

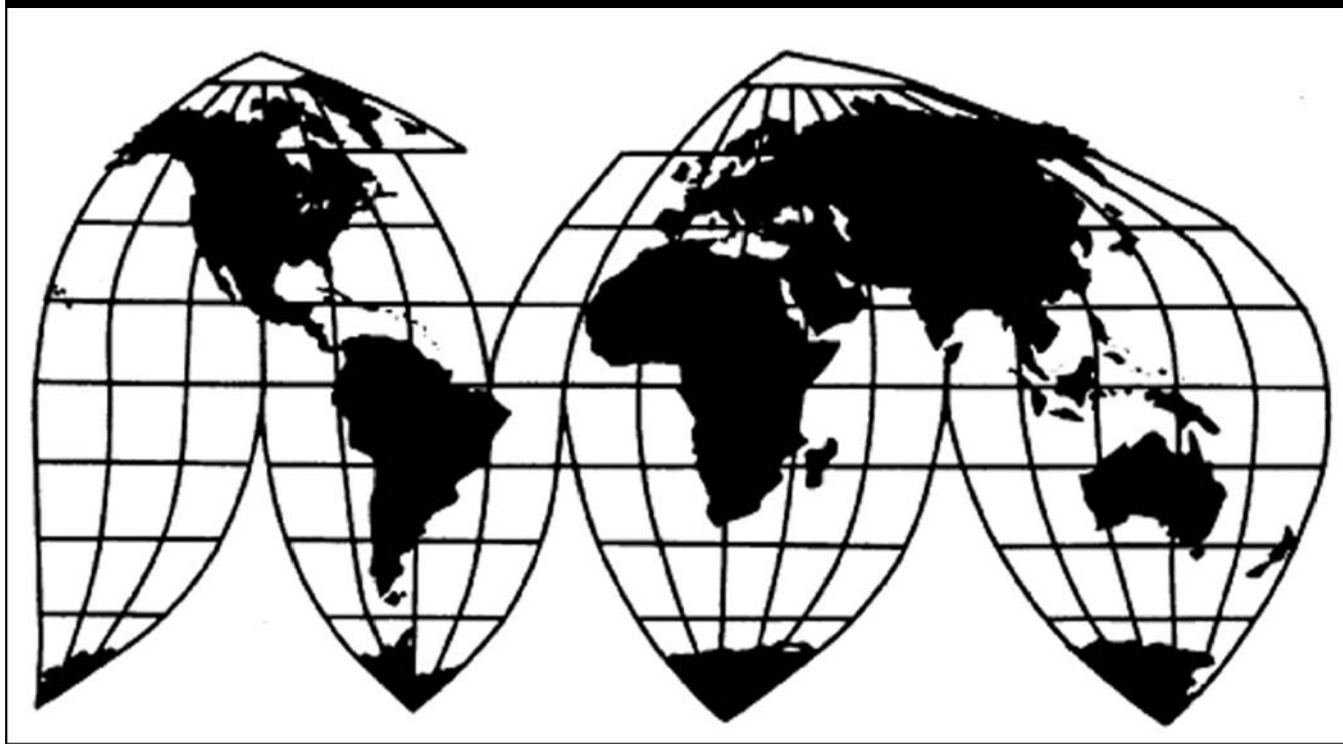
# **Ni-Resist Piston Inserts from Argentina and Korea**

Investigation Nos. 701-TA-460-461 (Preliminary)

**Publication 4066**

**March 2009**

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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# CONTENTS

	<i>Page</i>
<b>Determinations</b> .....	1
<b>Views of the Commission</b> .....	3
<b>Part I: Introduction</b> .....	I-1
Background .....	I-1
Statutory criteria and organization of the report .....	I-1
Statutory criteria .....	I-1
Organization of the report .....	I-2
U.S. Ni-resist piston insert market summary .....	I-2
Summary data and data sources .....	I-3
Previous and related investigations .....	I-3
Nature of alleged countervailable subsidies .....	I-3
The subject merchandise .....	I-3
Commerce's scope .....	I-3
U.S. tariff treatment .....	I-4
The product .....	I-5
Description and applications .....	I-5
Manufacturing process .....	I-7
Domestic like product issues .....	I-9
<b>Part II: Conditions of competition in the U.S. market</b> .....	II-1
Market characteristics .....	II-1
Channels of distribution .....	II-1
Supply and demand considerations .....	II-1
U.S. supply .....	II-1
U.S. demand .....	II-2
Substitutability issues .....	II-4
Factors affecting purchasing decisions .....	II-4
Comparisons of domestic products and subject imports .....	II-4
Comparisons of subject imports .....	II-5
<b>Part III: U.S. producer's production, shipments, and employment</b> .....	III-1
U.S. producer .....	III-1
U.S. capacity, production, and capacity utilization .....	III-1
U.S. producer's U.S. shipments and export shipments .....	III-2
U.S. producer's imports and purchases of imports .....	III-2
U.S. producer's inventories .....	III-2
U.S. employment, wages, and productivity .....	III-2
<b>Part IV: U.S. imports, apparent U.S. consumption, and market shares</b> .....	IV-1
U.S. importers .....	IV-1
U.S. imports .....	IV-1
Negligibility .....	IV-2
Apparent U.S. consumption .....	IV-2
U.S. market shares .....	IV-2
Ratios of imports to U.S. production .....	IV-2

## CONTENTS

	<i>Page</i>
<b>Part V: Pricing and related information</b> .....	V-1
Factors affecting prices .....	V-1
Raw material costs .....	V-1
Transportation costs to the U.S. market .....	V-1
U.S. inland transportation costs .....	V-2
Exchange rates .....	V-2
Pricing practices .....	V-3
Price data .....	V-3
Price trends .....	V-4
Price comparisons .....	V-5
Lost sales and lost revenues .....	V-5
<b>Part VI: Financial experience and condition of the U.S. producer</b> .....	VI-1
Background .....	VI-1
Operations on Ni-resist piston inserts .....	VI-2
Capital expenditures and research and development expenses .....	VI-4
Capital and investment .....	VI-4
<b>Part VII: Threat considerations and information on nonsubject countries</b> .....	VII-1
The industry in Argentina .....	VII-1
The industry in Korea .....	VII-1
The industries in Argentina and Korea combined .....	VII-2
U.S. importers' inventories .....	VII-2
U.S. importers' current orders .....	VII-2
Antidumping and countervailing duty investigations in third-country markets .....	VII-2
Information on nonsubject countries .....	VII-3
<b>Appendixes</b>	
A. <i>Federal Register</i> notices .....	A-1
B. Calendar of the Commission's February 17, 2009 conference .....	B-1
C. Summary data .....	C-1

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 Nos. 701-TA-460-461 (Preliminary)

## NI-RESIST PISTON INSERTS FROM ARGENTINA AND KOREA

### DETERMINATIONS

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Argentina and Korea of Ni-resist piston inserts, provided for in subheading 8409.99.91 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Governments of Argentina and Korea.

### COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under section 703(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under section 705(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

### BACKGROUND

On January 26, 2009, a petition was filed with the Commission and Commerce by Korff Holdings LLC dba Quaker City Castings, Salem, Ohio, alleging that an industry in the United States is materially injured by reason of subsidized imports of Ni-resist piston inserts from Argentina and Korea. Accordingly, effective January 26, 2009, the Commission instituted countervailing duty investigations Nos. 701-TA-460-461 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of February 3, 2009 (74 FR 5946). The conference was held in Washington, DC, on February 17, 2009, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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





## IEWS OF THE COMMISSION

Based on the record in the preliminary phase of these investigations, we unanimously find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of Ni-resist piston inserts (“Ni rings”) allegedly subsidized by the governments of Argentina and Korea.

### I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

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

### II. BACKGROUND

Korff Holdings, LLC, doing business as Quaker City Castings (“QCC”), filed the petition in these investigations on January 26, 2009. QCC, the only known domestic producer of Ni rings, appeared at the conference and submitted a postconference brief. Three respondents have entered appearances as parties to these investigations. Federal-Mogul Corp. (“Federal-Mogul”) is an importer of subject merchandise from Korea and a purchaser of domestically produced Ni rings. Karl Schmidt Unisia, Inc. (“Karl Schmidt”) is an importer of subject merchandise from Argentina and a purchaser of domestically produced Ni rings. Federal-Mogul and Karl Schmidt each appeared at the conference, represented by separate counsel, and submitted postconference briefs. Clorindo Appo SRL (“Clorindo”) is a producer and exporter of subject merchandise from Argentina. It submitted a postconference statement.

### III. DOMESTIC LIKE PRODUCT AND INDUSTRY

#### A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”<sup>3</sup> Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Tariff Act”), defines the relevant domestic industry as the “producers as a {w}hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major

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<sup>1</sup> 19 U.S.C. §§ 1671b(a), 1673b(a) (2000); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chem. Corp. v. United States, 20 CIT 353, 354-55 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

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

<sup>3</sup> 19 U.S.C. § 1677(4)(A).

proportion of the total domestic production of the product.”<sup>4</sup> In turn, the Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation ... .”<sup>5</sup>

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.<sup>6</sup> No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.<sup>7</sup> The Commission looks for clear dividing lines among possible like products and disregards minor variations.<sup>8</sup> Although the Commission must accept Commerce’s determination as to the scope of the imported merchandise that is subsidized or sold at less than fair value,<sup>9</sup> the Commission determines what domestic product is like the imported articles Commerce has identified.<sup>10</sup>

## **B. Scope Definition**

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<sup>4</sup> 19 U.S.C. § 1677(4)(A).

<sup>5</sup> 19 U.S.C. § 1677(10).

<sup>6</sup> See, e.g., Cleo, Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

<sup>7</sup> See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

<sup>8</sup> Nippon, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”).

<sup>9</sup> See, e.g., USEC, Inc. v. United States, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), aff’d, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

<sup>10</sup> Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Cleo, 501 F.3d at 1298 n.1 (“Commerce’s {scope} finding does not control the Commission’s {like product} determination.”); Torrington, 747 F. Supp. at 748-52 (affirming the Commission’s determination defining six like products in investigations where Commerce found five classes or kinds).

The Department of Commerce has defined the scope of the imported merchandise under investigation as follows:

all Ni-resist piston inserts regardless of size, thickness, weight, or outside diameter. Ni-resist piston inserts may also be called other names including, but not limited to, “Ring Carriers,” or “Alfin Inserts.” Ni-resist piston inserts are alloyed cast iron rings, with or without a sheet metal cooling channel pressed and welded into the interior of the insert. Ni-resist piston inserts are composed of the material known as Ni-resist, of the chemical composition: 13.5% – 17.5% Ni (nickel), 5.5% – 8.0% Cu (copper), 0.8% – 2.5% Cr (chromium), 0.5% – 1.5% Mn (manganese), 1.0% – 3.0% Si (silicon), 2.4% – 3.0% C (carbon). The cast iron composition is produced primarily to the material specifications of the American Society for Testing and Materials (ASTM), ASTM A-436 grade 1. The scope of these investigations does not include piston rings nor any other product manufactured using the Ni-resist material.<sup>11</sup>

Ni rings are normally used as a component of aluminum pistons found in diesel engines. All diesel engines that contain aluminum pistons use Ni rings; diesel engines using non-aluminum pistons do not use Ni rings.<sup>12</sup> The Ni ring is an insert to the piston; the elevated nickel content in the ring allows for the expansion and contraction of the ring at the same rate as the piston, which serves to lengthen the piston’s working life.<sup>13</sup>

### **C. Domestic Like Product Analysis**

QCC argues that the Commission should find a single domestic like product coextensive with the scope definition.<sup>14</sup> At the conference, counsel for respondents Federal-Mogul and Karl Schmidt stated that they agreed with QCC’s proposed definition of the domestic like product.<sup>15</sup> We examine below the information in the record concerning the factors the Commission typically examines in defining the domestic like product.

*Physical Characteristics and Uses.* Ni rings are alloyed cast iron rings. The nominal chemistry of the alloy material consists of 15 percent nickel, 6.5 percent copper, 2 percent chrome, 1 percent manganese, 2 percent silicon, and 2.5 percent carbon. Ni rings typically have an outer diameter ranging from 2 to 12 inches, and a thickness from 0.180 inches to approximately 1.5 inches.<sup>16</sup> As previously stated, the Ni ring protects the aluminum piston during combustion inside the diesel engine cylinder. The Ni ring is typically found near the top of the piston where the piston rings are located. The Ni ring absorbs impact from the piston ring and prevents wear to the piston.<sup>17</sup>

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<sup>11</sup> 74 Fed. Reg. 8054, 8055 (Feb. 23, 2009).

<sup>12</sup> Petition at 34; Tr. at 31 (J. Korff), 89-90 (Lowe), 100 (Turcott).

<sup>13</sup> Petition at 32-33; see Tr. at 60-61 (J. Korff).

<sup>14</sup> Petition at 32-33.

<sup>15</sup> Tr. at 119 (Lowe, Kane). No party addressed domestic like product issues in its postconference brief.

<sup>16</sup> Petition at 6.

<sup>17</sup> Confidential Report (CR) at I-7-9, Public Report (PR) at I-5; Petition at 7. The piston ring, by  
(continued...)

*Interchangeability.* QCC contends that no other product performs a similar function in diesel engines to Ni rings.<sup>18</sup> The record does not indicate that there are any substitute products performing the same function as Ni rings in diesel engines.<sup>19</sup> The petition further contends – and no party disputed at the conference – that Ni rings are used almost exclusively in diesel engines.<sup>20</sup>

*Channels of Distribution.* \*\*\* domestically produced Ni rings are sold to end users, which are typically manufacturers of aluminum pistons for diesel engines that incorporate the Ni rings as a component in their production of the finished piston.<sup>21</sup>

*Manufacturing Facilities, Production Processes, and Production Employees.* The process for producing Ni rings includes three steps. First, melting takes place in an electric induction furnace.<sup>22</sup> The molten metal is poured into a mold and rotated during solidification, in a process called centrifugal casting.<sup>23</sup> Finally, the centrifugally cast tube is machined to the desired specifications to become a set of finished Ni rings.<sup>24</sup>

QCC produces several other products at its Salem, OH manufacturing facility using centrifugal casting. These include cylinder liners, lapping pots, bushings, and heat-shaped tubes.<sup>25</sup> While the same QCC employees produce other centrifugally cast items that the company manufactures,<sup>26</sup> these other products tend to have different characteristics than do Ni rings.<sup>27</sup>

*Producer and Customer Perceptions.* QCC's website lists Ni rings as one of seven major product lines offered by the company.<sup>28</sup> Purchasers specify Ni ring suppliers, and seek quotations specifically for Ni rings.<sup>29</sup>

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<sup>17</sup> (...continued)

contrast, exists to seal the combustion chamber, support heat transfer from the piston to the cylinder wall, and regulate oil consumption. Petition at 37.

<sup>18</sup> Petition at 32.

<sup>19</sup> CR at II-5, PR at II-3.

<sup>20</sup> Petition at 7, 33.

<sup>21</sup> CR at II-1, PR at II-1.

<sup>22</sup> During the melting process, type I molten scrap Ni-resist machining chips are added to molten alloy cast iron. CR at I-10, PR at I-8.

<sup>23</sup> This results in more uniform, cleaner metal than other forms of casting would yield. CR at I-11, PR at I-8.

<sup>24</sup> CR at I-11, PR at I-8.

<sup>25</sup> Tr. at 47, 52-53 (J. Korff); <http://www.qccast.com/centrifugal.html> (visited and printed Feb. 24, 2009).

<sup>26</sup> See CR at VI-5-7, PR at VI-3.

<sup>27</sup> Cylinder liners are produced for gasoline engines used in automobiles and small trucks and do not contain Ni-resist material. Tr. at 52-53 (J. Korff); <http://www.ez-slider.com/> (visited and printed Feb. 24, 2009). Lapping pots are used in the production of piston rings. Tr. at 59 (J. Korff).

<sup>28</sup> <http://www.qccast.com/> (visited and printed Feb. 24, 2009). QCC's other product lines include cylinder liners and several different types of iron and steel castings.

<sup>29</sup> Tr. at 136 (Turcott), 142-43 (Czerwinski).

*Price.* The pricing data in the record indicate that, at any particular time, domestically produced Ni rings of heavier weight will be priced higher than domestically produced Ni rings of lighter weight.<sup>30</sup> Heavier rings will contain more metal, and thus reflect higher raw material costs.

*Analysis.* The information in the record indicates that all Ni rings, despite variations in size and weight, have the same metal composition, perform the same function in aluminum pistons, are produced in the same manner at the same facilities, and are sold through the same channels of distribution. The parties have agreed that the Commission should define the domestic like product to be Ni rings, and there is no indication in the record that such a definition would be either too broad or too narrow. Consequently, we define a single domestic like product encompassing all domestically produced Ni rings with the specifications provided in the scope definition.

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

The domestic industry is defined as the domestic “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.”<sup>31</sup> In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

Consistent with our definition of the domestic like product, we define the domestic industry to encompass all domestic producers of Ni rings. QCC is the only known domestic producer of Ni rings.<sup>32</sup> Accordingly, for purposes of these preliminary determinations, the domestic industry consists of QCC’s Ni ring production operations.<sup>33</sup>

### **IV. CUMULATION<sup>34</sup>**

#### **A. Background**

For purposes of evaluating the volume and price effects for a determination of reasonable indication of material injury by reason of the subject imports, section 771(7)(G)(i) of the Tariff Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the U.S. market.<sup>35</sup> In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors:

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<sup>30</sup> CR/PR, Tables V-1-4.

<sup>31</sup> 19 U.S.C. § 1677(4)(A).

<sup>32</sup> CR at III-1, PR at III-1.

<sup>33</sup> No party has asserted, and we cannot identify, any domestic industry or related party issues in these preliminary phase investigations.

<sup>34</sup> Negligibility under 19 U.S.C. § 1677(24) is not an issue in these investigations. During the most recent 12-month period prior to filing of the petition, subject imports from Argentina accounted for \*\*\* percent of total imports of Ni rings and subject imports from Korea accounted for \*\*\* percent of total imports. CR/PR, Table IV-2. Consequently, imports from each subject country exceed the 3 percent statutory negligibility threshold.

<sup>35</sup> 19 U.S.C. § 1677(7)(G)(i).

- (1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and
- (4) whether the subject imports are simultaneously present in the market.<sup>36 37</sup>

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.<sup>38</sup> Only a “reasonable overlap” of competition is required.<sup>39</sup>

The statutory threshold for cumulation is satisfied in these investigations, because the petition encompassing both subject countries was filed on the same day (January 26, 2009).<sup>40</sup> None of the statutory exceptions to cumulation is applicable.

QCC argues that the Commission should cumulate subject imports from Argentina and Korea.<sup>41</sup> Respondents have not asserted any contrary arguments.<sup>42</sup>

## **B. Analysis**

The Commission generally has considered whether subject imports compete with each other and with the domestic like product with reference to four factors: (1) fungibility; (2) sales or offers in the same geographic markets; (3) common or similar channels of distribution; and (4) simultaneous presence. We examine these considerations below.

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<sup>36</sup> See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

<sup>37</sup> Commissioner Lane notes with respect to the first factor that her analysis does not require such similarity of products that a perfectly symmetrical fungibility is required. See Separate Views of Commissioner Charlotte R. Lane, Certain Lightweight Thermal Paper from China, Germany, and Korea, Inv. Nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary), USITC Pub. 3964 (Nov. 2007).

<sup>38</sup> See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

<sup>39</sup> The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 848 (1994) (“SAA”) expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” SAA at 848 (citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988)), aff'd, 859 F.2d 915 (Fed. Cir. 1988). See Goss Graphic Sys., Inc. v. United States, 33 F. Supp. 2d 1082, 1087 (Ct. Int'l Trade 1998) (“cumulation does not require two products to be highly fungible”); Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

<sup>40</sup> CR at I-1, PR at I-1; 74 Fed. Reg. 8054 (Feb. 23, 2009).

<sup>41</sup> Petition at 50.

<sup>42</sup> Tr. at 121 (Lowe), 154 (Kane); Federal-Mogul Postconference Brief at 3.

*Fungibility.* QCC takes the position that Ni rings from different sources are essentially indistinguishable.<sup>43</sup> Federal-Mogul agrees that QCC's Ni rings are interchangeable with the subject imports from Argentina and Korea.<sup>44</sup> Its witness testified that he has not seen any differences in quality between the Ni rings Federal-Mogul imported from Korea and the Ni rings that QCC produced.<sup>45</sup>

The questionnaire responses also indicate that market participants perceive Ni rings from various sources to be interchangeable. QCC reported that domestically produced Ni rings were \*\*\* interchangeable with imports from Argentina or Korea.<sup>46</sup> Federal-Mogul reported that domestically produced Ni rings were \*\*\* interchangeable with the subject imports from Korea, and Karl Schmidt reported that domestically produced Ni rings were \*\*\* interchangeable with the subject imports from Argentina.<sup>47</sup>

*Channels of Distribution.* During the period of investigation, the domestic like product and the imports from each subject country were purchased by the same type of entities: aluminum piston producers.<sup>48</sup>

*Geographic Overlap.* As previously discussed, both the domestic like product and the subject imports were sold to the same firms that produce aluminum pistons. Both purchasers are located in the upper Midwest.<sup>49</sup> Consequently, there was geographic overlap of the domestic like product and the subject imports.

*Simultaneous Presence in Market.* The domestic like product and subject imports from Argentina and Korea have been present in the U.S. market during each year of the period of investigation.<sup>50</sup>

*Analysis.* As previously stated, no party has argued that the Commission should not cumulate subject imports from Argentina and Korea. The record indicates that the domestic like product and imports from each subject source are at least moderately interchangeable, are purchased by the same piston producers, and have been in the U.S. market throughout the period of investigation. The record consequently indicates that there is a reasonable overlap of competition between the domestic like products and imports from each subject country and between subject imports from Argentina and Korea. We therefore cumulate subject imports from Argentina and Korea for our analysis of reasonable indication of material injury by reason of subject imports.

## **V. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS**

### **A. Legal Standards**

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<sup>43</sup> Tr. at 19 (J. Korff).

<sup>44</sup> Federal-Mogul Postconference Brief at 27.

<sup>45</sup> Tr. at 99 (Czerwinski).

<sup>46</sup> QCC Producer's Questionnaire Response, response to question III-16.

<sup>47</sup> Importers' Questionnaire Responses, response to question IV-16. Karl Schmidt and Federal-Mogul were \*\*\* – to provide information about interchangeability of Ni rings from various sources.

<sup>48</sup> During the period of investigation, Karl Schmidt purchased \*\*\* and Federal-Mogul purchased \*\*\*. Importers' Questionnaire Responses, response to question IV-1.

<sup>49</sup> Karl Schmidt is located in Wisconsin. Tr. at 83 (Kane). Federal-Mogul produces pistons in Minnesota. Tr. at 90 (Lowe).

<sup>50</sup> CR/PR, Table IV-3.

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.<sup>51</sup> In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.<sup>52</sup> The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”<sup>53</sup> In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.<sup>54</sup> No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>55</sup>

Although the statute requires the Commission to determine whether there is a reasonable indication that the domestic industry is “materially injured by reason of” unfairly traded imports,<sup>56</sup> it does not define the phrase “by reason of,” indicating that this aspect of the injury analysis is left to the Commission’s reasonable exercise of its discretion.<sup>57</sup> In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the “by reason of” standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.<sup>58</sup>

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include non-subject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must

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<sup>51</sup> 19 U.S.C. §§ 1671b(a), 1673b(a).

<sup>52</sup> 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each {such} factor ... {a}nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B).

<sup>53</sup> 19 U.S.C. § 1677(7)(A).

<sup>54</sup> 19 U.S.C. § 1677(7)(C)(iii).

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

<sup>56</sup> 19 U.S.C. §§ 1671b(a), 1673b(a).

<sup>57</sup> Angus Chemical Co. v. United States, 140 F.3d 1478, 1484-85 (Fed. Cir. 1998) (“{T}he statute does not ‘compel the commissioners’ to employ {a particular methodology}.”), aff’g 944 F. Supp. 943, 951 (Ct. Int’l Trade 1996).

<sup>58</sup> The Federal Circuit, in addressing the causation standard of the statute, observed that “{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement.” Nippon Steel Corp. v. USITC, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in Mittal Steel Point Lisas Ltd. v. United States, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal Circuit, quoting Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that “this court requires evidence in the record ‘to show that the harm occurred ‘by reason of’ the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.’” See also Nippon Steel Corp. v. United States, 458 F.3d 1345, 1357 (Fed. Cir. 2006); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001).



examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.<sup>59</sup> In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.<sup>60</sup> Nor does the “by reason of” standard require that unfairly traded imports be the “principal” cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as non-subject imports, which may be contributing to overall injury to an industry.<sup>61</sup> It is clear that the existence of injury caused by other factors does not compel a negative determination.<sup>62</sup>

Assessment of whether material injury to the domestic industry is “by reason of” subject imports “does not require the Commission to address the causation issue in any particular way” as long as “the injury to the domestic industry can reasonably be attributed to the subject imports” and the Commission “ensure{s} that it is not attributing injury from other sources to the subject imports.”<sup>63 64</sup> Indeed, the

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<sup>59</sup> Statement of Administrative Action (“SAA”) on Uruguay Round Agreements Act (“URAA”), H.R. Rep. 103-316, Vol. I at 851-52 (1994) (“{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.”); S. Rep. 96-249 at 75 (1979) (the Commission “will consider information which indicates that harm is caused by factors other than less-than-fair-value imports.”); H.R. Rep. 96-317 at 47 (1979) (“in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;” those factors include “the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry”); accord Mittal Steel, 542 F.3d at 877.

<sup>60</sup> SAA at 851-52 (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports.”); Taiwan Semiconductor Industry Ass’n v. USITC, 266 F.3d 1339, 1345 (Fed. Cir. 2001) (“{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports ... . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports.” (emphasis in original)); Asociacion de Productores de Salmon y Trucha de Chile AG v. United States, 180 F. Supp. 2d 1360, 1375 (Ct. Int’l Trade 2002) (“{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury” or make “bright-line distinctions” between the effects of subject imports and other causes.); see also Softwood Lumber from Canada, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100-01 (Dec. 2003) (Commission recognized that “{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, i.e., it is not an ‘other causal factor,’ then there is nothing to further examine regarding attribution to injury”), citing Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997) (the statute “does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.”).

<sup>61</sup> S. Rep. 96-249 at 74-75; H.R. Rep. 96-317 at 47.

<sup>62</sup> See Nippon Steel Corp., 345 F.3d at 1381 (“an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the ‘dumping’ need not be the sole or principal cause of injury.”).

<sup>63</sup> Mittal Steel, 542 F.3d at 877-78; see also id. at 873 (“While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured ‘by reason of’

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Federal Circuit has examined and affirmed various Commission methodologies and has disavowed “rigid adherence to a specific formula.”<sup>65</sup>

The Federal Circuit’s decisions in Gerald Metals, Bratsk, and Mittal Steel all involved cases where the relevant “other factor” was the presence in the market of significant volumes of price-competitive non-subject imports. The Commission interpreted the Federal Circuit’s guidance in Bratsk as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive non-subject imports.<sup>66</sup> The additional “replacement/benefit” test looked at whether non-subject imports might have replaced subject imports without any benefit to the U.S. industry. The Commission applied that specific additional test in subsequent cases, including the Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago determination that underlies the Mittal Steel litigation.

Mittal Steel clarifies that the Commission’s interpretation of Bratsk was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the court requires the Commission to have “evidence in the record ‘to show that the harm occurred ‘by reason of’ the LTFV imports,’” and requires that the Commission not attribute injury from non-subject imports or other factors to subject imports.<sup>67</sup> Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to Bratsk.

The progression of Gerald Metals, Bratsk, and Mittal Steel clarifies that, in cases involving commodity products where price-competitive non-subject imports are a significant factor in the U.S.

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<sup>63</sup> (...continued)

subject imports, the Commission is not required to follow a single methodology for making that determination ... . {and has} broad discretion with respect to its choice of methodology.”) citing United States Steel Group v. United States, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75.

<sup>64</sup> Commissioner Pinkert does not join this paragraph or the following four paragraphs. He points out that the Federal Circuit, in Bratsk, 444 F.3d 1369, and Mittal, held that the Commission is required, in certain circumstances, to undertake a particular kind of analysis of non-subject imports. Mittal explains as follows:

What Bratsk held is that “where commodity products are at issue and fairly traded, price-competitive, non-subject imports are in the market,” the Commission would not fulfill its obligation to consider an important aspect of the problem if it failed to consider whether non-subject or non-LTFV imports would have replaced LTFV subject imports during the period of investigation without a continuing benefit to the domestic industry. 444 F.3d at 1369. Under those circumstances, Bratsk requires the Commission to consider whether replacement of the LTFV subject imports might have occurred during the period of investigation, and it requires the Commission to provide an explanation of its conclusion with respect to that factor. 542 F.3d at 878.

<sup>65</sup> Nucor Corp. v. United States, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); see also Mittal Steel, 542 F.3d at 879 (“Bratsk did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was ‘by reason’ of subject imports.”).

<sup>66</sup> Mittal Steel, 542 F.3d at 875-79.

<sup>67</sup> Mittal Steel, 542 F.3d at 873 (quoting from Gerald Metals, 132 F.3d at 722), 875-79 & n.2 (recognizing the Commission’s alternative interpretation of Bratsk as a reminder to conduct a non-attribution analysis).

market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.<sup>68 69</sup>

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard. Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.<sup>70 71</sup>

## **B. Conditions of Competition and the Business Cycle**

The following conditions of competition inform our analysis of whether there is a reasonable indication of material injury or threat of material injury by reason of subject imports from Argentina and Korea.

*Demand Conditions.* Apparent U.S. consumption of Ni rings declined during the period of investigation, which encompasses calendar years 2006 through 2008. Apparent U.S. consumption of Ni rings declined from \*\*\* pounds in 2006 to \*\*\* pounds in 2007. Apparent U.S. consumption then increased \*\*\* to \*\*\* pounds in 2008, which was still \*\*\* below the 2006 level.<sup>72</sup>

Demand for Ni rings is directly linked to the demand for diesel engines that incorporate aluminum pistons.<sup>73</sup> These engines are used to power motor vehicles (which, in the United States, are largely certain light trucks and medium- to heavy-duty trucks), farm and other off-road equipment, marine transports, and large compressors.<sup>74</sup> The parties agree that, at least to some extent, the decline in Ni ring apparent consumption during the period of investigation reflects a decline in demand for the motor vehicles containing diesel engines incorporating aluminum pistons.<sup>75</sup> The record in these preliminary investigations, however, does not indicate to what extent various factors identified by the parties may

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<sup>68</sup> Commissioner Lane also refers to her dissenting views in Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates, Inv. Nos. 731-TA-1131-1134 (Final), USITC Pub. 4040 (Oct. 2008), for further discussion of Mittal Steel.

<sup>69</sup> To that end, after the Federal Circuit issued its decision in Bratsk, the Commission began to present published information or send out information requests in final phase investigations to producers in non-subject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large non-subject import suppliers). In order to provide a more complete record for the Commission's causation analysis, these requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in final phase investigations in which there are substantial levels of non-subject imports.

<sup>70</sup> Mittal Steel, 542 F.3d at 873; Nippon Steel Corp., 458 F.3d at 1350, citing U.S. Steel Group, 96 F.3d at 1357; S. Rep. 96-249 at 75 ("The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.").

<sup>71</sup> We provide in the discussion of impact in section V.E. below a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

<sup>72</sup> CR/PR, Table IV-3.

<sup>73</sup> CR at II-3, PR at II-2.

<sup>74</sup> CR at I-9, PR at I-7.

<sup>75</sup> Petition at 48; Tr. at 84 (Kane); Federal-Mogul Postconference Brief at 6-8.

have contributed to the decline in apparent consumption which occurred in 2007.<sup>76</sup> We intend to explore further in any final phase investigations the factors contributing to the observed decline in apparent U.S. consumption of Ni rings.

There are at most three known U.S. producers of aluminum pistons for diesel engines that would purchase or use Ni rings in their operations. These are Federal-Mogul, Karl Schmidt, and Mahle.<sup>77</sup>

*Supply Conditions.* Most Ni rings present in the U.S. market during the period of investigation were imported from the subject countries. The cumulated subject imports' share of the quantity of apparent U.S. consumption increased from \*\*\* percent in 2006 to \*\*\* percent in 2007 and then increased further to \*\*\* percent in 2008.<sup>78</sup> Karl Schmidt was the sole importer of subject merchandise from Argentina during the period of investigation, and Federal-Mogul was the sole importer of subject merchandise from Korea.<sup>79</sup>

QCC supplied \*\*\* apparent U.S. consumption during the period of investigation, as there were \*\*\* imports from nonsubject sources and QCC is the only known domestic producer of Ni rings.<sup>80</sup> QCC states that it believes it has been the only domestic Ni ring producer since 1995.<sup>81</sup> QCC declared bankruptcy in 2003; QCC's current president, Joseph Korff, attributes the bankruptcy at least in part to the prior bankruptcy of Federal-Mogul, which resulted in QCC being unable to recover a large value of accounts receivable.<sup>82</sup> QCC was acquired by the Korff family at a bankruptcy sale in 2004.<sup>83</sup> At that time, QCC's principal business was sand castings; QCC's management perceived its centrifugally cast products such as Ni rings to be an addition to its sand casting business.<sup>84</sup> As previously stated, QCC produces several centrifugally cast products in addition to Ni rings and is trying to develop sales of these products.<sup>85</sup> QCC's available capacity for production of Ni rings \*\*\* apparent U.S. consumption of the product throughout the period of investigation.<sup>86</sup>

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<sup>76</sup> In addition to declines in overall motor vehicle demand, these include: (1) the increased preferences of diesel engine manufacturers for articulated and steel pistons – neither of which uses Ni rings – over aluminum pistons; and (2) demand fluctuations for motor vehicles attributable to changes in U.S. Environmental Protection Agency emissions standards.

<sup>77</sup> Tr. at 12 (J. Korff), 114 (Turcott), 115 (Lowe). Mahle's status as a U.S. producer of aluminum pistons is unclear.

<sup>78</sup> CR/PR, Table IV-4. Clorindo has served as Karl Schmidt's principal source of Ni rings for over a decade. Tr. at 85 (Kane).

<sup>79</sup> CR at IV-1, PR at IV-1.

<sup>80</sup> See CR at IV-2, PR at IV-1. At the time the postconference briefs were filed, \*\*\*. See Federal-Mogul Postconference Brief at 16-17. Subsequently, \*\*\*. CR at IV-1, PR at IV-1. As a result, it is unnecessary for us to address the arguments respondents submitted in their postconference briefs concerning nonsubject imports.

<sup>81</sup> Petition at 3-4.

<sup>82</sup> Tr. at 11 (J. Korff).

<sup>83</sup> Tr. at 11 (J. Korff).

<sup>84</sup> Tr. at 12, 57 (J. Korff). Sand castings remain QCC's principal business. CR at III-2, PR at III-1.

<sup>85</sup> Tr. at 12 (J. Korff).

<sup>86</sup> Compare CR/PR, Table III-1 (QCC Ni ring capacity \*\*\* pounds throughout period of

(continued...)

*Other Conditions.* Nickel is among the principal raw materials used to make Ni rings.<sup>87</sup> Nickel prices were volatile during the period of investigation, rising sharply in 2006, peaking during the second quarter of 2007, and declining irregularly thereafter.<sup>88</sup> Because of the volatility of nickel prices, nickel surcharges are common among Ni ring producers worldwide.<sup>89</sup>

As discussed above, market participants perceive the subject imports and the domestic like product to be sometimes or always interchangeable.<sup>90</sup> The record does not contain any reports of significant distinctions in quality or product range between the subject imports and the domestic like product.

### **C. Volume of Subject Imports**

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

The quantity of cumulated subject imports declined overall from 2006 to 2008. Subject imports declined from \*\*\* pounds in 2006 to \*\*\* pounds in 2007 and then increased to \*\*\* pounds in 2008.<sup>92</sup> The 2008 subject import volume increase of \*\*\* pounds exceeded the \*\*\*-pound increase in apparent U.S. consumption that year.<sup>93</sup>

Although their volume declined from 2006 to 2008, the market penetration of the cumulated subject imports increased during this period. This is because cumulated subject imports declined at a lower rate than U.S. shipments of the domestic like product. The market penetration of the cumulated subject imports increased from \*\*\* percent in 2006 to \*\*\* percent in 2007 and then increased further to \*\*\* percent in 2008.<sup>94</sup>

For purposes of these preliminary phase investigations, we find that the volume of subject imports is significant both in absolute terms and relative to consumption and production in the United States, and that the increase in subject import volume relative to consumption is significant.

### **D. Price Effects of Subject Imports**

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

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<sup>86</sup> (...continued)  
investigation) with id., Table IV-3 (peak apparent U.S. consumption during period of investigation \*\*\* pounds).

<sup>87</sup> CR at I-6, V-1, PR at I-5, V-1.

<sup>88</sup> CR at V-1, PR at V-1.

<sup>89</sup> CR at V-1, PR at V-1.

<sup>90</sup> CR/PR, Table II-3.

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

<sup>92</sup> CR/PR, Table IV-2.

<sup>93</sup> CR/PR, Tables IV-2-3.

<sup>94</sup> CR/PR, Table IV-4. Additionally, the ratio of subject imports to production increased from \*\*\* percent in 2006 to \*\*\* percent in 2007 and then to \*\*\* percent in 2008. CR/PR, Table IV-5.

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.<sup>95</sup>

\*\*\* domestic purchasers of Ni rings that responded to the Commission questionnaires reported that price was a “very important” factor in purchasing decisions, yet \*\*\* indicated that it was not the “number one” factor and \*\*\* indicated that differences other than price always were a significant factor in whether to purchase the domestic like product or the subject imports.<sup>96</sup> Karl Schmidt claims that in making purchasing decisions, it seeks to minimize “risk” and chooses suppliers that will not raise problems concerning reliability, quality, or on-time delivery.<sup>97</sup> Federal-Mogul similarly asserts that it requires a reliable and stable source of components for the parts it produces.<sup>98</sup>

The Commission collected data concerning four pricing products during the period of investigation. QCC reported its prices f.o.b. its point of shipment. Because the importers use the Ni rings they purchase in the production of aluminum pistons and do not resell the imported product, they reported purchase prices direct from the foreign exporter.<sup>99</sup> There were 23 reported quarterly observations for imports from Argentina, 17 reported observations for imports from Korea, and 17 reported quarterly observations for domestically produced products. However, there were only 11 quarterly observations (out of the 46 quarterly observations for which some pricing data were provided) in which reported data for domestically produced products and the subject imports could be compared.<sup>100</sup> Moreover, because aluminum piston producers directly import Ni rings and do not resell them, we are unable to conduct our usual comparison of domestic producers’ first sales prices with importers’ first sales prices. Additionally, because the pricing data QCC reported do not reflect domestic transportation costs, they do not fully reflect the delivered purchase prices paid by aluminum piston producers.<sup>101</sup> In light of these limitations, the reported data are less useful than those we typically compile in our investigations. Nevertheless, they provide the most probative information currently available concerning the prices aluminum piston producers paid for the Ni rings they acquired from various sources. The reported data indicate that the importers’ purchase prices were lower than the domestic producers’ sales prices in 10 of 11 quarterly observations.<sup>102</sup>

Anecdotal information in the record similarly supports a finding that the subject imports sell for lower prices than does the domestic like product. The president of QCC, Joseph Korff, testified that a buyer at Karl Schmidt told him that QCC’s prices were significantly higher than those offered by Karl

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<sup>95</sup> 19 U.S.C. § 1677(7)(C)(ii).

<sup>96</sup> CR/PR, Tables II-1, II-2, II-4.

<sup>97</sup> Tr. at 101-02 (Turcott), Karl Schmidt Postconference Brief at 12.

<sup>98</sup> Federal-Mogul Postconference Brief at 9.

<sup>99</sup> CR at V-5, PR at V-3.

<sup>100</sup> CR/PR, Tables V-1-4.

<sup>101</sup> In any final phase investigations, we intend to collect from the aluminum piston producers their delivered purchase prices for both the domestically produced product and the subject imports.

<sup>102</sup> CR/PR, Tables V-1-4.

Schmidt's Argentine supplier.<sup>103</sup> Karl Schmidt's witness (who was not the buyer Mr. Korff referenced in his testimony) tended to reinforce Mr. Korff's assertions by repeatedly referring to QCC's prices as "high" in his conference testimony.<sup>104</sup> Federal-Mogul complained that \*\*\*.<sup>105</sup>

In light of the lack of any information suggesting that there are meaningful differences in quality or product range between the subject imports and the domestic like product, the current record indicates that lower prices provided a reason why piston producers purchased the subject imports rather than domestically produced Ni rings. We conclude for purposes of the preliminary phase of these investigations that the limited data available provide an indication that the subject imports significantly undersold the domestic like product.

The reported purchase prices for the subject imports rose during 2006, peaked during the second and third quarters of 2007, and then declined irregularly during the remainder of the period of investigation.<sup>106</sup> This appears to reflect the trends in nickel prices observed during the period of investigation.<sup>107</sup> Ascertaining price trends for the domestic like product is difficult because of the lack of any extended time series of data for any of the individual pricing products. To the extent an analysis is possible, it indicates that price movements for the domestically produced product also appear to be largely coincident with price fluctuations for nickel.<sup>108</sup>

For three of the four domestically produced pricing products, the latest available pricing observation was higher than the earliest available observation.<sup>109</sup> In light of this, we do not find significant price depression.

QCC's ratio of cost of goods sold (COGS) to net sales rose \*\*\* during the period of investigation, from \*\*\* percent in 2006 to \*\*\* percent in 2008.<sup>110</sup> Although one reason for an increase of this magnitude was the \*\*\* decline in both total sales quantities and revenues from 2006 to 2008, on a unit basis, the \*\*\* increase in unit COGS \*\*\* exceeded the \*\*\* increase in average unit sales values during this period.<sup>111</sup> More particularly, it appears that QCC could not fully recover its increased raw materials costs. Its ratio of raw material costs to net sales increased by \*\*\* percentage points between 2006 and 2008.<sup>112</sup> Further, with lower sales volume, other factory costs increased on a unit basis.<sup>113</sup> QCC attempted to recover its costs through use of a surcharge formula that takes into account all the metallic elements – not merely nickel – that are used in the manufacture of Ni rings.<sup>114</sup> QCC's customers,

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<sup>103</sup> Tr. at 36, 77-78 (J. Korff).

<sup>104</sup> Tr. at 103, 105 (Turcott).

<sup>105</sup> CR at V-13, PR at V-5.

<sup>106</sup> CR/PR, Tables V-1-4.

<sup>107</sup> CR at V-1, PR at V-1.

<sup>108</sup> CR/PR, Tables V-1-4.

<sup>109</sup> CR/PR, Table V-5.

<sup>110</sup> CR/PR, Table VI-1.

<sup>111</sup> CR/PR, Table VI-1.

<sup>112</sup> CR/PR, Table VI-1.

<sup>113</sup> CR/PR, Table VI-1.

<sup>114</sup> QCC Postconference Brief at 4.

however, refused to accept this surcharge formula;<sup>115</sup> thus, QCC's inability to receive surcharges for all its metal purchases corroborates the available data suggesting that it has not been successful in recovering increased raw materials costs.

The available data indicate that QCC was unable to charge prices sufficient to recover increased costs. We find that this provides some indication of price suppression. We will examine further in any final phase investigations the causal connection between the subject imports and QCC's increasing ratios of costs to sales revenues.

### **E. Impact of Subject Imports**

In examining the impact of subject imports, section 771(7)(C)(iii) of the Tariff Act provides that the Commission "shall evaluate all relevant economic factors which have a bearing on the state of the industry."<sup>116</sup> These factors include output, sales, inventories, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."<sup>117</sup>

Output-related indicators of domestic industry performance generally declined during the period of investigation. Production and shipments fell.<sup>118</sup> Inventories increased as a ratio to shipments.<sup>119</sup> Because capacity remained constant, the reduced output caused reported capacity utilization to decline to \*\*\* levels.<sup>120</sup> The domestic industry's share of apparent U.S. consumption declined throughout the period.<sup>121</sup>

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<sup>115</sup> See Federal-Mogul Postconference Brief at 13; Karl Schmidt Postconference Brief at 14. We discuss in section V.E. below respondents' argument that QCC's surcharge formula is an example of a business practice that has led to "self-inflicted" injury.

<sup>116</sup> 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.").

<sup>117</sup> 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

<sup>118</sup> The domestic industry's production declined from \*\*\* pounds in 2006 to \*\*\* pounds in 2007, and then declined further to \*\*\* pounds in 2008. CR/PR, Table III-1. U.S. shipments declined from \*\*\* pounds in 2006 to \*\*\* pounds in 2007, and then declined further to \*\*\* pounds in 2008. Export shipments also declined from 2006 to 2008, albeit at a \*\*\* rate than domestic shipments. CR/PR, Table III-2.

<sup>119</sup> The ratio of inventories to total shipments increased from \*\*\* percent in 2006 to \*\*\* percent in 2007 and then to \*\*\* percent in 2008. Inventories declined each year from 2006 to 2008 on an absolute basis. CR/PR, Table III-3.

<sup>120</sup> Capacity was at \*\*\* pounds throughout the period of investigation. Reported capacity utilization declined from \*\*\* percent in 2006 to \*\*\* percent in 2007 and then to \*\*\* percent in 2008. CR/PR, Table III-1.

<sup>121</sup> The domestic industry's share of the quantity of apparent U.S. consumption declined from  
(continued...)



Employment levels showed only minor fluctuations, and hourly wages were higher in 2008 than in 2006.<sup>122</sup> Because roughly the same number of employees were producing \*\*\* less output in 2008 than in 2006, there were \*\*\* declines in productivity and increases in unit labor costs.<sup>123</sup>

At the conference, QCC characterized its Ni ring business as unprofitable during the bulk of the period of investigation.<sup>124</sup> The questionnaire data corroborate this characterization, as QCC's – and hence the industry's – operating performance declined during each year of the period of investigation. Sales fell \*\*\*,<sup>125</sup> and the firm showed operating \*\*\* each year.<sup>126</sup>

For purposes of these preliminary phase investigations, we find that there is an apparent causal nexus between the subject imports and the difficulties QCC, the domestic producer, experienced during the period of investigation. The significant volumes of subject imports were priced lower than the domestic like product. The current record supports a finding that the lower pricing caused purchasers to reduce their purchases of the domestic like product in favor of the subject imports. As a result, the domestic industry's output, market share, and financial performance declined. There is also some indication that competition from the subject imports prevented QCC from fully recovering increased costs. Any inability to recover increased costs would have further impaired operating performance. By the conclusion of the period of investigation, indicators pertaining to production, shipments, market share, and financial performance were at \*\*\* levels.

Respondents do not dispute that the domestic industry is currently in a poor condition, but argue that the industry's difficulties are not a function of the subject imports. Instead, respondents suggest two alternative causes for the industry's difficulties.

Respondents first contend that declines in demand for diesel engines incorporating aluminum pistons have reduced demand for Ni rings, and that this reduced demand is a cause of QCC's difficulties. Based on information in the preliminary record, we do not agree. The decline in the domestic industry's U.S. shipments from 2006 to 2008 was \*\*\* sharper than the decline in apparent U.S. consumption. While the quantity of apparent U.S. consumption declined by \*\*\* percent from 2006 to 2008, the quantity of the domestic industry's U.S. shipments declined by \*\*\* percent over the same period.<sup>127</sup> Consequently, the declines in apparent U.S. consumption cannot explain the magnitude of the domestic industry's declines

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<sup>121</sup> (...continued)

\*\*\* percent in 2006 to \*\*\* percent in 2007 and then to \*\*\* percent in 2008. CR/PR, Table IV-4.

<sup>122</sup> The number of production and related workers was \*\*\* in 2006, was unchanged in 2007, and increased to \*\*\* in 2008. Hourly wages increased from \*\*\* in 2006 to \*\*\* in 2007 and then to \*\*\* in 2008. CR/PR, Table III-4.

<sup>123</sup> Productivity, in pounds per hour, declined from \*\*\* in 2006 to \*\*\* in 2007 and then to \*\*\* in 2008. Unit labor costs per pound rose from \*\*\* in 2006 to \*\*\* in 2007 and then to \*\*\* in 2008. CR/PR, Table III-4.

<sup>124</sup> Tr. at 58 (J. Korff).

<sup>125</sup> Total net sales by quantity fell from \*\*\* pounds in 2006 to \*\*\* pounds in 2007 and then to \*\*\* pounds in 2008. CR/PR, Table VI-1.

<sup>126</sup> Operating \*\*\* were \*\*\* in 2006, \*\*\* in 2007, and \*\*\* in 2008. The operating ratio declined from \*\*\* percent in 2006 to \*\*\* percent in 2007, and then declined further to \*\*\* percent in 2008. CR/PR, Table VI-1.

There were \*\*\* capital or research and development expenditures reported \*\*\* during the period. CR/PR, Table VI-2.

<sup>127</sup> CR/PR, Table C-1.

in shipments, production, or market share during the period of investigation. Moreover, as discussed above, while apparent U.S. consumption declined overall from 2006 to 2008, there is no evidence of a steady decline in demand; to the contrary, apparent U.S. consumption actually increased in 2008 as compared to 2007.

Respondents further contend that any injury QCC has incurred is self-inflicted. They specify several QCC business practices which they contend have deterred them from purchasing greater quantities of the firm's Ni rings. As we explain below, the record of these preliminary phase investigations contains insufficient information to enable us to make findings on these arguments, which we will explore further during any final phase investigations.

Both Federal-Mogul and Karl Schmidt cite a letter QCC sent to the three U.S. producers of aluminum pistons in July 2004, just after the Korff family purchased QCC at a bankruptcy sale. The letter states that "Korff Holdings will make a decision soon whether to continue to support Quaker's insert business, or to use the resources elsewhere." It further states that "[t]o continue the business, we need sales value of at least \$500,000 per month at base prices which allow us to generate sufficient profits to maintain and reinvest in the business as a stand alone [operation]."<sup>128</sup> Federal-Mogul states that it perceived the letter to be a threat by QCC to cease Ni ring production unless its customers could commit to purchases far in excess of historical norms. It maintains that the letter led it to question the "reliability and security" of its Ni ring supplies. As a result, Federal-Mogul contends, it began to search for other Ni ring suppliers, notwithstanding that QCC was at that time Federal-Mogul's exclusive Ni ring supplier for its U.S. aluminum piston production operations.<sup>129</sup> Similarly, Karl Schmidt contends that it perceived the letter as an "ultimatum" which indicated QCC's "unreliability as a primary long-term volume supplier." Karl Schmidt maintains that since 2004 it has been unable to rely on QCC to be anything more than a secondary source of supply.<sup>130</sup> QCC counters that the letter was not intended to be a threat, but "simply apprised several engine manufacturers of the fact that QCC was the only remaining producer of Ni-resist inserts in the U.S., and that if any of the companies addressed wished to maintain a domestic source for this product, that QCC would need more purchases."<sup>131</sup> The limited record in these preliminary phase investigations does not permit us to reach firm conclusions regarding the intent and effects of these letters and we intend to explore these issues closely in any final phase investigations.<sup>132</sup>

Federal-Mogul and Karl Schmidt additionally cite QCC's metal surcharge policy as a reason they did not purchase greater quantities of Ni rings from that firm. They contend that QCC's surcharge

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<sup>128</sup> Federal-Mogul Postconference Brief, ex. 1. Similar letters were sent to diesel engine manufacturers (which purchase aluminum pistons from Federal-Mogul and Karl Schmidt). QCC Postconference Brief, ex. 7.

<sup>129</sup> Federal-Mogul Postconference Brief at 9-11, 24-25.

<sup>130</sup> Karl Schmidt Postconference Brief at 3.

<sup>131</sup> QCC Postconference Brief at 7.

<sup>132</sup> Topics that the Commission may explore include the following: (1) whether there are any contemporaneous records that corroborate the parties' current assertions concerning how the letters were perceived at the time they were received; (2) whether Federal-Mogul and QCC conducted any negotiations concerning possible supply arrangements between the time the letters were circulated and the time Federal-Mogul made a decision to source most of its requirements from Korea, and, if so, the nature of these negotiations; (3) the extent to which Federal-Mogul's decision to source most of its requirements from Korea was based on "reliability and security" considerations rather than pricing; and (4) whether and how these letters influenced Karl Schmidt's decision in 2007 to attempt to qualify QCC as an "active" Ni ring supplier.

deviates from industry standards because the surcharge encompasses not only nickel, but other metal inputs as well.<sup>133</sup> In response, QCC contends that its surcharge formula “is necessary given the enormously volatile state of the metals market.”<sup>134</sup> We do not have sufficient information to make a finding whether respondents’ contentions implicate QCC’s “reliability” or business practices, or merely convey dissatisfaction with its price levels.<sup>135</sup> We will explore these questions further in any final phase investigations.

Finally, Federal-Mogul contends that it does not use QCC as its principal supplier because the firm imposes unreasonable minimum quantity requirements and insists that any contract include dozens of models or parts, which has the effect of \*\*\*.<sup>136</sup> In any final phase investigations, we will explore the extent to which this reason was a motivating factor in Federal-Mogul’s most recent selection of a principal supplier and the extent to which this reason is independent of pricing considerations.

Consequently, the record in these preliminary phase investigations indicates an apparent causal nexus between the subject imports and the difficulties experienced by QCC and thus demonstrates a reasonable indication of material injury by reason of subject imports. The record does not provide sufficient information to permit us to evaluate fully respondents’ argument that QCC’s business practices and not the subject imports are the cause of its difficulties. We therefore conclude that, for purposes of the preliminary phase of these investigations, the subject imports have had a significant adverse impact on the domestic industry.

## CONCLUSION

For the foregoing reasons, we conclude that there is a reasonable indication that the domestic Ni ring industry is materially injured by reason of allegedly subsidized imports from Argentina and Korea.

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<sup>133</sup> See Federal-Mogul Postconference Brief at 12-13; Karl Schmidt Postconference Brief at 14.

<sup>134</sup> QCC Postconference Brief at 6.

<sup>135</sup> Similarly, we are uncertain how one can ascertain what constitutes a standard business practice in the U.S. Ni ring merchant market, which consists of only three suppliers.

<sup>136</sup> Tr. at 97 (Lowe); Federal-Mogul Postconference Brief at 14.



## PART I: INTRODUCTION

### BACKGROUND

These investigations result from a petition filed on January 26, 2009 by Korff Holdings LLC dba Quaker City Castings (“QCC”), Salem, OH, alleging that an industry in the United States is materially injured by reason of subsidized imports of Ni-resist piston inserts<sup>1</sup> from Argentina and Korea. Information relating to the background of the investigations is provided below.<sup>2</sup>

Effective date	Action
January 26, 2009	Petition filed with Commerce and the Commission; Commission institutes investigations (74 FR 5946, February 3, 2009)
February 17, 2009	Commission’s conference (a list of witnesses that appeared at the conference is presented in appendix B)
February 23, 2009	Commerce’s notice of initiation (74 FR 8054)
March 11, 2009	Date of the Commission’s vote
March 12, 2009	Commission’s determination transmitted to Commerce
March 19, 2009	Commission’s views transmitted to Commerce

### STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

#### Statutory Criteria

Section 771(7)(B) of the Tariff Act of 1930 (the “Act”) (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission—

*shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and . . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

*In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.*

...

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<sup>1</sup> See the section entitled “The Subject Merchandise” in *Part I* of this report for a complete description of the merchandise subject to these investigations.

<sup>2</sup> *Federal Register* notices cited in the tabulation are presented in app. A.

*In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether . . . (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.*

. . .  
*In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to*

. . .  
*(I) actual and potential declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.*

### **Organization of the Report**

*Part I* of this report presents information on the subject merchandise, alleged subsidy margins, and the domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Parts IV and V* present the volume and pricing of imports of the subject merchandise, respectively. *Part VI* presents information on the financial experience of the U.S. producer. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury as well as information regarding nonsubject countries.

### **U.S. NI-RESIST PISTON INSERT MARKET SUMMARY**

Ni-resist piston inserts are used to prolong the life of aluminum pistons used in diesel engines. The only U.S. producer of Ni-resist piston inserts is QCC, while producers of Ni-resist piston inserts outside the United States include Clorindo Appo SRL of Argentina and Incheon Metal Co., Ltd. of Korea. The U.S. importer of Ni-resist piston inserts from Argentina is Karl Schmidt Unisia, Inc., while the importer of Ni-resist piston inserts from Korea is Federal-Mogul Corp. \*\*\* of Ni-resist piston inserts into the United States from nonsubject countries.

Apparent U.S. consumption of Ni-resist piston inserts totaled \*\*\* pounds (\$\*\*\*) in 2008. Currently, only one firm, QCC, is known to produce Ni-resist piston inserts in the United States. QCC's U.S. shipments of Ni-resist piston inserts totaled \*\*\* pounds (\$\*\*\*) in 2008, and accounted for \*\*\* percent of apparent U.S. consumption by quantity and \*\*\* percent by value. U.S. shipments of imports from subject sources totaled \*\*\* pounds (\$\*\*\*) in 2008 and accounted for \*\*\* percent of apparent U.S. consumption by quantity and \*\*\* percent by value.

## SUMMARY DATA AND DATA SOURCES

A summary of data collected in the investigations is presented in appendix C, table C-1. U.S. industry data are based on the questionnaire response of QCC, which accounted for all U.S. production of Ni-resist piston inserts during the period for which data were collected in the investigations (2006-2008). U.S. imports are based on questionnaire responses because the Harmonized Tariff Schedule of the United States (“HTS”) category that includes Ni-resist piston inserts also includes other products that are not the subject of these investigations.

## PREVIOUS AND RELATED INVESTIGATIONS

Ni-resist piston inserts have not been the subject of prior countervailing or antidumping duty investigations in the United States.

## NATURE OF ALLEGED COUNTERAVAILABLE SUBSIDIES

On February 23, 2009, Commerce published a notice in the *Federal Register* of the initiation of its countervailing duty investigations on Ni-resist piston inserts from Argentina and Korea.<sup>3</sup> Commerce listed the following program alleged in the petition to have provided countervailable subsidies to producers and exporters of Ni-resist piston inserts in Argentina:

1. Tax Relief Under the Reintegro

The following programs in Korea are involved:

1. Energy Rate Reductions Under the Request Load Adjustment Program
2. Short-Term Export Financing
3. Loans under the Industrial Base Fund
4. Export Loans by Commercial Banks Under the Export-Import Bank of Korea Trade Bill Rediscounting Program
5. Reserve for Research and Manpower Development Fund Under Article 9 of the Restriction of Special Taxation Act
6. Reserve for Investment Funds

## THE SUBJECT MERCHANDISE

### Commerce’s Scope

Commerce has defined the scope of these investigations as follows:

“The scope of these investigations includes all Ni-resist piston inserts regardless of size, thickness, weight, or outside diameter. Ni-resist piston inserts may also be called other names including, but not limited to, “Ring Carriers,” or “Alfin Inserts.” Ni-resist piston inserts are alloyed cast iron rings, with or without a sheet metal cooling channel pressed and welded into the interior of the insert. Ni-resist piston inserts are composed of the material known as Ni-resist, of the chemical composition: 13.5%–17.5% Ni (nickel), 5.5%–8.0% Cu (copper), 0.8%–2.5% Cr (chromium), 0.5%–1.5% Mn

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<sup>3</sup> *Ni-Resist Piston Inserts from Argentina and the Republic of Korea: Initiation of Countervailing Duty Investigations*, 74 FR 8054, February 23, 2009.

(manganese), 1.0%–3.0% Si (silicon), 2.4%–3.0% C (carbon). The cast iron composition is produced primarily to the material specifications of the American Society for Testing and Materials (ASTM), ASTM A–436 grade 1.”

“The scope of these investigations does not include piston rings nor any other product manufactured using the Ni-resist material. The subject imports are properly classified under subheading 8409.99.91.90 of the Harmonized Tariff Schedule of the United States (HTSUS), but have been imported under HTSUS 7326.90. The HTSUS subheadings are provided for convenience and customs purposes. The written description is dispositive of the scope of these investigations.”<sup>4</sup>

### U.S. Tariff Treatment

Ni-resist piston inserts are classifiable in the HTS under subheading 8409.99.91 and reported for statistical purposes under statistical reporting number 8409.99.9190. Ni-resist piston inserts are believed by QCC to also have entered the United States under subheading 7326.90.00 (non-enumerated articles of iron and steel).<sup>5 6</sup> Table I-1 presents current tariff rates for Ni-resist piston inserts.

**Table I-1**  
**Ni-resist piston inserts: Tariff rates, 2009**

HTS provision	Article description	General <sup>1</sup>	Special <sup>2</sup>	Column 2 <sup>3</sup>
		Rates (percent ad valorem)		
8409.99	Parts suitable for use solely or principally with the engines of heading 8407 or 8408: Other:			
8409.99.91	For vehicles of subheading 8701.20, or heading 8702, 8703, or 8704 .....	2.5%	Free (A*, AU, B, BH, CA, CL, E, IL, J, JO, MA, MX, OM, P, PE, SG) ( <sup>4</sup> )	35%
8409.99.9190	Other.....			

<sup>1</sup> Normal trade relations, formerly known as the most-favored-nation duty rate.  
<sup>2</sup> Special rates not applicable when General rate is free.  
<sup>3</sup> Applies to imports from a small number of countries that do not enjoy normal trade relations duty status.  
<sup>4</sup> General note 3(c)(i) defines the special duty program symbols enumerated for this provision. Argentina and Brazil are excluded from preferential duty treatment normally accorded under the GSP program (see General note 4(d)).

Source: Harmonized Tariff Schedule of the United States (2009, revision 1).

<sup>4</sup> *Ni-Resist Piston Inserts from Argentina and the Republic of Korea: Initiation of Countervailing Duty Investigations*, 74 FR 8054, February 23, 2009.

<sup>5</sup> Petition, p. 9.

<sup>6</sup> According to U.S. Customs and Border Protection (“Customs”) \*\*\*. E-mail from \*\*\*, March 3, 2009.



## THE PRODUCT

### Description and Applications

The product scope consists of all nickel-resist (Ni-resist) piston inserts, regardless of size, thickness, weight, or outside diameter. Ni-resist piston inserts are also referred to as “ring carriers” or “Alfin inserts,” and these terms are used interchangeably within the industry.<sup>7</sup> The product scope includes cooled ring carriers, a modification of Ni-resist piston inserts, which incorporate a sheet metal channel pressed and welded into the interior of the Ni-resist piston insert.<sup>8</sup> Typical Ni-resist piston inserts range from 2 to 12 inches in outside diameter, and from 0.180 to 1.5 inches in thickness.<sup>9</sup> Ni-resist piston inserts are alloyed cast iron rings composed of the material known as Ni-resist, and are designed for use in aluminum pistons for diesel (compression-ignition) engines. The nominal chemistry for Ni-resist is 15 percent nickel, 6.5 percent copper, 2 percent chrome, 1 percent manganese, 2 percent silicon, and 2.5 percent carbon;<sup>10</sup> the cast iron component is produced primarily to ASTM A-436 grade 1.<sup>11</sup> The addition of nickel and other elements into this alloy replicates the thermal expansiveness of the aluminum piston, permitting the piston insert to expand and contract at the same rate as the piston, thus improving the wear resistance and working life of the piston.<sup>12</sup>

Piston inserts are circular rings that are fused into the top portion of aluminum pistons used in diesel engines.<sup>13</sup> Aluminum is used in piston production because of its relatively light weight, which reduces overall engine and vehicle weight.<sup>14</sup> Engine pistons, for both spark-ignition and diesel engines, generally are of similar design and comprise many of the same types of components, allowing for differences in engine size and weight, for example (figure 1). Ni-resist piston inserts are found near the top of a piston, where piston rings (compression rings and oil control rings) are located. This section of the piston is grooved for the insertion of these rings. The Ni-resist piston insert is generally cast into the piston to protect the first ring groove, but a second Ni-resist piston insert may also be cast in after the second ring groove<sup>15</sup> (figure 2). This process is undertaken by the piston producers that purchase the Ni-resist piston inserts. They place the inserts into piston molds and pour molten aluminum into the molds. The piston inserts bond with the aluminum, and become one with the solidified diesel engine piston.<sup>16</sup> After solidification, a groove is cut into the Ni-resist piston insert to accommodate a piston ring.<sup>17</sup>

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<sup>7</sup> Petition, p. 6.

<sup>8</sup> Request for Submissions made to Department of Commerce, p. 1 - received February 24, 2009.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> This gray iron alloy is used to produce ring carriers for use with aluminum pistons designed for diesel engines. Type (also referred to as class or grade) 1 Ni-resist iron alloys are designed for heat-, corrosion-, and wear-resistant applications, and are alloyed with 13.5 percent to 17.5 percent nickel and 5.5 percent to 7.5 percent copper. *Iron Castings Handbook*, Iron Castings Society, Inc., 1981, p. 402.

<sup>12</sup> Petition, pp. 32-33.

<sup>13</sup> Petition, p. 7.

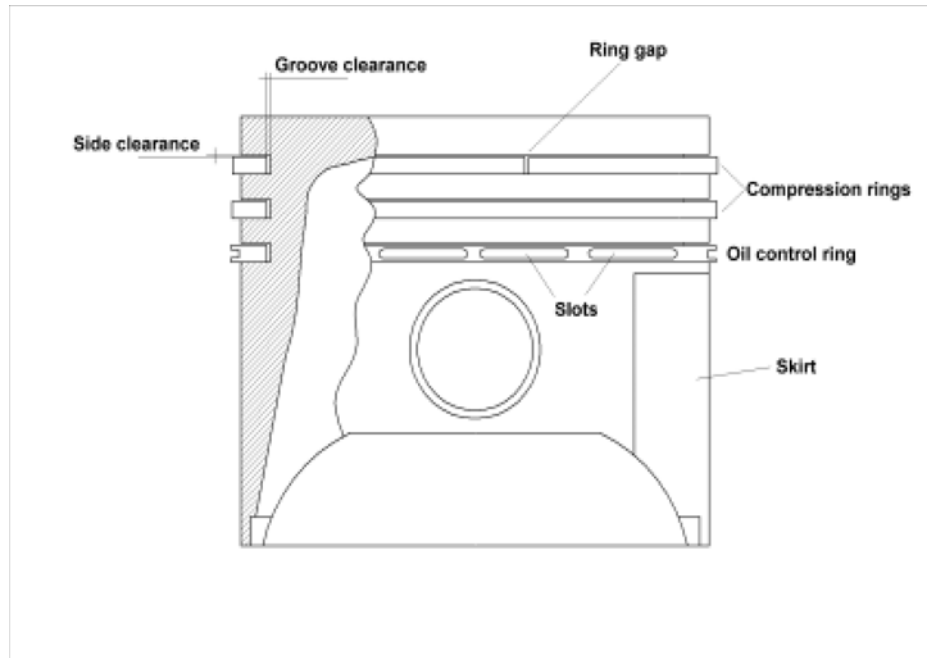
<sup>14</sup> Petition, p. 8.

<sup>15</sup> “Piston ring tribology: A literature survey,” Peter Anderson, Jaana Tamminen, and Carl-Erik Sandström, VTT Research Notes 2178, 2002, found at <http://www.vtt.fi/inf/pdf/tiedotteet/2002/T2178.pdf> (accessed February 25, 2009). QCC manufactures a double piston insert that is connected with three pins. Conference transcript, p. 66 (J. Korff).

<sup>16</sup> Petition, p. 6.

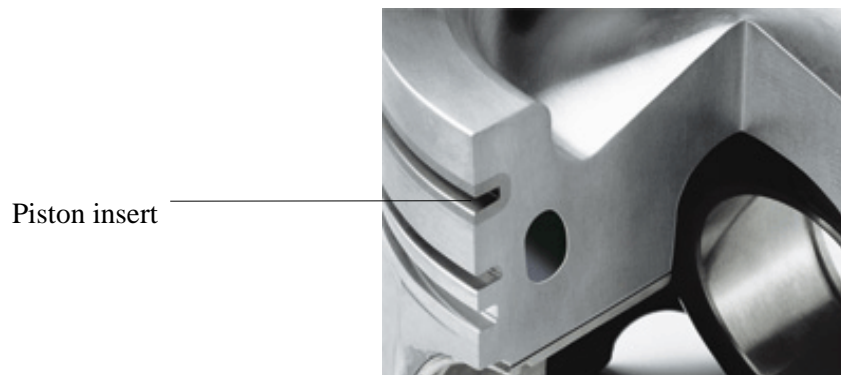
<sup>17</sup> Conference transcript, pp. 133-134 (Turcott).

**Figure 1**  
**Piston diagram**



Source: "Piston ring tribology: A literature survey," Peter Anderson, Jaana Tamminen, and Carl-Erik Sandström, VTT Research Notes 2178, 2002, found at <http://www.vtt.fi/inf/pdf/tiedotteet/2002/T2178.pdf> (accessed February 25, 2009).

**Figure 2**  
**Piston with Ni-resist piston insert**



Source: Mahle, "Aluminum - the material of the future," found at <http://www.mahle.com/C125705E004FDAF9/CurrentBaseLink/W276RJX2513MARSEN> (accessed February 12, 2009).

As an integral part of the piston, the insert absorbs the impact from the piston ring and prevents wear to the piston itself.<sup>18</sup> The inserts prevent ring groove wear in aluminum pistons,<sup>19</sup> which is the gradual erosion of the ring groove as a result of the piston movement. As the ring groove wears, the compression rings are less effective at sealing the combustion/exhaust chamber in the piston and at supporting heat transfer from the piston to the cylinder wall. Piston inserts are produced to the specifications of piston producers, and are unique to individual piston design.<sup>20</sup>

Because of the nature of the compression-ignition engine operation, Ni-resist piston inserts used in engines are only found in diesel engines that incorporate aluminum pistons.<sup>21</sup> These engines are used to power motor vehicles (in the United States, largely certain light trucks and medium- and heavy-duty trucks), farm and other off-road equipment, marine transport, and large compressors. Diesel engines operate at very high compression relative to spark-ignition engines<sup>22</sup> and create a greater compressive force.<sup>23</sup> Unlike spark-ignition engines, which employ an ignition system (spark plugs) to fire the air/fuel mixture in the piston, diesel engines compress air to very high temperatures. When the fuel is injected into the piston with the heated air, the fuel ignites.<sup>24</sup> This greater concussive force affects all of the parts inside the engine, including the piston. Because aluminum is a relatively weak metal, the concussive force would cause rapid wear. By adding a Ni-resist piston insert, the compression impact is transferred from the compression ring(s) through the insert(s) and then to the piston, thus absorbing some of the shock and increasing piston life.<sup>25</sup> With cooled ring carriers, the added sheet metal channel reduces heat transfer from the piston during combustion, thus extending the life of the piston.<sup>26</sup> Spark-ignition engines operate with a more uniform, controlled burn, and lower compression ratios, which lessen that impact on engine pistons and obviate the use of these inserts.<sup>27</sup>

### **Manufacturing Process**

The production process for Ni-resist piston inserts includes three basic steps: melting, centrifugal casting, and machining.<sup>28</sup> The process is capital-intensive, with extensive use of melting furnaces, casting machines, and automated machining equipment. The subject product is produced by pouring molten alloy cast iron in the shape of tubes by a centrifugal casting process, followed by machining the tubes into circular slices, or rings.<sup>29</sup> Melting of the Ni-resist alloy usually occurs in electric induction furnaces,

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<sup>18</sup> Petition, p. 7.

<sup>19</sup> "Piston ring tribology: A literature survey," Peter Anderson, Jaana Tamminen, and Carl-Erik Sandström, VTT Research Notes 2178, 2002, found at <http://www.vtt.fi/inf/pdf/tiedotteet/2002/T2178.pdf> (accessed February 25, 2009).

<sup>20</sup> Conference transcript, p. 65 (J. Korff).

<sup>21</sup> Petition, p. 7 and p. 36. Steel pistons predominate in other diesel and non-diesel engines. Steel is a stronger material and does not wear as fast as aluminum, which eliminates the need for Ni-resist piston inserts. Petition, p. 36.

<sup>22</sup> Compression ratios for spark-ignition engines generally do not exceed 10:1, whereas ratios for diesel engines generally exceed 14:1. Compression ratios measure the ratio between the volume of the cylinder and combustion chamber when the piston is at the bottom of its stroke, and the volume of the combustion chamber when the piston is at the top of its stroke. Wikipedia, found at [http://en.wikipedia.org/wiki/Compression\\_ratio](http://en.wikipedia.org/wiki/Compression_ratio) (accessed February 20, 2009).

<sup>23</sup> Petition, p. 7.

<sup>24</sup> "How Diesel Engines Work," <http://auto.howstuffworks.com/diesel1.htm> (accessed February 20, 2009).

<sup>25</sup> Petition, p. 7.

<sup>26</sup> Request for Submissions made to Department of Commerce, p. 1 - received February 24, 2009.

<sup>27</sup> Petition, pp. 7-8.

<sup>28</sup> Conference transcript, p. 90 (Lowe).

<sup>29</sup> Petition, p. 6.

according to Federal-Mogul.<sup>30</sup> QCC employs electric channel furnaces, a type of induction furnace, to provide a continuous flow of Ni-resist metal for its production of piston inserts. These channel furnaces are unique to its centrifugal casting operation.<sup>31</sup> \*\*\*, the \*\*\*, reported that it \*\*\* operates \*\*\* in the production of its Ni-resist piston inserts.<sup>32</sup>

To attain the desired Ni-resist metal chemistry, type I molten scrap Ni-resist machining chips are added to the molten iron.<sup>33</sup> These chips are purchased as scrap on the open market and/or are generated internally as the result of the production process.<sup>34</sup> The molten chips must also be of the specified Ni-resist chemistry, which may require the producer to adjust the metal composition by adding certain metals or diluting the molten metal “to make the chemistry fall within specification.”<sup>35</sup> In lieu of adding Ni-resist scrap metal, producers may dilute Monel,<sup>36</sup> a nickel/copper alloy, with pig iron and then add certain ferroalloys to yield the Ni-resist metal.<sup>37</sup> Additionally, producers can also purchase the necessary metallic components (e.g., copper, chrome, manganese, nickel) to develop the molten Ni-resist alloy.<sup>38</sup>

In centrifugal casting, the molten metal is poured into a permanent mold that rotates at high speeds (300 to 3000 rpm). During rotation, centrifugal force throws the molten metal towards the inside mold wall, where it solidifies after cooling,<sup>39</sup> and pushes any slag towards the inside diameter. The resulting metal is more uniform and cleaner than that which would result from other forms of casting.<sup>40</sup> The centrifugal casting equipment can be semi-automatic, with one worker tapping the metal, pouring the tube, and extracting the tube from the mold, as a series of molds process through the equipment in a continuous cycle. Other centrifugal casting equipment is limited to a single mold per unit, with one casting poured at a time.<sup>41</sup>

Machining is conducted on computer numerical controlled (“CNC”) turning and boring machines that cut the rings from the cast tube and bore out the interior to the selected diameter for the rings. According to QCC, piston producers prefer dry machining rather than lubricated, wet machining of the inserts because of the need to bond the Ni-resist piston insert with aluminum in the production of a piston.<sup>42</sup> Cooled ring carriers include a piece of sheet metal that is pressed into the Ni-resist piston insert and then welded or blasted together.<sup>43</sup>

QCC identified shell molding as another production process for piston inserts.<sup>44</sup> In this method, a metal pattern is covered with a mixture of sand and thermoset plastic and heated. This causes a thin skin of the sand/plastic mixture to stick to the pattern. This skin is removed from the pattern to form the shell mold. The two halves of the mold are fastened together and the metal is poured in the mold to form the

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<sup>30</sup> Conference transcript, pp. 90-91 (Lowe).

<sup>31</sup> Conference transcript, p. 47 (J. Korff).

<sup>32</sup> \*\*\*’s producer questionnaire response, comments to section II-3.

<sup>33</sup> Conference transcript, p. 25 (J. Korff).

<sup>34</sup> Conference transcript, p. 48 (J. Korff).

<sup>35</sup> Conference transcript, p. 43 (J. Korff).

<sup>36</sup> Monel is a product of the Special Metals Corporation. Special Metals Corp. website, found at <http://www.specialmetals.com/general.php> (accessed February 20, 2009).

<sup>37</sup> Conference transcript, p. 48 (J. Korff).

<sup>38</sup> Conference transcript, p. 44 (J. Korff).

<sup>39</sup> Efundu Engineering Fundamentals, Centrifugal Casting, found at [http://www.efunda.com/processes/metal\\_processing/centri\\_casting.cfm](http://www.efunda.com/processes/metal_processing/centri_casting.cfm) (accessed February 20, 2009).

<sup>40</sup> Conference transcript, p. 63 (J. Korff).

<sup>41</sup> Conference transcript, p. 64 (J. Korff).

<sup>42</sup> Conference transcript, p. 19 (J. Korff).

<sup>43</sup> Request for Submissions made to Department of Commerce, p. 3 - received February 24, 2009.

<sup>44</sup> Conference transcript, p. 18 (J. Korff).

part. Once the metal solidifies, the shell is broken.<sup>45</sup> However, QCC considered this process to be costly and uncompetitive. QCC also noted that piston inserts have been produced by static (nonspinning) casting using sand molds, but the bulk of current known production of Ni-resist piston inserts is believed to be manufactured by centrifugal casting.<sup>46</sup>

Following production, the Ni-resist piston inserts are subject to a variety of tests to ensure their conformance with customer specifications. These tests include spectrographic chemical analysis, microstructure examination, tensile testing, and carbon analysis, for example.<sup>47</sup> In addition, the inserts must meet the dimensional and weight requirements specified by customers.

\*\*\* reported producing other cast products, such as \*\*\*, on these production lines.<sup>48</sup> \*\*\* indicated that its production line is totally dedicated to the manufacture of Ni-resist piston inserts;<sup>49</sup> however, it is \*\*\*.<sup>50</sup>

Manufacturers of Ni-resist piston inserts, as well as other original-equipment motor vehicle components, are subject to independent inspections or first-party audits to verify compliance with customer and product standards requirements, such as ISO standards.<sup>51</sup> Federal-Mogul, for example, indicated that following an initial assessment of a new supplier, it conducts “. . . a full-blown quality audit where we send a supplier quality engineer to the supplier’s facility to conduct an audit of their quality systems to ensure . . . that they have the controls in place to ensure consistent, high quality product, and the result of that audit is a score, and if the supplier meets a certain score, then they are approved for pursuing them further as a production source. In terms of evaluating the product, from that point, then we ask the supplier to submit samples off of their production process and then we evaluate those samples based on dimensional checks, metallurgical checks, grain structure analysis, et cetera, and assuming all of our specifications are met, then they are approved as a production source of that material.”<sup>52</sup> QCC, the only known U.S. producer of Ni-resist piston inserts, is certified to the ISO 9001:2000 standard.<sup>53</sup>

### **Domestic Like Product Issues**

The Commission’s decision regarding the appropriate domestic product(s) that are “like” the subject imported product is based on a number of factors including: (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and

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<sup>45</sup> Efundu Engineering Fundamentals, Shell Mold Casting, found at [http://www.efunda.com/processes/metal\\_processing/shell\\_mold.cfm](http://www.efunda.com/processes/metal_processing/shell_mold.cfm) (accessed February 20, 2009).

<sup>46</sup> Conference transcript, p. 18 (J. Korff).

<sup>47</sup> Conference transcript, pp. 48-49 (J. Korff).

<sup>48</sup> \*\*\*’s producer questionnaire response, section II-3.

<sup>49</sup> \*\*\*’s producer questionnaire response, section II-3.

<sup>50</sup> \*\*\*’s producer questionnaire response, section II-7.

<sup>51</sup> ISO 9001:2000 is an international standard that includes requirements for an organization’s Quality Management System (QMS), and is the only standard in the ISO 9000 family that can be used for the purpose of conformity assessment. “The requirements cover a wide range of topics, including {a} supplier’s top management commitment to quality, its customer focus, adequacy of its resources, employee competence, process management (for production, service delivery and relevant administrative and support processes), quality planning, product design, review of incoming orders, purchasing, monitoring and measurement of its processes and products, calibration of measuring equipment, processes to resolve customer complaints, corrective/preventive actions and a requirement to drive continual improvement of the QMS.” International Standards Organization, found at [http://www.iso.org/iso/iso\\_catalogue/management\\_standards/iso\\_9000\\_iso\\_14000/more\\_resources\\_9000/9001supchain.htm](http://www.iso.org/iso/iso_catalogue/management_standards/iso_9000_iso_14000/more_resources_9000/9001supchain.htm) (accessed March 4, 2009).

<sup>52</sup> Conference transcript, pp. 138-139 (Czerwinski).

<sup>53</sup> Conference transcript, p. 64 (J. Korff).

producer perceptions; (5) channels of distribution; and (6) price. Information regarding these factors is discussed below.

QCC contends that the Commission should find that there is a single class or kind of subject merchandise coextensive with the scope definition.<sup>54</sup> It indicates that all piston inserts have the same characteristics (subject to customer-specified variations), and that there are no comparable products on the market that perform the same or similar tasks for aluminum pistons used in diesel engines. QCC did note that there had been experimentation with ceramic piston inserts, but was unaware of any production of ceramic piston inserts.<sup>55</sup> The respondents concur with the definition of the domestic like product offered by QCC.<sup>56</sup>

QCC also claims that the domestically made product is like the imported subject merchandise, and that the products are indistinguishable.<sup>57</sup> It considers all Ni-resist piston inserts to be interchangeable in terms of production process and application, with no appreciable deviation in chemical properties among U.S. and foreign manufacturers. These inserts are manufactured using the same types of facilities, production lines, equipment, and skilled employees, since the casting and machining processes are essentially the same for all producers of these piston inserts. These inserts are sold in bulk to manufacturers of aluminum pistons used in diesel engines.<sup>58</sup> QCC also contends that customers and producers perceive all Ni-resist piston inserts to be the same product.

Federal-Mogul, one of the respondents, noted its agreement with QCC regarding the interchangeability of the domestic and imported products. Federal-Mogul considers Ni-resist piston inserts to be “. . . a commodity product, meaning they are generally interchangeable, regardless of the source.”<sup>59</sup> Furthermore, Federal-Mogul noted that the imported and domestic product were of equivalent quality.<sup>60</sup>

In the case of cooled ring carriers, QCC considers these products to be “. . . the same product { as Ni-resist piston inserts }, produced in the same manner, but with a slight modification through the addition of the cooling channel.” As a result of this modification, cooled ring carriers and regular Ni-resist piston inserts are not completely interchangeable, since the piston using a cooled ring carrier must be engineered to be fused with the cooled ring carrier rather than a regular Ni-resist piston insert. QCC indicates that the channels of distribution for Ni-resist piston inserts and cooled ring carriers are the same, being sold in bulk directly from the manufacturer to the aluminum diesel engine piston producers. Moreover, QCC claims that customers expect both products to “. . . significantly increase the working life of diesel engines which use aluminum pistons . . .” and that they are sold to perform essentially the same task. With respect to price, QCC acknowledges that since it has not produced a cooled ring carrier, it is unable to “reproduce a pricing breakdown parallel to that which is provided for its own Ni-resist inserts. However, QCC does not believe there to be significant additional expense related to the production of the Cooled Ring Carrier. . .” beyond the cost of the sheet metal and labor required to press the sheet metal into the insert and weld or blast them together.<sup>61</sup>

With respect to piston rings, QCC contends that piston inserts and piston rings are distinct and separate classes of products and are not substitutable for each other. Unlike piston inserts, which are fused into the aluminum piston to improve piston life and wear, piston rings are open-ended rings that fit

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<sup>54</sup> Petition, p. 10.

<sup>55</sup> Conference transcript, p. 42 (J. Korff).

<sup>56</sup> Conference transcript, p. 119 (Lowe and Kane).

<sup>57</sup> Conference transcript, p. 19 (J. Korff).

<sup>58</sup> QCC notes that compressor pistons used to compress gas for industrial purposes may also use piston inserts, but that the two orders filed by QCC are considered to be negligible and virtually all Ni-resist piston inserts are believed to be for use in diesel engine aluminum pistons. Petition, pp. 33-34.

<sup>59</sup> Conference transcript, p. 94 (Lowe).

<sup>60</sup> Conference transcript, p. 99 (Czerwinski).

<sup>61</sup> Request for Submissions made to Department of Commerce, pp. 2-4 - received February 24, 2009.

into a groove on a piston, and serve to seal the combustion chamber, support heat transfer, and regulate oil consumption. Pistons generally require three rings for compression sealing and oil control, whereas most aluminum pistons require only one insert, although a small share of diesel engine production does require two inserts per piston. Although both products are cast, piston rings are manufactured in a static casting process rather than with a centrifugal method. QCC also claims that the distribution channels for piston inserts and piston rings are entirely different, with piston inserts ordered directly by manufacturers, whereas piston rings are sold through distributors and retailers and over the Internet. Moreover, QCC contends that customers and producers of both products consider them distinct and separate from each other. Pricing for the two products is also different, as piston inserts are priced per piece, whereas piston rings are generally priced and sold as a set of three rings.<sup>62</sup>

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<sup>62</sup> Petition, pp. 36-38.





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

### **MARKET CHARACTERISTICS**

Ni-resist piston inserts for diesel engines are “alloyed cast iron rings . . . placed into molds used by piston producers; then aluminum is poured into the molds.” The Ni-resist piston inserts are “essential for commercial diesel truck engines and other heavy-duty diesel engines that use aluminum pistons.”<sup>1</sup> Ni-resist piston inserts are also used in production of compressor pistons.<sup>2</sup>

The petitioner, QCC, sells the product \*\*\*.<sup>3</sup> U.S. importers internally consume all imported Ni-resist piston inserts in the production of aluminum pistons for diesel engines.

U.S. inland shipping distances for U.S.-produced Ni-resist piston inserts were reported by the petitioner. QCC reported that \*\*\* of its Ni-resist piston inserts were sold within distances of \*\*\* miles from its facility.<sup>4</sup> QCC reported delivery lead times for produced-to-order Ni-resist piston inserts of \*\*\* and that \*\*\* of its products were produced to order.

### **CHANNELS OF DISTRIBUTION**

The Commission’s questionnaire asked QCC to report the quantity of U.S. shipments sold to distributors and end users. \*\*\* of QCC’s U.S. shipments went to \*\*\*.<sup>5</sup>

### **SUPPLY AND DEMAND CONSIDERATIONS**

#### **U.S. Supply**

##### **Domestic Production**

The sensitivity of the domestic supply of Ni-resist piston inserts to changes in price depends on several factors including the level of excess capacity, the availability of alternate markets for U.S.-produced Ni-resist piston inserts, inventory levels, and the ability to shift to the manufacture of other products. The record in the preliminary phase of these investigations suggests that QCC has a \*\*\* degree of flexibility in expanding output and U.S. shipments in response to an increase in price, primarily due to the \*\*\* industry capacity utilization rates. QCC’s capacity utilization declined from \*\*\* percent in 2006 to \*\*\* percent in 2007 and to \*\*\* percent in 2008. Exports, as a share of total shipments, were \*\*\* percent in 2006, increased to \*\*\* in 2007, and were \*\*\* percent in 2008. The ratio of QCC’s end-of-period inventories to its total shipments increased from \*\*\* percent in 2006 to \*\*\* percent in 2007 and \*\*\* percent in 2008.

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<sup>1</sup> Petition, pp. 6-7.

<sup>2</sup> \*\*\*, and petition, p 33.

<sup>3</sup> QCC also reported that it exports \*\*\* of the production of Ni-resist piston inserts.

<sup>4</sup> \*\*\*.

<sup>5</sup> \*\*\*.

## Supply of Subject Imports to the U.S. Market

The responsiveness of the supply of imports from Argentina and Korea to changes in price in the U.S. market is affected by factors such as capacity utilization rates, the availability of home markets and other export markets, and inventories. Based on available information, suppliers of subject imports have the ability to respond in changes in demand with \*\*\* changes in the quantity of shipments of Ni-resist piston inserts to the U.S. market mainly due to the existence of \*\*\* capacity and \*\*\* shipments to non-U.S. export markets.

### *Subject imports from Argentina*

The capacity utilization rate for the sole known producer of Ni-resist piston inserts in Argentina, Clorindo APPO SRL (“Clorindo”), was \*\*\* percent in 2006, decreased to \*\*\* percent in 2007, then increased to \*\*\* percent in 2008; capacity utilization is projected to \*\*\* percent in 2009 and then \*\*\* percent in 2010. Clorindo’s inventories, as a ratio to total shipments, decreased from \*\*\* percent in 2006 to \*\*\* percent in 2008; the ratio is projected to \*\*\* in 2009 and 2010. Clorindo’s shipments to the Argentine home market were \*\*\* percent in 2006 and increased to \*\*\* percent in 2008; home market shipments are projected to be \*\*\* in 2009 and 2010. Exports to non-U.S. markets, as a share of its shipments, ranged from \*\*\* percent in 2006 to \*\*\* percent in 2008;<sup>6</sup> they are projected to \*\*\* in 2009 and then \*\*\* to \*\*\* percent in 2010.

### *Subject imports from Korea*

The capacity utilization rate for the sole known producer of Ni-resist piston inserts in Korea, Incheon Metal Co., Ltd. (“Incheon”), was \*\*\* percent in 2006; it increased to \*\*\* percent in 2007 and then decreased to \*\*\* percent in 2008. Capacity utilization is projected to \*\*\* percent in 2009. Incheon’s inventories, as a ratio to its total shipments, increased from \*\*\* percent in 2006 to \*\*\* percent in 2008; the ratio is projected to \*\*\* in 2009. Incheon’s share of its shipments to the Korean home market was \*\*\* percent in 2006 but it decreased to \*\*\* percent in 2008. Exports to non-U.S. markets, as a share of its shipments, increased from \*\*\* percent in 2006 to \*\*\* percent in 2008;<sup>7</sup> they are projected to \*\*\* in 2009.

## U.S. Demand

Since Ni-resist piston inserts are used in aluminum pistons for diesel engines, the overall demand for Ni-resist piston inserts is directly linked to the demand for diesel engines that incorporate aluminum pistons. The price elasticity of demand for Ni-resist piston inserts is likely to be low since Ni-resist piston inserts have few, if any, substitutes and they account for a relatively small share of the total cost of the products in which they are used.

QCC reported that U.S. demand for Ni-resist piston inserts decreased over the period of investigation as demand for diesel engines decreased.<sup>8</sup> Data on apparent U.S. consumption of Ni-resist piston inserts indicate a decline from \*\*\* pounds in 2006 to \*\*\* pounds in 2007. Despite a \*\*\* increase to \*\*\* pounds in 2008, U.S. apparent consumption was \*\*\* percent lower in 2008 compared with 2006.<sup>9</sup>

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<sup>6</sup> Clorindo’s foreign producer questionnaire response, section II-7.

<sup>7</sup> Incheon’s foreign producer questionnaire response, section II-7.

<sup>8</sup> Petition, p. 45.

<sup>9</sup> See table C-1.

When asked how the U.S. demand for Ni-resist piston inserts had changed since January 1, 2006, QCC and the responding importers all reported that demand had decreased. \*\*\* attributed the decrease to a decline in sales of heavy duty trucks. According to QCC, demand for Ni-resist piston inserts is cyclical due to emission requirements imposed by the EPA: every few years, the EPA has mandated new emission standards, “everybody wants to buy a truck with the old emissions standard to avoid the new one because they’re usually . . . higher priced, lower mileage.” QCC added that the new emission regulations standards will be announced in 2010, but with the current economic slowdown, the demand for trucks is low.<sup>10</sup> Federal-Mogul attributed the decrease in demand for Ni-resist piston inserts to several factors, including \*\*\*.<sup>11</sup> \*\*\*, KUS attributed the decline in demand to the general decline in motor vehicle production, the shift from aluminum pistons to all-steel pistons, and \*\*\*.<sup>12</sup> KUS also noted that “the general downturn in the demand for motor vehicles manufactured in the United States, technological advances, changes in customer requirements, and changes in non-highway uses for engines with Ni-resist piston inserts are the primary causes of decreased demand for Ni-resist piston inserts in the United States.”<sup>13 14</sup>

### **Substitute Products**

U.S. producers and importers were asked to discuss the existence of any substitute products for Ni-resist piston inserts. \*\*\* reported that there are no products that can be substituted for Ni-resist piston inserts. QCC stated that there are experiments using ceramics, but it is not aware of an actual ceramic piston.<sup>15</sup> \*\*\* reported that steel pistons compete with aluminum pistons for diesel engine applications, especially in the OE market where steel pistons are dominant.<sup>16</sup> \*\*\* reported that there are no substitute products for Ni-resist piston inserts.

### **Cost Share**

Based on available information, Ni-resist piston inserts account for a relatively small share of the total cost of the final products in which they are used as an input. \*\*\* reported that it did not know the cost share of the Ni-resist piston insert relative to the end product. \*\*\* reported that the cost of the Ni-resist piston insert accounted for approximately \*\*\* percent of the total cost of pistons for diesel engines. \*\*\* provided cost share estimates for Ni-resist pistons inserts for four different diesel piston products; these estimates ranged from \*\*\* percent.

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<sup>10</sup> Conference transcript, pp. 37-38 (J. Korff).

<sup>11</sup> Federal-Mogul’s postconference brief, p. 7.

<sup>12</sup> KUS’s postconference brief, pp. 10, 16.

<sup>13</sup> Conference transcript, p. 84 (Kane).

<sup>14</sup> Another factor that could affect the demand for Ni-resist piston inserts is the technological advances prompted by mandates imposed by the Environmental Protection Agency (EPA) which reportedly have caused a significant increase in the production of all-steel pistons, a product which does not incorporate Ni-resist piston inserts. Conference transcript, pp. 84-85 (Kane).

<sup>15</sup> Conference transcript, p. 42 (J. Korff).

<sup>16</sup> \*\*\*.

## SUBSTITUTABILITY ISSUES

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

### Factors Affecting Purchasing Decisions

Table II-1 summarizes the importers' responses on the top three major factors that they consider in their purchasing decisions. As indicated in the table, quality was cited as the number one factor in buying decisions by \*\*\*. Price and availability were cited as the second most important factor, and price and delivery were cited as the third factor.

**Table II-1**  
**Ni-resist piston inserts: Ranking factors used in purchasing decisions by U.S. importers**

\*       \*       \*       \*       \*       \*       \*

Importers were asked to rate the importance of 15 factors in their purchasing decisions (table II-2). \*\*\* rated availability, delivery terms and time, discounts offered, extension of credit, minimum quantity requirements, packaging, price, product consistency, quality meets industry standards, reliability of supply, and U.S. transportation costs as very important.

**Table II-2**  
**Ni-resist piston inserts: Importance of purchase factors, as reported by U.S. importers**

\*       \*       \*       \*       \*       \*       \*

### Comparisons of Domestic Products and Subject Imports

In order to determine whether U.S.-produced Ni-resist piston inserts can generally be used in the same applications as imports from Argentina and Korea, QCC and importers were asked whether the products can "always," "frequently," "sometimes," or "never" be used interchangeably (table II-3).

**Table II-3**  
**Ni-resist piston inserts: Interchangeability of product from different sources**

\*       \*       \*       \*       \*       \*       \*

QCC reported that U.S. products and those from Argentina and Korea can \*\*\* be used interchangeably. \*\*\*, Federal-Mogul reported that the products from the United States and Korea can \*\*\* be used interchangeably. KUS reported that the products from the United States and Argentina can \*\*\* be used interchangeably. KUS noted that "\*\*\*\*."

QCC and importers were also asked to compare U.S.-produced products with imports from Argentina and Korea in terms of product differences other than price such as quality, availability, product range, and technical support. Again, firms were asked whether these product differences are always, frequently, sometimes, or never significant (table II-4).

**Table II-4**

**Ni-resist piston inserts: Differences other than price between products from different sources**

\* \* \* \* \*

When QCC compared the U.S. product with product from subject and nonsubject countries, it reported that differences other than price are \*\*\* significant. When Federal-Mogul compared the U.S. product with that from Korea, it reported that differences other than price are \*\*\* significant. Federal-Mogul added that \*\*\*, \*\*, when KUS compared the U.S. product with that from Argentina, it reported that differences other than price are \*\*\* significant. KUS added that it has had a \*\*\*.

**Comparisons of Subject Imports**

When QCC compared the Argentine product with the Korean product, it reported that the products can \*\*\* be used interchangeably and differences other than price are \*\*\* significant (tables II-3 and II-4).



### **PART III: U.S. PRODUCER'S PRODUCTION, SHIPMENTS, AND EMPLOYMENT**

Information presented in this section of the report is based on the questionnaire response of Korff Holdings, LLC dba Quaker City Castings ("QCC"). This firm is believed to account for all U.S. production of Ni-resist piston inserts during the period for which data were collected (January 2006-December 2008).

#### **U.S. PRODUCER**

The Commission sent a producers' questionnaire to QCC, the only U.S. producer identified in the petition as having produced Ni-resist piston inserts during the period for which data were collected.<sup>1</sup> A producers' questionnaire was also sent to Dana Holding Corporation ("Dana"), which was identified in the petition as being the only other U.S. producer of the subject merchandise in recent years that was not acquired by QCC.<sup>2</sup> Dana has certified that to the best of the firm's knowledge it has not produced Ni-resist piston inserts since \*\*\*.<sup>3</sup>

The petitioner, QCC, is a family business that was acquired at a bankruptcy auction in 2004,<sup>4</sup> is owned by Jason Korff, and run by his father, Joseph Korff.<sup>5</sup> The firm operates an iron and steel foundry in Salem, Ohio<sup>6</sup> and uses two types of casting methods, static (various metal castings created using sand molds) and centrifugal (Ni-resist inserts, as well as other products such as \*\*\*). The firm sells products to the automotive, marine, and agricultural industries, among others.<sup>7</sup> During the period from \*\*\*, proceeds from QCC's centrifugal casting operations supported the firm's static casting operations, but in more recent years the trend has been reversed and static castings make up the large majority of QCC's business.<sup>8</sup>

#### **U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION**

In response to a question about changes to plant operations since January 1, 2006, QCC stated \*\*\*. Data on QCC's capacity, production, and capacity utilization are presented in table III-1. QCC's reported capacity was \*\*\* the level of apparent U.S. consumption of Ni-resist piston inserts in \*\*\*.

**Table III-1  
Ni-resist piston inserts: QCC's capacity, production, and capacity utilization, 2006-2008**

\* \* \* \* \*

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<sup>1</sup> Petition, p. 2.

<sup>2</sup> Petition, p. 3.

<sup>3</sup> Dana provided a \*\*\*. Also *see* e-mail from \*\*\*, February 3, 2009.

<sup>4</sup> Conference transcript, p. 11 (J. Korff)

<sup>5</sup> Although Korff Holdings, LLC is the owner of QCC, Joseph Korff has ultimate responsibility for decisions pertaining to the management of QCC. Conference transcript, pp. 31-32 (J. Korff).

<sup>6</sup> Petition, p. 3.

<sup>7</sup> <http://www.qccast.com/index.html>, retrieved February 6, 2009.

<sup>8</sup> July 2, 2004 letter from Joseph Korff to Federal-Mogul, Karl Schmidt Unisia, and MAHLE. Federal-Mogul's postconference brief, exh. 1.

QCC's capacity remained steady through the period for which data were collected, while capacity utilization decreased throughout the same period. In response to a question requesting firms to describe the constraints and limits experienced on their production capacity, QCC reported \*\*\*. QCC also stated that its plant is operating at less than \*\*\* percent capacity and has \*\*\*.

**U.S. PRODUCER'S U.S. SHIPMENTS AND EXPORT SHIPMENTS**

QCC's total shipments are presented in table III-2. The volume of total shipments decreased by \*\*\* percent from 2006 to 2008, while the value of total shipments decreased by approximately \*\*\* percent during the same period. \*\*\*. On both a quantity and value basis, export shipments decreased from 2006 to 2007 and increased from 2007 to 2008. Unit values of total shipments increased from 2006 to 2007 and decreased \*\*\* from 2007 to 2008.<sup>9</sup>

**Table III-2**  
**Ni-resist piston inserts: QCC's shipments, by type, 2006-2008**

\* \* \* \* \*

**U.S. PRODUCER'S IMPORTS AND PURCHASES OF IMPORTS**

QCC did not report any imports of subject merchandise during the period for which data were collected, nor is the firm related to subject producers in Argentina or Korea.

**U.S. PRODUCER'S INVENTORIES**

Data on end-of-period inventories of Ni-resist piston inserts during the period for which data were collected are presented in table III-3.

**Table III-3**  
**Ni-resist piston inserts: QCC's end-of-period inventories, 2006-2008**

\* \* \* \* \*

**U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY**

Data provided by QCC on the number of production and related workers ("PRWs") engaged in the production of Ni-resist piston inserts, the total hours worked by such workers, and wages paid to such workers during the period for which data were collected in these investigations, are presented in table III-4. QCC's employment \*\*\* from 2006 to 2008, with a \*\*\* increase in PRWs in 2008, while hours worked decreased during the period for which data were collected. Wages paid increased from 2006 to 2007 but then decreased from 2007 to 2008 to a level below that of 2006. Hourly wages increased each year during the period for which data were collected, while unit labor costs also increased during this period. Productivity decreased \*\*\* from 2006 to 2008.

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<sup>9</sup> According to QCC, unit values increased in recent years due to falling shipments of common size Ni-resist piston inserts coinciding with increased shipments of more expensive double-inserts to QCC's customer in Brazil. QCC's postconference brief, p. 8.



**Table III-4**

**Ni-resist piston inserts: Average number of production and related workers producing Ni-resist piston inserts, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 2006-2008**

\* \* \* \* \*



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

### U.S. IMPORTERS

The Commission sent importer questionnaires to 14 firms believed to be importers of Ni-resist piston inserts from any country, as well as to 2 U.S. producers.<sup>1</sup> Questionnaire responses were received from 16 firms (with usable data from 2 firms that are believed to account for \*\*\* U.S. imports of Ni-resist piston inserts).<sup>2</sup> There were no imports by QCC, the sole U.S. producer.

Karl Schmidt Unisia, Inc. (“KUS”) was the sole importer of Ni-resist piston inserts into the United States from Argentina during the period for which data were collected. Federal-Mogul was the sole importer of Ni-resist piston inserts into the United States from Korea during the same period. MAHLE, Inc. \*\*\*.<sup>3</sup>

Table IV-1 lists all responding U.S. importers of Ni-resist piston inserts from Argentina, Korea, and all other sources, their U.S. locations, and their quantities of imports, by source, in 2008.

**Table IV-1**  
**Ni-resist piston inserts: Reported U.S. imports, by importers and by sources of imports, 2008**

\* \* \* \* \*

### U.S. IMPORTS

The quantity of subject imports decreased from 2006 to 2007 and increased \*\*\* from 2007 to 2008. \*\*\* nonsubject imports \*\*\*. U.S. importers attribute the decreased imports of Ni-resist piston inserts in recent years in part to a decreased demand for the aluminum pistons requiring inserts. Respondents contend this decline is attributable to declining demand for vehicles using diesel engines and a shift in demand from aluminum pistons to steel pistons resulting from more stringent emissions standards.<sup>4</sup>

The average unit value of subject imports increased from 2006 to 2007 and then decreased \*\*\* from 2007 to 2008. Table IV-2 shows quantity, value, average unit value, and share data on U.S. imports of Ni-resist piston inserts.

**Table IV-2**  
**Ni-resist piston inserts: U.S. imports, by sources, 2006-2008**

\* \* \* \* \*

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<sup>1</sup> The Commission sent questionnaires to firms identified in the petition and to firms that, based on a review of data provided by U.S. Customs and Border Protection (“Customs”), may have imported Ni-resist piston inserts in 2008. Questionnaires were sent to all substantial importers which imported products under HTS statistical reporting number 8409.99.9190.

<sup>2</sup> Negative responses were received from \*\*\* firms that certified that they did not import Ni-resist piston inserts.

<sup>3</sup> E-mail from \*\*\*, February 26, 2009.

<sup>4</sup> Conference transcript, p. 84 (Kane) and pp. 131-132 (Lowe).

## NEGLIGENCE

The Tariff Act of 1930 provides for the termination of a countervailing duty investigation if imports of the subject product from a country are less than 3 percent of total imports, or, if there is more than one such country, their combined share is less than or equal to 7 percent of total imports, during the most recent 12 months for which data are available preceding the filing of the petition.<sup>5</sup> As the data in table IV-2 indicate, the shares (in *percent*) of the total quantity of U.S. imports from Argentina and Korea for the 2008 calendar year using U.S. import data compiled from the Commission's questionnaire responses were well above the negligibility threshold \*\*\*.

## APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption of Ni-resist piston inserts are presented in table IV-3. In calculating apparent U.S. consumption, U.S. shipments of import data were used, based on questionnaire responses.

The quantity of apparent U.S. consumption decreased by \*\*\* percent in 2007 and then increased by \*\*\* percent in 2008. The value of apparent U.S. consumption increased by \*\*\* percent in 2007 and then decreased by \*\*\* percent in 2008.

**Table IV-3**  
**Ni-resist piston inserts: U.S. shipments of domestic product, U.S. shipments of imports by source, and apparent U.S. consumption, 2006-2008**

\* \* \* \* \*

## U.S. MARKET SHARES

Data on market shares in the U.S. market for Ni-resist piston inserts are presented in table IV-4. On both a quantity and a value basis, QCC's market share has decreased in the period during which data were collected. This decrease in market share coincided with an increase in the market share of imports from Korea and a decrease in the market share of imports from Argentina.

**Table IV-4**  
**Ni-resist piston inserts: Apparent U.S. consumption and market shares, 2006-2008**

\* \* \* \* \*

## RATIOS OF IMPORTS TO U.S. PRODUCTION

Data on the ratio of imports to U.S. production of Ni-resist piston inserts are presented in table IV-5.

**Table IV-5**  
**Ni-resist piston inserts: U.S. production, U.S. imports, and ratios of imports to production, 2006-2008**

\* \* \* \* \*

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<sup>5</sup> 19 U.S.C. § 1677(24)(A)(ii).

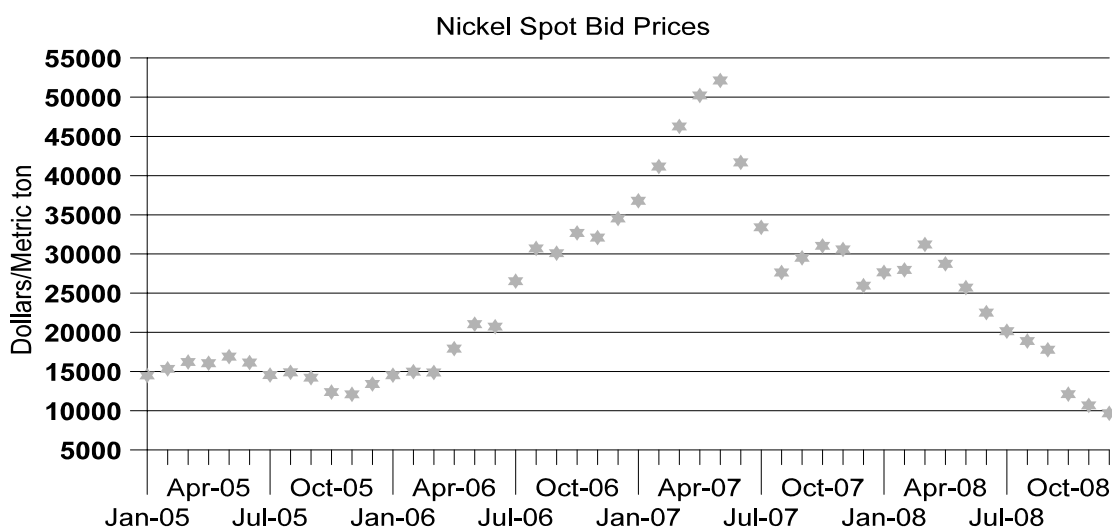
## PART V: PRICING AND RELATED INFORMATION

### FACTORS AFFECTING PRICES

#### Raw Material Costs

The major costs to manufacture Ni-resist piston inserts are raw materials, other factory costs, and labor. During the period examined, \*\*\* represented the largest share of the cost of goods sold (\*\*\* percent), followed by \*\*\* (\*\*\* percent) and \*\*\* (\*\*\* percent).<sup>1</sup>

There are \*\*\* main raw materials used in manufacturing Ni-resist piston inserts: \*\*\*. Other raw materials include \*\*\*.<sup>2</sup> Raw material prices were volatile during the period of investigation and increased overall.<sup>3</sup> Nickel surcharges are common in the Ni-resist inserts industry because of the particular volatility of Nickel prices.<sup>4</sup>



Source: American Metal Market, online [www.amm.com](http://www.amm.com), revised March 3, 2009.

#### Transportation Costs to the U.S. Market

Transportation costs for Ni-resist piston inserts shipped from Argentina and Korea to the United States were 4.7 and 2.2 percent respectively. These estimates are derived from official import data and represent the transportation and other charges on imports.<sup>5</sup>

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<sup>1</sup> See Part VI.

<sup>2</sup> Ibid.

<sup>3</sup> QCC reported that nickel tends to be a “volatile priced material in certain times.” QCC stated that while prices for nickel stabilized for a while in the 1990s, they were very high in 2006 and 2007. According to QCC, nickel prices are now coming down. Conference transcript, p. 23 (J. Korff).

<sup>4</sup> Conference transcript, p. 104 (Turcott).

<sup>5</sup> The estimated transportation costs were obtained by subtracting the customs value from the c.i.f. value of the imports for 2008 and then dividing by the customs value (based on import entries under HTS statistical reporting number 8409.99.9190). While possibly over-inclusive, these data are believed to provide a reasonable basis for estimating transportation costs.

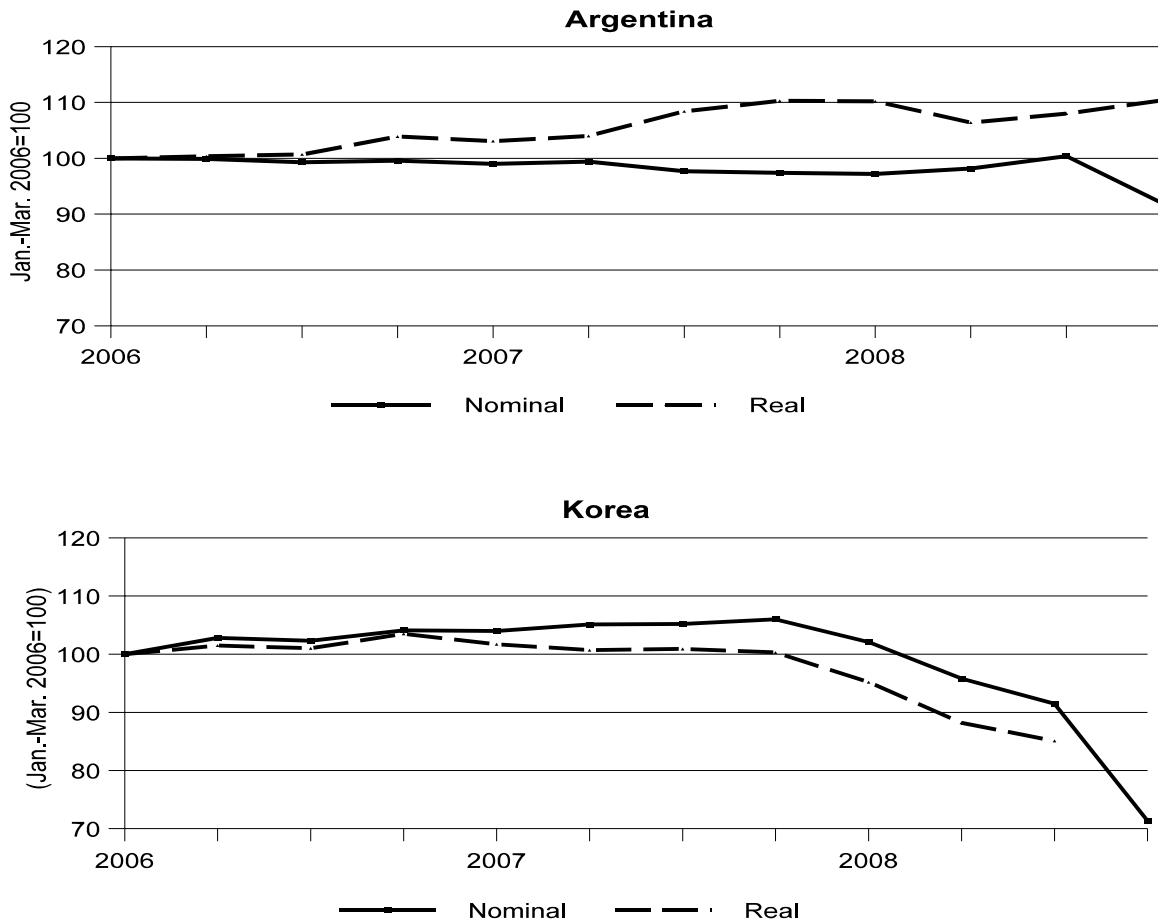
## U.S. Inland Transportation Costs

QCC, reported that transportation costs accounted for \*\*\* percent of the delivered price.<sup>6</sup> For importers, \*\*\*.

## Exchange Rates

Nominal and real exchange rate data for Argentina and Korea are presented on a quarterly basis in figure V-1.

**Figure V-1**  
**Exchange rates: Indexes of nominal and real values of the Argentine and Korean currency relative to the U.S. dollar, by quarters, January 2006-December 2008**



Source: International Monetary Fund, *International Financial Statistics*, online <http://imfstatistics.org/imf>, revised February, 23, 2009.

<sup>6</sup> QCC reported that it sells on an f.o.b. basis and the purchaser arranges for transportation.

## PRICING PRACTICES

QCC reported that it uses \*\*\* in order to arrive at prices for Ni-resist piston inserts and it \*\*\* discount policies. QCC quotes prices on an f.o.b. basis<sup>7</sup> and sells Ni-resist piston inserts \*\*\* basis. \*\*\* reported that it purchases Ni-resist piston inserts \*\*\*.

In addition, QCC reported that prices for Ni-resist piston inserts are made up of two components: a base price and a surcharge.<sup>8</sup> QCC provided information on its surcharge formulas for \*\*\*. For sales to \*\*\*, QCC reported that the surcharge formula calculation \*\*\*. According to QCC, the formula \*\*\*,<sup>9</sup> For its sales to \*\*\*, QCC reported that the surcharge is \*\*\*.<sup>10</sup>

## PRICE DATA

The petitioner and importers of Ni-resist piston inserts were asked to provide quarterly data for the total quantity and f.o.b. (U.S. point of shipment) value of selected products that were shipped to unrelated customers in the U.S. market from January 2006-December 2008.<sup>11</sup> As the importers internally consume all the Ni-resist piston inserts that they import, they reported purchase prices (direct from the foreign supplier) for the selected products. The products for which pricing data were requested were as follows:

- Product 1. — Ni-resist piston inserts with a per-unit weight of 0.409 lbs. and an outer diameter of 4.602 inches (part number 61256 or 6056).**
- Product 2. — Ni-resist piston inserts with a per-unit weight of 0.772 lbs. and an outer diameter of 5.220 inches (part number N-4590-6).**
- Product 3. — Ni-resist piston inserts with a per-unit weight of 0.782 lbs. and an outer diameter of 5.859 inches (part number Ni-550-104PP).**
- Product 4. — Ni-resist piston inserts with a per-unit weight of 1.874 lbs. and an outer diameter of 5.857 inches (part number Ni-550-233PP1).**

QCC, Federal-Mogul, and KUS provided price data. Pricing data accounted for \*\*\* percent of the dollar value of QCC's U.S. shipments during January 2006-December 2008, \*\*\* percent of the dollar value of U.S. imports from Argentina, and \*\*\* percent of the dollar value of U.S. imports from Korea. Quarterly weighted-average sales prices for QCC and purchase prices for Federal-Mogul and KUS for the above products are shown in tables V-1 through V-4 and figures V-2 and V-3.

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<sup>7</sup> F.o.b. Salem, OH.

<sup>8</sup> Conference transcript, p. 23 (J. Korff).

<sup>9</sup> The surcharge is \*\*\*.

<sup>10</sup> The surcharge for \*\*\*.

<sup>11</sup> Importers were requested to provide purchase prices on a landed, duty-paid basis (excluding U.S. inland transportation costs). If, however, importers were not able to provide landed, duty-paid prices, they were instructed to provide delivered prices (i.e., including costs for delivery to the firm's facility). \*\*\*.

**Table V-1**

**Ni-resist piston inserts: Weighted-average f.o.b. selling prices (except as noted) and quantities for product 1, January 2006-December 2008**

\* \* \* \* \*

**Table V-2**

**Ni-resist piston inserts: Weighted-average f.o.b. selling prices (except as noted) and quantities for product 2, January 2006-December 2008**

\* \* \* \* \*

**Table V-3**

**Ni-resist piston inserts: Weighted-average f.o.b. selling prices (except as noted) and quantities for product 3, January 2006-December 2008**

\* \* \* \* \*

**Table V-4**

**Ni-resist piston inserts: Weighted-average f.o.b. selling prices (except as noted) and quantities for product 4, January 2006-December 2008**

\* \* \* \* \*

**Figure V-2**

**Ni-resist piston inserts: Weighted-average f.o.b. selling and delivered purchase prices for products 1 and 2, January 2006-December 2008**

\* \* \* \* \*

**Figure V-3**

**Ni-resist piston inserts: Weighted-average f.o.b. selling and landed, duty-paid purchase prices for products 3 and 4, January 2006-December 2008**

\* \* \* \* \*

### **Price Trends**

Prices for U.S.-produced Ni-resist piston inserts generally fluctuated during January 2006-December 2008. Prices for domestically produced product 1 decreased, and prices for products 2 through 4 generally increased throughout the period. Prices for imports from Argentina and Korea fluctuated, although they were higher at the end of the period than they were at the beginning. A summary of price trends is shown in table V-5.

**Table V-5**

**Ni-resist piston inserts: Summary of weighted-average prices for product 1-4 from the United States, Argentina, and Korea**

\* \* \* \* \*



## Price Comparisons

Purchase prices for imported Ni-resist piston inserts from Argentina and Korea were generally \*\*\* than sales prices for U.S.-produced Ni-resist piston inserts in \*\*\* of the quarters where both prices were reported.<sup>12</sup>

## LOST SALES AND LOST REVENUES

The Commission requested QCC to report any instances of lost sales or revenues it experienced due to competition from imports from Argentina and Korea from January 2006 to December 2008. QCC did not provide any lost sales or lost revenue allegations.<sup>13</sup> However, the staff requested the two U.S. importer-purchasers, Federal-Mogul and KUS, to provide any information on switching from purchasing U.S.-made product to subject imports.

Federal-Mogul reported that \*\*\*<sup>14</sup> \*\*\*.<sup>15</sup> \*\*\*.<sup>16</sup>

KUS reported that it used QCC as a \*\*\*<sup>17</sup> and \*\*\*.<sup>18 19</sup>

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<sup>12</sup> It is important to note that the prices reported by QCC are f.o.b. selling prices while the prices reported by Federal-Mogul and KUS are purchase prices paid directly to the foreign producer. Thus, U.S. prices and prices for imported product are for transactions at different levels of trade and are not directly comparable. In addition, purchase prices reported by \*\*\*; KUS estimated their transportation costs at about \*\*\* percent of the total delivered price.

<sup>13</sup> QCC reported that it \*\*\*. \*\*\*.

<sup>14</sup> QCC also testified that it does have a minimum quantity requirement of 500 pieces that is necessary to cover all its costs; however, it would accept an order of about 200 pieces, even for a new piece, but it would have to price it accordingly. Conference transcript, p. 81 (J. Korff).

<sup>15</sup> QCC reported that the in-house surcharge it usually uses is more accurate than the standard surcharge that applies only to the nickel price changes. The in-house surcharge “incorporates all metallic materials, not just nickel, and it’s more truly representative of costs.” Conference transcript, p. 24 (J. Korff).

<sup>16</sup> Federal-Mogul’s importer-purchaser questionnaire response, supplement to section IV-1.

<sup>17</sup> KUS’s importer-purchaser questionnaire response, section IV-11.

<sup>18</sup> Correspondence from\*\*\*, February 13, 2009.

<sup>19</sup> \*\*\*. Ibid. QCC reported that it “took corrective actions on all five findings and KUS began ordering parts from QCC after the corrective actions were taken. QCC subsequently shipped tens of thousands of parts to KUS with zero rejected parts.” QCC’s postconference brief, p. 3.



## PART VI: FINANCIAL EXPERIENCE AND CONDITION OF THE U.S. PRODUCER

### BACKGROUND

QCC, the only U.S. producer of Ni-resist piston inserts during the period examined, reported its financial results on the basis of U.S. generally accepted accounting principles (“GAAP”) and for calendar-year periods. \*\*\* of QCC’s sales represent U.S. commercial shipments with a \*\*\* share of export sales (see table III-2).<sup>1</sup> No internal consumption or transfers were reported.

As described in Part III of this report, the current owner of QCC purchased the predecessor company’s assets in 2004, the predecessor company having filed bankruptcy in 2003.<sup>2</sup> Information in the petition, as well as statements at the staff conference, indicate that sales of Ni-resist piston inserts by the predecessor company reached their highest level during the mid-1990s after which they declined.<sup>3</sup> At their peak prior to the period examined, Ni-resist piston inserts were characterized as generally being a “substantial profit contributor” to the predecessor company’s overall business.<sup>4</sup>

As noted during the staff conference and as discussed in Part III of this report, QCC’s Ni-resist piston insert operations take place within its centrifugal castings department where \*\*\* are also manufactured.<sup>5</sup> The company’s other major operations take place within its sand foundry department.<sup>6</sup> With respect to the current owner’s purchase of QCC’s assets in 2004, the Ni-resist piston insert part of the business was not characterized as the primary focus of the purchase. Instead, operations related to Ni-resist piston inserts were characterized as a complement (“add-on”) to the company’s sand foundry operations.<sup>7</sup>

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<sup>1</sup> As noted at the staff conference, QCC’s exports were only to Brazil and represented a single type of Ni-resist piston insert (“double ring with pins”). Conference transcript, pp. 12, 39 (J. Korff).

<sup>2</sup> While the decline in Ni-resist piston inserts revenue likely contributed to QCC’s financial weakness prior to the period examined, a major factor related to its bankruptcy in 2003 was reportedly the 2001 bankruptcy of Federal-Mogul, a major customer. Conference transcript, p. 11 (J. Korff). Federal-Mogul entered and subsequently exited Chapter 11 bankruptcy on October 1, 2001 and December 27, 2007, respectively. Litigation forces Federal-Mogul to file Ch. 11, Rubber & Plastics News, December 10, 2001, p. 18. Federal-Mogul makes smooth exit from Chapter 11, Motor Age, April 2008, p. 62.

<sup>3</sup> QCC petition, exh. 5. Conference transcript, p. 10 (J. Korff). At their peak prior to the period examined, sales of Ni-resist piston inserts represented about 50 percent of the company’s total sales revenue. Conference transcript p. 51 (J. Korff). In contrast, Ni-resist piston inserts represented \*\*\* percent of QCC’s total sales by the end of the period examined. E-mail with attachment from \*\*\*, QCC, February 16, 2009.

<sup>4</sup> Conference transcript, p. 50 (J. Korff). The description of Ni-resist piston insert profitability prior to the period examined was what the QCC company official believed likely, based on the product’s sales volume at that time; i.e., the description was not based on a formal review of the predecessor company’s financial results.

<sup>5</sup> According to QCC, \*\*\*. E-mail with attachment from \*\*\*, February 20, 2009.

<sup>6</sup> Conference transcript, pp. 46-47 (J. Korff). QCC’s sand foundry department and centrifugal department are separate in terms of their manufacturing operations including the melt phase. The centrifugal department uses continuous furnaces which are in operation for 9-month periods, 24 hours a day, while the sand foundry department uses coreless induction furnaces on a batch basis. Conference transcript, p. 48 (J. Korff).

<sup>7</sup> Conference transcript, p. 57 (J. Korff). As a percentage of total sales, sand castings (the sand foundry department’s output) represented \*\*\* percent of QCC’s overall sales revenue at the end of the period examined. E-mail with attachment from \*\*\*, February 16, 2009.

## OPERATIONS ON NI-RESIST PISTON INSERTS

Income-and-loss data for U.S. producers of Ni-resist piston inserts are presented in table VI-1. Due to a change in product mix during the period examined, a variance analysis is not presented.<sup>8</sup>

**Table VI-1**  
**Ni-resist piston inserts: Results of operations of the U.S. producer, 2006-2008**

\* \* \* \* \*

A notable feature of the period examined was the \*\*\* decline in Ni-resist piston insert sales volume and corresponding revenue. As noted above, this decline was part of a longer-term pattern which began in the mid-1990s.<sup>9</sup>

As shown in table VI-1, changes in average sales value corresponded in part with changes in average raw material costs. In general, this pattern reflects the use of surcharges in determining the sales amount charged to customers. Notwithstanding changes in the surcharge amount, differences in period-to-period average sales value also reflect changes in product mix and underlying base prices.<sup>10</sup>

Supplemental information in footnote 12 compares average sales value to average raw material costs (referred to here as “metal margin”).<sup>11</sup> While increasing from \$\*\*\* per pound in 2006 to \$\*\*\* per pound in 2007 and then declining in 2008 to \$\*\*\* per pound, the metal margin as a percent of the average sales price declined throughout the period, from \*\*\* percent in 2006 to \*\*\* percent in 2007 and then to \*\*\* percent in 2008.<sup>12</sup> The somewhat contradictory pattern of higher average raw material costs and lower average sales value at the end of the period exacerbated the decline in the metal margin. With regard to this pattern specifically, the company stated that \*\*\*.<sup>13</sup>

With respect to cost of goods sold (“COGS”), raw material is the only item which is specific to Ni-resist piston inserts; i.e., direct labor and other factory costs required allocation in order to develop the information reported to the Commission.<sup>14</sup> The primary components of Ni-resist piston insert raw material costs reflect the following items: \*\*\*. With the exception of \*\*\*, which declined marginally in

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<sup>8</sup> QCC’s \*\*\* commercial shipments represent a broader range of Ni-resist piston inserts, while \*\*\* exports are concentrated in a single configuration. Conference transcript, pp. 12, 52, 67 (J. Korff). In 2006, commercial shipments and exports represented \*\*\* percent and \*\*\* percent, respectively, of QCC’s total Ni-resist piston insert sales value. In 2008, these relative shares had changed to \*\*\* percent and \*\*\* percent.

<sup>9</sup> Conference transcript, p. 50 (J. Korff) and QCC’s petition, exh. 5. \*\*\*.

<sup>10</sup> \*\*\*. Auditor preliminary phase notes.

As opposed to the per-pound values presented in table VI-1, QCC’s average sales value on a per-insert basis would be \$\*\*\* in 2006, \$\*\*\* in 2007, and \$\*\*\* in 2008, based on QCC’s questionnaire response and the petition, exh. 5.

<sup>11</sup> Staff notes that “metal margin,” as referenced by the steel industry generally, is a benchmark and not an accounting term. Typically it refers to the difference between current sales prices and current average raw material prices. Because it is based on revenue and cost information recognized by QCC for accounting purposes, the metal margin calculated by staff does not generally correspond to the standard industry definition. Auditor preliminary notes.

<sup>12</sup> The metal margin value per pound was \$\*\*\* (\*\*\*) percent of sales value) in 2006, \$\*\*\* (\*\*\*) percent of sales value) in 2007, and \$\*\*\* (\*\*\*) percent of sales value) in 2008.

<sup>13</sup> QCC stated that \*\*\*. E-mail with attachment from \*\*\*, February 16, 2009.

<sup>14</sup> E-mail with attachment from \*\*\*, February 16, 2009.

2007, the average prices paid by QCC for these inputs increased \*\*\* in 2007 and then declined in 2008.<sup>15</sup> While weight per insert varies, average per-pound raw material costs are reportedly not affected by changes in product mix.<sup>16</sup>

While metal margin as a percentage of sales deteriorated during the period examined, as noted above, QCC's higher gross losses in 2007 and 2008 were primarily the result of \*\*\*. As shown in table VI-1, during the period examined both of these items increased notably on an average per-pound basis.

According to the company, other factory costs reflect a number of items, as follows: \*\*\*. About \*\*\* percent of these expenses are reportedly fixed. Supplemental information provided by QCC showed that, consistent with its declining relative share of sales, the amount of overall other factory costs allocated to Ni-resist piston inserts declined on an absolute basis throughout the period.<sup>17</sup>

Direct labor cost, as described by QCC, also reflects multiple items/activities identified as follows: \*\*\*.<sup>18</sup>

As noted above, QCC's Ni-resist piston insert operations historically represented \*\*\* of the centrifugal department's output. In contrast, the period examined is transitional inasmuch as Ni-resist piston insert sales volume has declined \*\*\* while the company attempts to shift the centrifugal department's focus to alternative production. At the staff conference, a company official stated that ". . . we're trying to develop other centrifugal products . . . {w}e're trying to retail a cylinder {liner} line of products. We've trade named it EZ Slider and we're selling it on the retail market. We're spending lots of money trying to develop it to maintain our use for our centrifugal capacity . . . but it is not at this point a business that will utilize effectively the centrifugal capacity."<sup>19</sup> In this context, it appears that QCC's \*\*\*.<sup>20</sup> As shown in table III-1, Ni-resist piston insert production and capacity utilization went from \*\*\* percent in 2006 to \*\*\* percent in 2008.

At the staff conference a QCC company official stated that, while Ni-resist piston insert prices were not modified specifically to cover higher average COGS due to reduced production, prices are adjusted incrementally depending on order size with exceptionally large volume part orders being considered outside of the company's price list.<sup>21</sup> In general, QCC also indicated that Ni-resist piston insert selling prices are not recovering overall variable costs.<sup>22</sup>

QCC's selling, general and administrative ("SG&A") expenses reflect the following items: \*\*\*. Consistent with the overall decline in sales volume, there was a \*\*\* decline in the absolute level of SG&A expenses allocated to Ni-resist piston inserts in 2007 (see table VI-1). This was followed by a \*\*\*

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<sup>15</sup> E-mail with attachment from \*\*\*, February 20, 2009. \*\*\*. Auditor preliminary notes. Type I Ni-resist scrap is reportedly obtained from a variety of mostly domestic sources on a spot basis. Conference transcript, p. 49 (J. Korff).

<sup>16</sup> According to QCC, \*\*\*. E-mail with attachment from \*\*\*, February 16, 2009. \*\*\*.

As opposed to the per-pound values presented in table VI-1, QCC's average raw material cost on a per-insert basis would be \$\*\*\* in 2006, \$\*\*\* in 2007, and \$\*\*\* in 2008, based on QCC's questionnaire response and the petition, exh. 5.

<sup>17</sup> E-mail with attachment from \*\*\*, February 20, 2009. \*\*\*. Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Conference transcript, pp. 12, 13 (J. Korff).

<sup>20</sup> In order to reduce costs as production declined in the centrifugal department, QCC has redeployed some resources to the sand foundry department. QCC petition, p. 2.

<sup>21</sup> With regard to higher average Ni-resist piston insert COGS due to lower volume, a company official stated "{w}hat we did is price the product as though it were a standalone product that covered fixed cost. We didn't try to say because our volume declined we need to raise prices on it." Conference transcript, pp. 54, 55 (J. Korff).

<sup>22</sup> Conference transcript, p. 58 (J. Korff).

decline in 2008.<sup>23</sup> In contrast, as a percentage of sales, SG&A expenses increased \*\*\* throughout the period as corresponding revenue declined. Combined with increasing gross loss margins (gross losses as a percent of sales), Ni-resist piston insert operations generated larger operating loss margins throughout the period, while the absolute level of operating losses increased at a \*\*\* rate as sales volume declined.

**CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES**

Capital expenditures, research and development (“R&D”) expenses, total assets, and return on investment (“ROI”) are shown in table VI-2.

**Table VI-2  
Ni-resist piston inserts: Capital expenditures, research and development expenses, assets, and return on investment of the U.S. producer, 2006-2008**

\* \* \* \* \*

As shown in table VI-2, the company \*\*\* incur capital expenditures related to Ni-resist piston inserts during the period examined. With respect to the property, plant, and equipment component of total assets, QCC stated that \*\*\*.<sup>24</sup>

**CAPITAL AND INVESTMENT**

The Commission requested QCC, the sole U.S. producer of Ni-resist piston inserts, to describe any actual or potential negative effects of imports from Argentina and Korea on its growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. QCC’s responses are shown below.

Actual negative effects

QCC: \*\*\*.<sup>25</sup>

Anticipated negative effects

QCC \*\*\*.

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<sup>23</sup> \*\*\*. E-mail with attachment from \*\*\*, February 20, 2009.

<sup>24</sup> \*\*\*. QCC questionnaire response, section III-12.

<sup>25</sup> \*\*\*. E-mail with attachment from \*\*\*, February 16, 2009.

## PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the nature of the alleged subsidies was presented earlier in this report; information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on the U.S. producer's existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any subsidization in third-country markets, follows. Also presented in this section of the report is information obtained for consideration by the Commission on nonsubject countries.

### THE INDUSTRY IN ARGENTINA

The Commission requested data from four firms<sup>1</sup> in Argentina believed to be possible producers of Ni-resist piston inserts. Clorindo Appo SRL ("Clorindo"), which was listed in the petition as the sole Argentinian producer, provided a questionnaire response which accounted for all known Ni-resist piston insert production in Argentina during the period for which data were collected. \*\*\*, Clorindo stated that the firm has \*\*\*. Ni-resist piston inserts were \*\*\* produced and sold by Clorindo during the period for which data were collected; \*\*\*.<sup>2</sup>

Capacity remained steady during the period for which data were collected and is projected to \*\*\* in the next two years. Production decreased from 2006 to 2007 but increased from 2007 to 2008. Clorindo's projections call for \*\*\* production from 2008 to 2009 followed by \*\*\* production in 2010. Capacity utilization was between \*\*\* and \*\*\* percent during 2006-2008, with projections showing \*\*\* percent utilization in 2009 followed by \*\*\* in 2010 corresponding with the \*\*\* production level predicted for that year.

Clorindo's exports to the United States as a share of the firm's total exports decreased during the period for which data were collected, from \*\*\* percent in 2006 to \*\*\* percent in 2008. Clorindo also exported some of its 2007-2008 production to \*\*\*.<sup>3</sup> Table VII-1 presents data for reported production and shipments of Ni-resist piston inserts in Argentina by Clorindo.

**Table VII-1**  
**Ni-resist piston inserts: Clorindo's reported production capacity, production, shipments, and inventories, 2006-2008, and projections for 2009 and 2010**

\* \* \* \* \*

### THE INDUSTRY IN KOREA

The Commission requested data from three firms<sup>4</sup> in Korea believed to be possible producers of Ni-resist piston inserts. Incheon Metal Co., Ltd. ("Incheon"), which was listed in the petition as the sole

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<sup>1</sup> Foreign producer questionnaires were sent to the following firms in Argentina identified using proprietary Customs data and internet research: \*\*\*.

<sup>2</sup> \*\*\*'s producer questionnaire response, sections II-1, II-2 and II-7.

<sup>3</sup> Clorindo's postconference brief, p. 2.

<sup>4</sup> Foreign producer questionnaires were sent to the following firms in Korea identified using proprietary Customs data and internet research: \*\*\*.

Korean producer, provided a questionnaire response which accounted for all known Ni-resist piston insert production in Korea during the period for which data were collected. \*\*\*. Ni-resist piston inserts represented \*\*\* percent of the firm's production in 2008, and other products produced on the same equipment were \*\*\*.<sup>5</sup>

Incheon's capacity increased from 2006 to 2007 and is projected to \*\*\* 2009.<sup>6</sup> Production and capacity utilization both increased from 2006 to 2007, decreased \*\*\* from 2007 to 2008, and are projected to \*\*\* in 2009.<sup>7</sup> \*\*\*. Table VII-2 presents data for reported production and shipments of Ni-resist piston inserts in Korea by Incheon.

**Table VII-2  
Ni-resist piston inserts: Incheon's reported production capacity, production, shipments, and inventories, 2006-2008, and projections for 2009 and 2010**

\* \* \* \* \*

**THE INDUSTRIES IN ARGENTINA AND KOREA COMBINED**

Table VII-3 presents data for combined reported production and shipments of Ni-resist piston inserts in Argentina and Korea by Clorindo and Incheon, respectively.

**Table VII-3  
Ni-resist piston inserts: Clorindo and Incheon's combined reported production capacity, production, shipments, and inventories, 2006-2008, and projections for 2009 and 2010**

\* \* \* \* \*

**U.S. IMPORTERS' INVENTORIES**

Reported inventories held by U.S. importers of subject merchandise from Argentina and Korea are shown in table VII-4.

**Table VII-4  
Ni-resist piston inserts: U.S. importers' end-of-period inventories of all imports, by source, 2006-2008**

\* \* \* \* \*

**U.S. IMPORTERS' CURRENT ORDERS**

The Commission requested importers to indicate whether they imported or arranged for the importation of Ni-resist piston inserts from Argentina and/or Korea after December 31, 2008. \*\*\*, \*\*\*.

**ANTIDUMPING AND COUNTERVAILING DUTY INVESTIGATIONS  
IN THIRD-COUNTRY MARKETS**

There are no known antidumping or countervailing duty investigations on Ni-resist piston inserts reported in third-country markets.

<sup>5</sup> \*\*\*'s producer questionnaire response, sections II-2-3.

<sup>6</sup> Incheon was \*\*\*.

<sup>7</sup> Incheon expects \*\*\*. Incheon is \*\*\*. Incheon's producer questionnaire response, section II-1.



## INFORMATION ON NONSUBJECT COUNTRIES

In assessing whether the domestic industry is materially injured or threatened with material injury “by reason of subject imports,” the legislative history states “that the Commission must examine all relevant evidence, including any known factors, other than the dumped or subsidized imports, that may be injuring the domestic industry, and that the Commission must examine those other factors (including non-subject imports) ‘to ensure that it is not attributing injury from other sources to the subject imports.’”<sup>8</sup>

There is no publicly available information regarding international production or exports of Ni-resist piston inserts during the period for which data were collected. Countries other than Argentina and Korea believed to produce Ni-resist piston inserts are Brazil, China, Germany, India, Poland, Taiwan and Turkey.<sup>9</sup> The known producers in \*\*\* are affiliated with \*\*\* and the known producers in \*\*\* are affiliated with \*\*\*.<sup>10</sup>

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<sup>8</sup> Mittal Steel Point Lisas Ltd. v. United States, Slip Op. 2007-1552 at 17 (Fed. Cir., Sept. 18, 2008), quoting from Statement of Administrative Action on Uruguay Round Agreements Act, H.R. Rep. 103-316, Vol. I at 851-52; see also Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006).

<sup>9</sup> Clorindo’s postconference brief, p. 1, and conference transcript, pp. 40 (J. Korff) and 97 (Lowe).

<sup>10</sup> \*\*\*’s and \*\*\*’s importer questionnaire responses, section I-5. \*\*\*’s postconference brief, \*\*\*.



**APPENDIX A**  
***FEDERAL REGISTER* NOTICES**



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**INTERNATIONAL TRADE  
COMMISSION**

[Investigation Nos. 701-TA-460-461  
(Preliminary)]

**Ni-Resist Piston Inserts From  
Argentina and Korea**

**AGENCY:** United States International  
Trade Commission.

**ACTION:** Institution of countervailing  
duty investigations and scheduling of  
preliminary phase investigations.

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**SUMMARY:** The Commission hereby gives  
notice of the institution of investigations  
and commencement of preliminary  
phase countervailing duty investigation  
Nos. 701-TA-460-461 (Preliminary)  
under section 703(a) of the Tariff Act of  
1930 (19 U.S.C. 1671b(a)) (the Act) to

determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Argentina and Korea of Ni-resist piston inserts, provided for in subheading 8409.99.91 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Governments of Argentina and Korea. Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B)), the Commission must reach a preliminary determination in countervailing duty investigations in 45 days, or in this case by March 12, 2009. The Commission's views are due at Commerce within five business days thereafter, or by March 19, 2009.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**DATES:** *Effective Date:* January 26, 2009.

**FOR FURTHER INFORMATION CONTACT:** Joshua Kaplan (202-205-3184), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

*Background.*—These investigations are being instituted in response to a petition filed on January 26, 2009, by Korff Holdings, LLC dba Quaker City Castings, Salem, OH.

*Participation in the investigations and public service list.*—Persons (other than petitioners) wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise

under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to these investigations under the APO issued in these investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Conference.*—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on February 17, 2009, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Joshua Kaplan (202-205-3184) not later than February 12, 2009, to arrange for their appearance. Parties in support of the imposition of countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

*Written submissions.*—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before February 23, 2009, a written brief containing information and arguments pertinent to the subject matter of these investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain 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 these investigations must be served on all other parties to these investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: January 29, 2009.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. E9-2241 Filed 2-2-09; 8:45 am]

**BILLING CODE 7020-02-P**

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**DEPARTMENT OF COMMERCE****International Trade Administration****[C-357-819, C-580-862]****Ni-Resist Piston Inserts From  
Argentina and the Republic of Korea:  
Initiation of Countervailing Duty  
Investigations****AGENCY:** Import Administration,  
International Trade Administration,  
Department of Commerce.**DATES:** *Effective Date:* February 23,  
2009.

**FOR FURTHER INFORMATION CONTACT:**

Kristen Johnson (Argentina) or John Conniff (Republic of Korea), AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4793 and (202) 482-1009, respectively.

**SUPPLEMENTARY INFORMATION:****The Petitions**

On January 26, 2009, the Department of Commerce (the Department) received countervailing duty (CVD) petitions concerning Ni-resist piston inserts from Argentina and the Republic of Korea (Korea) filed in proper form by Korff Holdings, LLC doing business as Quaker City Castings (Petitioner). See *Imposition of Countervailing Duties on Ni-Resist Piston Inserts from Argentina and the Republic of Korea*, dated January 26, 2009 (the petitions).

On January 29, 2009, and February 6, 9, and 10, 2009, the Department issued requests for additional information and clarification of certain areas of the petitions. Based on the Department's requests, Petitioner filed additional information supplementing the petitions on February 5, 10, 11, and 12, 2009.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), Petitioner alleges that manufacturers, producers, or exporters of Ni-resist piston inserts in Argentina and Korea receive countervailable subsidies within the meaning of section 701 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that Petitioner filed the petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and Petitioner has demonstrated sufficient industry support with respect to the CVD investigations that it requests the Department to initiate (see "Determination of Industry Support for the Petitions" section below).

**Period of Investigations**

The anticipated period of the investigations (POI) is January 1, 2008, through December 31, 2008. See 19 CFR 351.204(b)(2).

**Scope of Investigations**

The scope of these investigations includes all Ni-resist piston inserts regardless of size, thickness, weight, or outside diameter. Ni-resist piston inserts may also be called other names including, but not limited to, "Ring

Carriers," or "Alfin Inserts." Ni-resist piston inserts are alloyed cast iron rings, with or without a sheet metal cooling channel pressed and welded into the interior of the insert. Ni-resist piston inserts are composed of the material known as Ni-resist, of the chemical composition: 13.5%–17.5% Ni (nickel), 5.5%–8.0% Cu (copper), 0.8%–2.5% Cr (chromium), 0.5%–1.5% Mn (manganese), 1.0%–3.0% Si (silicon), 2.4%–3.0% C (carbon). The cast iron composition is produced primarily to the material specifications of the American Society for Testing and Materials (ASTM), ASTM A-436 grade 1.

The scope of these investigations does not include piston rings nor any other product manufactured using the Ni-resist material. The subject imports are properly classified under subheading 8409.99.91.90 of the Harmonized Tariff Schedule of the United States (HTSUS), but have been imported under HTSUS 7326.90. The HTSUS subheadings are provided for convenience and customs purposes. The written description is dispositive of the scope of these investigations.

**Comments on Scope of Investigations**

During our review of the petitions, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of the publication of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

**Consultations**

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Governments of Argentina and Korea (GOA and GOK, respectively) for consultations with regard to the petitions. The Department held these consultations in Washington, DC, with representatives of the GOK on February 10, 2009, and with

representatives of the GOA on February 13, 2009. See Memorandum to the File regarding "Consultations with Officials from the Government of the Republic of Korea on the Countervailing Duty Petition regarding Ni-Resist Piston Inserts," (dated February 12, 2009), and Memorandum to the File regarding "Consultations with Officials from the Government of Argentina on the Countervailing Duty Petition regarding Ni-Resist Piston Inserts," (dated February 13, 2009); these memoranda are on file in the Department's Central Records Unit (CRU), Room 1117 of the main Department of Commerce building.

**Determination of Industry Support for the Petitions**

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this



may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied*, 492 U.S. 919 (1989).

Section 771(10) of 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 title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of domestic like product distinct from the scope of these investigations. Based on our analysis of the information submitted on the record, we have determined that Ni-resist piston inserts as defined by Petitioner constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* “Countervailing Duty Investigation Initiation Checklist: Ni-Resist Piston Inserts from Argentina” (Argentina Checklist), at Attachment II (Industry Support), and “Countervailing Duty Investigation Initiation Checklist: Ni-Resist Piston Inserts from the Republic of Korea” (Korea Checklist), at Attachment II (Industry Support) (dated February 17, 2009), on file in the CRU.

With regard to section 702(c)(4)(A) of the Act, in determining whether Petitioner has standing (*i.e.*, the domestic workers and producers supporting the petitions account for (1) at least 25 percent of the total production of the domestic like product and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petitions), we considered the industry support data contained in the petitions with reference to the domestic like product as defined in the “Scope of Investigations” section above. To establish industry support, Petitioner indicated that it was the sole producer of the domestic like product and provided its production statistics for the domestic like product for the year 2008. We have relied upon data Petitioner provided for purposes of measuring industry support. No comments were submitted challenging Petitioner’s

industry support claims. For further discussion, *see* Argentina Checklist and Korea Checklist at Attachment II (Industry Support).

The Department’s review of the data provided in the petitions, supplemental submissions, and other information readily available to the Department indicates that Petitioner has established industry support. First, the petitions establish support from the domestic producer accounting for more than 50 percent of the total production of the domestic like products and, as such, the Department is not required to take further action in order to evaluate industry support (*i.e.*, polling). *See* section 702(c)(4)(D) of the Act and Argentina Checklist and Korea Checklist at Attachment II (Industry Support). Second, the domestic producer has met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producer who supports the petitions accounts for at least 25 percent of the total production of the domestic like products. *See* Argentina Checklist and Korea Checklist at Attachment II (Industry Support). Finally, the domestic producer has met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producer supporting the petitions accounts for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petitions. Accordingly, the Department determines that the petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See* Argentina Checklist and Korea Checklist at Attachment II (Industry Support).

The Department finds that Petitioner filed the petitions on behalf of the domestic industry because Petitioner is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the CVD investigations that it is requesting the Department initiate. *See* Argentina Checklist and Korea Checklist at Attachment II (Industry Support).

### Injury Test

Because Argentina and Korea are each a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from Argentina and Korea materially injure, or threaten material injury to, a U.S. industry.

### Allegations and Evidence of Material Injury and Causation

Petitioner alleges that imports of Ni-resist piston inserts from Argentina and Korea are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the domestic industries producing Ni-resist piston inserts. In addition, Petitioner alleges that subsidized imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioner contends that the industry’s injured condition is illustrated by reduced market share, underselling and price depressing and suppressing effects, lost sales and revenue, reduced production, reduced shipments, reduced employment, and an overall decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* Argentina Checklist and Korea Checklist at Attachment III (Injury).

### Subsidy Allegations

Section 702(b) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. The Department has examined the CVD petitions on Ni-resist piston inserts from Argentina and Korea finds that the petitions comply with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating CVD investigations to determine whether manufacturers, producers, or exporters of Ni-resist piston inserts from Argentina and Korea receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* Argentina Checklist and Korea Checklist at “Countervailing Duty Investigation Initiation Standard” section.

### I. Argentina

We are including in our investigation the following program alleged in the Argentina petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in Argentina:

### A. Tax Relief Under the Reintegro<sup>1</sup>

For further information explaining why the Department is investigating this program, see Argentina Checklist.

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in Argentina:

#### A. Pre-Export Preferred Financing

Petitioner alleges that pre-export loans are widely available to specific industries in Argentina. Petitioner states that the pre-export program makes available to exporters pre-export funds for individual sales at an interest rate of one percent up to 180 days, to be repaid no later than 60 days after the effective export date. Petitioner also states that the funds are provided by the Central Bank of Argentina and disbursed through private commercial banks.

In *Cold-Rolled Carbon Steel*, the Department found that the pre-export financing provided by the Argentine Central Bank was terminated. See *Final Negative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products From Argentina*, 67 FR 62106 (October 3, 2002) (*Cold-Rolled Carbon Steel*), and accompanying issues and decision memorandum at "Program Determined To Be Terminated" (Cold-Rolled Memorandum). Petitioner has provided no evidence that the Central Bank may have resumed its pre-export financing program. Therefore, we do not plan to investigate this program.

#### B. Post-Export Preferred Financing

Petitioner alleges that the post-shipment financing program (*aka*, Circular OPRAC 1-9 Post-Shipment Financing) provides shipment-specific, short-term preferential loans to exporters after a product has been exported. Petitioner states that, similar to the pre-export financing, the length of the loan is limited to 180 days and interest is paid quarterly. Petitioner adds that the loans are granted for up to 30 percent of the peso equivalent of the foreign currency in which the export

transaction was paid and that the interest rate on the loans is the indexed market rate used by the commercial banks as required under Central Bank regulations.

In *Cold-Rolled Carbon Steel*, the Department found the post-export financing provided by the Argentine Central Bank was terminated. See *Cold-Rolled Memorandum* at "Program Determined To Be Terminated." Further, Petitioner has provided no evidence that the Central Bank may have resumed its post-export financing program. Therefore, we do not plan to investigate this program.

#### C. Tax Relief Under the Zero Tariff Turnkey Bill

Petitioner states that the purpose of this program is to provide an incentive to import goods and equipment that will be used to modernize productive processes in Argentina. Petitioner claims that the program achieves its objective by allowing the importation of new merchandise and equipment without the payment of import duties. Petitioner states that the GOA, through the state-owned Investment and Foreign Trade Bank, provides the duty exemption/reductions, which are contingent on export performance.

In *Cold-Rolled Carbon Steel*, the Department found that the Zero Tariff Turnkey Bill to be not countervailable. See *Cold-Rolled Memorandum* at "Program Determined To Be Not Countervailable." Specifically, the Department found that this program is neither *de jure* nor *de facto* specific as described in section 771(5A)(D) of the Act. Petitioner has not provided any evidence that the Zero Tariff Turnkey Bill may now be specific either in law or in fact. Therefore, we do not plan to investigate this program.

#### D. Tax Relief Under Decrees Nos. 379/2001 and 502/2001

Petitioner states that the objective of this program is to create an incentives regime for Argentine manufacturers of capital goods. Under the program, Petitioner alleges there is a tax bond, which is applied to the payment of national taxes, equivalent to 10 percent of the amount resulting from the deduction from the sales price of the value of imported manufacturing inputs, parts or components, incorporated into the final product and cleared through customs at an import duty of zero percent. Petitioner claims that Ni-resist piston insert producers can use this program because the term "capital goods" can be used to refer to anything that is not an end-product. Petitioner claims that a Ni-resist piston insert is

not an end-product as its only purpose is to assist in the proper functioning of diesel pistons within diesel engines.

We do not plan to investigate this program, which provides a tax incentive to manufacturers of capital goods. Ni-resist piston inserts are not capital goods and, therefore, producers of the subject merchandise could not use this program.

## II. Korea

We are including in our investigation the following programs alleged in the Korea petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in Korea:

A. Energy Rate Reductions Under the Request Load Adjustment Program.

B. Short-Term Export Financing.

C. Loans under the Industrial Base Fund (IBF).

D. Export Loans by Commercial Banks Under the Export-Import Bank of Korea (KEXIM) Trade Bill Rediscounting Program.

E. Reserve for Research and Manpower Development Fund Under Article 9 of the Restriction of Special Taxation Act (RSTA) (Formerly Article 8 of Tax Exemption and Reduction Control Act).

F. Reserve for Investment Funds.

For further information explaining why the Department is investigating these programs, see Korea Checklist.

### Respondent Selection

Normally for an investigation, the Department selects respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POI. In this case, the HTSUS category that includes subject merchandise is broad and includes products other than products subject to these investigations. Therefore, such CBP data would not be informative to our selection of respondents for these investigations. In the petitions, Petitioner identified the following producers/exporters of Ni-resist piston inserts from Argentina and Korea as having exported the subject merchandise to the United States during the POI: Clorindo Appo SRL and Incheon Metal Co., Ltd., respectively. We are setting aside a period for interested parties to submit comments on the selection of Clorindo Appo SRL and Incheon Metal Co., Ltd. as respondents in these investigations. The Department requests interested parties to submit such comments within five calendar days after the publication of this notice in the **Federal Register**. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of

<sup>1</sup> In the Argentina petition, Petitioner submitted a subsidy allegation for the program "Tax Relief under the Reembolso" (see petition at page 19). "Reembolso," however, is the former name of the tax relief program. In a prior Argentina CVD proceeding, the Department learned that the successor program is named "Reintegro." See *Notice of Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determinations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina*, 67 FR 9670, 9673 (March 4, 2002). Therefore, we are initiating on the program as "Tax Relief under the Reintegro."

Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

*Distribution of Copies of the Petitions*

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petitions has been provided to the GOA and GOK. As soon as possible and to the extent practicable, we will attempt to provide a copy of the public version of the petitions to each company named in the petitions, consistent with 19 CFR 351.203(c)(2).

*ITC Notification*

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

*Preliminary Determination by the ITC*

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of this initiation, whether there is a reasonable indication that imports of subsidized Ni-resist piston inserts from Argentina and Korea are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigations being terminated; otherwise, the investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: *February 17, 2009.*

**John M. Andersen,**

*Acting Deputy Assistant Secretary for  
Antidumping and Countervailing Duty  
Operations.*

[FR Doc. E9-3795 Filed 2-20-09; 8:45 am]

**BILLING CODE 3510-DS-P**

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**APPENDIX B**

**CALENDAR OF THE COMMISSION'S FEBRUARY 17, 2009 CONFERENCE**



## CALENDAR OF THE PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference:

**Subject:** Ni-resist piston inserts from Argentina and Korea  
**Inv. Nos.:** 701-TA-460-461 (Preliminary)  
**Date and Time:** February 17, 2009 - 9:30 a.m.

The conference in connection with these investigations was held in Courtroom B, 500 E Street, SW, Washington, DC.

### **OPENING REMARKS:**

#### Petitioners

Geoffrey D. Korff

#### Respondents

Christopher M. Kane, Simon Gluck & Kane LLP

Jeffery C. Lowe, Mayer Brown LLP

### **In Support of the Imposition of Countervailing Duties:**

Geoffrey D. Korff

Liverpool, NY

on behalf of

Quaker City Castings

**Joseph J. Korff**, President,  
Quaker City Castings

**Geoffrey D. Korff**, Esq. ) – OF COUNSEL





**APPENDIX C**  
**SUMMARY DATA<sup>1</sup>**

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<sup>1</sup> The contents of Appendix C are being withheld from the public version of the report, as the information in this appendix in its current form could reveal business proprietary information.