the Japanese industry remains export oriented. While Japanese total exports dropped from 14,122 short tons in 1996 to 12,469 short tons in 2000, they increased sharply to 25,203 short tons in 2005.[59] Total Japanese exports in 2005 were more than *** times greater than apparent U.S. consumption in that year.[60] The export orientation of the

[51] Original Determination at 14-15.

[52] First Review at 11-12.

[53] Id. at 12.

[54] Id. at 12-13.

[55] CR at I-27 to I-30; PR at I-22 to I-23.

[56] CR at I-28 to I-29; PR at I-22 to I-23.

[57] CR at I-28; PR at I-22.

[58] First Review at 13.

[59] CR/PR at Table I-8.

[60] CR/PR at Tables I-6 & I-8.

Japanese industry indicates that it would likely seek to re-enter the U.S. market with significant quantities of subject merchandise, as it did during the original investigation, if the order were revoked.

We note that subject producers appear to have the ability to divert exports to the U.S. market. Evidence collected in this second review indicates that the vast majority of Japanese exports of clad steel plate are shipped into markets other than the United States, including Mexico.[61]

We recognize that the volume of subject imports is currently at a very low level relative to total consumption.[62] In a five-year review, however, our focus is on whether subject import volume is likely to be significant in the reasonably foreseeable future if the antidumping duty order is revoked, as current import levels may be affected by the antidumping duty order. We find that, overall, the order has had a restraining effect on the volume of subject imports from Japan. In fact, subject imports have remained largely absent from the U.S. market ever since the antidumping order was issued in July 1996.[63]

We conclude, based on the facts available, that the volume of subject imports from Japan is likely to increase significantly, and the resulting volume is likely to be significant, if the order is revoked.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.[64]

In the original investigation, the Commission found that subject imports from Japan had significant adverse price effects. In so doing, the Commission found that, in light of the price sensitive nature of the market, the significant underbidding by Japanese suppliers of clad plate on significant volumes of product, the success of Japanese suppliers in winning important large contracts on the basis of price, and the domestic industry's inability to recoup increases in its cost of goods sold and SG&A expenses from 1993 to 1995, the evidence indicated that the pricing of the subject imports suppressed prices to a significant degree.[65]

In the first five-year review, the Commission observed that the record contained "very little pricing data and provides no information comparing current prices of the domestic like product and the subject imports in the U.S. market."[66] Accordingly, the Commission based its conclusion that subject imports were likely to have significant price effects largely upon the record of the original investigation where subject imports from Japan consistently undersold the domestic like product and depressed prices to a significant

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[61] CR at I-31; PR at I-24.

[62] Following the imposition of the antidumping duty order in July 1996, U.S. imports of clad steel plate from Japan dropped to minimal levels. In 2000, there were 4 tons of clad steel plate imported from Japan. In 2005, there were 44 tons of clad steel plate imported from Japan. CR/PR at Table I-6.

[63] CR/PR at Table I-4.

[64] 19 U.S.C. § 1675a(a)(3). The SAA states that "[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

[65] Original Determination at 8.

[66] First Review at 14.

degree.[67] Based upon their behavior in the original investigation, the Commission concluded in the first review that "it is likely that if the order is revoked subject Japanese exporters would offer attractively low prices to U.S. purchasers in order to regain market share."[68] The Commission also found that revocation of the antidumping duty order would be likely to result in significant price effects, including significant underselling by the subject imports of the domestic like product, as well as significant price depression and suppression in the reasonably foreseeable future.[69]

There is no new product-specific pricing information on the record in this expedited review. As concluded above, we find that the volume of subject imports would be significant in the reasonably foreseeable future if the antidumping duty order were revoked. Based on the information available in this review, including the determination in the original investigation, we find that the market for subject merchandise is price competitive. Therefore, as in the original investigation, subject imports would likely undersell the domestic like product to regain market share if the antidumping duty order were revoked. The volume of subject imports at those prices, in turn, would be likely to have significant depressing or suppressing effects on prices of the domestic like product. We therefore conclude that, were the order to be revoked, the significant volume of subject imports would likely significantly undersell the domestic like product and those imports would have a significant depressing or suppressing effect on prices for the domestic like product.

E. Likely Impact of Subject Imports

In evaluating the likely impact of imports of subject merchandise if the antidumping duty order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[70] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.[71] As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the order at issue and whether the industry is vulnerable to material injury if the order is revoked.

In the original investigation, the Commission found that the significant increases in subject imports adversely affected the financial condition of the domestic industry. It found that the adverse impact on the domestic industry of the volume and prices of subject imports was reflected in the

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[67] Id.

[68] Id.

[69] Id. at 15.

[70] 19 U.S.C. § 1675a(a)(4).

[71] 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. Commerce expedited its determination in its review of clad steel plate from Japan and found that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at margins of 118.53 percent for all subject exporters in Japan. Commerce's Review Determination, 72 Fed. Reg. 4482 (Jan. 31, 2007).

industry's low capacity utilization rates, declining shipments and employment, and consistently poor financial performance and operating losses throughout the period of investigation.[72]

In the first review, the Commission concluded that revocation of the antidumping duty order on clad steel plate from Japan would likely have a significant adverse impact on the domestic industry within a reasonably foreseeable time. The Commission reached this conclusion based upon the adverse impact subject imports had on the domestic industry during the original investigation.[73] In so doing, the Commission reasoned that the "volume and price effects of the subject imports would have a significant adverse impact on the domestic industry and would likely cause the domestic industry to further lose market share. In addition, the price and volume declines would likely have a significant adverse impact on the production, sales, shipments, and revenue levels of the domestic industry."[74]

As discussed above, apparent U.S. consumption was lower in 2005 than in 2000.[75] Since the original investigation, U.S. production of clad steel plate has declined, and despite a decrease in imports from countries other than Japan after 2000, showed virtually no net growth between 2000 and 2005.[76] U.S. shipments of clad steel plate were lower in 2005 than during the original investigation period.[77]

There is no current information in the record, however, pertaining to many of the other indicators, such as operating income, capacity, capacity utilization rates, and employment levels, that we customarily consider in assessing whether the domestic industry is in a weakened condition, as contemplated by the statute. The limited evidence in this expedited review is insufficient for us to make a finding on whether the domestic industry producing clad steel plate is vulnerable to the continuation or reoccurrence of material injury in the event of revocation of the order.

We find that if the order were revoked the likely volume of subject imports would be significant and would likely undersell the domestic like product to a significant degree and otherwise significantly suppress or depress U.S. prices. We find that the significant likely volume of low-priced subject clad steel plate, when combined with the likely adverse price effects of those imports, would likely have a significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry. This reduction in the industry's production, shipments, sales, and revenue levels would likely have a direct adverse impact on the industry's profitability and employment levels, as well as its ability to raise capital and make and maintain necessary capital investments. Accordingly, we conclude that, if the antidumping duty order on clad steel plate from Japan were revoked, subject imports from Japan would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time. Thus, we determine that revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine under section 751(c) of the Act that revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

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[72] Original Determination at 12.

[73] First Review at 16.

[74] Id. at 17.

[75] CR/PR at Table I-6.

[76] Id.

[77] Id.

INFORMATION OBTAINED IN THE SECOND REVIEW

INTRODUCTION

Background

On October 2, 2006, in accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"),[1] the U.S. International Trade Commission ("Commission" or "USITC") gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on clad steel plate from Japan would likely lead to the continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time.[2] [3] On January 5, 2007, the Commission determined that the domestic interested party group response for this review was adequate;[4] the Commission also determined that the respondent interested party group response was inadequate (in fact, nonexistent). Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.[5] [6] Information relating to the background of the review is provided in table I-1.

[1] 19 U.S.C. 1675(c).

[2] All interested parties were requested to respond to the notice by submitting information requested by the Commission. Copies of the Commission's *Federal Register* notices are presented in app. A.

[3] In accordance with section 751(c) of the Act, the U.S. Department of Commerce ("Commerce") published a notice of initiation of the five-year review of the subject antidumping duty order concurrently with the Commission's notice of institution. *Initiation of Five-Year ("Sunset") Reviews*, 71 FR 57921, October 2, 2006.

[4] The Commission received one submission in response to its notice of institution for the subject review. It was filed on behalf of Mittal Steel USA, Inc. ("Mittal"), a major U.S. producer of clad steel plate. Mittal is believed to have accounted for approximately *** percent of U.S. clad steel plate production in 2005. Mittal's November 21, 2006, response to the notice of institution, confidential exhibit 4. *See also* Commission's memorandum of December 21, 2006, INV-DD-170, *Clad Steel Plate from Japan: Inv. No. 731-TA-739 (Second Review) -- Recommendation on Adequacy of Responses to Notice of Institution.*

[5] Vice Chairman Shara L. Aranoff and Commissioners Jennifer A. Hillman, Stephen Koplan, and Charlotte R. Lane concluded that the domestic interested party group response for this review was adequate and the respondent interested party group response was inadequate and voted for an expedited review. Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun concluded that the domestic interested party group response for this review was adequate and the respondent interested party group response was inadequate, but that circumstances warranted a full review.

[6] A copy of the *Explanation of Commission Determination on Adequacy* is presented in app. A.

Table I-1
Clad steel plate: Chronology of investigation No. 731-TA-739

Effective date	Action	*Federal Register* citation
July 2, 1996	Commerce's antidumping duty order	61 FR 34421
November 16, 2001	Commerce's continuation of antidumping duty order after first five-year review	66 FR 57703
October 2, 2006	Commission's institution of second review; Commerce's initiation of second review	71 FR 57996; 71 FR 57921
January 5, 2007	Commission's determination to conduct an expedited second review	72 FR 2554 (January 19, 2007)
January 31, 2007	Commerce's final results of expedited second review	72 FR 4482
February 20, 2007	Commission's vote	Not applicable
March 1, 2007	Commission's determination transmitted to Commerce	Not applicable
Source: Cited Federal Register notices.		

The Original Investigation and Expedited First Five-Year Review

On September 29, 1995, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured by reason of dumped imports of clad steel plate from Japan.[7] On May 14, 1996, Commerce made a final affirmative dumping determination, with margins of 118.53 percent for all exporters.[8] The Commission made its final affirmative injury determination on June 25, 1996,[9] and Commerce issued an antidumping duty order on July 2, 1996.[10]

On June 1, 2001, the Commission instituted the first five-year review of the antidumping duty order[11] and, on September 4, 2001, the Commission determined that it should proceed to an expedited review.[12] On October 5, 2001, Commerce found that revocation of the antidumping duty order on clad steel plate from Japan would likely lead to continuation or recurrence of dumping.[13] On October 29, 2001, the Commission completed its expedited first five-year review of the antidumping duty order and determined that revocation of the order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably

[7] The petition was filed by Lukens Steel Co., Coatesville, PA.

[8] *Notice of Final Determination of Sales at Less Than Fair Value: Clad Steel Plate From Japan,* 61 FR 21158, May 9, 1996.

[9] *Clad Steel Plate from Japan,* 61 FR 34862, July 3, 1996.

[10] *Notice of Antidumping Order: Clad Steel Plate from Japan,* 61 FR 34421, July 2, 1996.

[11] *Clad Steel Plate from Japan,* 66 FR 29829, June 1, 2001.

[12] *Clad Steel Plate from Japan,* 66 FR 49040, September 25, 2001.

[13] *Clad Steel Plate from Japan,* 66 FR 51007, October 5, 2001.

foreseeable time.[14] On November 16, 2001, Commerce issued a continuation of the subject antidumping duty order.[15]

PREVIOUS AND RELATED INVESTIGATIONS

Title VII Investigations

Following a petition filed on October 6, 1981, by Lukens Steel Co., the Commission conducted an antidumping duty investigation on stainless steel clad plate from Japan. Following a determination of sales at less than fair value ("LTFV") by Commerce, on July 20, 1982, the Commission determined that an industry in the United States was materially injured by reason of imports from Japan.[16] Commerce issued an antidumping duty order on stainless steel clad plate from Japan on August 6, 1982, which it subsequently revoked on September 20, 1985.[17]

On June 30, 1992, petitions[18] were filed with Commerce and the Commission alleging that an industry in the United States was materially injured by reason of subsidized imports of cut-to-length ("CTL") plate from 10 countries; hot-rolled products from 7 countries; cold-rolled products from 11 countries; and corrosion-resistant products (including clad steel plate) from 8 countries. The petitions further alleged that an industry in the United States was materially injured by reason of dumped imports of CTL plate from 15 countries; hot-rolled products from 9 countries; cold-rolled products from 15 countries; and corrosion-resistant products (including clad steel plate) from 9 countries.[19] Following affirmative final determinations of subsidization and sales at LTFV by Commerce, the Commission found clad steel plate to be a separate domestic like product produced by a separate domestic industry. The Commission reached negative determinations with respect to subject imports of clad steel plate from France and Japan, and noted that, to the extent that any such determination was deemed necessary, it would have reached negative determinations with respect to other subject countries because there were no imports of clad steel plate from those countries during the period examined.[20]

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[14] *Clad Steel Plate from Japan, Determination,* 66 FR 55697, November 2, 2001.

[15] *Continuation of Countervailing and Antidumping Duty Orders: Pasta from Italy and Turkey, and Clad Steel Plate from Japan,* 66 FR 57703, November 16, 2001.

[16] *Stainless Steel Clad Plate from Japan, Investigation No. 731-TA-50 (Final),* USITC Publication 1270, July 1982, p. 1.

[17] *Stainless Steel Clad Plate from Japan; Antidumping Duty Order,* 47 FR 34178, August 6, 1982, and *Stainless Steel Clad Plate from Japan; Final Results of Changed Circumstances and Revocation of Antidumping Duty Order,* 50 FR 38151, September 20, 1985.

[18] The petitions were filed by Armco, Bethlehem, Geneva, Gulf States, Ispat/Inland, Laclede Steel, LTV, Lukens, National, Sharon, USX, and WCI.

[19] *Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom, Invs. 701-TA-319-354 and 731-TA-573-620 (Preliminary),* USITC Publication 2549, August 1992, pp. 2-4.

[20] *Certain Flat-Rolled Carbon Steel Products from Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom, Invs. 701-TA-319-322, 334, 336-342, 344, and 347-353 and 731-TA-573-579, 581-592, 594-597, 599-609 and 612-619 (Final),* USITC Publication 2664, August 1993, pp. 1-5.

Safeguard Investigations

Following receipt of a request from the Office of the United States Trade Representative ("USTR") on June 22, 2001, the Commission instituted investigation No. TA-201-73, *Steel*, under section 202 of the Trade Act of 1974[21] to determine whether certain steel products, including plate (both clad and CTL), were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing articles like or directly competitive with the imported article.[22] On July 26, 2001, the Commission received a resolution adopted by the Committee on Finance of the U.S. Senate ("Senate Finance Committee" or Committee") requesting that the Commission investigate certain steel imports under section 201 of the Trade Act of 1974.[23] Consistent with the Senate Finance Committee's resolution, the Commission consolidated the investigation requested by the Committee with the Commission's previously instituted investigation No. TA-201-73.[24] On December 20, 2001, the Commission issued its determinations and remedy recommendations. The Commission reached an affirmative determination with respect to certain flat-rolled steel, including plate (both clad and CTL).

On March 5, 2002, following determinations regarding serious injury or threat of serious injury by the Commission under section 202 of the Trade Act of 1974, the President announced the safeguard measures that he planned to implement to facilitate efforts by various domestic steel industries and their workers to make a positive adjustment to import competition with respect to certain steel products. The safeguard measures encompassed 10 different product categories for which the Commission made affirmative determinations or was evenly divided. Presidential Proclamation 7529 implemented the safeguard measures, principally in the form of tariffs and tariff-rate quotas, effective March 20, 2002, for a period of three years and one day. Import relief relating to plate (both clad and CTL) consisted of an additional tariff of 30 percent *ad valorem* on imports in the first year, 24 percent in the second year, and 18 percent in the third year.[25] [26] The President also instructed the Secretary of the Treasury and the Secretary of Commerce to establish a system of import licensing to facilitate the monitoring of imports of certain steel products.[27]

The safeguard measures applied to imports of subject steel products from all countries except Canada, Israel, Jordan, and Mexico, which had entered into free trade agreements with the United States,

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[21] 19 U.S.C. § 2252.

[22] *Institution and Scheduling of an Investigation under Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) (the Act)*, 66 FR 35267, July 3, 2001.

[23] 19 U.S.C. § 2251.

[24] *Consolidation of Senate Finance Committee Resolution Requesting a Section 201 Investigation with the Investigation Requested by the United States Trade Representative on June 22, 2001*, 66 FR 44158, August 22, 2001.

[25] *Presidential Proclamation 7529 of March 5, 2002, To Facilitate Positive Adjustment to Competition From Imports of Certain Steel Products*, 67 FR 10553, March 7, 2002.

[26] The increased duties were reduced from 30 percent to 24 percent on March 20, 2003.

[27] The Department of Commerce published regulations establishing such a system on December 31, 2002.

and most developing countries that were members of the World Trade Organization. The President's initial proclamation also excluded numerous specific products from the measures, and was followed by subsequent additional exclusions.

On September 19, 2003, the Commission submitted a mid-term report to the President and the Congress on the results of its monitoring of developments in the steel industry, as required by section 204(a)(2) of the Trade Act of 1974.[28] The Commission's monitoring report noted that, although growth in demand for carbon and alloy flat-rolled products (the product category that included clad plate) was at most modest and total imports increased, output-related indicators for the domestic industry such as production, capacity utilization, and shipments increased in the first relief year, as did labor productivity. Per-unit net sales rose while per-unit costs fell (despite rising raw material costs), resulting in improved financial performance.[29]

On December 4, 2003, President Bush terminated the U.S. measure with respect to increased tariffs, following receipt of the Commission's mid-point monitoring report in September 2003, and after seeking information from the U.S. Secretary of Commerce and U.S. Secretary of Labor, having determined that the effectiveness of the action taken had been impaired by changed circumstances.[30] Import licensing, however, remained in place through March 21, 2005, and continues in modified form at this time.[31]

On March 21, 2005, the Commission instituted an investigation under section 204(d) of the Trade Act of 1974 for the purpose of evaluating the effectiveness of the relief action imposed by the President on imports of certain steel products. The Commission's report on the evaluation was transmitted to the President and the Congress on September 19, 2005.

COMMERCE'S REVIEWS

Administrative Reviews

Commerce completed no administrative reviews for firms covered by the antidumping duty order on clad steel plate from Japan.[32]

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[28] *Steel: Monitoring Developments in the Domestic Industry, Inv. No. TA-204-9*, USITC Publication 3632, September 2003.

[29] *Steel: Monitoring Developments in the Domestic Industry, Inv. No. TA-204-9*, Volume I, USITC Publication 3632, September 2003, p. ix.

[30] *Presidential Proclamation 7741 of December 4, 2003, To Provide for the Termination of Action Taken With Regard to Imports of Certain Steel Products*, 68 FR 68483, December 8, 2003.

[31] Proclamation 7741 terminated the tariff-rate quota and the increased import duties on certain steel products, but directed the Secretary of Commerce to continue the monitoring system until the earlier of March 21, 2005, or such time as the Secretary establishes a replacement program. On March 11, 2005, Commerce published an interim final rule to implement a replacement program for the period beyond March 21, 2005. *Steel Import Monitoring and Analysis System*, 70 FR 12133, March 11, 2005. On December 5, 2005, Commerce published its final rule. *Steel Import Monitoring and Analysis System*, 70 FR 72373, December 5, 2005.

[32] A review for the period of January 4, 1999 through June 30, 2000 was initiated and then rescinded. *Clad Steel Plate from Japan: Rescission of Antidumping Duty Administrative Order*, 65 FR 60615, October 12, 2000.

Results of Expedited Five-Year Review

Commerce issue a final determination with respect to clad steel plate from Japan on January 31, 2007. In its final results, Commerce found that revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of dumping at margins determined in its original final determination.[33] Table I-2 presents the margins calculated by Commerce in its original investigation, first review, and second review.

Table I-2
Clad steel plate: Commerce's original, first five-year review, and second five-year review antidumping duty margins for producers/exporters in Japan

Producer/exporter	Original margin (*percent*)	First five-year review margin (*percent*)	Second five-year review margin (*percent*)
The Japan Steel Co.	118.53	118.53	118.53
All others	118.53	118.53	118.53

Source: Antidumping duty order, 61 FR 34421, July 2, 1996; final results of first expedited sunset review, 66 FR 51007, October 5, 2001; final results of second expedited sunset review, 72 FR 4482, January 31, 2007.

DISTRIBUTION OF CONTINUED DUMPING AND SUBSIDY OFFSET ACT FUNDS

The Continued Dumping and Subsidy Offset Act of 2000 ("CDSOA") (also known as the Byrd Amendment) provides that assessed duties received pursuant to antidumping or countervailing duty orders must be distributed to affected domestic producers for certain qualifying expenditures that these producers incur after the issuance of such orders.[34] During the review period, qualified U.S. producers of clad steel plate were eligible to receive disbursements from the U.S. Customs and Border Protection ("Customs") under CDSOA relating to the antidumping duty order on the subject product beginning in Federal fiscal year 2001.[35] No disbursements were issued by Customs for clad steel plate.[36]

[33] *Clad Steel Plate from Japan: Final Results of the Expedited Sunset Review (Second Review) of the Antidumping Order,* 72 FR 4482, January 31, 2007.

[34] Section 754 of the Tariff Act of 1930, as amended (19 U.S.C. § 1675(c)).

[35] 19 CFR 159.64 (g).

[36] *See* U.S. Customs *CDSOA Annual Reports* for fiscal years 2001, 2002, 2003, 2004, and 2005.

THE SUBJECT MERCHANDISE

Commerce's Scope

Commerce has defined the imports covered by the antidumping duty order as follows:

> all clad[37] steel plate of a width of 600 millimeters ("mm") or more and a composite thickness of 4.5 mm or more. Clad steel plate is a rectangular finished steel mill product consisting of a layer of cladding material (usually stainless steel or nickel) which is metallurgically bonded to a base or backing of ferrous metal (usually carbon or low alloy steel) where the latter predominates by weight.
>
> Stainless clad steel plate is manufactured to American Society for Testing and Materials ("ASTM") specifications A263 (400 series stainless types) and A264 (300 series stainless types). Nickel and nickel-base alloy clad steel plate is manufactured to ASTM specification A265. These specifications are illustrative but not necessarily all-inclusive.[38]

U.S. Tariff Treatment

Clad steel plate is classifiable under Harmonized Tariff Schedule of the United States ("HTS") subheading 7210.90.10. The column 1-general rate of duty for HTS subheading 7210.90.10 is "free." At the time of the original investigation (1996), the normal trade relations tariff rate was 5.2 percent *ad valorem.* However, this subheading was accorded staged reductions starting in 1995, such that the normal trade relations tariff rate was reduced to 2.0 percent *ad valorem* at the time the first review was instituted in 2001. As of 2004, clad steel plate that entered under this subheading was free of duty.[39]

DOMESTIC LIKE PRODUCT AND DOMESTIC INDUSTRY

In the original investigation, the Commission defined the domestic like product as clad steel plate corresponding to Commerce's scope of the subject merchandise.[40] In the first five-year review, the

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[37] Cladding is the association of layers of metals of different colors or natures by molecular interpenetration of the surfaces in contact. This limited diffusion is characteristic of clad products and differentiates them from products metalized in other manners (i.e., by normal electroplating). The various cladding processes include pouring molten cladding metal onto the basic metal followed by rolling; simple hot-rolling of the cladding metal to ensure efficient welding to the basic metal; any other method of deposition or superimposing of the cladding metal followed by any mechanical or thermal process to ensure welding (i.e., electrocladding), in which the cladding metal (nickel, chromium, etc.) is applied to the basic metal by electroplating, molecular interpenetration of the surfaces in contact then being obtained by heat treatment at the appropriate temperature with subsequent cold rolling. *See* Harmonized Commodity Description and Coding System Explanatory Notes, Chapter 72, General Note (IV)(C)(2)(e).

[38] *Clad Steel Plate from Japan: Final Results of the Expedited Sunset Review (Second Review) of the Antidumping Order,* 72 FR 4482, January 31, 2007.

[39] *Harmonized Tariff Schedule of the United States*, 1996-2003.

[40] *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Preliminary),* USITC Publication 2936, November 1995, pp. I-3-4; *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Final),* USITC Publication 2972, June 1996, pp. 3-5.

Commission found the appropriate definition of the domestic like product to be clad steel plate, co-extensive with Commerce's first review scope.[41] In the original investigation and the first five-year review, the Commission defined the domestic industry to include all domestic producers of clad steel plate.[42] In this second five-year review, the responding U.S. producer, Mittal, agrees with these definitions of the domestic like product and the domestic industry.[43]

Description and Uses

The imported product subject to this review is clad steel plate, of a width of 600 mm (approximately 24 inches) or more and a thickness of 4.5 mm (approximately 3/16 inch) or more.[44] The product is a flat-rolled, corrosion-resistant, "composite" steel plate product composed of cladding material that is metallurgically bonded to a base carbon steel plate. The cladding material, which is usually a solid sheet or plate of alloy metal such as stainless steel, nickel-based alloys, copper, or titanium, is generally 10 to 20 percent of the total thickness of the composite. The base metal, the thicker portion of the composite, is usually either carbon or low-alloy steel and normally provides the required strength to the clad composite.

Clad steel plate is produced to meet exact customer specifications. It is used to manufacture vessels or structures used in heavy industry projects where corrosion resistance qualities are essential. The main end users of clad steel plate include petrochemical companies, the shipbuilding industry, electric utilities, pulp and paper companies, and other users of industrial equipment.[45] The petrochemical industry, specifically the hydrocarbon processing industry which includes petroleum refining and petrochemical and chemical processing, consistently has been the largest market for clad steel plate, likely consuming as much as *** percent of clad products used in the United States in the mid-1990s according to estimates made by Lukens during the original investigation. In its response to the Commission's institution of the second review,[46] Mittal states that a recently developed end use for clad steel plate is in flues for gas desulfurization. Clad steel plate is used in flues that remove sulfur from exhaust gas in coal-fired power plants. However, the cladding materials, such as high nickel alloys, that are used in clad steel plate for this application are very costly. Thus, lower cost alternative materials, such as brick liners and chimney liners made from spun fiberglass, could rapidly cause demand for clad steel plate used in flues for gas desulfurization to slacken as the cost of high nickel alloy continues to rise.[47]

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[41] *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Review)*, USITC Publication 3459, October 2001, p. 4.

[42] *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Preliminary)*, USITC Publication 2936, November 1995, p. I-5; *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Final)*, USITC Publication 2972, June 1996, pp. 4-5; and *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Review)*, USITC Publication 3459, October 2001, pp. 4-5.

[43] Mittal's response to the second review notice of institution, p. 24.

[44] Clad steel flat-rolled products of a thickness of less than 4.5 mm would generally be considered sheet, rather than plate.

[45] *See, e.g.*, "History: DMC Clad Metal," an undated fact sheet retrieved from www.dynamicmaterials.com on January 22, 2007.

[46] Mittal's response to the second review notice of institution, p. 18.

[47] Ibid., p. 18.

Japan Steel Works, Ltd. ("JSW"), the sole responding Japanese manufacturer of clad steel plate in the original investigation, testified at the hearing that all of its sales of the subject product in the United States were to companies in the petrochemical industry. The firm maintained that it did not compete for projects in the shipbuilding, utilities, or pulp and paper industries and had not sold clad steel plate for any U.S. projects in these sectors during the period examined in the original investigation, 1993-95.

Manufacturing Processes[48]

There are two processes by which clad steel plate is produced, regardless of what cladding material is used. The first is the roll-bonding process, or "sandwich" process. Figure I-1 shows the roll-bonding process, as used by JFE Steel Corporation ("JFE"). This manufacturing method typically involves assembling a four-ply clad "pack" comprised of two "backing steel" slabs and two "cladding" inserts in a dedicated production facility. The assembled pack is rolled at high temperature and pressure, which metallurgically bonds the backing steel to the cladding. After rolling, the edges of the pack are cut and it is separated into two clad plates. The second method is called explosion bonding. Figure I-2 shows the explosion bonding process. In this process, the base and cladding materials are prepared for ideal surface conditioning, then matched before being transported to the cladding site. Here the matched plates are moved into an underground "shooting chamber" where the base and clad materials are bonded by the detonation of specially formulated explosives over the cladding material.

While roll bonding[49] and explosion bonding[50] are distinctly different processes, clad steel plate products produced by these two methods are largely interchangeable. A specific production process will, however, be more cost-effective for certain ranges in product thickness; roll-bonding is most cost-effective between ½ inch and 2 inches, but explosion bonding is usually reserved for plate between 2 and 3½ inches thick. Generally, over 80 percent of stainless clad plate manufactured by Lukens during the original investigation was between ½ inch and 2 inches in thickness. Most of the large contracts reportedly covered goods in this thickness range, where Lukens competed most heavily with JSW during the period examined in the original investigation. Other domestic producers competed with Lukens in other size ranges.

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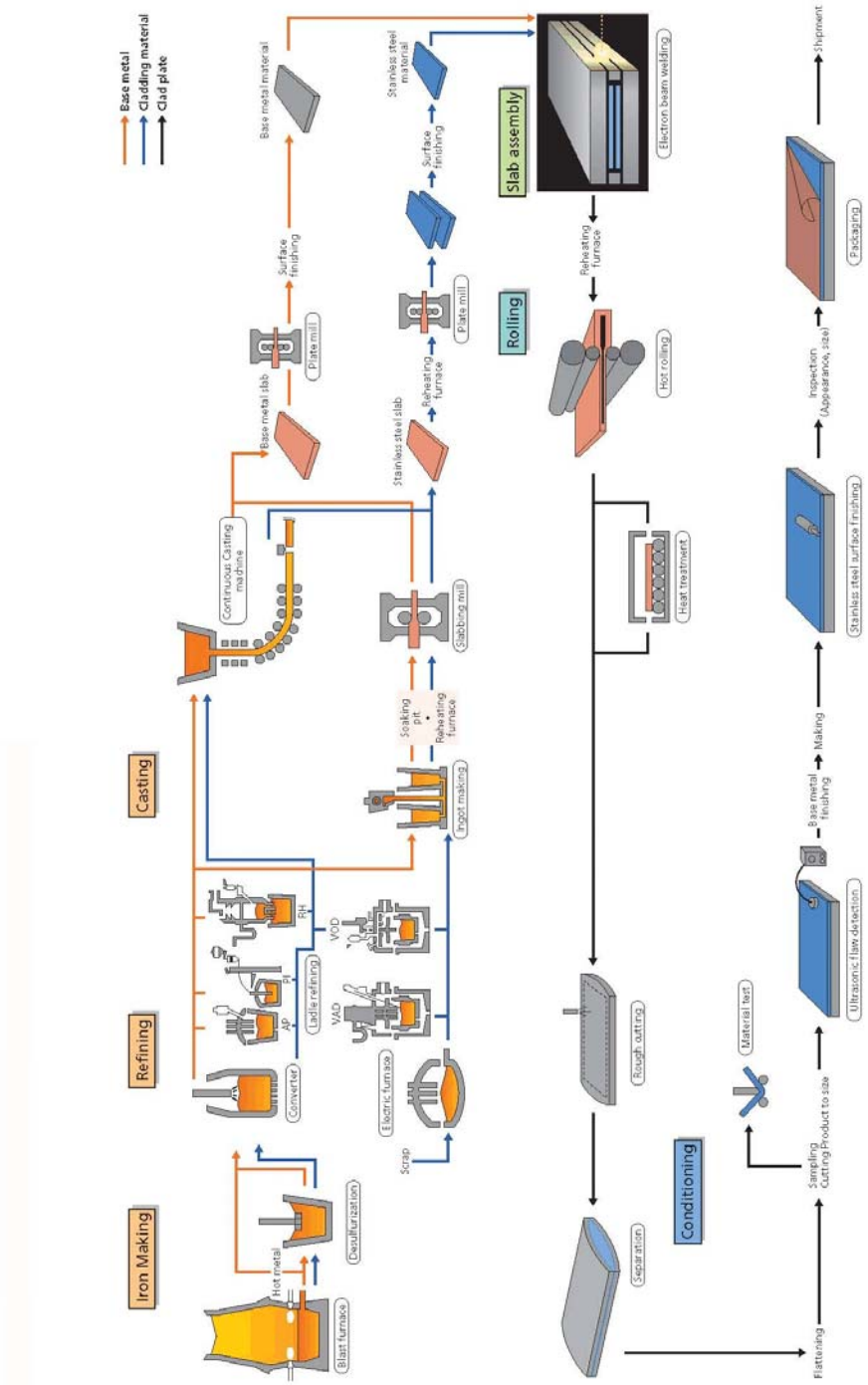
[48] All of the discussion in this section is from the original investigation, unless otherwise noted. Original investigation confidential report (INV-T-044, June 3, 1996), pp. I-6 - I-10.

[49] Ametek Corp.'s ("Ametek," Eighty Four, PA) steel clad plate is manufactured by roll bonding a core and backing with a specialty metal to produce a metallurgically bonded clad. Ametek's roll bonding is achieved by processing a specially prepared "sandwich" (layers of backing and cladding materials) through a conventional plate hot rolling mill that reduces the thickness and metallurgically bonds the backing steel to the clad material. Parting compound is used between each clad pack before it is welded and then roll-bonded to yield two separated clad plates. After cutting to finished size, the bonded plates are cleaned by blasting with an abrasive that is mixed with glass beads to obtain a clean, relatively bright surface, both top and bottom, if desired. Steel clad plate can then be fabricated into different shapes which allow designers the freedom to produce custom products for a wide range of applications. Retrieved from the Ametek Specialty Metals' website, http://www.ametekmetals.com/cladmanufacture.asp, on January 25, 2007.

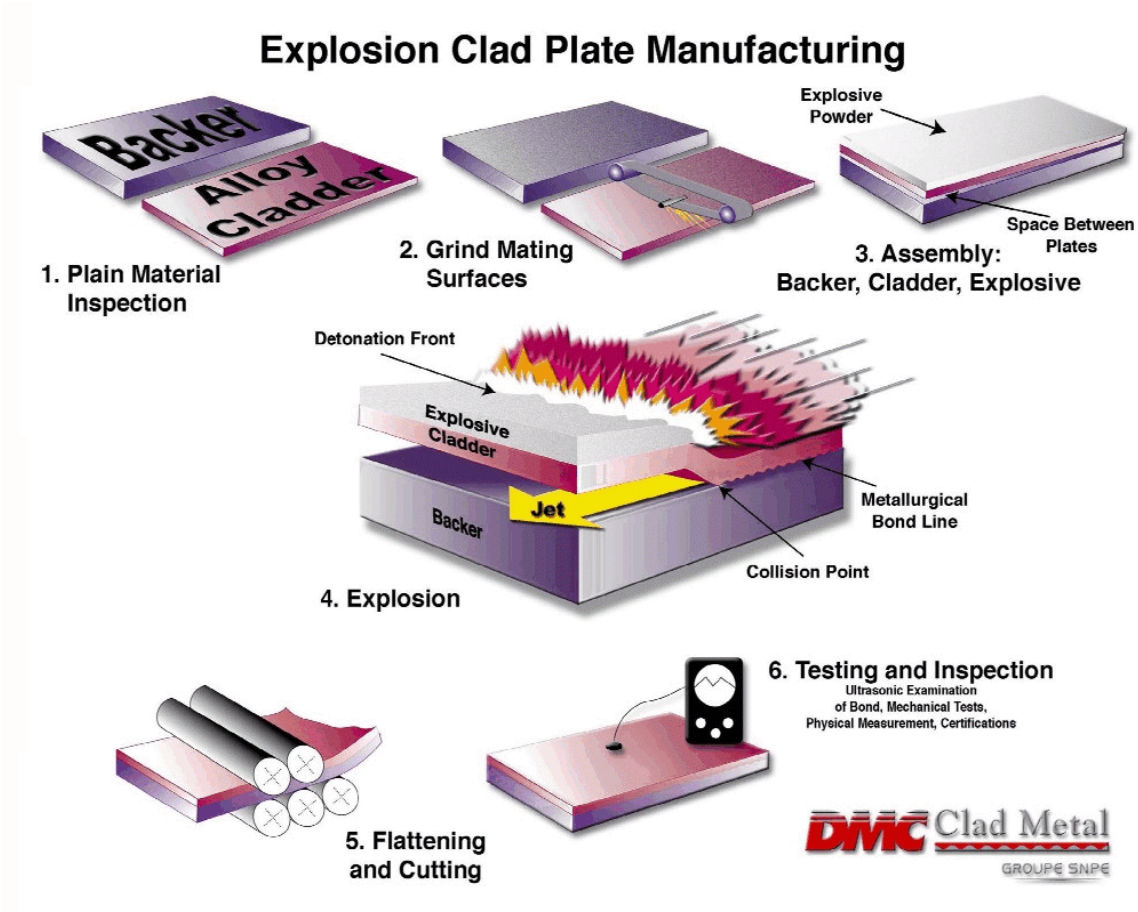
[50] In the late 1960s, Dynamic Materials Corp. ("DMC," Lafayette, CO) started an explosion metal forming business that shaped blank sheets of metal alloys into complex three-dimensional parts for aerospace equipment manufacturers. Retrieved from the DMC website, http://www.dynamicmaterials.com/, on January 25, 2007.

Figure I-1
Clad steel plate: Roll bonding process used by JFE



Source: JFE Steel Corporation catalog, p. 4.

Figure I-2
Clad steel plate: Explosion manufacturing schematic



Source: DMC, reproduced in *Stainless Steel World 2004,* "Explosion Welding, Technical Growth and Commercial History," p. 4.

Channels of Distribution[51] [52]

Both domestic and imported clad steel plate are generally sold on a competitive-bid basis to the fabricators of equipment, process equipment, heat exchangers, etc., which are seeking to meet the requirements of general contractors or engineers for specific projects that incorporate vessels or other structures where corrosion resistance is required. Fabricators, in turn, compete for contract awards to construct these vessels or structures for the end user. However, in its response, Mittal notes that the decline in the number of domestic vessel fabricators, which had been noted in the previous review by Lukens, has continued to the point where there are believed to be few, if any, vessel fabricators active in the domestic market.[53]

The bid process begins when the engineering firm retained by the eventual owner of the project solicits bids from various clad fabricators, which, in turn, contact several clad producers and U.S. importers[54] to ensure the lowest possible bid. The clad steel plate firm may, therefore, receive an inquiry from one or more of the competing fabricators, and formal quotations are sent to each. Upon selection of the fabricator by the engineering firm, the bidding process becomes extremely competitive among clad plate suppliers. The successful fabricator finalizes the design details and contacts the clad plate bidders, as long as they were initially competitive, with final plate sizes and more detailed specifications. On the basis of the final bids, the fabricator chooses a clad plate supplier for the project. Since each contract provides fairly exact specifications, there is generally very little difference in the physical characteristics of the competing clad steel plate products for a specific bid.

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[51] The Commission noted several conditions of competition in its views for the original investigation, among them (1) that "virtually all" of the Japanese clad steel plate sold in the U.S. market during the period examined was sold to the petrochemical industry, as was "a large percentage" of domestic production of clad steel plate; (2) that sales in the clad steel plate market are made through a multi-level competitive bidding process; (3) that certain purchasers of clad steel plate have domestic content ("Buy American") requirements or domestic preferences; and (4) that demand patterns for clad steel plate are irregular since a substantial proportion of the annual sales volume of clad steel plate is derived from large contracts that are made on a sporadic basis. First review confidential report (INV-Y-196, October 1, 2001), p. I-7.

[52] ***. First review confidential report (INV-Y-196, October 1, 2001), p. I-7.

[53] Mittal's response to the second review notice of institution, p. 18.

[54] ***.

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

In 1995, there were four firms producing clad steel plate in the United States: Ametek,[55] DuPont,[56] DMC,[57] and Lukens Steel Co.[58] ("Lukens," Coatesville, PA).[59] Each of these firms, with the exception of DMC, provided a response to the Commission's questionnaire during the original investigation. Lukens accounted for *** percent of reported U.S. production in 1995, DuPont accounted for *** percent, and Ametek accounted for the remaining *** percent. No U.S. producer reported importing clad steel plate or purchasing imported clad steel plate. Lukens primarily produced clad steel plate during the period examined in the original investigation by the rollbonding method, but also utilized the "bang and roll" method, on a toll basis, for thicker plate gauges. DuPont and DMC were primarily explosion-bond clad steel plate producers and Ametek manufactured the product through roll-bonding.

Each of the original producing firms, with the exception of DuPont, continued to manufacture the subject clad steel plate in the United States through the first review. In July 1996, DMC acquired DuPont's clad plate operations.[60] In 1998, Bethlehem Steel Corp. acquired Lukens, resulting in the formation of the Bethlehem Lukens plate division, which was the successor to Lukens Steel.

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[55] Ametek is a leading global manufacturer of electronic instruments and electromechanical devices with annualized sales of more than $1.8 billion. Ametek has approximately 10,000 employees and over 60 sales and service operations in the United States and more than 30 other countries. Ametek Specialty Metals is the division responsible for producing steel clad plate. Retrieved from http://www.ametek.com/about/overview.cfm on January 31, 2007.

[56] DuPont Detaclad was the original explosion cladding company. DuPont reportedly invented and commercialized the explosion welding technology in the 1960s (retrieved from http://www.dynamicmaterials.com/Divisions/Clad%20Metal%20Group/Clad%20Metal%20USA on January 31, 2007). DuPont designed, manufactured and distributed explosion bonded clad metal plates and provided explosive shock syntheses services in connection with its production of industrial diamonds (Dynamic Materials Corporation, *Form 10-QSB for Quarter Ended March 31, 1997*, retrieved from http://www.secinfo.com/dsvrp.83u2.htm on January 31, 2007).

[57] DMC, a publicly traded company under the stock market symbol "BOOM," licensed technology from E.I. DuPont de Nemours and Company ("DuPont") to explosively bond, or clad, two or more dissimilar metal plates together. The explosion-bonded clad metal business reportedly remains DMC's core business today, enhanced by the acquisitions of DuPont's Detaclad Division in 1996 and Nobelclad Europe in 2001. Retrieved from the DMC website, http://www.dynamicmaterials.com/, on January 25, 2007.

[58] Subsequent to the filing of the original petition, petitioner Lukens Steel Co. was acquired by Bethlehem Steel Corporation (in 1998), and was renamed Bethlehem Lukens Steel Plate. In May 2003, the assets of Bethlehem, including Bethlehem Lukens Plate, were acquired by International Steel Group ("ISG"). In April 2005, ISG merged with and into Mittal Steel Co. and became Mittal Steel USA ISG Inc. In December 2005, the company became Mittal Steel USA, Inc. Mittal's response to the second review notice of institution, p. 1.

[59] In addition, Vessel Clads (Berwyn, PA) ***. Vessel Clads was renamed Vee Cee Metals ("Vee Cee"). First review confidential report (INV-Y-196, October 1, 2001), pp. I-9 and I-10.

[60] *Purchase and Sale Agreement Between Dynamic Materials Corporation and E. I. du Pont De Nemours and Company*, July 26, 1996. Retrieved from the EDGAR SEC database website, http://sec.edgar-online.com/1996/08/06/00/0000932384-96-000166/Section6.asp, on January 25, 2007.

Bethlehem Lukens was estimated by petitioner to account for *** percent of U.S. production in 2000, DMC for *** percent, Ametek for *** percent, and Vee Cee Metals[61] for *** percent.

In its response,[62] Mittal,[63] the successor to the petitioner[64] (in the original investigation) and Bethlehem Lukens (in the first review), notes that it remains a "significant producer of clad steel plate."[65] Mittal also maintains that DMC and Ametek are still actively producing clad steel plate; Vee Cee is believed to have exited the industry, however, resulting in a decline in domestic production capacity.[66]

U.S. Production, Capacity, Shipments, and Selected Financial Data

Data reported by U.S. producers of clad steel plate in the Commission's original investigation are presented in table I-3. As shown, the majority of the industry indicators reported during the original investigation (i.e., production; capacity utilization; and the quantity, value, and unit value of U.S. shipments) dipped from 1993 to 1994 then rose in 1995 to, in some instances, points higher than those reported for 1993.[67] Production of clad steel plate in the United States has declined since the imposition of the antidumping duty order in July 1996, falling from 1995 to 1997, then rising in 1998 compared to 1997, and then decreasing again from 1998 to 2000, for an overall decline of *** percent from 1995 to 2000. Production[68] in 2005 of *** short tons was similar to the level in 2000.[69]

[61] Although noted as a domestic producer in the first review, Vee Cee was not noted as a domestic producer in the original investigation. First review confidential report (INV-Y-196, October 1, 2001) and original investigation confidential report (INV-T-044, June 3, 1996).

[62] Mittal's response to the second review notice of institution, p. 18.

[63] On June 25, 2006, Mittal announced that it had reached an agreement with Arcelor to combine the two companies in a merger of equals to create the world's leading steel company. The combined group is headquartered in Luxembourg. Retrieved from http://www.mittalsteel.com/News+and+Press/News+Releases/ on February 1, 2007.

[64] Mittal's response to the second review notice of institution, p. 1.

[65] Mittal's response to the second review notice of institution, pp. 17-18 and p. 20.

[66] Mittal's response to the second review notice of institution, p. 18, p. 20, and p. 23.

[67] Due to the prevalence of sporadic but large contracts in the clad steel plate industry, as well as to a wide variety in product mix, the Commission stated in its views for the original investigation that it finds "overall period trends less probative in this investigation." *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Review),* USITC Publication 3459, October 2001, p. I-8 (citing USITC Publication 2972, June 1996, p. 18).

[68] Estimated by staff for 2005, based on information provided in Mittal's response to the second review notice of institution, confidential exhibit 4.

[69] Shipments in 2005 of *** short tons represents a *** compared with 1995, the last year for which shipment data are available. Estimated by staff for 2005, based on Mittal's estimate of the company's share of domestic production, ***.

Table I-3
Clad steel plate: Summary data from the original investigation, the first review, and the current review, 1993-2005

Item	Calendar year												
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Reporting firms:[1] Capacity *(short tons)*	***	***	***	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Production *(short tons)*	***	***	***	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Capacity utilization *(percent)*	***	***	***	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
U.S. shipments Quantity *(short tons)*	***	***	***	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Value *($1,000)*	***	***	***	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Unit value *($ per ton)*	***	***	***	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Total industry:[3] Production[4] *(short tons)*	***	***	***	***	***	***	***	***	(2)	(2)	(2)	(2)	***
Mittal[5] U.S. shipments Quantity *(short tons)*	(2)	***	***	***	***	***	***	***	(2)	(2)	(2)	(2)	***
Value *($1,000)*	(2)	***	***	***	***	***	***	***	(2)	(2)	(2)	(2)	***
Unit value *($ per ton)*	(2)	***	***	***	***	***	***	***	(2)	(2)	(2)	(2)	***

[1] Data for those firms (Ametek, DuPont, and Lukens) that responded to the Commission questionnaires during the original investigation. Clad steel plate produced by the responding firms accounted for *** percent of total U.S. production in 1995.
[2] Not available.
[3] Data for all firms in the industry.
[4] Estimated by staff for 2005, based on information provided in Mittal's response to the second review notice of institution, confidential exhibit 4.
[5] Mittal includes Lukens and Bethlehem Lukens.

Note.--Production figures for those firms responding to Commission questionnaires during the original investigation are, for certain periods (specifically ***), *** than the total industry figures reported by petitioner in its response (to the first review). This is primarily due to the industry totals being based on petitioner estimates for *** that are somewhat *** than the actual production figures reported by those firms to the Commission during the original investigation.

Source: First review confidential report (INV-Y-196, October 1, 2001) for data reported during the original investigation and first review, and Mittal's response to the second review notice of institution for all other information.

There are no current financial or pricing data available for the subject product. Reported net sales by the responding clad steel plate producers increased overall between 1993 and 1995. However, as noted by the Commission in its views for the original investigation, "the industry experienced declining gross profits and mounting operating losses during this same period, concurrent with increases in cost of goods sold and SG&A expenses."[70]

Although the domestic industry has consolidated within the United States, two of the remaining domestic producers' global operations on clad plate have expanded over time. In 2001, DMC acquired the French producer Nobleclad which, by virtue of its own 1992 purchase of the Swedish producer Nitrometall, added production operations in Rivesaltes, France, and Likenas, Sweden to DMC's Mount

[70] *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Final),* USITC Publication 2972, June 1996, p. 13.

Braddock, PA, plant commissioned in 1999.[71] Similarly, Lukens evolved through mergers and acquisitions into the Bethlehem Lukens Plate Division, ISG, and then Mittal Steel.[72] The 2006 merger of Mittal Steel and Arcelor of France (itself a manufacturer of clad steel plate) will be incorporated in 2007 following a successful tender offer.[73]

As part of the restructuring process, the United Steelworkers of America ("USWA") reached innovative new collective bargaining agreements with several producers, including Mittal (then ISG).[74] The new agreement was designed to achieve goals such as reducing fixed costs, improving productivity, and protecting retiree welfare. To reach these goals the agreements incorporate workforce restructuring, variable and competitive cost structures, reduced healthcare costs, and fewer job classifications.[75]

U.S. IMPORTS AND CONSUMPTION

U.S. Imports

During the original investigation, the Commission identified six possible importers of the subject merchandise. Four of these firms,[76] which accounted for *** of U.S. imports from Japan during 1994-95, responded to Commission questionnaires during the original investigation. In its response to the Commission's notice of institution of the first review, Bethlehem Lukens maintained, and currently Mittal maintains (but could not verify), that all of these firms listed as U.S. importers in the 1995 petition continued to import subject clad steel plate from Japan.[77] Citing the dearth of imports of subject product during 2000-04, and the imports of "only 40 (metric) tons" of subject product in 2005, Mittal states that "it seems likely that there are very few if any importers currently importing the subject merchandise from

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[71] *See, e.g.*, "History: DMC Clad Metal," an undated fact sheet retrieved from www.dynamicmaterials.com on January 22, 2007.

[72] Prior to its acquisition by ISG, Bethlehem Steel declared bankruptcy in 2001. In 2002, Bethlehem Steel's pension plan was terminated and the Pension Benefit Guaranty Corporation ("PBGC") took over Bethlehem Steel's pension plan, which had a $4.3 billion shortfall. The PBGC's coverage, however, was limited to $3.7 billion. *Remarks by Under Secretary of the Treasury for Domestic Finance Randle K. Quarles to the National Association of State Treasurers*, March 6, 2006.

[73] Retrieved from http://www.mittalsteel.com/News+and+Press/News+Releases/ on February 1, 2007.

[74] *Steel: Evaluation of the Effectiveness of Import Relief, Investigation No. TA-204-12*, USITC Publication 3797, September 2005, pp. 6-7.

[75] "In January 2003, an agreement was reached between USWA workers and ISG, which had purchased the assets of LTV and proposed buying other steel companies in bankruptcy. The plan provides for a benefit trust to provide for funding of health-care for retirees of predecessor companies. That agreement allows for a substantial reduction in employee and retiree healthcare expenses through a variable cost sharing mechanism, and provides for early retirement incentives. The contract also provides for profit sharing from substantial productivity gains."

". . . In June 2003, the USWA ratified an agreement with ISG for steelworkers at the former Bethlehem Steel facilities. The agreement, which expires in September 2008, includes provisions for pension benefits under a defined benefit plan and a fund to provide health care for retirees of Bethlehem Steel, together with profit-sharing and labor productivity arrangements." *Steel: Evaluation of the Effectiveness of Import Relief, Investigation No. TA-204-12*, USITC Publication 3797, September 2005, pp. III-19 - III-20.

[76] ***.

[77] Mittal's response to the second review notice of institution, p. 20.

Japan."[78] However, Mittal cites one firm (not mentioned as an importer in either the original investigation or the first review), i-Logistics (USA) Corp.,[79] [80] as having imported subject product since 2004.[81]

Table I-4 presents data on U.S. imports of clad steel plate excluding TIB (temporary in-bond) imports and table I-5 presents import data including TIB imports.[82] JSW reportedly made *** TIB entries in 1995 for a total of *** short tons.[83] As shown in table I-4, U.S. imports of clad steel plate from Japan excluding TIB imports rose from *** short tons in 1993 to *** short tons in 1994 and then fell to *** short tons in 1995.[84] In contrast, total U.S. imports of clad steel plate from Japan rose continuously on an annual basis during the period reviewed during the original investigation (table I-5).[85]

Following the imposition of the order in July 1996, U.S. imports of clad steel plate from Japan dropped noticeably (table I-5). In 2000, there were 4 short tons of clad steel plate imported from Japan. U.S. imports of clad steel plate from sources other than Japan were relatively low in 1994 and 1995

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[78] Mittal's response to the second review notice of institution, p. 21.

[79] i-Logistics is a company based in Japan specializing in warehousing/transportation, distribution, and international freight handling. It was founded in Osaka as ITOCHU Transportation & Warehouse Co., Ltd.; transferred its headquarters to Tokyo in 1988; merged with New Japan Air Service Co., Ltd. and Itochu Express Co., Ltd. in 2001, and changed its name to i-Logistics Corp. Its U.S. subsidiary, i-Logistics (USA) Corp., is based in Torrance, CA. The source of this information is the i-Logistics Corp. website: http://www.ilogi.co.jp/en/, retrieved on January 30, 2007.

[80] Based on data obtained from proprietary Customs' information, the importers of record in 2005 were ***. There were no subject imports recorded during 2001-04.

[81] Mittal's response to the second review notice of institution, p. 21.

[82] TIB is a procedure whereby merchandise may be entered into the customs territory of the United States duty-free by posting a bond. Under the terms of the bond, the importer agrees to export the merchandise within a specified time (usually a year) or pay liquidated damages, generally equal to twice the normal duty. There have been no TIB imports reported during 1998-2005. Most TIB imports of clad steel plate appeared to be destined for U.S. fabricators, with the subsequent production often exported.

[83] The data on which the majority of the Commission relied in its original determination were calculated exclusive of TIB imports. The Commission stated that "{s}uch imports are technically not entries for consumption and thus are not subject to Commerce's affirmative LTFV determination." Commissioner Bragg, however, indicated that it was "appropriate in this investigation to include TIB imports, which are sold to U.S. purchasers in direct competition with domestic clad steel plate and are used in the fabrication of industrial equipment in the United States ..." *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Review),* USITC Publication 3459, October 2001, pp. I-9 - I-11 (citing USITC Publication 2976, June 1996, p. 8).

[84] The Commission noted in its views for the original investigation that "(i)n 1994, when subject imports were at their height, many of the domestic industry's economic indicators experienced their worse performance. Conversely, between 1994 and 1995, when the level of subject imports decreased, and the rate of growth in overall imports of Japanese clad plate (including TIB imports) greatly slowed, many domestic industry economic indicators improved." *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Review),* USITC Publication 3459, October 2001, pp. I-11 - I-12.

[85] The Commission stated in its views for the original investigation that "{w}e regard TIB entries ... as a relevant economic factor in our analysis of the volume of imports, pursuant to 19 U.S.C. 1677(7)(b)(ii). Specifically, while subject imports declined from 1994 to 1995, we give the decline less weight in considering whether subject imports are significant. TIB imports compete for U.S. fabricators' purchases in the U.S. market. Thus, there was not a wholesale decline in imports of clad plate from Japan, but rather a shift of such imports to TIB entries." *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Review),* USITC Publication 3459, October 2001, p. I-12.

compared to 1993, as the quantity of clad steel plate imported from France dropped off.[86] After the imposition of the antidumping duty order in July 1996, nonsubject imports began to rise and, by 1997, exceeded the highest annual level reported during the period examined in the original investigation (i.e., 1993-95). Nonsubject imports of clad steel plate declined somewhat from 1997 to 1998, rose again in 1999, and increased sharply in 2000, as relatively large amounts of U.S. imports of clad steel plate from Austria were entered for consumption.[87] [88]

Table I-4
Clad steel plate:[1] U.S. imports from Japan and other sources excluding TIB imports, 1993-2005, January-September 2005, and January-September 2006

Item	Calendar year													January-September	
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2005	2006
	Quantity (***short tons***)														
Japan	***	***	***	213	70	78	0	4	0	0	0	0	44	33	0
Other sources	***	***	***	636	1,387	1,079	1,283	1884	928	171	179	279	392	348	363
Total	***	***	***	849	1,457	1,158	1,283	1,888	928	171	179	279	436	382	363
	Landed duty-paid value *(1,000 dollars)*														
Japan	***	***	***	837	310	273	0	15	0	0	0	0	238	193	0
Other sources	***	***	***	2,089	4,929	3,808	4,438	8921	3310	785	787	1043	1704	1565	1338
Total	***	***	***	2,926	5,240	4,081	4,438	8,936	3,310	785	787	1,043	1,942	1,758	1,338
	Landed duty-paid unit value *(dollars per short ton)*[2]														
Japan	***	***	***	3,932	4,433	3,489	-----	3,712	-----	-----	-----	-----	5,472	5,805	-----
Other sources	***	***	***	3,285	3,554	3,527	3,458	4,736	3,566	4,594	4,407	3,738	4,345	4,493	3,683
Average	***	***	***	3,448	3,596	3,525	3,458	4,734	3,566	4,594	4,407	3,738	4,458	4,607	3,683

[1] Excludes imports on nonsubject clad steel plate less than 4.5 mm in thickness from Kawasaki Steel for 1993-95. Clad steel plate less than 4.5 mm in thickness is used in cookware, coinage, and electrical applications. (However, data after 1995 include any U.S. imports of clad steel plate less than 4.5 mm in thickness. *See* Note 4 to table I-6.) Also excludes TIB imports from Japan in 1995 reported to the Commission as well as TIB imports from France of *** short tons in 1996 and *** short tons in 1998.
[2] Unit values calculated from unrounded figures.

Note.--There have been no TIB imports reported for 1998-2006.

Source: First review confidential report (INV-Y-196, October 1, 2001), p. I-13 for 1993-2000; official statistics of the U.S. Department of Commerce for 2001-05. Note that landed, duty-paid values do not include any antidumping duties.

[86] *Compare* the quantity of U.S. imports of clad steel plate from France in 1993 *with* that imported in 1994 as reported in official Commerce statistics for *HTS* subheading 7210.90.10.

[87] *See* official Commerce statistics for *HTS* subheading 7210.90.10.

[88] As noted earlier, the Commission viewed data concerning trends with caution.

Table I-5
Clad steel plate:[1] U.S. imports from Japan and other sources,[2] including TIB imports, 1993-2005, January-September 2005, and January-September 2006

Item	Calendar year													January-September	
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2005	2006
	Quantity (*short tons*)														
Japan	105	975	1,567	213	70	78	0	4	0	0	0	0	44	33	0
Other sources	661	236	99	659	1,387	1,200	1,283	1,884	928	171	179	279	392	348	363
Total	765	1,211	1,666	872	1,457	1,278	1,283	1,888	928	171	179	279	436	382	363
	Landed duty-paid value (*1,000 dollars)*														
Japan	298	2,143	3,904	837	310	273	0	15	0	0	0	0	238	193	0
Other sources	4,620	883	317	2,266	4,929	4,493	4,438	8,921	3,310	785	787	1,043	1,704	1,565	1,338
Total	4,918	3,026	4,221	3,104	5,240	4,766	4,438	8,936	3,310	785	787	1,043	1,942	1,758	1,338
	Landed duty-paid unit value *(dollars per short ton)*[3]														
Japan	2,854	2,197	2,491	3,932	4,433	3,489	-----	3,712	-----	-----	-----	-----	5,472	5,805	-----
Other sources	6,991	3,742	3,207	3,438	3,554	3,745	3,458	4,736	3,566	4,594	4,407	3,738	4,345	4,493	3,683
Average	6,425	2,499	2,533	3,558	3,596	3,729	3,458	4,734	3,566	4,594	4,407	3,738	4,458	4,607	3,683

[1] Includes TIB imports and product less than 4.5 mm in thickness.
[2] The largest sources of U.S. imports were France in 1993, 2002, and 2003; Japan in 1994 and 1995; United Kingdom in 1996, 1997, 1998, 1999, and 2001; Austria in 2000; and Canada in 2004 and 2005.
[3] Unit values calculated from unrounded figures.

Note.--There have been no TIB imports reported for 1998-2006.

Source: First review confidential report (INV-Y-196, October 1, 2001), p. I-14 for 1993-2000; official statistics of the U.S. Department of Commerce for 2001-05. Note that landed, duty-paid values do not include any antidumping duties.

During 2001-05, U.S. imports of clad steel plate declined overall, reaching period lows in 2002-03. Prior to the increased tariffs resulting from the U.S. safeguard measures on steel, France, Germany, the United Kingdom, and Austria were major sources for U.S. imports of clad steel plate. Subsequently, however, imports from these four countries, together, declined sharply, from a total of 1,762 short tons in 2000 to 18 short tons in 2003, a decline of 99 percent. U.S. imports of clad steel plate from these countries have increased slightly since 2003, reaching 105 short tons in 2005, and 115 short tons through September of 2006. Imports from Canada and Australia increased from 2000 to 2005 and into 2006, but total U.S. imports of clad steel plate declined by almost 80 percent during the 2000-05 period.

There were no pricing data provided by Mittal in its response to the notice of institution; Mittal maintains, however, that "clad steel plate continues to be a price sensitive product."[89] However, as the Commission noted in its views in the original investigation, "movements in average unit values are not reliable for purposes of evaluating the price effects of subject imports since bid prices vary according to the unique specifications of each contract."[90] The Commission relied in large part on its analysis of bid

[89] Mittal's response to the second review notice of institution, p. 17.

[90] *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Review), USITC Publication 3459,* October 2001, p. I-12.

data provided in response to Commission questionnaires during the original investigation.[91] For the 12 bid comparisons where there was competition between domestic and Japanese suppliers, the imported Japanese product was priced lower than the domestic product in five instances. The Commission stated in its views that "{w}hile the Japanese bidder did not always win the contract ... the amount and value of sales for which it did win bids based on lower prices were significant."[92]

Mittal, in discussing the price of subject imports in its response, states it is "not aware of any public sources that compare prices for clad steel plate in the USA compared to other markets, (although) Mittal Steel USA believes that U.S. prices are favorable compared to prices in other markets."[93] Mittal Steel USA also noted that "any such comparisons of prices in different markets absent information showing that the specifications of the clad steel plate are comparable would likely render such comparisons unreliable."[94]

Apparent U.S. Consumption

Apparent U.S. consumption of clad steel plate has continued to decline on an overall basis since the time of the original investigation, having fallen *** percent from 1995 to 2000, and decreased by another *** percent during 2000-05 (table I-6).[95] As shown in table I-6, the market shares for U.S. producers during the original investigation fell from 1993 from 1994 and then rose in 1995 to a point slightly higher than that reported for 1993.[96] Following the completion of the original investigation, U.S. producers' market shares declined irregularly, reaching a period low in 2000. However, domestic market share appears to have reached a new high (since the original investigation) in 2005 of about *** percent, possibly related to the safeguard investigations and measures since 2001.

[91] The Commission received usable bid data from *** U.S. producers and *** importers of Japanese clad steel plate. U.S. producers' reported bid data accounted for *** percent of total U.S. producers' domestic shipments of clad steel plate during January 1993-March 1996 and bid information reported by importers of the subject Japanese product accounted for *** percent of total U.S. imports of the clad steel plate from Japan during that period. Original investigation confidential report (INV-T-044, June 3, 1996), p. V-4.

[92] *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Review),* USITC Publication 3459, October 2001, pp. I-12 - I-13 (citing USITC Publication 2976, June 1996, pp. 19-20).

[93] Mittal's response to the second review notice of institution, p. 16.

[94] Mittal's response to the second review notice of institution, p. 16.

[95] The Commission noted in its views in the original investigation that "demand patterns for clad steel plate are irregular" due to the sporadic nature of the contracts through which the product is sold. *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Review),* USITC Publication 3459, October 2001, p. I-13 (citing USITC Publication 2972, October 2001, pp. 19-20).

[96] The same trend is shown for domestic market shares calculated using both U.S. production and U.S. producers' U.S. shipments (i.e., the data analyzed by the Commission during the original investigation).

Table I-6
Clad steel plate: U.S. producers' production and U.S. shipments, U.S. imports, and apparent U.S. consumption, on the basis of quantity, 1993-2005

Item	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
U.S. production[1]	***	***	***	***	***	***	***	***	(3)	(3)	(3)	(3)	***
U.S. producers' U.S. shipments[2]	***	***	***	***	***	***	***	***	(3)	(3)	(3)	(3)	***
U.S. imports:[4]													
Japan	***	***	***	***	***	***	0	4	0	0	0	0	44
Other sources	***	***	***	***	***	***	1,283	1,884	928	171	179	279	392
Total	***	***	***	***	***	***	1,283	1,888	928	171	179	279	436
Apparent U.S. consumption: calculated using --													
U.S. production . . .	***	***	***	***	***	***	***	***	(3)	(3)	(3)	(3)	***
U.S. shipments . . .	***	***	***	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	***
	Share of consumption using U.S. production *(percent)*												
U.S. production	***	***	***	***	***	***	***	***	(3)	(3)	(3)	(3)	***
U.S. imports:													
Japan	***	***	***	***	***	***	***	***	(3)	(3)	(3)	(3)	***
Other sources	***	***	***	***	***	***	***	***	(3)	(3)	(3)	(3)	***
Total	***	***	***	***	***	***	***	***	(3)	(3)	(3)	(3)	***
	Share of consumption using U.S. producer's U.S. shipments *(percent)*												
U.S. producers' U.S. shipments	***	***	***	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	***
U.S. imports:													
Japan	***	***	***	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	***
Other sources	***	***	***	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	***
Total	***	***	***	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	***

[1] Estimated total U.S. production.
[2] Estimated total U.S. shipments.
[3] Not available.
[4] Excluding TIB imports. U.S. imports for 1993-95 were adjusted using questionnaire data to exclude nonsubject clad steel plate less than 4.5 mm in thickness and are not absolutely comparable to presented U.S. imports for after 1995 that include such product. Total U.S. imports of all clad steel plate (including TIB imports) were 765 short tons in 1993, 1,211 short tons in 1994, and 1,666 short tons in 1995.

Source: First review confidential report (INV-Y-196, October 1, 2001), and Mittal's response to the second review notice of institution.

The market share for imports from Japan rose from 1993 to 1994, declined in 1995, and then fell sharply after the imposition of the antidumping duty order in July 1996. From 1997 onward, the market share for subject imports remained below *** percent, with only minimal imports from Japan since 1998.

The market share of U.S. imports of clad steel plate from countries other than Japan has fluctuated since 1993 with large increases shown in the years spanning the imposition of the antidumping duty order (i.e., from 1995 to 1997), and more increases through 2000. Though the market share of nonsubject imports increased sharply in 2000, as clad steel plate from Austria entered in relatively large

amounts, the market share of nonsubject imports declined back to *** percent in 2005. During 2000-05, the U.S. market share of all imports of clad steel plate declined from *** percent to *** percent.

THE FOREIGN INDUSTRY

There were five known producers of clad steel plate in Japan during the period examined in the original investigation: JSW, NKK Corporation ("NKK"), Nippon Steel Corporation ("Nippon"), Kawasaki Steel Corporation ("Kawasaki"), and Sumitomo Metal Industries Ltd. ("Sumitomo"). Mittal maintains that there are now four firms continuing to produce clad steel plate in Japan, as a result of the merger of Kawasaki and NKK to form JFE Steel Corporation ("JFE").[97]

Total production of clad steel plate in Japan, as reported by MITI, was 36,281 short tons in 1992, 33,751 short tons in 1993, and 44,431 short tons in 1994.[98] Clad steel plate production in Japan was 60,936 short tons in 1998, 52,343 in 1999, and 37,309 in 2000.[99] According to statistics provided by the Japan Iron and Steel Federation ("JISF"), clad steel plate production in Japan increased steadily during 2000-04 to 82,107 short tons, a 120 percent increase, before declining slightly in 2005 to 80,971 short tons.[100]

JSW was the only Japanese producer of the subject merchandise that was known during the original investigation to export to the United States. The firm manufactured clad steel plate in a roll bonding process (*see* figure I-1). JSW's wholly owned subsidiary company in the United States, JSWA (New York), provided technical and mechanical assistance to U.S. customers during the period examined in the original investigation.[101]

Data provided by JSW on its operations during the original investigation are shown in table I-7. As shown, production of clad steel plate by the firm rose from 1993 to 1995 while capacity remained somewhat constant, resulting in increased capacity utilization during the period examined. In 1995, *** percent of total shipments by JSW were to the home market while *** percent were to the United States and *** percent were to other export markets. There are no comparable data available for JSW's current operations. However, according to the JSW *2006 Annual Report*, there "was a surge in orders for towers and pressure vessels for oil refining, and in cladded steel plate and piping."[102] Also, sales of "cladded steel plate" were reported to have shown a large increase.[103] JSW reported that their steel sheet and structure business registered a 64 percent increase in orders received ($896 million in fiscal 2005) and a 23 percent growth in sales ($548 million in fiscal 2005) owing primarily to "a surge in demand for towers and pressure vessels for oil refineries, nickel alloy-clad steel pipe sections for ocean-bed natural gas pipelines, and incoloy (nickel-chromium) clad steel sheet material for chemical tankers and

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[97] Mittal's response to the second review notice of institution, pp. 21-22.

[98] Original investigation confidential report (INV-T-044, June 3, 1996), pp. VII-1 - VII-2.

[99] "Monthly Iron and Steel Statistics" (June 2001), Ministry of Economy, Trade, and Industry. Data may include some nonsubject clad steel (i.e., narrower than 600 mm and thinner than 4.5 mm).

[100] Data for 2002-2005 found at the website of the JISF, retrieved on January 24, 2007, http://www.jisf.or.jp/en/statistics/production, data for 1999-2001 provided by Mr. Terashima of JISF.

[101] Original investigation confidential report (INV-T-044, June 3, 1996), pp. VII-1 - VII-2.

[102] JSW, 2006 Annual Report, June 29, 2006, p. 2.

[103] Ibid., p. 2.

desalination plants."[104] JSW expects "continued strong demand for clad steel plates for natural gas field projects in South East Asia and desalination plant projects in the Middle East."[105]

Table I-7
Clad steel plate: JSW's capacity and shipments, 1993-95

Item	1993	1994	1995
Capacity *(short tons)*	***	***	***
Production *(short tons)*	***	***	***
Capacity utilization *(percent)*	***	***	***
Shipments:			
Home market *(short tons)*	***	***	***
Exports:[1]			
United States *(short tons)*	***	***	***
Other markets *(short tons)*	***	***	***
Total exports *(short tons)*	***	***	***
Total shipments *(short tons)*	***	***	***

[1] Includes tonnage exported under TIB.

Source: Original investigation confidential report (INV-T-044, June 3, 1996), p. VII-3, for 1993-95 data (which were provided by JSW).

JFE,[106] in its most recent annual report, stated "net sales" for fiscal 2005[107] were $1,476 million, 10 percent higher than the previous year.[108] JSW stated that "growth in overall sales was the result of a significant increase in clad steel plate and pipes."[109] JSW's operating income was reported to have increased by 67 percent between fiscal 2004 and 2005, and net income increased by 101 percent.[110]

Nippon[111] reported an increase in total net sales of more than 15 percent, reaching $33.3 billion. Nippon also reported an increase in net sales within its Nippon Steel Division ("Nippon Steel") of about

[104] Ibid., p. 6.

[105] Ibid., p. 6.

[106] In April 2001, Kawasaki Steel Corporation ("KSC") and NKK Corporation ("NKK") reached a basic agreement to consolidate the entire operations of the two companies including their subsidiaries and affiliates, on the basis of equal partnership and in mutual trust. The aim is to create a new group with a strong earnings base generated mainly from its core businesses of steel and engineering. In December 2001, the two companies entered into the Basic Agreement for Consolidation. *JFE Factbook*, June 2003, p. 1.

[107] Fiscal 2006 covers April 1, 2005 through March 31, 2006.

[108] JSW, *Annual Report 2006*, pp. 15-21.

[109] Ibid., p. 16.

[110] Ibid., p. 16.

[111] The Japan Iron & Steel Co., Ltd., formed with Yawata Works as the nucleus, was split into Yawata and Fuji Steels in 1950 under the Law for the Elimination of Excessive Concentration of Economic Power. Twenty years later in 1970, the two companies merged again to form Nippon Steel Corporation. Retrieved from http://www0.nsc.co.jp/shinnihon_english/company_profile/enkaku/index.html on January 31, 2007.

21 percent, to $22.1 million in fiscal 2006.[112] [113] Also, Nippon Steel reported that 72 percent of its sales were to domestic purchasers and 28 percent were exports.[114]

Nippon is reported to have developed a "better cladding process *** than the present state-of-the-art in America."[115] This process, a modification of the roll bonding process, was developed by Nippon Steel Co. It involves an inert atmosphere attained by welding together the substrate plate and cladding plate into a subassembly in vacuum conditions of an electron beam welder.

Sumitomo,[116] established in 1897, "uses an integrated process to manufacture high function special stainless products such as clad steel sheets and precision rolled strips, and provides them for sale to customers outside the Sumitomo Metals Group."[117] Sumitomo "produced a total of 13.31 million metric tons of crude steel in fiscal 2005, ended March 31, 2006. As core products, Sumitomo Metals supplies a wide variety of high-quality steel sheets, especially for automotive and electrical machinery applications."[118]

Table I-8 presents data on Japan's exports of clad steel plate during 1996-2005. In 2000, Japan exported 12,469 short tons of clad steel plate, the vast majority of which were to destinations other than the United States. Korea accounted for 65.5 percent of the quantity of total Japanese exports of clad steel plate in 2000. As of 2005, Japan's exports had increased to 25,203 short tons of clad steel plate, with Korea accounting for nearly 56.8 percent of the exports. In 2005, Mexico and China were the next largest markets for Japanese-produced clad steel plate, accounting for 10.3 percent and 9.1 percent of Japan's clad steel plate exports.[119]

Table I-8
Clad steel plate: Japan's exports, 1996-2005

Item	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Exports:	Quantity *(short tons)*									
United States	236	220	78	136	139	79	112	249	225	180
Other markets	13,885	13,695	15,959	14,763	12,330	16,578	25,473	18,517	22,465	25,022
Total exports	14,122	13,915	16,037	14,899	12,469	16,656	25,585	18,766	22,690	25,203

Source: Compiled from official trade statistics for *HTS* subheading 7210.90.10, published by the World Trade Atlas (source noted is "Japan Customs").

[112] Fiscal 2006 covers April 1, 2005 through March 31, 2006.

[113] *Basic Facts about Nippon Steel 2006*, pp. 25-28. Retrieved from http://www0.nsc.co.jp/shinnihon_english/company_profile/product_sales/index.html on February 1, 2007.

[114] *Basic Facts about Nippon Steel 2006*, p. 25-26. Retrieved from http://www0.nsc.co.jp/shinnihon_english/company_profile/product_sales/index.html on February 1, 2007.

[115] Retrieved from http://www.freepatentsonline.com/4790471.html on January 31, 2007.

[116] Retrieved from http://www.sumitomometals.co.jp/e/profile/profile.html on January 31, 2007.

[117] *Sumitomo Annual Report 2006*, p. 17.

[118] *Ibid.*, p. 17.

[119] Japan export statistics from retrieved from the *World Trade Atlas*, sourced from "Japan Customs."

During the first review, Bethlehem Lukens stated that "after the 1996 antidumping order was issued, JSW increased its aggressiveness in combining with Japanese fabricators to concentrate on 'downstream' clad pressure vessels not subject to the U.S. order for ultimate shipment to U.S. customers."[120] Also, Bethlehem Lukens stated that it believed that NKK has increased its manufacturing capacity to produce clad steel plate since the period reviewed during the original investigation.[121] In July 1998, NKK was reported to have indicated that it would be withdrawing from production of hot-rolled stainless sheet to concentrate on the manufacture of the more profitable stainless steel plate and clad steels.[122]

There are no antidumping orders in place, other than in the United States, for clad steel plate produced in Japan.[123]

[120] *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Review), USITC Publication 3459,* October 2001, p. I-17.

[121] *Clad Steel Plate from Japan, Investigation No. 731-TA-739 (Review), USITC Publication 3459,* October 2001, p. I-17.

[122] "NKK to Focus on Stainless Plate," Steel (July 1, 1998), retrieved, on September 6, 2001, at *http://www.amm.com*, NKK Corporation, "NKK Titanium-Clad Steel Plate for Power Plant Condenser Tubes" January 26, 2001, and *American Metal Market*, "Australia Plant to Get Titanium-Clad Plate," March 19, 2001.

[123] World Trade Organization (*see www.wto.org*).

APPENDIX A

FEDERAL REGISTER NOTICES AND THE COMMISSION'S STATEMENT ON ADEQUACY

provided sufficient evidence of identifications of leaders or of a governing body of the petitioning group by authoritative, knowledgeable external sources on a substantially continuous basis since 1917. The BLB petitioner does not meet criterion 83.7(c), under the provisions of section 83.8(d)(5), because it has not provided a combination of evidence sufficient to demonstrate that the petitioning group has maintained political influence or authority over its members from 1917 to the present. From 1917 into the 1970's, the available evidence, with one exception, demonstrates political activity by Burt Lake band descendants within entities much larger than the petitioner. This historical pattern persists at present.

The politically active members of the BLB are part of the greater Burt Lake community, composed predominantly of Indian individuals who are not members of BLB. Past members of BLB, who are now enrolled in a federally recognized tribe, influence the petitioner's members on significant issues. Authority flows from influential family members to their kin. Families, however, have members both in BLB and in federally recognized tribes, primarily LTBB, or not enrolled in any Indian tribe or petitioner. Younger, peripheral members of BLB consult with older relatives who belong to LTBB concerning BLB issues, and these older relatives, former BLB members, deal with leaders of the greater Burt Lake community who belong to both organizations. The evidence demonstrates the existence of influence within a group of Burt Lake band descendants larger than the current membership of the petitioner, rather than a bilateral relationship between leaders and members within the petitioning group.

Criterion 83.7(d) requires that the petitioner provide a copy of the group's present governing document including its membership criteria. The BLB petitioner submitted a constitution, voted on by the members via absentee ballots in February 2005, and certified as the group's official governing document by a resolution dated April 9, 2005. The BLB petitioner submitted a copy of its current governing document, which includes its membership criteria and the processes by which it governs itself. Therefore, the BLB petitioner meets criterion 83.7(d).

Criterion 83.7(e) requires that the petitioner's membership consist of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity. The BLB submitted a membership list dated April 2005, identifying 320 members, and including all categories of information required by section 83.7(e)(2). This represents a removal of 624 of the 857 members who appeared on the group's December 2002 membership list, and an addition of 87 new members.

The FD found that 68 percent, or 218 of the 320 BLB members, could satisfactorily document descent from the historical band. The 102 members who could not document descent from the historical tribe included 53 descendants of two non-Cheboygan women, Elizabeth Martell and Charlotte Boda, who arrived in the Burt Lake area after the October 1900 burnout of the Indian village. These women had siblings who married into the group, but neither the women nor their descendants did so. The other 49 members could not document descent from the historical tribe due to missing or insufficient evidence of descent. Based on precedent, because only 68 percent of its members descend from the historical Cheboygan band, the BLB petitioner does not meet the requirements of criterion 83.7(e).

Criterion 83.7(f) requires that the membership of the petitioning group be composed principally of persons who are not members of any acknowledged North American Indian tribe. A review of the available documentation revealed that the membership is composed principally of persons who are not members of any acknowledged North American Indian tribe. The BLB petitioner meets criterion 83.7(f).

Criterion 83.7(g) requires that neither the petitioner nor its members be the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. A review of the available documentation showed no evidence that the petitioning group was the subject of congressional legislation to terminate or prohibit a Federal relationship as an Indian tribe. The BLB petitioner meets the requirements of criterion 83.7(g).

As provided by 25 CFR 83.10(h), a report summarizing the evidence, reasoning, and analyses that are the basis for the final determination will be provided to the petitioner and interested parties, and is available to other parties upon written request.

After the publication of notice of the final determination, the petitioner or any interested party may file a request for reconsideration with the Interior Board of Indian Appeals (IBIA) under the procedures set forth in section 83.11 of the regulations. This request must be received by the IBIA no later than 90 days after the publication of the final determination in the **Federal Register**. The final determination will become effective as provided in the regulations 90 days from the **Federal Register** publication unless a request for reconsideration is filed within that time period.

Dated: September 21, 2006.

James E. Cason,

Associate Deputy Secretary.

[FR Doc. E6–16191 Filed 9–29–06; 8:45 am]

BILLING CODE 4310–G1–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–739 (Second Review)]

Clad Steel Plate From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on clad steel plate from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is November 21, 2006. Comments on the adequacy of responses may be filed with the Commission by December 15, 2006. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* October 2, 2006.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW.,

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 07–5–159, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On July 2, 1996, the Department of Commerce issued an antidumping duty order on imports of clad steel plate from Japan (61 FR 34421). Following five-year reviews by Commerce and the Commission, effective November 16, 2001, Commerce issued a continuation of the antidumping duty order on imports of clad steel plate from Japan (66 FR 57703). The Commission is now conducting a second review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Japan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination and its expedited five-year review determination, the Commission defined the Domestic Like Product as all clad steel plate coextensive with Commerce's scope of the investigation, *i.e.*, all clad steel plate of a width of 600mm or more and a composite thickness of 4.5mm or more, regardless of cladding alloy.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination and its expedited five-year review determination, the Commission defined the Domestic Industry as producers of clad steel plate of a width of 600mm or more and a composite thickness of 4.5mm or more.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission is seeking guidance as to whether a second transition five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 21, 2006. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is December 15, 2006. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you

are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be provided in response to this notice of institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 2000.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2005 (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2005 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2005 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country after 2000, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: September 25, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6–16084 Filed 9–29–06; 8:45 am]

BILLING CODE 7020–02–P

session for a confidential presentation by Thai Respondents. Each session will be followed by an *in camera* rebuttal presentation by petitioner and questions from the Commission relating to the BPI. During the *in camera* session the room will be cleared of all persons except those who have been granted access to BPI under a Commission administrative protective order (APO) and are included on the Commission's APO service list in this investigation. See 19 CFR 201.35(b). The time for the parties' presentations and rebuttals in the *in camera* session will be taken from their respective overall allotments for the hearing. All persons planning to attend the *in camera* portions of the hearing should be prepared to present proper identification.

Authority: The General Counsel has certified, pursuant to Commission Rule 201.39 (19 CFR 201.39) that, in his opinion, a portion of the Commission's hearing in *Canned Pineapple Fruit from Thailand*, Inv. Nos. 731–TA–706 (Second Review), may be closed to the public to prevent the disclosure of BPI.

Issued: January 16, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–718 Filed 1–18–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 731–TA–739 (Second Review)]

Clad Steel Plate From Japan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on clad steel plate from Japan.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: January 5, 2007.

FOR FURTHER INFORMATION CONTACT: Eric Land (202–205–3349), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov).* The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On January 5, 2007, the Commission determined that the domestic group response to its notice of institution (71 FR 57996, October 2, 2006) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.[2]

Staff report. A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on February 1, 2007, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions. As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[3] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before February 6, 2007, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by February 6, 2007. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: January 12, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–669 Filed 1–18–07; 8:45 am]

BILLING CODE 7020–02–P

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

[2] Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun concluded that the domestic group response for this review was adequate and the respondent group response was inadequate, but that circumstances warranted a full review.

[3] The Commission has found the responses submitted by the domestic interested party Mittal Steel USA, Inc., to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–590]

In the Matter of Certain Coupler Devices For Power Supply Facilities, Components Thereof, and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

Dated: January 24, 2007.

Joe Meade,

Chugach National Forest Supervisor.

[FR Doc. 07–407 Filed 1–30–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Measuring Innovation in the 21st Century Economy Advisory Committee; Notice of Public Meeting

AGENCY: Economics and Statistics Administration, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Department of Commerce (DOC) is announcing the first meeting of the Measuring Innovation in the 21st Century Economy Advisory Committee. The meeting is open to the public. Seating at the meeting will be on a first-come, first-served basis. Interested parties may register on the Advisory Committee Web site: *http://www.innovationmetrics.gov*.

DATES: The meeting will be held on Thursday, February 22, 2007, from approximately 2 p.m. to 6 p.m. On-site sign-in begins at noon. Pre-registration is encouraged but not required.

ADDRESSES: The meeting will be held in the Vista Ballroom at The Wyndham Washington Hotel, 1400 M Street, NW., Washington DC. The Wyndham telephone number is 202–429–1700.

FOR FURTHER INFORMATION CONTACT: Elizabeth E.R. Anderson, Deputy Under Secretary for Economic Affairs, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230: *facsimile:* 202–482–0432 or Jacque Mason, ESA Communications and Advisory Committee Liaison, Room 4855, telephone: 202–482–5641, or online: *http://www.innovationmetrics.gov*.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2, and the General Services Administration rule on Federal Advisory Committee Management, 41 CFR part 101–6, the Secretary of Commerce determined that the establishment of the Measuring Innovation in the 21st Century Economy Advisory Committee (the ''Committee'') was in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee will advise the Secretary on new or improved measures of innovation in the economy that will help explain how innovation occurs in different sectors of the economy, how it is diffused across the economy, and how it impacts economic growth and productivity.

The Committee consists of fifteen members appointed by the Secretary of Commerce and is composed of individuals from business and academia. The Committee will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act. The Charter was filed under the Federal Advisory Committee Act.

The meeting is physically accessible to people with disabilities. Individuals requiring special accommodations at this meeting including sign language interpretation or other auxiliary aids should contact Jacque Mason at the address listed under **FOR FURTHER INFORMATION CONTACT** at least 5 business days prior to the meeting so that appropriate arrangements can be made. The meeting will be videotaped and made public on the Committee Web site within one month after the meeting date.

Elizabeth ''E.R.'' Anderson,

Deputy Under Secretary for Economic Affairs.

[FR Doc. 07–427 Filed 1–30–07; 8:45 am]

BILLING CODE 3510–BS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–838]

Clad Steel Plate from Japan; Final Results of the Expedited Sunset Review (Second Review) of the Antidumping Duty Order

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

SUMMARY: On October 2, 2006, the Department of Commerce (the Department) initiated the second sunset review of the antidumping duty order on clad steel plate from Japan pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). On the basis of a notice of intent to participate and a complete substantive response filed on behalf of the domestic interested parties, and no response from respondent interested parties, the Department conducted an expedited sunset review of the antidumping duty order pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B). As a result of this sunset review, the Department finds that revocation of the order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: January 31, 2007.

FOR FURTHER INFORMATION CONTACT: Nichole Zink or Brandon Farlander, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0049 and (202) 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 2, 2006, the Department of Commerce initiated a sunset review of the antidumping duty order on clad steel plate from Japan pursuant to section 751(c) of the Act. *See Initiation of Five-year (Sunset) Reviews*, 71 FR 57921 (October 2, 2006) (*Notice of Initiation*). The Department received a notice of intent to participate from the domestic parties, Mittal Steel USA (Mittal Steel) and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO-CLC (USW), within the deadline specified in 19 CFR 351.218(d)(1)(i). Mittal Steel claims interested party status under section 771(9)(C) of the Act as a domestic manufacturer of clad steel plate. USW claims interested party status under section 771(9)(D) of the Act as a certified union or recognized union group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of clad steel products.

The Department received a complete substantive response from Mittal Steel within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We did not receive a substantive response from respondent interested parties in this proceeding. As a result, pursuant to 19 CFR 351.218(e)(1)(iii)(C), the Department determined that it was appropriate to conduct an expedited 120-day sunset review of this antidumping duty order.

Scope of the Order

The scope of this order is all clad[1] steel plate of a width of 600 millimeters

[1] Cladding is the association of layers of metals of different colors or natures by molecular interpenetration of the surfaces in contact. This limited diffusion is characteristic of clad products and differentiates them from products metalized in other manners (e.g., by normal electroplating). The various cladding processes include pouring molten cladding metal onto the basic metal followed by rolling; simple hot-rolling of the cladding metal to ensure efficient welding to the basic metal; any

(mm) or more and a composite thickness of 4.5 mm or more. Clad steel plate is a rectangular finished steel mill product consisting of a layer of cladding material (usually stainless steel or nickel) which is metallurgically bonded to a base or backing of ferrous metal (usually carbon or low alloy steel) where the latter predominates by weight.

Stainless clad steel plate is manufactured to American Society for Testing and Materials (ASTM) specifications A263 (400 series stainless types) and A264 (300 series stainless types). Nickel and nickel–base alloy clad steel plate is manufactured to ASTM specification A265. These specifications are illustrative but not necessarily all–inclusive.

Clad steel plate within the scope of this order is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) 7210.90.10.00. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the ''Issues and Decision Memorandum for the Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order on Clad Steel Plate from Japan'' (Decision Memo) from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in room B–099 of the main Commerce building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn*. The paper copy and electronic versions of the Decision Memo are identical in content.

other method of deposition of superimposing of the cladding metal followed by any mechanical or thermal process to ensure welding (e.g., electrocladding), in which the cladding metal (nickel, chromium, etc.) is applied to the basic metal by electroplating, molecular interpenetration of the surfaces in contact then being obtained by heat treatment at the appropriate temperature with subsequent cold rolling. See Harmonized Commodity Description and Coding System Explanatory Notes, Chapter 72, General Note (IV) (C) (2) (e).

Final Results of Review

The Department determines that revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of dumping at the rates listed below:

Producers/Exporters	Margin (percent)
The Japan Steel Company	118.53
All Others	118.53

Notification regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: January 25, 2007.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E7–1571 Filed 1–30–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809]

Certain Forged Stainless Steel Flanges From India; Preliminary Results of New Shipper Review

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

SUMMARY: The Department of Commerce (the Department) is conducting a new shipper review of the antidumping duty order on certain forged stainless steel flanges (stainless steel flanges) from India manufactured by Kunj Forgings (Kunj). The period of review (POR) covers February 1, 2005, through January 31, 2006. We preliminarily determine that Kunj made sales of subject merchandise at less than normal value (NV) in the United States during the POR. If these preliminary results are adopted in the final results of this new shipper review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of the subject merchandise for which the importer–specific assessment rates are above *de minimis*.

We invite interested parties to comment on these preliminary results. Parties who submit argument in these proceedings are requested to submit with the argument 1) a statement of the issues; 2) a brief summary of the argument; and 3) a table of authorities cited.

EFFECTIVE DATE: January 31, 2007.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone (202) 482–2924 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 9, 1994, the Department published the antidumping duty order on stainless steel flanges from India. *See Amended Final Determination and Antidumping Duty Order; Certain Forged Stainless Steel Flanges from India*, 59 FR 5994 (February 9, 1994). On February 28, 2006, we received requests for new shipper reviews from Kunj Forgings Pvt. Ltd. (Kunj), Micro Forge (India) Ltd. (Micro), Pradeep Metals Limited (Pradeep), and Rollwell Forge, Ltd. (Rollwell) for the period February 1, 2005, through January 31, 2006. We initiated the reviews on April 6, 2006. *See Stainless Steel Flanges from India: Notice of Initiation of Antidumping Duty New Shipper Reviews* 71 FR 17439 (April 6, 2006). On September 29, 2006, we rescinded the reviews with respect to Micro, Pradeep, and Rollwell. *See Certain Forged Stainless Steel Flanges from India: Notice of Partial Rescission of New Shipper Reviews*, 71 FR 27468 (September 29, 2006).

On October 3, 2006, we extended the time limit for the preliminary results of this new shipper review to no later than January 25, 2007. *See Stainless Steel Flanges From India: Notice of Extension of Time Limit for the Preliminary Results of Antidumping Duty New Shipper Review*, 71 FR 58372 (October 3, 2006).

Scope of the Order

The products covered by this order are certain forged stainless steel flanges, both finished and not finished, generally manufactured to specification ASTM A–182, and made in alloys such

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Clad Steel Plate From Japan
Inv. No. 731-TA-739 (Second Review)

On January 5, 2007, the Commission determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).[1]

The Commission determined that the domestic interested party group response to the notice of institution was adequate. The Commission received one response to the notice of institution from domestic producer Mittal Steel USA, Inc. ("Mittal"). Because Mittal represented the majority of domestic production in 2005, the Commission determined that the domestic interested party group response was adequate.

The Commission did not receive a response from any respondent interested party, and therefore determined that the respondent interested party group response to the notice of institution was inadequate. In the absence of an adequate respondent interested party group response, or any other circumstances that warranted a full review, the Commission determined to conduct an expedited review. A record of the Commissioners' votes is available from the Office of the Secretary and the Commission's web site (http://www.usitc.gov).

[1]Chairman Daniel R. Pearson and Commissioner Deanna T. Okun voted to conduct a full review.