

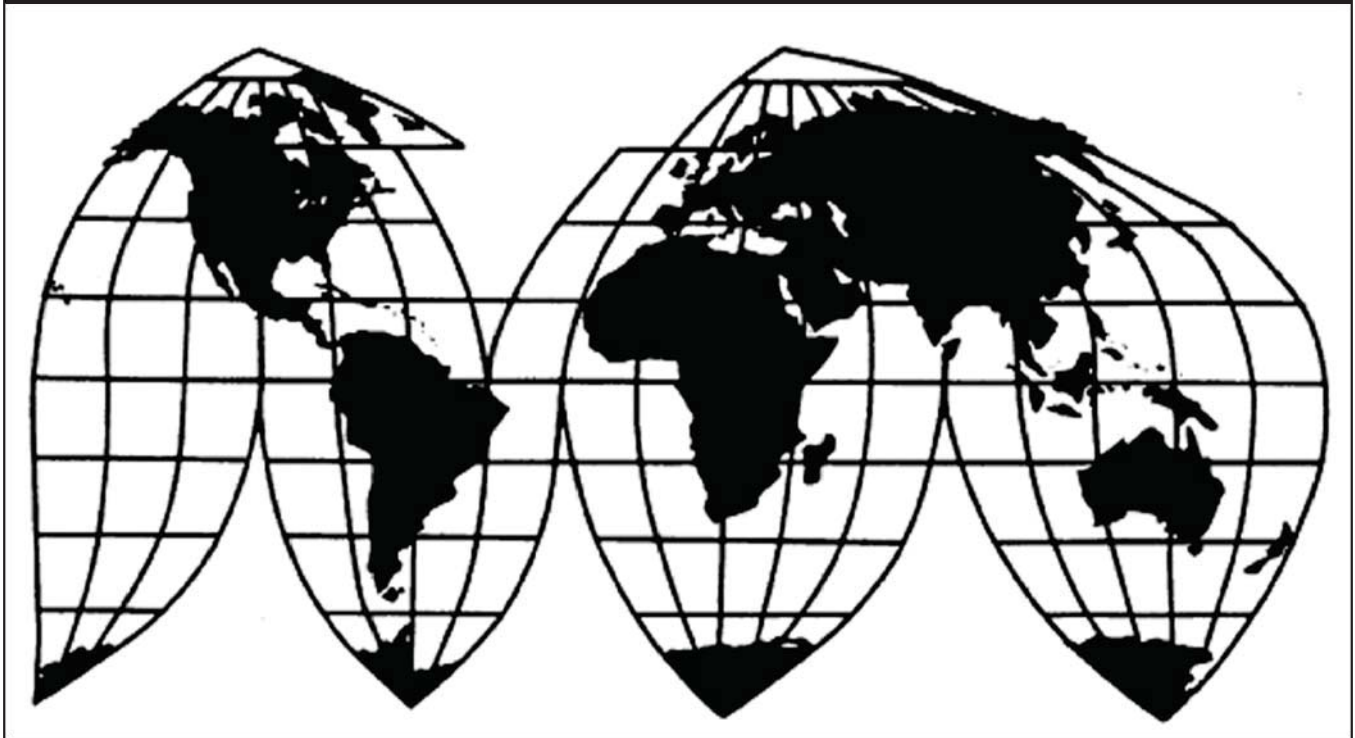
Gray Portland Cement and Cement Clinker from Japan

Investigation No. 731-TA-461 (Third Review)

Publication 4281

December 2011

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-461 (Third Review)

GRAY PORTLAND CEMENT AND CEMENT CLINKER FROM JAPAN

DETERMINATION

On the basis of the record¹ developed in the subject five-year review, the United States International Trade Commission (Commission) determines,² pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the antidumping duty order on gray Portland cement and cement clinker from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission instituted this review on May 2, 2011 (76 FR 24519) and determined on August 5, 2011 that it would conduct an expedited review (76 FR 50252, August 12, 2011).

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

² Commissioner Dean A. Pinkert did not participate in this review.

VIEWS OF THE COMMISSION

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

I. BACKGROUND

In 1990, over a period of several months, the Commission instituted separate investigations pertaining to imports of cement from Japan, Mexico, and Venezuela. On April 29, 1991, the Commission determined that an industry in the United States was being materially injured by reason of imports of cement from Japan that were being sold at less than fair value.² In the original determination, the Commissioners who made affirmative determinations used the “Southern California” region for their analysis. Two of the three Commissioners who made affirmative determinations cumulated subject imports from Japan with imports from Mexico that were subject to a recent antidumping duty order.³ The Commission’s determination was reviewed by the Court of International Trade, which remanded the plurality’s decision to use a cumulative analysis.⁴ On remand, the Commission made an affirmative determination with respect to the Southern California regional industry on a non-cumulated basis.⁵ The Court of International Trade affirmed.⁶

In 2000, the Commission conducted a full five-year review of the order on subject imports from Japan. The review was grouped with reviews on cement from Mexico and Venezuela. The Commission made an affirmative determination with respect to subject imports from Japan.⁷ It conducted a regional industry analysis, with the pertinent region defined as the State of California.⁸ It did not cumulate subject imports from Japan with imports from either of the other subject countries.⁹

The Commission’s second review of the antidumping order on cement from Japan in 2006 was expedited.¹⁰ The Commission again used a regional industry analysis and defined the pertinent regional

¹ Commissioner Dean A. Pinkert did not participate in this review.

² Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Final), USITC Pub. 2376 (April 1991) (“Original Determination”). Unless otherwise indicated, this opinion will use the term “cement” to refer to gray portland cement and cement clinker.

³ Original Determination, USITC Pub. 2376 at 13-21, 29-36, 47-49.

⁴ Mitsubishi Materials Corp. v. United States, 820 F. Supp. 608 (Ct. Int’l Trade 1993).

⁵ Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Remand), USITC Pub. 2657 (June 1993) (“Remand Determination”).

⁶ Mitsubishi Materials Corp. v. United States, 918 F. Supp. 422 (Ct. Int’l Trade 1996).

⁷ Gray Portland Cement and Cement Clinker from Japan, Mexico, and Venezuela, Inv. Nos. 303-TA-21, 731-TA-451, 461, 519 (Review), USITC Pub. 3361 at 43-47 (Oct. 2000) (“First Review Determination”).

⁸ First Review Determination, USITC Pub. 3361 at 9-15, 17-18.

⁹ First Review Determination, USITC Pub. 3361 at 25-28.

¹⁰ As with the first cement reviews, the Commission instituted the second reviews on a grouped basis, including the outstanding orders on subject imports from Japan and Mexico. (The order on cement from Venezuela had been
(continued...)

industry to encompass producers in the State of California.¹¹ The Commission found that revocation of the antidumping duty order would likely lead to a continuation or recurrence of material injury to the regional industry.

The Commission instituted this third review on May 2, 2011.¹² The sole response to the notice of institution was filed by a coalition of domestic interested parties (“Domestic Interested Parties”).¹³ The Commission found the responses of the individual Domestic Interested Parties adequate, found the domestic interested party group response adequate, and found the respondent interested party group response inadequate. In the absence of an adequate respondent interested party response or any other circumstances warranting a full review, the Commission determined to conduct an expedited review.¹⁴

II. DOMESTIC LIKE PRODUCT

In making its determination under section 751(c) of the Act, the Commission defines “the domestic like product” and the “industry.”¹⁵ The Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”¹⁶ The Commission’s practice in five-year reviews is to look to the like product definition from the original determination and any completed reviews and consider whether the record indicates any reason to revisit the prior findings.¹⁷

¹⁰(...continued)

revoked as a result of the first review.) The Commission received an adequate respondent interested party group response for the review on cement from Mexico, but received no respondent interested party response for the review on cement from Japan. Although it determined to conduct a full review on cement from Mexico, it expedited the review on cement from Japan. It explained that conducting a full grouped review would not achieve administrative efficiency because the prior determinations on cement from Japan and Mexico were based on different regional industries. See Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Second Review), USITC Pub. 3856, App. B (May 2006) (“Second Review Determination”).

¹¹ Second Review Determination, USITC Pub. 3856 at 9-12.

¹² 76 Fed. Reg. 24519 (May 2, 2011).

¹³ This ad hoc coalition is the Committee for Fairly Traded Japanese Cement (“Committee”). The Committee’s membership includes four domestic producers of gray portland cement and cement clinker located in California: Cemex, Inc; Lehigh Southwest Cement Co.; National Cement Co. of California; and Riverside Cement Co. It also includes four labor unions representing employees producing cement: (1) the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers; (2) the United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; (3) The International Union of Operating Engineers; and (4) Local Lodge 93, International Association of Machinists and Aerospace Workers.

¹⁴ Explanation of Commission Determination on Adequacy, Confidential Report (CR)/Public Report (PR), app. B.

¹⁵ 19 U.S.C. § 1677(4)(A).

¹⁶ 19 U.S.C. § 1677(10); 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); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991); see also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

¹⁷ See, e.g., Stainless Steel Sheet and Strip from Germany, Italy, Japan, Korea, Mexico, and Taiwan, Inv. Nos. 701-TA-382 and 731-TA-798-803 (Second Review), USITC Pub. 4244 (July 2011) at 6; Certain Carbon Steel

(continued...)

Commerce has defined the imported merchandise within the scope of the order under review as follows:

The products covered by the order are cement and cement clinker from Japan. Cement is a hydraulic cement and the primary component of concrete. Cement clinker, an intermediate material produced when manufacturing cement, has no use other than grinding into finished cement. Microfine cement was specifically excluded from the antidumping duty order.¹⁸

Gray portland cement is used predominantly in the production of concrete, which in turn is used almost wholly by the construction industry. The chief end uses are highway construction and building construction using ready-mix concrete, concrete blocks, and precast concrete units.¹⁹ Cement clinker is the intermediate product resulting from the sintering stage of the cement production process and has no use other than for the production of cement.²⁰

In the original final determination and both of the previous five-year reviews, the Commission defined the domestic like product to be coextensive with Commerce's scope definition. In none of the prior proceedings was there any dispute about the appropriate like product definition.²¹ Likewise, in this review Domestic Interested Parties assert that the Commission should again define a single domestic like product coextensive with Commerce's scope definition.²²

The record in this review does not indicate that there have been any changes in the product characteristics of cement since the original investigation.²³ In light of this and the lack of any contrary argument, we again define a single domestic like product encompassing those domestically produced gray portland cement and cement clinker products described by the scope definition.

III. DOMESTIC INDUSTRY

Section 771(4)(A) of the Act defines the relevant industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product

¹⁷(...continued)

Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom, Inv. Nos. AA1921-197 (Second Review), 701-TA-319, 320, 325-27, 348, and 350 (Second Review), and 731-TA-573-74, 576, 578, 582-87, 612, and 614-618 (Second Review), USITC Pub. 3899 (January 2007) at 31, n. 117; Internal Combustion Industrial Forklift Trucks from Japan, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 (December 2005) at 8-9; Crawfish Tail Meat from China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 (July 2003) at 4; Steel Concrete Reinforcing Bar from Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 (February 2003) at 4.

¹⁸ 76 Fed. Reg. 54206, 54207 (Aug. 31, 2011).

¹⁹ CR at I-18, PR at I-14.

²⁰ CR at I-15, PR at I-12.

²¹ Original Determination, USITC Pub. 2376 at 13; First Review Determination, USITC Pub. 3361 at 7-8; Second Review Determination, USITC Pub. 3856 at 6.

²² Domestic Interested Parties Response to Notice of Institution at 45.

²³ CR at I-15-22, PR at I-12-17.

constitutes a major proportion of the total domestic production of the product.”²⁴ 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.

A. Regional Industry

1. General Considerations

Section 752(a)(8) of the Act pertains specifically to regional industry analysis in five-year reviews. The statute states that in a five-year review involving a regional industry:

the Commission may base its determination on the regional industry defined in the original investigation under this subtitle, another region that satisfies the criteria established in section 1677(4)(c) of this title, or the United States as a whole. In determining if a regional industry analysis is appropriate for the determination in review, the Commission shall consider whether the criteria established in section 1677(4)(c) of this title are likely to be satisfied if the order is revoked or the suspended investigation is terminated.²⁵

The Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) clarifies that “the Commission is not bound by any determination it may have made in the original investigation regarding the existence of a regional industry.”²⁶ However, the SAA also states that the Commission needs “sufficient evidence” to warrant revisiting its original regional industry determination.²⁷

The Commission takes into account any effect that the order or suspension agreement may have had on the marketing and distribution patterns for the subject product in analyzing whether the market isolation and import concentration criteria are likely to be satisfied in the event of revocation or termination.²⁸ The Commission also takes into account any prior regional industry definition, any product

²⁴ 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.

²⁵ 19 U.S.C. § 1675a(a)(8).

²⁶ SAA, H.R. Rep. No. 103-316, vol. I at 887 (1994).

²⁷ SAA at 887. Specifically, the SAA states:

If there is sufficient evidence to warrant revisiting the original regional industry determination, the Commission may base its likelihood determination on: (1) the regional industry defined by the Commission in the original investigation; (2) another regional industry satisfying the criteria of amended section 771(4)(C); or (3) the United States industry as a whole.

Id. at 887-888.

²⁸ SAA at 888. The SAA specifically states:

Given the predictive nature of a likelihood of injury analysis, the Commission’s analysis in regional industry investigations will be subject to no greater degree of certainty than in a review involving a national industry. Because the issuance of an order or the acceptance of a suspension agreement may have affected the marketing and distribution patterns of the product in question, the Commission’s analysis of a regional
(continued...)

characteristics that lend themselves to a regional market, and whether any changes in the isolation of the region or import concentration are related to the imposition of the order or acceptance of the suspension agreement.²⁹

In considering whether appropriate circumstances exist to use a regional industry analysis in an original investigation, the statute directs the Commission to take a series of steps. The statute provides that:

In appropriate circumstances, the United States, for a particular product market, may be divided into 2 or more markets and the producers within each market may be treated as if they were a separate industry if--

(i) the producers within such market sell all or almost all of their production of the like product in question in that market, and

(ii) the demand in that market is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States.

In such appropriate circumstances, material injury, the threat of material injury, or material retardation of the establishment of an industry may be found to exist with respect to an industry even if the domestic industry as a whole, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of that product, is not injured, if there is a concentration of dumped imports or imports of merchandise benefitting from a countervailable subsidy into such an isolated market and if the producers of all, or almost all, of the production within that market are being materially injured or threatened by material injury, or if the establishment of an industry is being materially retarded, by reason of the dumped imports or imports of merchandise benefitting from a countervailable subsidy. The term “regional industry” means the domestic producers within a region who are treated as a separate industry under this subparagraph.^{30 31}

²⁸(...continued)

industry should take into account whether the market isolation and import concentration criteria in section 771(4)(C) are likely to be satisfied in the event of revocation or termination. Neither the Commission nor interested parties will be required to demonstrate that the regional industry criteria currently are satisfied.

Id.

²⁹ SAA at 888. Specifically, the SAA states:

The Commission should take into account any prior regional industry definition, whether the product at issue has characteristics that naturally lead to the formation of regional markets (*e.g.*, whether it has a low value-to-weight ratio and is fungible), and whether any changes in the isolation of the region or in import concentration are related to the imposition of the order or the acceptance of a suspension agreement.

³⁰ 19 U.S.C. § 1677(4)(C). The changes the URAA made to the regional industry provisions were not intended to affect substantive Commission practice. The URAA added the definition of “regional industry” in the last sentence and made technical language changes. The URAA also amended the statute to require that Commerce “to the maximum extent possible, direct that duties be assessed only on the subject merchandise of the specific exporters or producers that exported the subject merchandise for sale in the region concerned during the period of investigation.” 19 U.S.C. § 1673e(d). Therefore, Commerce will “exclude from the [antidumping duty] order, to the ‘maximum extent possible,’ those exporters or producers that did not export for sale in the region during the period
(continued...)

2. The Commission's Original Determination and Prior Reviews

In the original investigation and both prior five-year reviews, the Commission found that appropriate circumstances existed to conduct a regional industry analysis. In the original investigation, the Commission considered whether the Southern California region, as proposed by petitioners, or a larger region, the State of California, was the appropriate region. The Commission determined that both regions satisfied the market isolation criteria but found the more appropriate region for its analysis was Southern California.³² In the first five-year review, the Commission revisited its regional industry definition, and found that there had been integration of the Northern and Southern regions of California. As such, having found that the market isolation criteria were satisfied, the Commission defined the region as the State of California.³³ In the second review, the Commission again defined the appropriate region for its regional industry analysis to be the State of California.³⁴

3. Analysis

For the reasons discussed below, we determined that the record in this review supports a finding of a regional industry, with the pertinent region defined as the State of California. This is the same region that Domestic Interested Parties advocate that we use.³⁵

The statutory scheme requires that we take into account the Commission's prior regional definitions in determining whether to conduct a regional industry analysis in this third review. In determining whether to proceed on a regional industry basis, the proper inquiry is not whether the regional industry criteria of section 771(4)(c) of the Act are presently satisfied, but whether those criteria are likely to be satisfied if the order subject to review is revoked. Because both this review and the second review were expedited, the most recent detailed information available concerning most of the pertinent market isolation criteria discussed below remains that compiled in the first review.

³⁰(...continued)
of investigation.” SAA at 859-60.

³¹ The Court of International Trade has described the steps taken by the Commission in a regional industry analysis as follows:

The statute sets up three prerequisites which must be satisfied before the Commission can reach an affirmative determination under a regional industry analysis. The Commission must determine that there is: (1) a regional market satisfying the requirements of the statute, (2) a concentration of dumped imports into the regional market, and (3) material injury or threat thereof to producers of all or almost all of the regional production, or material retardation to the establishment of an industry, due to the subsidized or dumped imports. The Commission will move on to the next step only if each preceding step is satisfied.

Texas Crushed Stone Co. v. United States, 822 F. Supp. 773, 777 (Ct. Int'l Trade 1993), aff'd, 35 F.3d 1535, 1542 (Fed. Cir. 1994) (“the ITC’s case-by-case approach represents a ‘legitimate policy choice made by the agency in interpreting and applying the statute.’”).

³² Original Determination, USITC Pub. 2376 at 16-21, 47-50.

³³ First Review Determination, USITC Pub. 3361 at 13-15, 17-18.

³⁴ Second Review Determination, USITC Pub. 3856 at 9-12.

³⁵ See Domestic Interested Parties Response to Notice of Institution at 10-11.

a. *Appropriate Circumstances*

In determining whether to conduct its likely injury analysis, the Commission must take into account characteristics that naturally lead to the formation of a regional market, such as low-value-to-weight ratio and fungibility. In the original investigation, the Commission found that appropriate circumstances existed for a regional industry analysis. Specifically, the Commission found “[g]ray portland cement and clinker has a low value-to-weight ratio and is fungible. Thus, high transportation costs make the areas in which cement is produced and marketed necessarily isolated and insular.”³⁶ Similarly, in the first five-year review, the Commission found appropriate circumstances existed to conduct a regional analysis. In so doing, it noted that cement is fungible and possesses a low value-to-weight ratio. It also found that the ratio substantially affected transportation costs, which were an important component of cement prices. As a result, the Commission found that most cement was shipped to customers within 200 miles of the production site or import terminal.³⁷ In the second review, the Commission found that these conditions had not changed.³⁸

Domestic Interested Parties argue that the conditions that the Commission found justified use of a regional injury analysis in the original determination and the prior reviews have not changed. There is no information in the record of this review to the contrary.³⁹ We therefore find that there are appropriate circumstances to engage in a regional industry analysis.

b. *Appropriate Region*

In the original determination, the Commission considered whether the Southern California region, as proposed by petitioners, or a larger region, the State of California, was the appropriate region. The Commission plurality determined that both regions satisfied the market isolation criteria but found the more appropriate region for its analysis was Southern California.⁴⁰ In the first review, the Commission revisited its regional industry definition, and found that there had been integration of the Northern and Southern regions of California. It found this increasing integration sufficient grounds for revisiting the definition of the region.⁴¹ It also found that the market isolation criteria were satisfied for the State of California region because: (1) cement producers in California shipped 80 to 85 percent of their domestic shipments within that state during the period of review; and (2) U.S. producers outside the state only supplied 3 to 6 percent of State of California regional consumption during the period. Accordingly, having found that the two market isolation criteria were satisfied, the Commission determined that a regional industry existed for the State of California in the first review.⁴²

In the second review, the Commission found that nothing in the record indicated that the patterns cited in the first review supporting the finding that the State of California region satisfied the market

³⁶ Original Determination, USITC Pub. 2376 at 16-17.

³⁷ First Review Determination, USITC Pub. 3361 at 12.

³⁸ Second Review Determination, USITC Pub. 3856 at 9.

³⁹ See generally CR at I-24-25, PR at I-18-19.

⁴⁰ Original Determination, USITC Pub. 2376 at 17-20.

⁴¹ First Review Determination, USITC Pub. 3361 at 14.

⁴² First Review Determination, USITC Pub. 3361 at 14-15.

isolation criteria would likely change in the reasonably foreseeable future. Accordingly, the Commission again defined the State of California as the pertinent region.⁴³

With respect to the market isolation criteria, the record in this review contains neither information beyond that provided in the first review nor any indication that the patterns observed in that review and the original investigation have changed. Accordingly, we again find that the market isolation criteria are satisfied based on information available and define the pertinent regional industry to be gray portland cement and cement clinker producers in the State of California. This is the same region that the Commission defined in the two prior reviews.

c. *Concentration of Imports*

In the next step of the regional industry analysis, the Commission determines whether the statutory requirement of concentration of imports within the pertinent region is satisfied. In the first review the Commission found that the statutory criterion concerning subject import concentration in the State of California region was satisfied. While subject import volume from Japan was very small during the period of review, the percentage of subject imports from Japan entering the State of California was 70 percent in 1998 and 97 percent in 1999. Based on these data and the information from the original investigation, the Commission concluded that upon revocation, subject imports from Japan would be concentrated in the State of California.⁴⁴

In the second review, with respect to concentration of imports, the Commission found that subject imports were virtually nonexistent during the period of review but that at least 50 percent of annual subject imports entered the State of California. It concluded that, based on the shipping patterns observed during the original investigation, when between 67.5 percent and 79.2 percent of total subject imports from Japan entered the State of California, the first review, and that review, subject imports from Japan would likely be concentrated in the State of California if the order was revoked.⁴⁵

The record in this review indicates minimal subject imports, as it did in prior reviews. There were 3,000 tons of subject imports into the United States in 2006, 2,000 tons of which were shipped to California, and 5,000 tons of subject imports into the United States in 2007, 3,000 of which were shipped to California. None of the 6,000 tons of subject imports into the United States in 2008 or the 1,000 tons of subject imports into the United States in both 2009 and 2010 were shipped to California.⁴⁶ Subject imports from Japan never reached 0.1 percent of apparent consumption either nationally or in the State of California for any year from 2006 to 2009.⁴⁷ Subject import data for the period of review are too small and too sporadic to indicate that any change from the shipping patterns observed during the original investigation would be likely if the order under review were revoked.⁴⁸ Consequently, we find that subject imports would likely be concentrated in the State of California if the order was revoked, based on

⁴³ Second Review Determination, USITC Pub. 3856 at 10.

⁴⁴ First Review Determination, USITC Pub. 3361 at 17-18.

⁴⁵ Second Review Determination, USITC Pub. 3856 at 11-12.

⁴⁶ CR/PR, Table I-9.

⁴⁷ CR/PR, Tables I-10, I-11.

⁴⁸ Moreover, the URAA amended the statute to state that when the Commission's affirmative injury determination is based on a regional industry, Commerce shall "to the maximum extent possible, direct that duties be assessed only on the subject merchandise of the specific exporters or producers that exported the subject merchandise for sale in the region concerned during the period of investigation." 19 U.S.C. § 1673e(d)(1). Consequently, current shipment patterns may not be a reliable indicator of likely shipment patterns upon revocation.

information available. In light of this, we conclude that it is appropriate to proceed with a regional injury analysis for the State of California region.

B. Related Parties

Section 771(4)(B) of the Act allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.⁴⁹ Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.⁵⁰ In both prior reviews, the Commission found that California producers Mitsubishi Cement and California Portland were related parties but that appropriate circumstances did not exist to exclude any producer from the domestic industry.⁵¹

The record in this third review indicates that California producers Mitsubishi Cement and California Portland are respectively owned by Mitsubishi Materials and Taiheiyo, each of which produces the subject merchandise in Japan.⁵² Consequently, Mitsubishi Cement and California Portland are subject to exclusion from the domestic industry pursuant to the related parties provision if appropriate circumstances exist. There is, however, very limited data in the record of this expedited review pertaining to the current operations of these companies.⁵³

In light of the lack of complete data in the record pertaining to the current operations of California Portland or Mitsubishi Cement, the Commission's conclusions in the prior reviews that appropriate circumstances did not exist to exclude these firms from the regional industry, and the lack of any contrary argument from Domestic Interested Parties, we find that appropriate circumstances do not exist to exclude California Portland or Mitsubishi Cement from the regional industry. We consequently

⁴⁹ 19 U.S.C. § 1677(4)(B).

⁵⁰ The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party are as follows:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and
- (3) the position of the related producer vis-à-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993).

⁵¹ First Review Determination, USITC Pub. 3361 at 22-23; Second Review Determination, USITC Pub. 3856 at 13. The original determination did not discuss related parties issues.

⁵² CR at I-42-43, I-57-58, PR at I-32, I-44-45; CR/PR, Table I-4.

⁵³ The trade data pertaining to the State of California region for the years from 2005 to 2009 provided in the Commission report were compiled by the U.S. Geological Survey (USGS). CR/PR, Table I-7. It is not possible to ascertain what proportion of these production, shipment, or average unit value data may pertain to the operations of California Portland and/or Mitsubishi Cement, because these firms did not provide data in response to the notice of institution. By the same token, the trade and financial data for California producers in 2010 provided in the Commission report do not contain data for California Portland or Mitsubishi Cement. CR/PR, Table I-5, CR at I-35, PR at I-26.

define the regional industry to include all producers of gray portland cement and cement clinker in the State of California.

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

A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping or countervailing duty order unless (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”⁵⁴ The SAA states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”⁵⁵ Thus, the likelihood standard is prospective in nature.⁵⁶ The U.S. Court of International Trade has found that “likely,” as used in the five-year review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.^{57 58 59}

⁵⁴ 19 U.S.C. § 1675a(a).

⁵⁵ SAA at 883-84. The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

⁵⁶ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

⁵⁷ See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”, aff’d mem., 140 Fed. Appx. 268 (Fed. Cir. 2005); Nippon Steel Corp. v. United States, 26 CIT 1416, 1419 (2002) (same); Usinor Industeel, S.A. v. United States, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); Usinor v. United States, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

⁵⁸ For a complete statement of Chairman Okun’s interpretation of the likely standard, see Additional Views of Vice Chairman Deanna Tanner Okun Concerning the “Likely” Standard in Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Argentina, Brazil, and Germany, Inv. Nos. 731-TA-707 -709 (Review)(Remand), USITC Pub. 3754 (Feb. 2005).

⁵⁹ Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape From Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004), she does not concur with the U.S. Court of International Trade’s interpretation of “likely,” but she will apply the Court’s standard in this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue.

The Act states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”⁶⁰ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”⁶¹

Although the standard in a five-year review is not the same as the standard applied in an original antidumping duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”⁶² It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).⁶³ The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination.⁶⁴

Under a regional industry injury analysis, producers of “all or almost all” of the production in the region must be materially injured or threatened with material injury by reason of the subject imports.⁶⁵ There is no specification in the statute or prior Commission determinations as to what percentage of domestic production constitutes “all or almost all” in the context of a regional injury analysis. The Court of International Trade has held that, for determining the “all or almost all” criterion, “a numerical analysis would not be appropriate under the regional injury provision . . . [because] numerous factors must be considered and a quantitative analysis is inappropriate.”⁶⁶ The Court of International Trade has held that the “Commission did not err in failing to apply a fixed percentage test of eighty to eighty-five percent” in determining whether a regional industry was injured.⁶⁷

Generally, after determining whether the aggregate regional data show material injury, the Commission next examines individual producer data “as appropriate to determine whether anomalies exist that an aggregate analysis would disguise.”⁶⁸ In examining individual producer data, the

⁶⁰ 19 U.S.C. § 1675a(a)(5).

⁶¹ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” Id.

⁶² 19 U.S.C. § 1675a(a)(1).

⁶³ 19 U.S.C. § 1675a(a)(1). We note that Commerce made no duty absorption findings. CR a I-8, PR at I-7.

⁶⁴ 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

⁶⁵ 19 U.S.C. § 1677(4)(c).

⁶⁶ Mitsubishi Materials Corp. v. United States, 820 F. Supp. 608, 616, 617 (Ct. Int’l Trade 1993); Cemex, S.A. v. United States, 790 F. Supp. 290, 294 (Ct. Int’l Trade 1992), aff’d, 989 F.2d 1202 (Fed. Cir. 1993).

⁶⁷ Mitsubishi Materials, 820 F. Supp. at 616, 617; Cemex, 790 F. Supp. at 294.

⁶⁸ Steel Concrete Reinforcing Bars from Turkey, Inv. No. 731-TA-745 (Final), USITC Pub. 3034 at 23 & nn.141-42 (April 1997). Accord Mitsubishi Materials, 820 F. Supp. at 617, 618; compare Mitsubishi Materials

(continued...)

Commission is “not required to adopt the pure plant-by-plant inquiry” and “[u]se of either a straight aggregate or pure plant-by-plant method in determining injury in a regional analysis is not mandated by statute or case law.”⁶⁹

While neither the statute nor the legislative history provides specific guidance on how the “all or almost all” requirement should be applied to the prospective likelihood of continuation or recurrence of material injury analysis in a five-year review, the CIT has approved the Commission’s application of this standard in an affirmative threat determination.⁷⁰ For purposes of our regional industry analysis in this review, we consider available data concerning the performance of individual regional producers as well as the performance of the regional industry in the aggregate.

As discussed above, only the Domestic Interested Parties responded to the Commission notice of institution in this review. Accordingly, when appropriate in this review, we have relied on the facts otherwise available, which consist of information from the original investigation and the first and second five-year reviews, as well as information submitted in this review, including information submitted by Domestic Interested Parties and information available from published sources.^{71 72}

⁶⁸(...continued)

Corp. v. United States, 918 F. Supp. 422, 427 (Ct. Int’l Trade 1996) (aggregate analysis of regional producers sufficient to satisfy the “all or almost all” standard where industry conditions were common to each regional producer); Cemex, 790 F. Supp. at 294-296 (“to the extent that some safeguard is required to assure that the ‘all or almost all’ standard is met, it was satisfied by examination of data regarding individual plants”).

⁶⁹ Mitsubishi Materials, 820 F. Supp. at 618; Cemex, 790 F. Supp. at 294, 296.

⁷⁰ In affirming the Commission’s affirmative threat determination on remand in original determination, the Mitsubishi Materials court stated:

This Court does not need to determine, however, whether the Commissioners’ analysis in this regard was sufficient to satisfy the all or almost all standard because their use of aggregate data in this case was appropriate. The factors supporting imminent threat to all or almost all of the industry are based on industry conditions common to each and every domestic producer in the Southern California market.

918 F. Supp. at 427.

⁷¹ 19 U.S.C. § 1677e(a) authorizes the Commission to “use the facts otherwise available” in reaching a determination when (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to 19 U.S.C. § 1677m(i). The verification requirements in 19 U.S.C. § 1677m(i) are applicable only to Commerce. See Titanium Metals Corp. v. United States, 155 F. Supp. 2d 750, 765 (Ct. Int’l Trade 2002) (“the ITC correctly responds that Congress has not required the Commission to conduct verification procedures for the evidence before it, or provided a minimum standard by which to measure the thoroughness of Commission investigations.”).

⁷² Chairman Okun notes that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. See 19 U.S.C. § 1677e. She generally gives credence to the facts supplied by the participating parties and certified by them as true, but bases her decision on the evidence as a whole, and does not automatically accept participating parties’ suggested interpretations of the record evidence. Regardless of the level of participation, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.” SAA at 869.

B. Conditions of Competition and Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁷³

1. The Commission’s Original Determination and Prior Reviews

In the original investigation, the Commission found that due to its low value-to-weight ratio, U.S. inland transportation costs accounted for a relatively large share of the delivered price of cement and that the distances to which cement is shipped were limited. As such, the Commission found that the cement market was regional in nature.⁷⁴ The Commission also found that “[c]ement production historically has been subject to cyclical performance, with poor performance in periods of low or declining consumption, and boom performance during periods of high or increasing consumption.”⁷⁵

In the first five-year review, the Commission found cement was a fungible, commodity product, that the domestically produced and imported products were readily interchangeable, and that price was an important purchasing factor. The Commission also found that due to its low value-to-weight ratio, U.S. inland transportation costs accounted for a relatively large share of the delivered price of cement and the distances to which cement was shipped were limited. As a result, the Commission observed, the cement market was regional in nature.⁷⁶

The Commission also found that demand for cement in the California region had increased since the original period of investigation. It pointed out that demand for cement was dependent upon the demand for concrete, which is essential to construction for residential and commercial building as well as highways. Since demand for concrete and cement accounted for only a small cost of construction, the Commission found that it was relatively inelastic. It also stated that demand for cement tended to be cyclical in nature because it was determined by the level of general construction.⁷⁷

Next, the Commission found that increases in regional production capacity had not kept pace with increases in demand since the original investigation and particularly during the first period of review. The Commission found that these constraints in domestic production capacity resulted in increasing volumes of non-subject imports. However, the Commission noted that regional producers indicated that a substantial amount of new production capacity was to come on line in the State of California region within two years. It emphasized that the cement industry was highly capital intensive. Because of high fixed costs, cement producers sought to operate at high capacity utilization levels in order to maximize return on investments.⁷⁸

⁷³ 19 U.S.C. § 1675a(a)(4).

⁷⁴ Original Determination, USITC Pub. 2376 at 16-17.

⁷⁵ Original Determination, USITC Pub. 2376 at 28.

⁷⁶ First Review Determination, USITC Pub. 3361 at 32.

⁷⁷ First Review Determination, USITC Pub. 3361 at 32-33.

⁷⁸ First Review Determination, USITC Pub. 3361 at 35-36.

The Commission further found that a substantial proportion of regional cement production was owned by large international corporations. Additionally, there was a significant degree of vertical integration between regional cement producers and the downstream ready-mix concrete operations.⁷⁹

In the second review, the Commission emphasized that several of the principal conditions of competition it found in the prior proceedings were still applicable. Cement continued to be a highly fungible commodity product readily interchangeable regardless of the country of origin. Price continued to be an important purchasing factor, and the U.S. market for cement continued to be regional in nature due to relatively high inland transportation costs. Demand for cement continued to be dependent on the demand for concrete, was tied to construction activity and hence cyclical in nature, and relatively inelastic.⁸⁰ The Commission observed that the domestic interested parties reported increased demand for cement in California during the period of review due to record levels of new residential construction.⁸¹ During the period of review, regional cement production rose.⁸² Subject imports from Japan were nearly non-existent, but the quantity of nonsubject imports increased by 51.2 percent from 2001 to 2005.⁸³

As in the prior review, the majority of production operations in the regional industry were foreign owned and there was a significant degree of vertical integration between the regional cement producers and downstream ready-to-mix concrete operations.⁸⁴ The Commission found that the cement industry continued to be highly capital-intensive, and that production facilities must operate at high capacity utilization levels to maximize the return on investment.

2. The Current Review

Gray portland cement is used predominantly in the production of concrete, which in turn is almost entirely used in the construction industry.⁸⁵ Consequently, demand for cement will be a function of demand in the construction industry. Cement accounts for only a very small percentage of total construction costs.⁸⁶ Accordingly, a decline in the price of cement will not by itself stimulate significant additional demand for the product.

Construction activity is highly cyclical.⁸⁷ Domestic Interested Parties indicate that the period of review coincided with a negative cycle in construction demand in California due to the global recession and collapse of the housing market in that state.⁸⁸ Indeed, the record indicates sharp declines in apparent consumption of cement in the State of California during the portion of the period of investigation for

⁷⁹ First Review Determination, USITC Pub. 3361 at 33-34.

⁸⁰ Second Review Determination, USITC Pub. 3856 at 19.

⁸¹ Second Review Determination, USITC Pub. 3856 at 20.

⁸² Second Review Determination, USITC Pub. 3856 at 20.

⁸³ Second Review Determination, USITC Pub. 3856 at 20-21.

⁸⁴ Second Review Determination, USITC Pub. 3856 at 20.

⁸⁵ CR/PR, Table I-3, CR at I-18, PR at I-14.

⁸⁶ See Domestic Interested Parties Response to Notice of Institution at 9 n.12.

⁸⁷ CR at I-47, PR at I-36.

⁸⁸ Domestic Interested Parties Response to Notice of Institution at 29, att. 13.

which data are available. The available data indicate that apparent consumption fell each year from 2006 to 2009, declining from 19.6 million short tons in 2006 to 8.1 million short tons in 2009.⁸⁹

The regional industry consists of ten production facilities operated by six firms. Five of the six firms have foreign ownership, and two of the firms, California Portland and Mitsubishi Cement, are owned by companies that produce subject merchandise in Japan.⁹⁰ Since the second review, one production facility in California was shuttered, and a facility in Cupertino, CA was purchased by Lehigh, which also operates two other plants in California.⁹¹ The available data indicate that capacity of the regional industry fluctuated within a relatively narrow range.⁹²

During the 2006-09 period for which data are available, the regional industry accounted for an increasing majority of the supply of cement to the State of California, with nearly all remaining supply being furnished by imports from countries other than Japan.⁹³ Subject imports accounted for less than 0.05 percent of apparent regional consumption throughout the 2006-09 period.⁹⁴

Several other pertinent conditions of competition remain unchanged from those that the Commission found in the original investigation and prior reviews. Cement remains a fungible product. The domestic like product and imported product, including the subject imports from Japan, are readily interchangeable.⁹⁵ Because of its value to weight ratio and fungible character, transportation costs are an important limiting factor on shipments of cement.⁹⁶

Additionally, the cement industry remains highly capital intensive, with relatively high fixed costs compared with marginal and variable costs.⁹⁷ Domestic Interested Parties assert that these high fixed costs create an incentive to producers to maximize capacity utilization to the extent possible.⁹⁸ Cement production also involves energy costs, with the major sources of energy used in production including coal, fuel oil, and natural gas.⁹⁹

⁸⁹ CR/PR, Table I-11. Domestic Interested Parties report further declines in apparent consumption in 2010. Domestic Interested Parties Response to Notice of Institution, att. 13.

⁹⁰ CR/PR, Table I-4.

⁹¹ CR/PR, Table I-4, CR at I-31, PR at I-23.

⁹² CR/PR, Table I-7.

⁹³ The share of the California market furnished by imports from sources other than Japan declined from 38.5 percent in 2006 to 2.8 percent in 2009. CR/PR, Table I-11.

⁹⁴ CR/PR, Table I-11.

⁹⁵ CR at I-15, PR at I-12.

⁹⁶ CR at I-24, PR at I-18.

⁹⁷ CR at I-24, PR at I-18.

⁹⁸ Domestic Interested Parties Response to Notice of Institution at 7.

⁹⁹ CR at I-22, PR at I-17.

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the order under review were revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.¹⁰⁰ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.¹⁰¹

1. The Commission’s Original Determination and Prior Reviews

In the remand determination for the original investigation, the Commission found that the volume of subject imports from Japan was significant, quadrupling from 1986 to 1989 before declining in 1990. The market share of subject imports from Japan in the Southern California region increased from 4.9 percent in 1986 to 18.2 percent in 1989, before declining to 14.7 percent in 1990.¹⁰²

In the first review determination, the Commission found that the subject imports from Japan were likely to be significant if the order was revoked. The Commission cited the large increase in subject imports from Japan during the original period of investigation. It observed that subject imports from Japan had virtually ceased during the first period of review. However, it found that the volume of subject imports from Japan would likely be significant following revocation of the order given Japanese excess production capacity and established distribution systems in California.¹⁰³

During the period from 2001 to 2005 examined in the second five-year review, subject imports from Japan were nearly non-existent, amounting to under 3,500 tons for the five-year period.¹⁰⁴ The Commission found based on the information available that revocation of the antidumping duty order would likely result in significant subject import volumes in the State of California region, both in absolute terms and relative to consumption. The Commission observed that the information available concerning the Japanese cement industry – which was largely information from the original investigation – indicated substantial unused capacity. The Commission found that the subject producers would have incentive to use this capacity to resume exports to the State of California region in light of their desire to attain full capacity utilization. It also found that subject producers would have incentive to shift some exports destined for third-country markets to California in light of the increasing competition they were facing from national producers in China and India.¹⁰⁵

¹⁰⁰ 19 U.S.C. § 1675a(a)(2).

¹⁰¹ 19 U.S.C. § 1675a(a)(2)(A-D).

¹⁰² Remand Determination, USITC Pub. 2657 at 11. As previously discussed, the Commission plurality’s analysis of subject import volume in the original determination was remanded because it cumulated subject imports from Japan and Mexico.

¹⁰³ First Review Determination, USITC Pub. 3361 at 43-44.

¹⁰⁴ Second Review Determination, USITC Pub. 3856 at 21.

¹⁰⁵ Second Review Determination, USITC Pub. 3856 at 21-22.

The Commission acknowledged that the subject producers' ownership or control of cement production facilities in California could restrain somewhat the quantity of subject imports. It found, however, that imports were likely to increase significantly because they did so during the original investigation period notwithstanding that the subject producers owned substantial regional production facilities at that time.¹⁰⁶

2. The Current Review

During the period of review, minimal quantities of subject imports entered the State of California. The quantity of subject imports into the State of California was 2,000 short tons in 2006, 3,000 short tons in 2007, and zero in 2008, 2009, and 2010.¹⁰⁷ Subject imports accounted for 0.04 percent or less of apparent regional consumption during each year of the period of review.¹⁰⁸ As discussed above, our prior review determinations found that subject imports have been present in the State of California only in minimal quantities since imposition of the order.

Because no exporter of subject merchandise responded to the notice of institution, the record in this review contains limited information about the cement industry in Japan. The public data in the record indicate that the Japanese cement industry remains substantial although it has undergone some contraction since the original investigation and there were declines in clinker capacity from 2005 to 2009.¹⁰⁹ USGS ranks Japan as the sixth largest hydraulic cement industry in the world in 2010.¹¹⁰

The available public data also indicate declining clinker capacity utilization for the Japanese cement industry for the period 2005 through 2009, with clinker capacity utilization in 2009 at 79.0 percent.¹¹¹ During the 2005-09 period, the quantity of export shipments by the Japanese industry fluctuated within a fairly narrow range while domestic shipments fell. As a result, the Japanese industry exported an increasing percentage of its production during this period, with exports accounting for 19.7 percent of total shipments in 2009.¹¹²

We find that subject import volume from Japan would likely be significant, as it was during the original investigation, absent the restraining effects of the order. The existence of unused capacity, particularly in an industry where there is a strong incentive for producers to maximize production, indicates that the subject producers have both the ability and the incentive to increase production and use that production to increase exports of subject merchandise to the United States.

Additional factors further support the proposition that the subject producers would likely direct significant additional exports to the United States upon revocation of the antidumping duty order. One is the pattern of declining home-market shipments observed during the portion of the period of the review

¹⁰⁶ Second Review Determination, USITC Pub. 3856 at 22.

¹⁰⁷ CR/PR, Table I-9.

¹⁰⁸ CR/PR, Tables I-9, I-11.

¹⁰⁹ CR/PR, Table I-14; CR at I-55, PR at I-43. This is based on data from the Japan Cement Association. These data appear to encompass portland and blended cement, a category somewhat broader than the subject merchandise. See <http://www.jcassoc.or.jp/cement/2eng/ea.html>, as cited in Domestic Interested Parties Response to Notice of Institution at 13 n.22.

¹¹⁰ CR at I-53-54, PR at I-41.

¹¹¹ CR/PR, Table I-14. We observe that the capacity utilization data the Commission calculated in the original investigation were based on clinker capacity and indicated unused capacity. INV-O-057 at A-71, EDIS Doc. 453965.

¹¹² CR/PR, Table I-14.

for which data are available.¹¹³ Another is likely lack of growth in existing export markets. During the first five-year review, Japanese producers identified *** as their principal export markets.¹¹⁴ During the current period of review, there was very substantial growth in the cement industries of China and India, which are now the two largest cement producing countries in the world.¹¹⁵ The largely static quantity of export shipments for the Japanese industry for the period of review indicated in available public data would suggest that, in light of cement production growth elsewhere in Asia, significant growth in existing export markets has not occurred and is not likely in the foreseeable future.

As discussed above, Japanese producers own or control cement production facilities in the State of California. Japanese producers also owned or controlled production facilities in California during the original period of investigation and during both prior reviews.¹¹⁶ While these relationships between regional and subject producers may constrain somewhat the volume of subject imports from Japan if the order is revoked, the volume of the subject imports is nevertheless likely to increase significantly. Indeed, substantial ownership of California production facilities did not prevent Japanese subject producers from exporting significant volumes of subject merchandise to the region during the original investigation. Moreover, the Japanese subsidiaries' established customer base and distribution system would enable Japanese subject producers quickly to increase sales of subject merchandise in the region if the order was revoked.

Consequently, based on the record in this review, we conclude that the volume of subject imports likely would be at a significant level and that the subject imports would obtain significant regional market share if the order were revoked. Accordingly, we conclude that the likely volume of the subject merchandise, both in absolute terms and relative to consumption in the State of California region, would be significant, absent the restraining effect of the order.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the order under review were revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports in relation to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.¹¹⁷

¹¹³ CR/PR, Table I-14.

¹¹⁴ CR at I-57-59, PR at I-44-45.

¹¹⁵ CR/PR, Table I-13.

¹¹⁶ CR/PR, Table I-4.

¹¹⁷ See 19 U.S.C. § 1675a(a)(3). The SAA states that “{c}onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

1. The Commission's Original Determination and Prior Reviews

In the original investigation, the Commission found that cumulated subject imports had significant adverse price effects on the Southern California regional industry. It found that, given their predominant underselling and increasing volume, the high substitutability of cement, and inelastic demand, subject imports from Japan had a “suppressing and depressing effect for cement in Southern California.”¹¹⁸

In the first five-year review, the Commission found that subject imports from Japan would likely have significant price effects if the order were revoked. It emphasized that in the original investigation, subject imports from Japan consistently undersold the domestic like product. Noting that the record did not contain pricing information for the first period of review, the Commission found that subject imports and the domestic like product were highly substitutable and that price was an important factor in purchasing decisions. It determined that the subject imports would likely be aggressively priced in order to gain market share. Conversely, it found that “the regional industry’s capacity expansion projects and the resultant increase in supply” would likely increase price sensitivity in the market.¹¹⁹

In the second five-year review, the Commission found that, based on the limited facts available, the subject imports would undersell the domestic like product should the antidumping order be revoked. It explained that the subject producers would have the incentive to cut prices to capture market share. Additionally, the regional producers’ expanded capacity had increased price sensitivity in the market. Because cement from different sources was fungible and lower prices would not serve to stimulate significant additional demand, the Commission concluded that the likely underselling by the subject imports would likely have the effect of significantly depressing or suppressing prices in the regional market.¹²⁰

2. The Current Review

As previously discussed, subject imports have essentially been absent from the regional market since imposition of the order. Additionally, the Commission did not receive any information from importers of the subject merchandise in this review, and did not receive any questionnaire data concerning subject import pricing in either of the prior reviews.¹²¹ Consequently, the most recent pricing data in the record is from the original investigation, which showed that subject imports from Japan consistently undersold the domestic like product in the pertinent region.

Based on the limited information available in this third review, we find it likely that, upon revocation of the antidumping duty order, there would be significant underselling by the subject imports. As discussed in section IV.C. above, the subject producers have an incentive to use their excess capacity significantly to increase exports of subject merchandise to the State of California. Because cement is a fungible product, importers of the subject merchandise would likely capture market share by undercutting the prices offered by regional producers, as they did in the original investigation. Because price reductions will not stimulate appreciable additional demand for cement, we find that the likely underselling by the subject imports would likely significantly depress or suppress regional prices if the order were revoked.

¹¹⁸ Remand Determination, USITC Pub. 2657 at 12-13, 27-29.

¹¹⁹ First Review Determination, USITC Pub. 3361 at 44-45.

¹²⁰ Second Review Determination, USITC Pub. 3856 at 23.

¹²¹ CR at I-43, PR at I-32-33.

For the foregoing reasons, we find that revocation of the antidumping duty order would likely lead to significant underselling by subject imports, and would likely result in significant depressing or suppressing effects on products produced by the regional industry.

E. Likely Impact of Subject Imports¹²²

In evaluating the likely impact of imports of subject merchandise if the order under review were revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.¹²³ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the order at issue and whether the industry is vulnerable to material injury if the order were revoked.¹²⁴

1. The Commission's Original Determination and Prior Reviews

In the original investigation, the Commission found material injury by reason of subject imports due to the volume of imports, their increasing market penetration, and their effect on prices.¹²⁵ The Commission specifically noted the effects of the dumped imports on the condition of the regional industry and emphasized that it examined information pertaining to the individual producers in the region.¹²⁶

¹²² The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, 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 may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885, 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Tariff Act states that “the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy” in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year reviews as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887.

Commerce conducted an expedited third five-year review with respect to the antidumping order on subject imports from Japan. It found likely dumping margins of 69.89 percent for Nihon Cement Co., 70.52 percent for Onoda Cement Co., and an all-others rate of 70.23 percent. 76 Fed. Reg. at 54207.

¹²³ 19 U.S.C. § 1675a(a)(4).

¹²⁴ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, 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 may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

¹²⁵ Original Determination, USITC Pub. 2376 at 43-44; Remand Determination, USITC Pub. 2657 at 7-11.

¹²⁶ Remand Determination, USITC Pub. 2657 at 9 n.41, 23-25.

The Commission found in the first five-year review that the subject imports from Japan would likely have a significant adverse impact on the regional producers in California. In so doing, the Commission found that the imposition of the order appeared to have had a beneficial effect on the regional industry, noting that the regional industry's production and operating margins had improved. Although the Commission found that the industry was not in a vulnerable state, it observed that demand in California was projected to increase at a slower rate or remain flat and that California producers were undertaking or had announced plans to expand capacity. Thus, given the likely significant volume and price effects if the order was revoked, the Commission found that subject imports would have a significant adverse impact on the regional industry if the order was revoked.¹²⁷

The Commission's analysis in the second-five year review of the likely impact of subject imports followed from its prior findings that revocation would likely result in significant additional volumes of subject imports that would undersell the domestic like product and have significant adverse price effects. It found that the additional subject imports would cause the regional industry to lose market share. Additionally, reduced output and capacity utilization would be particularly harmful to the capital-intensive cement industry. The industry's production, shipments, sales, and revenues would likely be adversely affected, leading to consequent declines in profitability and employment.¹²⁸

The Commission additionally examined performance of the individual producers in the region to ascertain that the statutory "all or almost all" standard was satisfied. It observed that while a substantial proportion of the industry was owned or controlled by the subject producers, "the interests of the Japanese operations would likely not be secondary to those of their comparatively small California subsidiaries." Additionally, even if a subject producer could attempt to direct its imports in a manner to shield a California affiliate's operations, that affiliate would still be adversely affected by imports from other subject producers. Accordingly, the Commission concluded that revocation of the antidumping duty order would likely result in a significant adverse impact to the regional industry.¹²⁹

2. The Current Review

The data available in this expedited review concerning the condition of the domestic industry during the period of review include USGS data covering the years from 2005 to 2009, and information for 2010 that the four producers which constitute the Committee submitted in the response to notice of institution.¹³⁰ USGS data indicate that from 2005 to 2009, both clinker capacity and cement grinding capacity for the regional industry fluctuated on an annual basis within a fairly narrow range. Cement capacity increased by 3.5 percent from 2005 to 2009. Clinker capacity rose by 5.8 percent from 2005 to 2009.¹³¹

¹²⁷ First Review Determination, USITC Pub. 3361 at 45-47.

¹²⁸ Second Review Determination, USITC Pub. 3856 at 25. The Commission found that there was insufficient information in the record to permit it to reach a determination whether the regional industry was vulnerable. Id. at 24-25.

¹²⁹ Second Review Determination, USITC Pub. 3856 at 25.

¹³⁰ The available USGS data encompass portland and blended cement, a product category somewhat broader than the domestic like product. See CR/PR, Table I-7. We observe that Domestic Interested Parties have cited the USGS data as indicative of trends for the regional industry. We find they constitute the most probative time series of information available concerning the regional industry during the period of review.

¹³¹ The USGS data show cement capacity increasing from 14.5 million short tons in 2005 to 15.0 million short tons in 2009 and clinker capacity increasing from 14.2 million short tons in 2005 to 15.1 million short tons in 2009.

(continued...)

Production, as measured by the USGS data, declined sharply from 2005 to 2009. During this period, cement production declined by 38.1 percent, and clinker production declined by 42.3 percent.¹³² Because capacity was relatively stable while production declined, capacity utilization fell. USGS data indicate that capacity utilization for cement declined from 88.0 percent in 2005 to 52.7 percent in 2009, and that capacity utilization for clinker fell from 88.7 percent in 2005 to 48.4 percent in 2009.¹³³ For the four members of the Committee, capacity utilization for their California operations in 2010 was 49.5 percent for cement and 54.1 percent for clinker.¹³⁴ USGS data indicate that inventories of both cement and clinker fluctuated during the period for which data are available, and rose between 2005 and 2009.¹³⁵

Data on shipments of the regional industry compiled by USGS indicate a sharp decline in shipments of cement from 2005 to 2009. Cement shipments fell each year, declining by 57.5 percent during this period.¹³⁶

The sole information in the record concerning regional industry financial performance during the period of review is the 2010 data submitted by the four members of the Committee. These producers sustained a \$90.4 million operating loss on their California operations producing cement in 2010, and their operating margin was negative 24.5 percent.¹³⁷

The limited record in this review is insufficient for us to make a finding on whether the regional industry is vulnerable to the continuation or recurrence of material injury in the event of revocation of the order.¹³⁸

¹³¹(...continued)

CR/PR, Table I-7. The four members of the Committee reported cement capacity of 9.0 million short tons and clinker capacity of 10.2 million short tons in 2010. CR/PR, Table I-5.

¹³² The USGS data show cement production declining from 12.7 million short tons in 2005 to 7.9 million short tons in 2009 and clinker production declining from 12.6 million short tons in 2005 to 7.3 million short tons in 2009. CR/PR, Table I-7. The four members of the Committee reported cement production of 5.1 million short tons and clinker production of 4.9 million short tons in 2010. CR/PR, Table I-5.

¹³³ CR/PR, Table I-7.

¹³⁴ CR/PR, Table I-5.

¹³⁵ CR/PR, Table I-7.

¹³⁶ CR/PR, Table I-7. The four members of the Committee reported *** short tons of U.S. commercial shipments of cement, *** short tons of internal consumption of cement, and 4.8 million short tons of internal consumption of clinker in 2010. CR/PR, Table I-5.

¹³⁷ CR/PR, Table I-5. The regional industry's operating margin was 5.6 percent in 1989 and ranged as high as 32.4 percent during the first period of review when strong demand conditions prevailed. See First Review Determination, USITC Pub. 3361 at 40.

¹³⁸ Commissioner Charlotte R. Lane finds that the regional industry is vulnerable to material injury. The industry's reported capacity for cement in 2009 was lower than any point during the periods examined in the first and second five-year reviews except in 2005. The industry's reported capacity for clinker was lower in 2009 than in 2008, even though its capacity was slightly higher in the more distantly examined periods. Cement and clinker production declined sharply from 2005 to 2009, by 38.1 percent and 42.3 percent respectively. Even when capacity was declining at a slower rate than production, the industry reported declining cement and clinker capacity utilization rates. The capacity utilization rates for cement fell from 88.0 percent in 2005 to 52.7 percent in 2009 and the capacity utilization rate for clinker fell from 88.7 percent in 2005 to 48.4 percent in 2009. CR/PR at Table I-7. In addition, the industry's cement U.S. shipments fell each year from 2005 to 2009, declining by 57.5 percent over the period. Id. Although the financial performance data during the period of the review does not include all California producers of cement and clinker, I find that the data provided by the four Committee members, which

(continued...)

As discussed above, revocation of the antidumping duty order would likely lead to a significant volume of subject imports into the State of California region, and these subject imports would likely undersell the domestic product and significantly depress or suppress the regional industry's prices. By using underselling to regain their presence in the California regional market, the subject imports will likely take market share away from the regional industry, which during the most recent years for which data are available supplied the overwhelming share of the California market.¹³⁹ This loss in market share and consequent decreases in capacity utilization, which is currently at low levels, would be particularly harmful in this capital intensive industry, as cement producers seek to maintain high capacity utilization levels and operating margins to meet fixed costs and to justify capital expenditures. In addition, the volume and price effects of the subject imports would likely have a significant adverse impact on the domestic industry's production, shipments, sales, and revenue levels.

Reductions in the regional industry's production, shipments, sales, and revenue levels would have a direct adverse impact on the industry's profitability as well as its ability to raise capital and make and maintain necessary capital investments. In addition, we find it likely that revocation of the order will result in employment declines for the regional firms commensurate with reduced production and profitability.

While we have analyzed the statutory factors regarding the aggregate data for the regional industry, we have also examined the performance of individual regional producers to look for anomalies as a safeguard "to assure that the 'all or almost all' standard [was] met."¹⁴⁰ We specifically examined the producer-specific information for 2010 submitted by the individual members of the Committee. This indicates that the individual members currently have uniformly poor operating performance, ***.¹⁴¹ Japanese subject producers own or control the regional gray portland cement production not accounted for by the members of the Committee.¹⁴² As previously discussed, this common ownership and control will likely serve to constrain to some extent the volume of subject imports upon revocation. Nevertheless, those subject imports that do enter the market would likely be priced in a manner to undersell regional production, and thus would have adverse effects on all regional producers, including those affiliated with Japanese producers. As discussed above, the substantial unused production capacity of the Japanese cement industry, together with the industry's desire to increase capacity utilization levels to meet high fixed costs, would provide necessary incentive for the Japanese producers to increase shipments to the California region if the order is revoked. Without the discipline of the order, the interests of the Japanese operations likely would not be secondary to those of their comparatively small California subsidiaries. Ownership of California facilities did not prevent Japanese producers from shipping significant quantities of cement at low prices to the California region in the original investigation. Moreover, even if an individual subject producer attempted to direct its imports to shield its regional affiliate's production, that regional affiliate likely would still be adversely affected by imports from other subject producers in light of the fungible nature of cement.

¹³⁸(...continued)

account for 64.4 percent and 65.9 percent of total production in California of cement and cement clinker in 2010, is reflective of the California cement and clinker industry in this region. The Committee members suffered a \$90.4 million operating loss on their California cement production in 2010, and their negative operating income margin of 24.5 percent in 2010. *Id.*; Domestic Interested Parties Response to Notice of Institution, att. 15.

¹³⁹ CR/PR, Table I-11.

¹⁴⁰ *Cemex*, 790 F. Supp. at 296.

¹⁴¹ Domestic Interested Parties Response to Notice of Institution, att. 15.

¹⁴² CR/PR, Table I-4.

We also have considered the role of factors other than subject imports, so as not to attribute likely injury from other factors to the subject imports. We observe first that some of the difficulties that the regional industry experienced during the period of review, particularly declining production and shipments, are to some extent a function of reduced construction activity due to poor economic conditions. As previously discussed, the cement industry is cyclical in nature. Additional subject imports offered at low prices during a period of weakened demand will simply exacerbate the regional industry's difficulties. We have also considered the role of nonsubject imports, which declined during the period of review. Because during the most recent period for which data are available, California producers were responsible for the overwhelming percentage of apparent regional consumption,¹⁴³ we find that the market share gains likely due to increased volumes of subject imports will likely be significantly at the expense of the regional industry. Accordingly, we find that declines in demand and the presence of nonsubject imports are not likely to sever the causal nexus between subject imports and their likely significant adverse impact on the domestic industry if the order were revoked.

Accordingly, based on the limited record in this review, we conclude that, if the antidumping duty order is revoked, subject imports from Japan would be likely to have a significant adverse impact on the State of California industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we have determined that revocation of the antidumping duty order on gray portland cement and cement clinker from Japan would be likely to lead to continuation or recurrence of material injury to the State of California industry within a reasonably foreseeable time.

¹⁴³ CR/PR, Table I-11.

INFORMATION OBTAINED IN THE REVIEW

INTRODUCTION

Background

On May 2, 2011, in accordance with section 751(c) of the Tariff Act of 1930, as amended (“the Act”),¹ the U.S. International Trade Commission (“Commission”) gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on gray portland cement and cement clinker from Japan would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.^{2 3} On August 5, 2011, the Commission determined⁴ that the domestic interested party group response to its notice of institution was adequate⁵ and that the respondent interested party group response was inadequate.⁶ In the absence of respondent interested party responses and any other circumstances that would warrant the conduct of a full review, the Commission determined to conduct an expedited review of the antidumping duty order pursuant to section 751(c)(3) of the Act (19 U.S.C. § 1675(c)(3)).⁷ The proposed date for the Commission’s vote on this review is November 17, 2011. The Commission will notify Commerce of its determination on December 2, 2011. The following tabulation presents selected information relating to the schedule of this five-year review.⁸

¹ 19 U.S.C. 1675(c).

² *Gray Portland Cement and Cement Clinker From Japan; Institution of a Five-Year Review Concerning the Antidumping Duty Order on Gray Portland Cement and Cement Clinker From Japan*, 76 FR 24519, May 2, 2011. All interested parties were requested to respond to this notice by submitting the information requested by the Commission. The Commission’s notice of institution is presented in app. A.

³ In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of a five-year review of the subject antidumping duty order concurrently with the Commission’s notice of institution. *Initiation of Five-Year (“Sunset”) Review*, 76 FR 24459, May 2, 2011.

⁴ Commissioner Dean A. Pinkert is not participating in this review.

⁵ The Commission received one submission in response to its notice of institution in the subject review. It was filed on behalf of the Committee For Fairly Traded Japanese Cement (the “Committee”); the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers (“Boilermakers”); the United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (“Steelworkers”); the International Union of Operating Engineers (“Operating Engineers”); and Local Lodge 93, International Association of Machinists and Aerospace Workers (“Machinists Local 93”)(collectively “domestic interested parties”). The Committee is an ad hoc association of the following four domestic producers of gray portland cement: Cemex, Inc. (“Cemex”); Lehigh Southwest Cement Co. (“Lehigh”); National Cement Co. of California, Inc. (“National”); and Riverside Cement Co. (“Riverside”). The Boilermakers represent workers at Lehigh. The Steelworkers represent workers at Lehigh, California Portland Cement Co. (“California Portland”), National, Riverside, and Cemex. The Operating Engineers represent workers at California Portland and Lehigh. The Machinists Local 93 represent workers at Lehigh and Cemex. The four responding domestic producers (i.e., Cemex, Lehigh, National, and Riverside) accounted for 64.4 percent and 65.9 percent of total production in California of gray portland cement and cement clinker, respectively, during 2010. Those same four producers accounted for *** percent and *** percent of total production in the United States of gray portland cement and cement clinker, respectively, during 2010. *Response of domestic interested parties*, June 1, 2011, att. 15.

⁶ The Commission did not receive a response from any respondent interested parties to its notice of institution.

⁷ *Gray Portland Cement and Cement Clinker From Japan; Scheduling of an Expedited Five-Year Review Concerning the Antidumping Duty Order on Gray Portland Cement and Cement Clinker From Japan*, 76 FR 50252, August 12, 2011. The Commission’s notice of an expedited review appears in app. A. The Commission’s statement on adequacy is presented in app. B.

⁸ Cited *Federal Register* notices beginning with the Commission’s institution of a five-year sunset review are presented in app. A.

Effective date	Action	Federal Register citation
May 2, 2011	Commission's institution of five-year review	76 FR 24519 May 2, 2011
May 2, 2011	Commerce's initiation of five-year review	76 FR 24459 May 2, 2011
August 5, 2011	Commission's determination to conduct an expedited five-year review	76 FR 50252 August 12, 2011
August 31, 2011	Commerce's final expedited five-year review determination	76 FR 54206 August 31, 2011
November 17, 2011	Proposed date for the Commission's vote	Not applicable
December 2, 2011	Commission's determination due to Commerce	Not applicable

The Original Investigation and Subsequent Five-Year Reviews

The Commission completed its original investigation⁹ in April 1991, determining that an industry in the United States was materially injured by reason of imports of gray portland cement and cement clinker from Japan that Commerce determined to be sold at less than fair value (“LTFV”).¹⁰ After receipt of the Commission’s determination, Commerce issued an antidumping duty order on imports of gray portland cement and cement clinker from Japan.¹¹ This order required the posting of cash deposits equal to the estimated weighted-average antidumping duty margins, which were: Onoda (47.79 percent); Nihon (84.70 percent); and “all others” (65.22 percent).¹² On appeal, the U.S. Court of International Trade (“CIT”) remanded the determinations of those Commissioners who cumulated imports of cement from Japan and Mexico.¹³ The CIT subsequently affirmed the Commission majority’s affirmative remand determination finding a threat of material injury by reason of LTFV imports from Japan.¹⁴

⁹ The original investigation resulted from a petition filed on behalf of the Ad Hoc Committee of Southern California Producers of Gray Portland Cement in May 1990. The members of the Ad Hoc Committee of Southern California Producers of Gray Portland Cement were National Cement and Southwestern Portland Cement. An amendment to the petition added the following co-petitioners: Independent Workers of North America, Locals 49, 52, 89, 192, and 471, and the International Union of Operating Engineers, Local 12. *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Final)*, USITC Publication 2376, April 1991, p. A-1.

¹⁰ *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Final)*, USITC Publication 2376, April 1991, p. 13.

¹¹ *Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value: Gray Portland Cement and Clinker From Japan*, 56 FR 21658, May 10, 1991.

¹² *Ibid.*

¹³ *Mitsubishi Materials Corp. v. United States*, 820 F. Supp. 608 (Ct. Int’l Trade 1993).

¹⁴ *Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Remand)*, USITC Publication 2657, June 1993, aff’d sub nom. *Mitsubishi Materials Corp v. United States*, 918 F. Supp. 422 (Ct. Int’l Trade 1996).

On August 2, 1999, the Commission instituted the first sunset review of the antidumping duty order.¹⁵ On November 4, 1999, the Commission determined that it would conduct a full review.¹⁶ On March 3, 2000, in an expedited review, Commerce found that revocation of the antidumping duty order on gray portland cement and cement clinker from Japan would likely lead to continuation or recurrence of dumping as follows: Nihon (69.89 percent); Onoda (70.52 percent); and “all others” (70.23 percent). Given the fact that Nihon and Onoda no longer existed,¹⁷ the margin determined to be most relevant was the 70.23 percent “all others” margin.¹⁸ On November 1, 2000, the Commission completed a full first five-year review of the antidumping duty order in which it determined that revocation of the order on gray portland cement and cement clinker from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹⁹ Subsequently, Commerce issued a continuation of the antidumping duty order.²⁰

The Commission instituted the second five-year review of the subject order on October 3, 2005,²¹ and determined on January 6, 2006, that it would conduct an expedited review.²² On February 7, 2006, Commerce published its determination that revocation of the antidumping duty order on gray portland cement and cement clinker from Japan would be likely to lead to continuation or recurrence of dumping at the following weighted-average margins: Onoda (70.52 percent), Nihon (69.89 percent), and “all

¹⁵ *Gray Portland Cement and Clinker From Japan, Mexico, and Venezuela*, 64 FR 41958, August 2, 1999.

¹⁶ *Gray Portland Cement and Cement Clinker from Japan, Mexico, and Venezuela*, 64 FR 62689, November 17, 1999. The Commission also determined to conduct full reviews concerning gray portland cement and cement clinker from Mexico and Japan that were instituted on the same day as the review concerning Japan. *Ibid.*

¹⁷ In 1998, Onoda and Nihon merged to form Taiheiyo. *Gray Portland Cement and Cement Clinker From Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, p. I-8.

¹⁸ *Gray Portland Cement and Cement Clinker from Japan; Final Results of Antidumping Duty Expedited Sunset Review*, 65 FR 11549, March 3, 2000.

¹⁹ *Gray Portland Cement and Cement Clinker From Japan, Mexico, and Venezuela*, 65 FR 65327, November 1, 2000. The Commission also determined that revocation of the order on gray portland cement and cement clinker from Mexico would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time; however, it determined that termination of the suspended antidumping duty and countervailing duty investigations covering gray portland cement and cement clinker from Venezuela would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *Ibid.*

²⁰ *Continuation of Antidumping Duty Orders: Gray Portland Cement and Cement Clinker from Japan and Mexico*, 65 FR 68979, November 15, 2000.

²¹ *Gray Portland Cement and Cement Clinker From Japan and Mexico*, 70 FR 57617, October 3, 2005.

²² *Gray Portland Cement and Cement Clinker From Japan*, 71 FR 5069, January 31, 2006. On the same date, the Commission determined that it should proceed to a full review in the five-year review concerning the antidumping duty order on subject imports from Mexico having found that both the responses of the domestic interested party and the respondent interested party group to be adequate. On March 6, 2006, the Office of the United States Trade Representative, Secretaria de Economia of the United Mexican States, and Commerce entered into an Agreement on Trade in Cement (“Agreement”). *Gray Portland Cement and Clinker From Mexico: Agreement Between the Office of the United States Trade Representative, The United States Department of Commerce and Secretaria de Economia of Mexico on Trade in Cement*, 71 FR 13082, March 14, 2006. Pursuant to the Agreement, the domestic industry submitted letters stating that they had “no interest” in maintaining the order after the expiration of the Agreement. Effective April 1, 2009, Commerce revoked the order after determining that the terms of the Agreement and, therefore, the terms of the “no interest” letters from producers that accounted for substantially all of the production of the domestic like product had been met. *Gray Portland Cement and Clinker From Mexico: Final Results of Changed-Circumstances Review, Revocation of Antidumping Duty Order, and Termination of Five-Year (Sunset) Review of Antidumping Duty Order*, 74 FR 15435, April 6, 2009.

other” (70.23 percent).²³ On May 31, 2006, the Commission notified Commerce of its determination that material injury would be likely to continue or recur within a reasonably foreseeable time²⁴ and, on June 16, 2006, Commerce issued the second continuation of the antidumping duty order.²⁵

Commerce’s Final Result of Expedited Third Five-Year Review

Commerce published the final results of its expedited third five-year review on August 31, 2011. Commerce concluded that revocation of the antidumping duty order on gray portland cement and cement clinker from Japan would be likely to lead continuation or recurrence of dumping at the following weighted-average dumping margins: Onoda Cement Co., Ltd. (70.52 percent); Nihon Cement Co., Ltd. (69.89 percent); and all other manufacturers/producers/exporters (70.23 percent).²⁶ Commerce found that the same margins as found in the original investigation were appropriate in this third five-year review because those rates were the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of an order in place. Consistent with the prior review and because Commerce has not determined whether Taiheiyo is the successor-in-interest to either Nihon or Onoda, Commerce found that Taiheiyo is a new entity to which the “all others” rate should apply.²⁷

Commerce’s Administrative and Changed Circumstances Reviews

Commerce has conducted three administrative reviews of the antidumping duty order, all of which were conducted prior to the Commission’s first review of the order.²⁸ These administrative reviews involved only Onoda, which no longer exists; hence, the present cash deposit rate for all Japanese producers and exporters is 70.23 percent. Results of the administrative reviews are shown in the tabulation that follows.

²³ *Gray Portland Cement and Clinker from Japan; Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 71 FR 6268, February 7, 2006. As previously noted, in 1998, Onoda and Nihon merged to form Taiheiyo. *Gray Portland Cement and Cement Clinker From Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, p. I-8.

²⁴ *Gray Portland Cement and Cement Clinker From Japan*, 71 FR 32127, June 2, 2006.

²⁵ *Gray Portland Cement and Cement Clinker from Japan: Continuation of Antidumping Duty Order*, 71 FR 34892, June 16, 2006.

²⁶ *Gray Portland Cement and Clinker from Japan: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order*, 76 FR 54206, August 31, 2011. In 1998, Onoda and Nihon merged to form Taiheiyo. *Gray Portland Cement and Cement Clinker From Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, p. I-8.

²⁷ *Issues and Decision Memorandum for the Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order on Gray Portland Cement and Clinker from Japan*, August 18, 2011, pp. 6-7.

²⁸ *Gray Portland Cement and Clinker From Japan; Amendment of Final Results of Antidumping Duty Administrative Review*, 58 FR 53705, October 18, 1993; *Gray Portland Cement and Clinker from Japan; Amended Final Results Pursuant to Court Decision*, 65 FR 20135, April 14, 2000; *Gray Portland Cement and Clinker From Japan; Final Results of Antidumping Duty Administrative Review*, 60 FR 43761, August 23, 1995; and *Gray Portland Cement and Clinker From Japan; Final Results of Antidumping Duty Administrative Review*, 61 FR 67308, December 20, 1996.

Period of review	Date review results issued or amended	Margins (percent)
10/31/90-04/30/92	October 18, 1993 (58 FR 53705); February 22, 1996 (<i>Final Results of Redetermination Pursuant to Court Remand</i> , CIT)	33.95 - 63.73
05/01/92-04/30/93	August 23, 1995 (60 FR 43761)	24.27 - 70.23
05/01/93-04/30/94	December 20, 1996 (61 FR 67308)	30.12 - 70.23

There have been no duty absorption reviews of the order; however, prior to the first review, Commerce conducted a changed circumstances review, whereby it revoked the order in part with respect to “New Super Fine Cement” from Japan.²⁹ The order remains in effect for all remaining manufacturers, producers, and exporters of gray portland cement and cement clinker from Japan.³⁰

Related Commission Investigations and Reviews

The Commission has conducted investigations and/or five-year reviews concerning portland hydraulic cement dating back to 1960 with regard to the following 14 countries: Australia, Belgium, Canada, Colombia, Dominican Republic, France, Greece, Japan, Korea, Mexico, Portugal, Spain, Sweden, and Venezuela. Table I-1 presents certain information related to these Commission proceedings.³¹

The most recent proceedings conducted by the Commission beginning with the 1986 investigations have also included cement clinker, an intermediate product used in the production of cement. Of the completed Commission cement proceedings, all but the 1986 investigations were determined on the basis of a regional, rather than a national, industry.

The antidumping duty order concerning Japan that is the subject of this third five-year review is the only remaining order in effect on gray portland cement and cement clinker. The background of the Commission’s proceedings concerning the antidumping duty order on U.S. imports of gray portland cement and cement clinker from Japan was discussed previously. The history and disposition of the relatively recent Commission proceedings concerning gray portland cement and cement clinker from Mexico and Venezuela are briefly discussed further in this section.

²⁹ *Gray Portland Cement and Clinker From Japan: Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order*, 61 FR 58861, November 19, 1996.

³⁰ *Issues and Decision Memorandum for the Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order on Gray Portland Cement and Clinker from Japan*, August 18, 2011, p. 2.

³¹ In addition to the listed investigations or reviews in table I-1, the Commission conducted an investigation with regard to U.S. imports of white portland cement from Japan in 1964. That investigation resulted in a negative determination by the Commission. *White Portland Cement from Japan*, Inv. No. AA1921-38, TC Publication 129, July 9, 1964. Imports of gray portland cement from two additional countries were also examined in 1962 and 1963 by the Department of the Treasury. However, the Department of the Treasury determined that U.S. imports of portland cement, other than white, nonstaining portland cement, from Norway and Poland, respectively, were not being, nor were likely to be, sold at LTFV. *Portland Cement from Norway*, 27 FR 11903, December 1, 1962; and *Portland Cement from Poland*, 28 FR 6660, June 27, 1963. Also, during 1983, Commerce determined that subsidized portland hydraulic cement from Mexico was being sold in the United States (48 FR 43063, September 21, 1983). The Commission was not involved in this investigation because Mexico was not entitled to an injury investigation in countervailing duty cases at that time.

**Table I-1
Portland cement: Previous Commission proceedings**

Year	Country	Determination	Geographic scope of domestic industry	Citation		
1960	Canada	Negative	--	<i>Portland Cement from Canada</i> , Inv. No. AA1921-12, {No publication number}, March 11, 1960; 25 FR 2191 (March 16, 1960)		
1961	Sweden	Affirmative	Rhode Island, eastern Massachusetts, and eastern Connecticut (1 market area)	<i>Portland Cement from Sweden</i> , Inv. No. AA1921-16, TC Publication 10, April 4, 1961		
1961	Belgium	Affirmative	East coast of Florida	<i>Portland Cement from Belgium</i> , AA1921-19, TC Publication 22, June 2, 1961		
1961	Portugal	Affirmative	Connecticut, Massachusetts, and New Jersey (1 market area)	<i>Portland Gray Cement from Portugal</i> , Inv. No. AA1921-22, TC Publication 37, October 20, 1961		
1962	Dominican Republic	Negative	Metropolitan New York City and Puerto Rico (2 market areas)	<i>Portland Cement from Dominican Republic</i> , Inv. No. AA1921-23, TC Publication 87, April 18, 1962		
1963	Dominican Republic	Affirmative	Metropolitan New York City	<i>Portland Cement from the Dominican Republic</i> , Inv. No. AA1921-25, TC Publication 87, April 19, 1963		
1975	Mexico	(¹)	Arizona, New Mexico, and southwestern Texas (1 market area)	<i>Portland Hydraulic Cement, Other than White Nonstaining Cement from Mexico</i> , Inquiry No. AA1921-Inq.-3, ITC Publication 751, December 1975		
1976	Mexico	Negative	Florida and southeastern Georgia (1 market area)	<i>Portland Hydraulic Cement from Mexico</i> , Inv. No. AA1921-161, USITC Publication 795, December 1876		
1978	Canada	Negative	Northeast U.S. market/Canadian border U.S. market (2 optional market areas)	<i>Portland Hydraulic Cement from Canada</i> , Inv. No. AA1921-184, USITC Publication 918, September 1978		
1983	Australia	Negative	California and Nevada (1 region)	<i>Portland Hydraulic Cement from Australia and Japan</i> , Inv. Nos. 731-TA-108 and 109 (Final), USITC Publication 1440, October 1983		
	Japan	Negative				
	Colombia	Negative	National basis	<i>Portland Hydraulic Cement and Cement Clinker from Colombia, France, Greece, Japan, Mexico, the Republic of Korea, Spain, and Venezuela</i> , Investigations Nos. 731-TA-356 through 363 (Preliminary), USITC Publication 1925, December 1986		
	France	Negative				
	Greece	Negative				
	Japan	Negative				
	Mexico	Negative				
	Korea	Negative				
	Spain	Negative				
	Venezuela	Negative				
1986	Venezuela	Negative			National basis	<i>Gray Portland Cement and Cement Clinker from Mexico</i> , Investigation No. 731-TA-451 (Final), USITC Publication 2305, August 1990
1990	Mexico	Affirmative			Southern-tier region	<i>Gray Portland Cement and Cement Clinker from Japan</i> , Investigation No. 731-TA-461 (Final), USITC Publication 2376, April 1991
1991	Japan	Affirmative	Southern California	<i>Gray Portland Cement and Cement Clinker from Venezuela</i> , Investigation Nos. 303-TA-21 and 731-TA-519 (Preliminary), USITC Publication 2400, July 1991		
1991	Venezuela	Affirmative	State of Florida	<i>Gray Portland Cement and Cement Clinker from Japan, Mexico, and Venezuela</i> , Investigations Nos. 303-TA-21 (Review) and 731-TA-451, 461, and 519 (Review), USITC Publication 3361, October 2000		
	Japan	Affirmative	State of California			
	Mexico	Affirmative	Southern-tier region			
2000	Venezuela	Negative	State of Florida	<i>Gray Portland Cement and Cement Clinker from Japan</i> , Investigation No. 731-TA-461 (Second Review), USITC Publication 3856, May 2006		
2006	Japan	Affirmative	State of California			

¹ Negative Commission determination of "no reasonable indication of injury." Subsequent to the Commission's determination, the Department of the Treasury made a negative LTFV determination and the investigation was terminated.

Source: Cited USITC Publication and/or Federal Register notices.

Mexico

On August 23, 1990, the Commission determined that an industry in the United States was being materially injured by reason of imports of gray portland cement and cement clinker from Mexico that were being sold at LTFV.³² In making its determination, the Commission concluded that appropriate circumstances existed for a regional industry analysis, with the regional industry consisting of the U.S. producers in the “Southern-tier Region.”³³ On August 30, 1990, Commerce issued an antidumping duty order on imports of gray portland cement and cement clinker from Mexico.³⁴

On November 1, 2000, the Commission completed a full first five-year review of the antidumping duty order in which it determined that revocation of the order on gray portland cement and cement clinker from Mexico would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.³⁵ The Commission instituted the second five-year review of the subject order on October 3, 2005,³⁶ and determined on January 6, 2006, that it would conduct a full review having found that both the responses of the domestic interested party and the respondent interested party group to be adequate.³⁷

On March 6, 2006, the Office of the United States Trade Representative, Secretaria de Economia of the United Mexican States, and Commerce entered into an Agreement on Trade in Cement (“Agreement”).³⁸ Pursuant to the Agreement, the domestic industry submitted letters stating that they have “no interest” in maintaining the order after the expiration of the Agreement. Effective April 1, 2009, Commerce revoked the order after determining that the terms of the Agreement and, therefore, the terms of the “no interest” letters from producers that accounted for substantially all of the production of the domestic like product had been met.³⁹

Venezuela

In July 1991, the Commission determined that there was a reasonable indication that an industry in the United States was being materially injured by reason of imports of gray portland cement and cement clinker from Venezuela that allegedly were subsidized and being sold at LTFV.⁴⁰ In making its determination, the Commission concluded that appropriate circumstances existed for a regional industry

³² *Gray Portland Cement and Cement Clinker from Mexico, Investigation No. 731-TA-451 (Final)*, USITC Publication 2305, August 1990.

³³ The Southern-tier Region consists of the States of Florida, Alabama, Mississippi, Louisiana, Texas, New Mexico, Arizona, and California. *Gray Portland Cement and Cement Clinker from Mexico, Investigation No. 731-TA-451 (Final)*, USITC Publication 2305, August 1990, pp. 14-17 and 53.

³⁴ 55 FR 35443, August 30, 1990.

³⁵ *Gray Portland Cement and Cement Clinker From Japan, Mexico, and Venezuela*, 65 FR 65327, November 1, 2000.

³⁶ *Gray Portland Cement and Cement Clinker From Japan and Mexico*, 70 FR 57617, October 3, 2005.

³⁷ *Gray Portland Cement and Cement Clinker From Mexico*, 71 FR 2957, January 18, 2006.

³⁸ *Gray Portland Cement and Clinker From Mexico: Agreement Between the Office of the United States Trade Representative, The United States Department of Commerce and Secretaria de Economia of Mexico on Trade in Cement*, 71 FR 13082, March 14, 2006.

³⁹ *Gray Portland Cement and Clinker From Mexico: Final Results of Changed-Circumstances Review, Revocation of Antidumping Duty Order, and Termination of Five-Year (Sunset) Review of Antidumping Duty Order*, 74 FR 15435, April 6, 2009.

⁴⁰ *Gray Portland Cement and Cement Clinker from Venezuela, Investigation Nos. 303-TA-21 and 731-TA-519 (Preliminary)*, USITC Publication 2400, July 1991.

analysis, with the regional industry consisting of the U.S. producers in the “State of Florida Region.” On August 21, 1991, Commerce issued a preliminary determination that imports of gray portland cement and cement clinker from Venezuela were being subsidized, and on November 11, 1991, a preliminary determination that such imports were being sold at LTFV. Commerce subsequently entered into suspension agreements with Venezuela and suspended the antidumping duty investigation with respect to subject imports on February 27, 1992, and suspended the countervailing duty investigation on March 17, 1992.⁴¹

On August 2, 1999, the Commission instituted first five-year reviews pursuant to section 751(c) of the Act to determine whether termination of the suspended investigations on gray portland cement and cement clinker from Venezuela and revocation of the antidumping duty orders on gray portland cement and cement clinker from Mexico and Japan would likely lead to continuation or recurrence of material injury.⁴² On November 4, 1999, the Commission determined to conduct a full review of the order concerning Venezuela.⁴³ On November 1, 2000, the Commission completed a full first five-year review of the antidumping duty order in which it determined that termination of the suspended antidumping duty and countervailing duty investigations covering gray portland cement and cement clinker from Venezuela would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁴⁴ Effective January 1, 2000, Commerce terminated the suspended antidumping duty and countervailing duty investigations on gray portland cement and cement clinker from Venezuela.⁴⁵

SUMMARY DATA

Appendix C presents selected data from the original investigation and subsequent five-year reviews. The tables presented in appendix C are direct reproductions from the Commission’s second five-year review staff report and, thus, retain their original table numbers. Appendix C(a) presents selected data for a national industry encompassing the entire United States. Appendix C(b) presents selected data for the regional industry defined as “California.” Appendix C(c) presents selected data for the regional industry defined as “Southern California” (defined as the counties of San Luis Obispo, Kern, Inyo, Mono, Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, San Diego, and Imperial). Appendix C(d) presents 1989-2005 U.S. import data, by region and source.

⁴¹ *Agreement Suspending the Antidumping Investigation on Gray Portland Cement and Cement Clinker from Venezuela*, 57 FR 6706, February 27, 1992; and *Agreement Suspending the Countervailing Duty Investigation on Gray Portland Cement and Cement Clinker from Venezuela*, 57 FR 9242, March 17, 1992.

⁴² 64 FR 41958, August 2, 1999.

⁴³ 64 FR 62689, November 17, 1999.

⁴⁴ *Gray Portland Cement and Cement Clinker From Japan, Mexico, and Venezuela*, 65 FR 65327, November 1, 2000.

⁴⁵ *Antidumping and Countervailing Duties; Gray Portland Cement and Cement Clinker From Venezuela*, 65 FR 68974, November 15, 2000.

THE PRODUCT

Commerce's Scope

In its notice of final results of the expedited third sunset review of the antidumping duty order, Commerce defined the subject merchandise as follows:

“The products covered by the order are cement and cement clinker from Japan. Cement is a hydraulic cement and the primary component of concrete. Cement clinker, an intermediate material produced when manufacturing cement, has no use other than grinding into finished cement. Microfine cement was specifically excluded from the antidumping duty order.”⁴⁶

Commerce has made two scope rulings regarding subject merchandise since the imposition of the order: (1) classes G and H of oil well cement are within the scope of the order⁴⁷ and (2) “Nittetsu Super Fine” cement is not within the scope of the order.⁴⁸ Commerce has not issued any other scope rulings with respect to gray portland cement and cement clinker. The order remains in effect for all manufacturers, producers, and exporters of gray portland cement and cement clinker from Japan.⁴⁹

U.S. Tariff Treatment

Gray portland cement is classified under Harmonized Tariff Schedule (“HTS”) subheading 2523.29.00 (covering all non-white portland cement), and cement clinker is provided for *eo nomine* in HTS subheading 2523.10.00. Gray portland cement has reportedly also been imported under HTS subheading 2523.90.00 (other hydraulic cements). Subject merchandise enters at a column 1-general rate of free under each subheading. All three HTS provisions may include items that are not part of the scope. Subheading 2523.10.00 includes clinker for all types of downstream cement, and subheading 2523.29.00 includes finely ground portland cement and masonry cement. Subheading 2523.90.00 encompasses non-portland cements other than aluminous cement of subheading 2523.30.00 and therefore covers slag cement, supersulfate cement, and other hydraulic cements. During 2010, all subject U.S. imports from Japan entered the United States under HTS subheading 2523.90.00 (other hydraulic cements).

Domestic Like Product and Domestic Industry

The domestic like product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the subject merchandise. The domestic industry is the collection of U.S. producers as a whole of the domestic like product, or those producers whose collective output of the domestic like product constitutes a major proportion of the total domestic production of the product.

In its original determination, its full first five-year review determination, and its expedited second five-year review determination, the Commission defined a single domestic like product consisting of gray

⁴⁶ 76 FR 54206, August 31, 2011.

⁴⁷ *Scope Rulings*, 57 FR 19602, May 7, 1992.

⁴⁸ *Scope Rulings*, 58 FR 27542, May 10, 1993.

⁴⁹ *Issues and Decision Memorandum for the Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order on Gray Portland Cement and Clinker from Japan*, August 18, 2011, p. 2.

portland cement and cement clinker⁵⁰ coextensive with Commerce's scope. The Commission defined the domestic industry as producers of gray portland cement and cement clinker, including "grinding only" operations.⁵¹

The domestic interested parties indicated in their response to the Commission's notice of institution in this third five-year review that they agree that the domestic like product is gray portland cement and cement clinker and that the domestic industry includes producers of gray portland cement and cement clinker, including "grinding only" operations.⁵²

Physical Characteristics and Uses⁵³

Gray portland cement is a fungible product, with domestically produced product and imported product, including cement from Japan, being readily interchangeable. The cement is a hydraulic (sets or hardens under water) industrial binding agent. Cement clinker is the intermediate product resulting from the sintering stage of the cement production process and is quite different in appearance and properties from the finished cement in that clinker is in the form of small, grayish-black pellets, and finished cement is in the form of grayish powder.⁵⁴ Clinker has no other use than for the production of cement. If protected from moisture, clinker can be stored and transported to other locations (markets) for finish grinding into cement, a process which includes the addition of 3-5 percent gypsum and other materials to retard water absorption and allow for easier handling. This grinding step and the materials added are very important in determining the specifications and type of finished cement.

Portland cement is the most important of the four major categories of hydraulic cements,⁵⁵ accounting for just under 97 percent of domestic production in 2009.⁵⁶ All cement, including imports from Japan, generally conforms to the standards established by the American Society for Testing and Materials ("ASTM").⁵⁷ General descriptions of the five standard types of portland cement are defined by ASTM as follows:⁵⁸

⁵⁰ Cement clinker is an intermediate product used only in the production of cement.

⁵¹ *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Final)*, USITC Publication 2376, April 1991, p. 13; *Gray Portland Cement and Cement Clinker from Japan, Mexico, and Venezuela, Investigations Nos. 303-TA-21 (Review) and 731-TA-451, 461, and 519 (Review)*, USITC Publication 3361, October 2000, p. 8; and *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, p. 5.

⁵² *Response of domestic interested parties*, June 1, 2011, p. 45.

⁵³ Unless indicated otherwise, the discussion in this section is based on information contained in *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, pp. I-9 - I-12.

⁵⁴ Almost all portland cement production is gray in color, but a white portland cement (a more expensive variety) can be manufactured by using only iron-free raw materials. USGS, *Annual Mineral Industry Survey, Cement, 1998*, April 2000, p. 1. White portland cement was not covered in the original investigation or the first or second review and is not covered in this review.

⁵⁵ Portland, masonry, pozzolanic, and natural or Roman cement are the four major categories of hydraulic cements.

⁵⁶ USGS, *Annual Mineral Industry Survey, Cement, 2009*. Portland cement accounted for about 95 percent of domestic production in both 2003 and 1998. USGS, *Annual Mineral Industry Survey, Cement, 2003* and USGS, *Annual Mineral Industry Survey, Cement, 1998*.

⁵⁷ *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, p. I-10; *Response of the domestic interested parties*, p. 6.

⁵⁸ Norman L Weiss, ed., *SME Mineral Processing Handbook* (Society of Mining Engineers, American Institute of Mining, Metallurgical, and Petroleum Engineers, Inc., New York, NY, 1985), volume II, p. 26-3.

Type I—For use when the special properties specified for any other type are not required;

Type II—For general use, especially when moderate sulfate resistance or moderate heat of hydration is required;

Type III—For use when high early strength is required;

Type IV—For use when a low heat of hydration is required; and

Type V—For use when high sulfate resistance is required.

In 2009, types I and II portland cement together accounted for just under 80 percent of the quantity of all shipments of portland cement from U.S. plants (table I-2).^{59 60} Although specifications for type I and type II portland cement are very similar, they differ in that type I has no specifications for several items that are specified for type II. Thus, type II cement meets all the requirements of type I cement and may be used in lieu of type I. In addition to the standard portland cements, there are a number of special cement blends that contain portland cement.⁶¹

Table I-2
Portland cement:¹ Shipments from U.S.² plants to domestic consumers, by types of cements, 1998, 2003, and 2009

Type of cement	1998	2003	2009
Quantity (1,000 metric tons)			
General use (types I and II)	85,066	89,500	55,000
High-early strength (type III)	3,151	3,750	2,460
Sulfate-resisting (type V)	2,757	10,600	8,610
Blended	1,120	1,570	1,300
Oil well	797	1,090	846
White	790	985	577
Expansive and regulated fast setting	53	52	13
Miscellaneous ³	673	840	194
Total	94,408	108,387	69,000
¹ The USGS' portland cement classification includes some cements that are special blends consisting of portland cement but that are technically outside of the portland cement category. ² Includes Puerto Rico. ³ Includes waterproof, low-heat (type IV), and regulated fast-setting cement.			
Note.—Data may not add to totals shown because of rounding.			
Source: Compiled from data provided by the USGS, <i>Mineral Industry Survey, Cement, 1998</i> ; USGS, <i>Mineral Industry Survey, Cement 2003</i> ; USGS, <i>Mineral Industry Survey, Cement, 2009</i> .			

⁵⁹ USGS, *Annual Mineral Industry Survey, Cement, 2009*. The most recent available data from USGS concerning shipments, by types, are for 2009.

⁶⁰ In 2003 and 1998, types I and II portland cement together accounted for just under 83 percent and just over 90 percent, respectively, of the quantity of all shipments of portland cement from U.S. plants. USGS, *Annual Mineral Industry Survey, Cement, 2003* and USGS, *Annual Mineral Industry Survey, Cement, 1998*.

⁶¹ Blended cements are not portland cements, but are inter-ground mixtures of finished portland cement (ground clinker plus gypsum) and cementitious additives, with the proportion of additives commonly ranging between 15 and 50 percent by weight. USGS, *Annual Mineral Industry Survey, Cement, 1998*.

Cement is hygroscopic; that is, it has a tendency to absorb water. Because cement is hygroscopic, it must be handled and stored in a manner that minimizes the possibility of contamination by water. Thus, both domestic producers and importers must use some type of enclosed system or storage silo and relatively sophisticated equipment to handle finished cement.

Gray portland cement is used predominantly in the production of concrete, which in turn is consumed almost wholly by the construction industry. The chief end users are highway construction using ready-mix concrete and building construction using ready-mix concrete, concrete blocks, and precast concrete units. In many building applications, concrete is used with steel reinforcement to obtain greater strength and durability. One ton of portland cement is used to make about 4 cubic yards of concrete.

Concrete, as a major material in building construction, competes with structural steel, clay products, building stone, and other materials in various building construction applications. However, in almost every type of structure, regardless of the principal building material used, there are certain basic uses for concrete (foundations, basements, floors, and so forth) for which there is little direct competition. The choice of the principal structural material is governed by many factors, such as cost, personal preference, and building code specifications. Concrete made with gray portland cement is one of the most widely used construction materials in the United States. Table I-3 shows the types of customers for gray portland cement during 1998, 2003, and 2009, the latest year for which data are available.

Table I-3
Gray portland cement:¹ U.S. producers' estimated shipments² as a percentage of total shipments, by types of customers, 1998, 2003, and 2009

Type of customer	Percent of total		
	1998	2003	2009
Ready-mixed concrete	74.2	74.2	71.1
Concrete product manufacturers	11.9	13.8	12.4
Road paving contractors	4.8	3.3	4.2
Building material dealers	3.8	3.8	3.7
Other contractors	3.1	3.0	4.6
Oil well drilling, mining, and waste stabilization	1.1	1.3	2.5
Federal, state, and other government agencies, and miscellaneous	1.1	0.9	1.6
Total	100.0	100.0	100.0
¹ Includes cement imported and distributed by domestic producers. ² Includes Puerto Rico. Note.—Totals may not be exact due to rounding. Source: Compiled from data provided by the USGS, <i>Mineral Industry Survey, Cement 1998</i> ; USGS, <i>Mineral Industry Survey, Cement 2003</i> ; USGS, <i>Mineral Industry Survey, Cement 2009</i> .			

Manufacturing Process⁶²

For both the imported and domestic products, the production process for gray portland cement is standardized, with no significant technological advances since the original investigation in 1989-91. Gray portland cement is manufactured from a properly proportioned mixture of raw materials containing chemical components of calcium carbonate, silica, alumina, and iron oxide that react when combined with aggregate and water to form concrete. The raw material mixture usually consists of limestone (a source for calcium carbonate), clay (for silica and alumina), and iron ore (for iron oxide). In cases where the common materials are not available or contain an insufficient amount of the chemical components, other mined materials or industrial products may be substituted or used as additives to correct the deficiencies. The mixture is crushed, ground, and blended into a mill feed that is sintered at about 2,700 degrees Fahrenheit in refractory-lined, cylindrical, steel rotary kilns to make cement clinker.

There are basically two processes used to blend the raw materials to produce cement: a wet and a dry process, which are both depicted in figure I-1. The differences between wet and dry blending are procedural; there are no chemical or physical characteristic differences between the end products. In the wet process, the raw materials are ground, blended, and mixed with water to produce a slurry. This slurry is fed into rotary kilns in which it is heated to induce chemical reactions that convert the raw material into cement clinker. The wet process has typically been used where some of the raw materials are very moist; it is also the older process.

In the dry process, all grinding and blending are done with dry materials in a roller mill. The more technically advanced facilities in the United States and Japan improve the efficiency of the dry process by feeding the blended raw material through a preheater and precalciner in which it is partially heated using vented kiln gases and partially calcined by direct firing in a blast furnace before entering the rotary kiln. In those dry process facilities that do not include preheater/precalciner technology, the raw material is fed directly into a rotary kiln in which it is calcined into clinker.

The main advantage of the dry process is that it is more fuel efficient, depending on the moisture content of raw materials economically available; preheaters and precalciners further improve this efficiency. In 2009, the dry process with preheaters consumed 8 percent less fuel than the national average of fuel consumed by all kilns per short ton of clinker production, whereas the wet process consumed 54 percent more than the national average.⁶³ Kiln size is also a factor in fuel efficiency, with larger kilns being more efficient than the smaller ones. However, the dry process requires more electricity per unit of output than the wet process. Although electricity is used mostly for grinding clinker and pollution control, it is also used to operate the fuel conservation equipment (i.e., preheaters and precalciners). In 2009, as in previous years, the USGS reported that the dry process production lines consumed more electricity than equivalent capacity wet process lines.⁶⁴

In 2009, approximately 89 percent of U.S. cement clinker production facilities used the dry process;⁶⁵ many domestic producers converted their facilities to the dry process to counter higher fuel costs as a result of the energy crisis in the mid-1970s. The recent rise in proportion of dry process is a

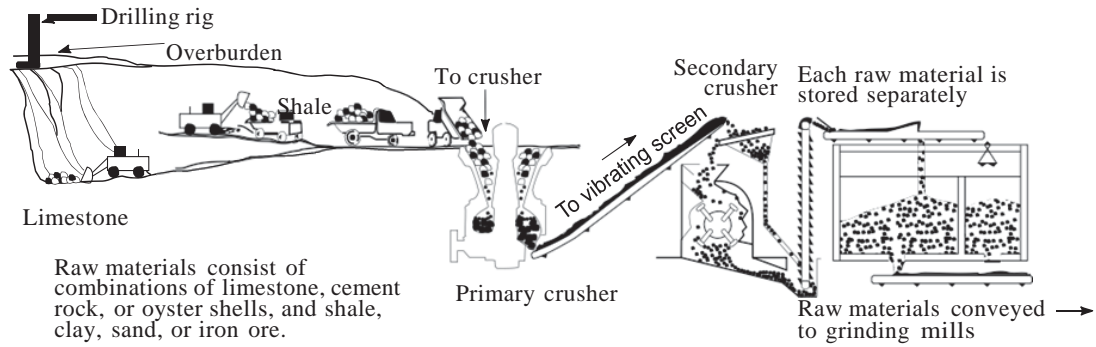
⁶² Unless indicated otherwise, the discussion in this section is based on information contained in *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, pp. I-12 - I-14.

⁶³ USGS, *Annual Mineral Industry Survey, Cement, 2009*.

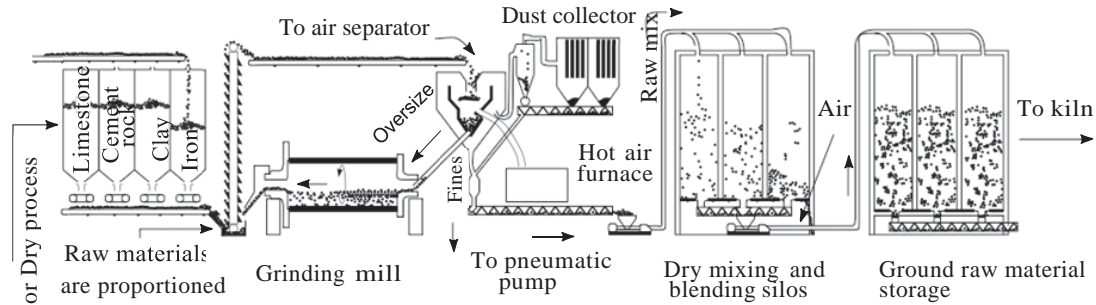
⁶⁴ USGS, *Annual Mineral Industry Survey, Cement, 2009*; USGS, *Annual Mineral Industry Survey, Cement, 2003*; USGS, *Annual Mineral Industry Survey, Cement, 1998*.

⁶⁵ USGS, *Annual Mineral Industry Survey, Cement, 2009*. In 2003 and 1998, approximately 78 and 69 percent of U.S. cement clinker production facilities used the dry process, respectively. In 1988, approximately 59 percent of cement clinker was produced by the dry process. *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, p. I-14.

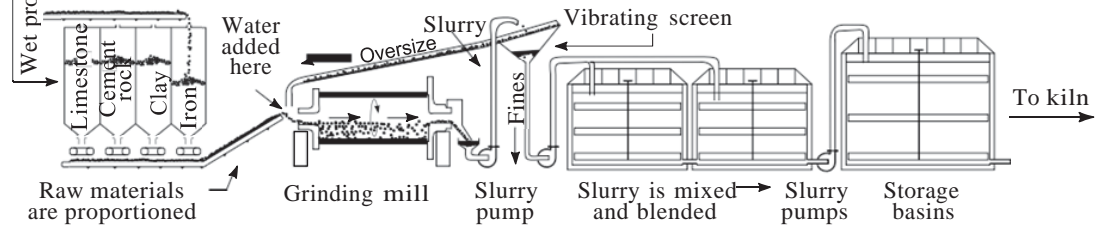
Figure I-1
Steps in the manufacture of gray portland cement



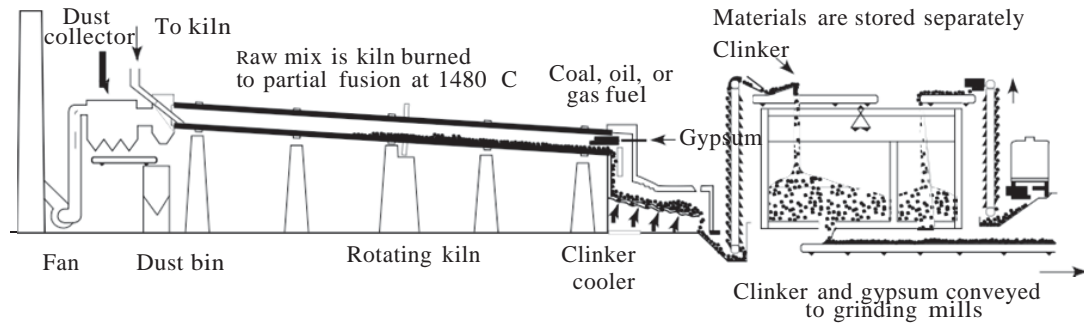
1. Stone is first reduced to 5-in size, then to 3/4-in and stored.



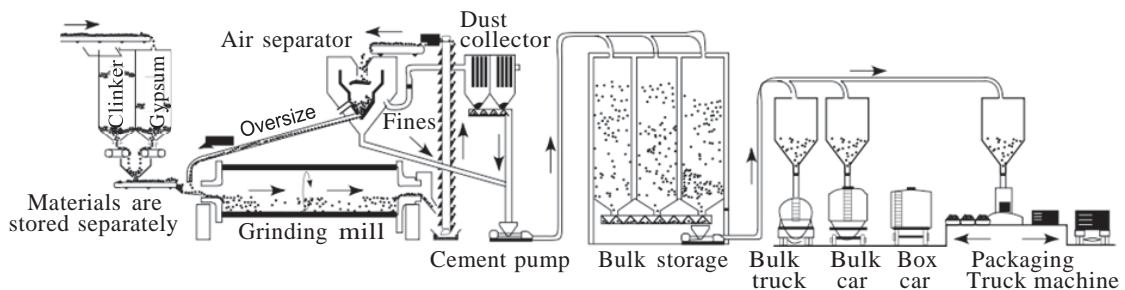
2a. Raw materials are ground to powder and blended.



2b. Raw materials are ground, mixed with water to form slurry, and blended.



3. Burning changes raw mix chemically into cement clinker.



4. Clinker with gypsum is ground into Portland cement and shipped.

Source: Portland Cement Association (as presented in Gray Portland Cement and Cement Clinker from Japan: Investigation No. 731-TA-461 (Second Review), USITC Publication 3856, May 2006, p. I-13.

reflection of the closure and idling of less efficient wet process facilities.⁶⁶ In Japan, the dry process reportedly is used for all of the cement clinker production.⁶⁷

For both the wet and dry processes, the major sources of energy to operate the kiln include coal, fuel oil, and natural gas. In the United States, the fuel predominantly used is coal; in the original investigations, the Japanese industry reported using mostly fuel oil. The choice of fuel is generally determined by the economics of fuel prices; transportation cost to the production site; efficiency cost in using one fuel over another; and, for already established facilities, the additional capital cost for handling equipment to convert from one fuel to another.⁶⁸

Interchangeability and Customer and Producer Perceptions⁶⁹

As noted earlier, gray portland cement is a fungible product, with domestically produced product and imported product being readily interchangeable.⁷⁰ During this third five-year review, the domestic interested parties commented on this fact.

“Cement is a fungible commodity sold almost exclusively on the basis of price Gray portland cement, whether domestic or imported, is manufactured to meet standard physical and chemical specifications prescribed by the American Society for Testing and Materials. It is sold in the United States primarily in bulk form without distinctive packaging or labeling. Thus, domestic and imported cement are indistinguishable and are highly substitutable. There is little or no brand consciousness and little or no loyalty to any particular supplier. As a result, the prices offered by all suppliers in the competitive regional markets of the United States are dictated by competition based almost exclusively on price. Only a small price differential is usually sufficient to induce customers to shift suppliers, whether domestic or foreign. Consequently, domestic producers are required to match lower prices offered by importers or lose sales on a ton-by-ton basis. Matching the lower import price, however, inevitably causes domestic producer producers to suffer price depression and suppression.”⁷¹

⁶⁶ USGS, *Annual Mineral Industry Survey, Cement, 2009*.

⁶⁷ “Production Ratio by Kiln Type,” Japan Cement Association, found at <http://www.jcassoc.or.jp/cement/2eng/ed2.html>.

⁶⁸ U.S. Department of Commerce, *A Competitive Assessment of the U.S. Cement Industry*, p. 150.

⁶⁹ Unless indicated otherwise, the discussion in this section is based on information contained in *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, pp. I-14 - I-15.

⁷⁰ *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, pp. I-14 and II-11 - II-15; and *Response* of the domestic interested parties, p. 6.

⁷¹ *Response* of the domestic interested parties, p. 6.

Channels of Distribution⁷²

As noted in table I-3, nearly three-quarters of domestic producers' gray portland cement is distributed to readymix concrete operations.⁷³ The Commission has reported in past proceedings that, in many instances, the readymix operations were either owned by or were related to U.S. producers and importers of gray portland cement and cement clinker. The next largest type of customer for domestic producers' gray portland cement is the concrete product manufacturer, accounting for about one-eighth of total domestic producers' shipments.

Pricing and Related Information⁷⁴

Factors affecting prices

During the first five-year review, U.S. producers reported that gray portland cement raw material costs accounted for approximately 19 percent of cost of goods sold ("COGS") in 1997, 20 percent in 1998, and 21 percent in 1999. However, most responding U.S. producers reported that gray portland cement prices were driven by market supply and demand conditions and not by raw material costs.

The cement industry is a highly capital intensive industry, with relatively high fixed costs compared with marginal and variable costs. The domestic interested parties in this third five-year review reported that cement producers are driven to maximize production because of the high fixed costs and that "[i]n competitive cement markets, producers have a strong incentive to sell as much cement as possible as long as the price of the last unit sold exceeds the marginal cost of producing that unit."⁷⁵

U.S. producers also reported in the first five-year review⁷⁶ that gray portland cement pricing was generally determined by transaction-by-transaction negotiations and that no price lists were issued, although customers were often notified of price changes through price change letters. The vast majority of U.S. producers reported during the first five-year review that they sold their gray portland cement on a spot basis.

Because of its value-to-weight ratio and fungible character, transportation costs are an important limiting factor on the shipments of gray portland cement. In its first five-year review, the Commission reported that more than 75 percent of gray portland cement shipments in Southern California and California were shipped to customers located within 200 miles of the production site. With respect to imported product, Southern California and California importers of gray portland cement shipped *** percent of their imports of gray portland cement within a 100-mile radius.

The Commission reported in previous proceedings that gray portland cement prices are traditionally determined through a "base-point" pricing system. Under this system, the cement mill

⁷² Unless indicated otherwise, the discussion in this section is based on information contained in *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, p. I-14.

⁷³ Calculation includes cement imported and distributed by all producers located in the United States and Puerto Rico.

⁷⁴ Unless indicated otherwise, the discussion in this section is based on information contained in *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, pp. I-15, I-20, and V-1 - V-3; and *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review), Staff Report, INV-DD-063, April 27, 2006, p. I-24.*

⁷⁵ *Response of the domestic interested parties, June 1, 2011, pp. 5 and 7.*

⁷⁶ Inasmuch as there were virtually no imports from Japan during the period examined during the first review, no Japanese importer comments were received. However, pricing for Japanese product was believed to be determined in a manner similar to that of U.S. producers and importers from other sources.

closest to a particular customer is considered that customer's base point, and that mill effectively sets the price against which other producers must compete. A delivered price for cement consists of an f.o.b. mill price and any freight costs. In general, firms trying to enter new markets farther from the plant must absorb additional freight costs in order to compete with firms closer to the markets under a freight equalization system. Thus, distance has traditionally played an important role in a supplier's willingness and ability to sell to a particular customer.

Price trends and price comparisons

The only comparative pricing data available are from the original investigation owing to the fact that the Japanese essentially dropped out of the Southern California and California markets after the original investigation.⁷⁷ In fact, no importers of Japanese product provided questionnaire price data in the full first five-year review and no respondent interested parties with respect to the Japanese antidumping duty order responded to the notice of institution in the second or third five-year reviews. In the original investigation, the Commission requested price data from U.S. producers and importers of Japanese cement for their sales in five distinct markets in California: Los Angeles, Orange County, Riverside County, San Diego, and San Francisco. Producers and importers were asked to provide price data for their total shipments to the ready-mix customer purchasing the largest volume (within a 300-1,200 ton range) in the fourth full week of each month from January 1986 to December 1990. Usable pricing data were reported by seven U.S. producers and two importers of Japanese cement; these producers and importers accounted for virtually all of the domestic production and the imports from Japan into Southern California during the period examined. During the original investigation, weighted-average delivered prices for U.S.-produced gray portland cement sold in California generally declined in all market areas from January 1986 to March 1990, ranging from a low of \$*** per short ton to a high of \$*** per short ton over the period examined. Trends in weighted-average delivered prices for Japanese cement were mixed, but generally also declined, ranging from a low of \$*** per short ton to a high of \$*** per short ton.

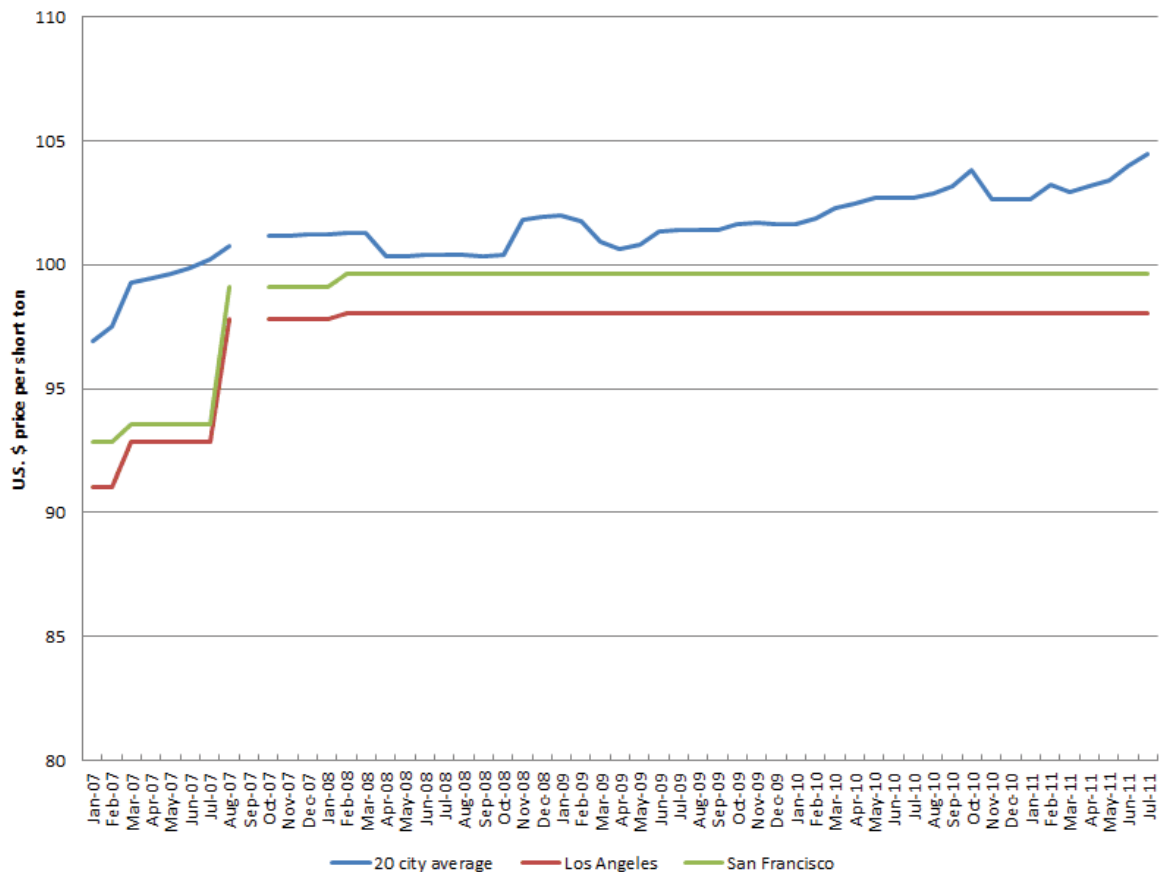
The domestic interested parties participating in this expedited third five-year review indicated in their response to the Commission's notice of institution that *McGraw Hill Construction, Engineering News-Record* ("ENR") publishes monthly spot prices quoted from a single source per ton based on quotes for delivered prices of Type I gray portland cement for Los Angeles in Southern California, for San Francisco and Los Angeles in California, and for a 20-U.S. city average for the United States.⁷⁸ Publicly

⁷⁷ Official Commerce import statistics indicate that there were no imports of portland cement or cement clinker into California from Japan during 2009 and 2010 and that, during 2008, there were imports into California from Japan only during the month of February. The only entries of U.S. imports from Japan into California during 2006-08 were under HTS number 2523.90.0000 (slag cement, supersulfate cement, and other hydraulic cements), almost all of which entered California through the Los Angeles Customs District. A minor amount of U.S. imports into California also entered into the San Francisco Customs District in June and July of 2006. However, based on relatively high monthly unit values ranging from approximately \$400 to over \$600 per short ton, staff believes that these reported U.S. imports may include a substantial amount of nonsubject merchandise.

⁷⁸ The domestic interested parties also reported that the U.S. Geological Survey ("USGS") publishes average annual shipment values per metric ton for all varieties of portland cement (including both gray and white cement, shipped in both bags and in bulk) shipped in the United States, by district, including the Southern California District and the Northern California District. However, the latest USGS report available that separately reports data for Northern and Southern California is for 2008. USGS data for California as a whole are available for 2009, however, no data are available for 2010. *Supplemental Response* of domestic interested parties, July 6, 2011, p. 2. USGS data indicate that average unit shipment values of portland cement shipped in California increased from \$98.52 per short ton in 2006 to \$99.76 per short ton in 2007, but fell to \$82.03 in 2009. Average annual unit shipment values of portland cement shipped in the Northern California District increased from \$96.98 per short ton in 2006 to \$97.75

available ENR price data are presented in figure I-2. This figure shows that from January 2007 to July 2011 the monthly spot delivered prices of Type I gray portland cement generally increased throughout the period examined for the 20-city U.S. average, ranging from a low of \$96.90 per short ton in January 2007 to a high of \$104.45 per short ton in July 2011. The monthly spot delivered prices for Los Angeles were the lowest of the three areas examined, ranging from a low of \$91.01 per short ton in January 2007 to a high of \$98.02 for the period February 2008 to July 2011. Monthly spot delivered prices for San Francisco were somewhat higher than reported for Los Angeles, ranging from a low of \$92.86 per short ton in January 2007 to a high of \$99.64 for the period February 2008 to July 2011.

Figure I-2
Gray portland cement: Monthly spot delivered prices of Type I gray portland cement, by location, January 2007-July 2011¹



¹ Monthly market price quotations by ENR field reporters are spot delivered prices quoted from a single source. The prices presented are not intended to represent the prevailing or average price in a particular city but are designed to track price movement from a single source for a given product quantity and specification over time.

Source: Compiled from monthly data published by McGraw Hill Construction, *Engineering News-Record*.

per short ton in 2007, but fell to \$93.60 in 2008. Average annual unit shipment values of portland cement shipped in the Southern California District increased from \$99.09 per short ton in 2006 to \$100.44 per short ton in 2007, but fell to \$94.45 in 2008. USGS, 2009 *Minerals Yearbook, Cement*; USGS, 2008 *Minerals Yearbook, Cement*; and USGS, 2007 *Minerals Yearbook, Cement*.

Regional Industry Analysis⁷⁹

The Commission concluded in its original determination, its full first five-year review determination, and its expedited second five-year review determination that appropriate circumstances existed for a regional industry analysis. In the original investigation, the Commission considered whether the Southern California region (defined by the USGS for statistical and analytical purposes as the counties of San Luis Obispo, Kern, Inyo, Mono, Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, San Diego, and Imperial), as proposed by the petitioners, or a larger region, the State of California, was the appropriate region. In its original determination, the Commission determined that both regions satisfied the market isolation criteria but found the more appropriate region for its analysis was Southern California; one Commissioner found the regional industry to consist of producers in the State of California.⁸⁰ In its full first five-year review determination, the Commission found that there had been integration of the Northern and Southern regions of California and defined the region as the State of California.⁸¹ The Commission also determined that the record in its expedited second five-year review supported a finding of a regional industry corresponding to the region of the State of California.^{82 83}

The domestic interested parties indicated in their response to the Commission's notice of institution in this third five-year review that the Commission should take into account its definition of the domestic industry in the two previous five-year reviews and again define the domestic industry as the State of California regional industry.⁸⁴ They noted that “[d]ue to its fungibility and expensive transport costs, it is infrequently shipped any considerable distance from the plant. As a result, cement markets are regional rather than national.”⁸⁵

⁷⁹ A summary of data from the original investigation and the first five-year review relating to the statutory criteria for regional analysis for Southern California and California is presented in appendix C.

⁸⁰ *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Final)*, USITC Publication 2376, April 1991, pp. 13-21.

⁸¹ *Gray Portland Cement and Cement Clinker from Japan, Mexico, and Venezuela, Investigations Nos. 303-TA-21 (Review) and 731-TA-451, 461, and 519 (Review)*, USITC Publication 3361, October 2000, pp. 8-21.

⁸² *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, pp. 6-12.

⁸³ As shown in table I-1, in all but one of the prior Commission grouped proceedings concerning gray portland cement, the Commission has used a regional industry analysis. In the 1986 investigation concerning imports from eight countries, petitioner, while noting that cement was sold in regional markets, argued that producers in all regional markets were being injured, and the Commission could, therefore, view injury on a national basis. The Commission made a unanimous negative determination at the preliminary stage of the investigation. *Portland Hydraulic Cement and Cement Clinker from Colombia, France, Greece, Japan, Mexico, the Republic of Korea, Spain, and Venezuela*, Investigations Nos. 731-TA-356 through 363 (Preliminary), USITC Publication 1925, December 1986.

⁸⁴ *Response of domestic interested parties*, June 1, 2011, p. 45.

⁸⁵ *Ibid.*, p. 10.

THE INDUSTRY IN THE UNITED STATES

U.S. Producers⁸⁶

According to the USGS, in 2009, gray portland cement was produced at 107 plants in 37 States plus 2 in Puerto Rico, by 39 companies (other company totals are possible depending on ownership breakdowns).⁸⁷ This compares with 114 plants and 115 plants in 37 States plus 2 in Puerto Rico in 2003 and 1999, respectively.⁸⁸ In 1988 (the time period examined in the original final investigation), there were 134 active U.S. cement manufacturing plants (including 10 plants that operated solely for the grinding of imported, purchased, or interplant transfers of clinker), 67 of which were operated by foreign ownership or joint ventures with foreign owned participants.⁸⁹ As of yearend 2009, around 77 percent of U.S. gray portland cement capacity was foreign-owned, compared with 81 percent in 2003.⁹⁰ At the time of the first review in 1999, nearly 61 percent of U.S. capacity was foreign-owned.⁹¹

Nationally, U.S. producers range from companies operating a single plant with less than 0.5 percent of total U.S. capacity to the large, multiplant corporations having nearly 15 percent of total U.S. capacity. According to the USGS, the top 10 companies in 2009 were, in descending order of production, Holcim (US), Cemex, Lafarge, Lehigh, Buzzi, Ash Grove, Texas Industries (“TXI”), Essroc, California Portland, and St. Mary’s Cement. These, combined, accounted for 81 percent of U.S. gray portland cement production in 2009.^{92 93 94}

A number of Southern California and California operations changed hands from the original investigation to the period of the first review with the share of foreign ownership increasing. At the time of the first review in 1999, capacity in Southern California was just over 62 percent foreign-owned, while

⁸⁶ Unless otherwise noted, the discussion in this section is based on information contained in *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, pp. I-23 - I-27.

⁸⁷ USGS, *Annual Mineral Industry Summary, Cement, 2010*. Closures continued through 2009 and by yearend only 101 plants were operating. *Ibid.*

⁸⁸ USGS, *Annual Mineral Industry Summary, Cement, April 2004* and USGS, *Monthly Mineral Industry Survey, Cement, April 2000*.

⁸⁹ *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Final)*, USITC Publication 2376, April 1991, p. A-18.

⁹⁰ USGS, *Annual Mineral Industry Survey, Cement 2009* and “Overview of the Cement Industry,” *Cement & Concrete Basics*, Portland Cement Association, found at <http://www.cement.org/basics/cementindustry.asp>.

⁹¹ *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, p. I-23.

⁹² USGS, *Annual Mineral Industry Survey, Cement 2009*. Of these companies, all except Ash Grove and TXI were foreign-owned as of yearend 2009. *Ibid.*

⁹³ CEMEX, Lehigh, TXI, and California Portland have operations in Southern California and/or California.

⁹⁴ About the time of the first five-year review, the top 10 companies in 1998 were, in descending order of production, Holnam (Holcim (US)), Southdown (purchased by Cemex in 2000), Lafarge, Lehigh, Blue Circle (purchased by Lafarge in 2001), Ash Grove, Essroc, Lone Star, California Portland, and TXI. These, combined, accounted for 70 percent of U.S. gray portland cement production in 1998. At the time, California Portland, Lehigh, Southdown, and TXI had operations in Southern California and/or California. In 2003, during the time period examined in the second five-year review, the top 10 companies in descending order were Holcim (US), Cemex, Lafarge, RC Lonestar (purchased by Buzzi in 2004), Lehigh, Ash Grove, Essroc, TXI, California Portland, and Centex. California Portland, Lehigh, TXI, and Cemex had operations in California.

capacity in California was just over 68 percent foreign-owned. By 2002, foreign ownership controlled nearly 94 percent of Southern California capacity and more than 95 percent of California capacity.⁹⁵

The Southern California and California industries in question featured, and still do, a number of large, integrated producers, with varied degrees of integration. In some instances, producers own both aggregate operations (raw materials) and/or readymix and concrete product operations (e.g., concrete block, concrete pipe, prestressed concrete, etc.). Among integrated producers operating in Southern California and California are Cemex (Southdown prior to 2000), TXI, Lehigh Southwest, Mitsubishi, and California Portland.

In 2009, overall U.S. gray portland cement production declined by 25.6 percent from 2008 to just over 68 million short tons, the lowest production since 1983. The top five producing States in 2009 were, in descending order, Texas, California, Missouri, Pennsylvania, and Alabama. Consumption in 2009 stood at just under 76 million short tons, a decrease of 26.5 percent from 2008 and the least since 1983.⁹⁶

The only ownership change in Southern California and California subsequent to the second review, was the Lehigh purchase of Hanson Permanente in 2007. Table I-4 details information with respect to plant locations, ownership, and nationality of ownership of production facilities located in Southern California and California at the time of the original investigation, the first and second reviews, and the current review (see, figure I-3 for plant locations).

The domestic interested parties reported in their response to the Commission's notice of institution in this third five-year review that there are currently six operational cement companies in the State of California (all in Southern California) and 41 producers located throughout the United States.⁹⁷ Four of the companies (Cemex, Lehigh, National, and Riverside/TXI) provided individual company responses to the data requests in the Commission's notice of institution. *** is the largest of the four domestic producers of gray portland cement and cement clinker participating in this third five-year review, accounting for *** of gray portland cement and cement clinker production in California during 2010. In that same year, *** accounted for *** of production of gray portland cement and cement clinker in California, *** accounted for *** percent of such production, and *** accounted for *** percent.⁹⁸ No data were provided by California Portland Cement Co. and Mitsubishi Cement Corp., both identified as related parties.

⁹⁵ Cemex's purchase of Southdown in 2000 accounted for most of the change in the portion of foreign-owned operations from 1999 to 2003.

⁹⁶ USGS, *Annual Mineral Industry Summary, Cement 2009*. In 1999, overall U.S. gray portland cement production rose by 2.5 percent from 1998 to a then record of over 89 million short tons. The top five producing States in 1999 were, in descending order, California, Texas, Pennsylvania, Michigan, and Missouri. Consumption rose 4.8 percent from the previous year to a then record level in excess of 116 million short tons. USGS *Monthly Mineral Survey, Cement, April 2000*. In 2003, overall U.S. gray portland cement production rose by 3.3 percent from 2002 to a new record of over 97 million short tons. The top five producing States in 2003 were, in descending order, California, Texas, Pennsylvania, Michigan, and Missouri. Consumption in 2003 stood at just over 119 million short tons (the second highest year on record), or 3.7 percent ahead of 2002 consumption. *Annual Mineral Industry Survey, Cement, 2003*.

⁹⁷ The six currently operating domestic producers identified by the domestic interested parties are: (1) California Portland Cement Co. (owned by Japanese cement producer Taiheiyo Cement); (2) Cemex; (3) Lehigh Cement Company LLC, Lehigh Hanson, Inc.; (4) Mitsubishi Cement Corp. (owned by Japanese cement producer Mitsubishi Materials Corp., Tokyo, Japan); (5) National; and (6) TXI. The domestic interested parties identified the 41 producers nationally from the 2010 *North American Cement Directory. Response of the domestic interested parties, June 1, 2011, p. 43 and att. 31.*

⁹⁸ *** accounted for ***, respectively, of total production of gray portland cement and cement clinker in the United States during 2010. *Response of domestic interested parties, June 1, 2011, att. 15 and 16.*

Table I-4

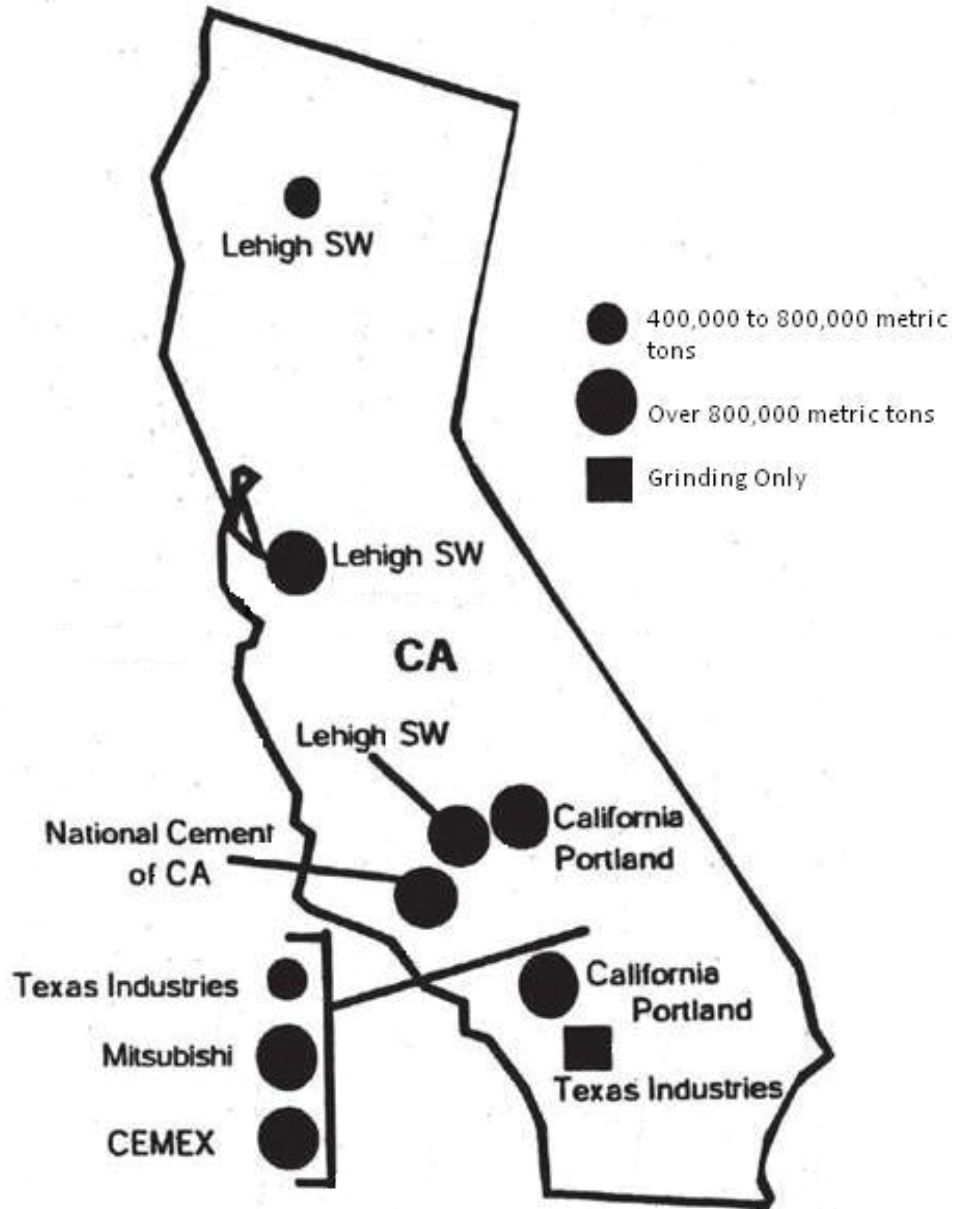
Gray portland cement and cement clinker: Southern California/California plant locations, ownership, and nationality of ownership, 1989, 2000, 2005, and 2010

Plant location	Company/Ownership, Nationality			
	1989	2000	2005	2010
California (Southern):				
Crestmore ¹	Riverside/Gifford-Hill, USA	Riverside/TXI, USA	Riverside/TXI, USA	Riverside/TXI, USA
Oro Grande	Riverside/Gifford-Hill, USA	Riverside/TXI, USA	Riverside/TXI, USA	Riverside/TXI, USA
Victorville	Southdown	Southdown	CEMEX, Mexico (purchased from Southdown in 2000)	CEMEX, Mexico
Colton	CalMat, USA	California Portland/ Taiheiyu, Japan	California Portland/ Taiheiyu, Japan	California Portland/ Taiheiyu, Japan
Mojave	CalMat, USA	California Portland/ Taiheiyu, Japan	California Portland/ Taiheiyu, Japan	California Portland/ Taiheiyu, Japan
Lebec	National Cement/Vicat, France	National Cement/ Vicat, France	National Cement/Vicat, France	National Cement/ Vicat, France
Lucerne Valley	Mitsubishi/Mitsubishi, Japan	Mitsubishi/Mitsubishi, Japan	Mitsubishi/Mitsubishi, Japan	Mitsubishi/ Mitsubishi, Japan
Monolith	Calaveras/Cementeries, Belgium and Heidelberg, Germany	Calaveras/ Cementeries, Belgium and Heidelberg, Germany	Lehigh/Cementeries, Belgium and Heidelberg, Germany	Lehigh/Cementeries, Belgium and Heidelberg, Germany
California (Northern):				
Redding	Calaveras/Cementeries, Belgium and Heidelberg, Germany	Calaveras/Cementeries, Belgium and Heidelberg, Germany	Lehigh/Cementeries, Belgium and Heidelberg, Germany	Lehigh/Cementeries, Belgium and Heidelberg, Germany
Davenport	RMC Lone Star/Rosebud Holdings, USA and RMC Group, UK	RMC Pacific Materials/RMC Industries, USA	CEMEX, Mexico (purchased from RMC Group UK in 2005)	Shuttered in 2010
Cupertino	Kaiser/Hanson PLC, UK	Hanson Permanente/Hanson PLC, UK	Hanson Permanente/Hanson PLC, UK	Lehigh/Cementeries, Belgium and Heidelberg, Germany (purchased in 2007 from Hanson Permanente/ Hanson PLC, UK)

¹ Grinding only operations.

Source: *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review), Staff Report*, INV-DD-063, April 27, 2006, p. I-32; and *Response of the domestic interested parties*, att. 4.

Figure I-3
California gray portland cement plants: 2010



Source: Based on information contained in *U.S. and Canadian Portland Cement Industry: Plant Information Summary*.

U.S. Producers' Trade and Financial Data

Table I-5 presents data reported by U.S. producers of gray portland cement and cement clinker in response to the Commission's notice of institution in this third five-year review. The 2010 data presented in table I-5 were provided by four domestic producers (Cemex, Lehigh, National, and Riverside) that were believed to have represented about two-thirds of production of gray portland cement and cement clinker in California during 2010 and *** of production of gray portland cement and cement clinker in the United States.⁹⁹ The domestic interested parties noted in their response that

“In 2010, the financial condition of the Committee's members reflected the depressed demand conditions and very low capacity utilization – 54.1 percent for clinker and 49.5 percent for cement. . . . The Committee's members had an operating loss of \$90.4 million, equal to 24.5 percent of sales, in 2010. The California industry's weakened state is highlighted by a comparison with its condition in 1999 and in 2010. From 1999 to 2010, the California industry's cement capacity utilization dropped from 95.5 percent to 49.5 percent, its gross profit margin dropped from 35.3 percent to -15.8 percent, and its operating margin dropped from 28.2 percent to -24.5 percent.”¹⁰⁰

As previously indicated, summary data from the original investigation and full first five-year review are presented in appendix C (appendix C(a)--United States; appendix C(b)--California; and appendix C(c)--Southern California). Domestic financial data presented in the Commission's staff report for the period examined in the final phase of the original investigation were provided by seven plants of U.S. producers in Southern California, accounting for *** percent of reported production of portland cement in the Southern California region in 1990.¹⁰¹ Ten plants of U.S. producers, accounting for *** percent of reported production of portland cement in the State of California in 1990, provided financial data on their operations.¹⁰² During the first review, 11 plants of U.S. producers, accounting for virtually all known production of gray portland cement in Southern California (8 plants) and California (11 plants) in 1999, provided financial data on their gray portland cement and cement clinker operations.¹⁰³

⁹⁹ The estimate was calculated based on production data presented in USGS, *2009 Minerals Yearbook*. USGS data for 2010 have not been published. *Response* of domestic interested parties, June 1, 2011, att. 15.

¹⁰⁰ *Response* of the domestic interested parties, June 1, 2011, p. 29.

¹⁰¹ The seven plants are the Colton and Mojave plants of California Portland Cement Co.; the Crestmore and the Oro Grande plants of Riverside (formerly Gifford-Hill); the Lucerne Valley plant of Mitsubishi (owned by Kaiser in 1986-87); the Lebec plant of National Cement Co. of California, Inc.; and the Victorville plant of Southwestern. *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Final), Staff Report*, INV-O-057, April 15, 1991, p. A-48.

¹⁰² The ten plants are the Redding plant of Calaveras; the Colton and Mojave plants of California Portland Cement Co.; the Crestmore and the Oro Grande plants of Riverside; the Permanente plant of Kaiser; the Lucerne Valley plant of Mitsubishi (owned by Kaiser in 1986-87); the Lebec plant of National Cement Co. of California, Inc.; the Davenport plant of RMC Lonestar; and the Victorville plant of Southwestern. *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Final), Staff Report*, INV-O-057, April 15, 1991, p. A-58.

¹⁰³ *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Review), Staff Report*, INV-X-201, September 18, 2000, p. I-22; and *Gray Portland Cement and Cement Clinker From Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, p. III-9.

Table I-5

Gray portland cement and cement clinker: U.S. producers' trade and financial data, by region, 2010¹

Item	2010		
	Southern California	California	United States
Cement			
Capacity (1,000 short tons)	***	10,260	***
Production (1,000 short tons)	***	5,078	***
Capacity utilization (percent)	***	49.5	***
U.S. commercial shipments: Quantity (1,000 short tons)	***	***	***
Value (\$1,000)	***	***	***
Unit value (per short ton)	***	***	***
Internal consumption: Quantity (1,000 short tons)	***	***	***
Value (\$1,000)	***	***	***
Unit value (per short ton)	***	***	***
Clinker			
Capacity (1,000 short tons)	***	9,016	***
Production (1,000 short tons)	***	4,876	***
Capacity utilization (percent)	***	54.1	***
U.S. commercial shipments: Quantity (1,000 short tons)	***	(2)	***
Value (\$1,000)	***	(2)	***
Unit value (per short ton)	***	(2)	***
Internal consumption: Quantity (1,000 short tons)	***	4,804	***
Value (\$1,000)	***	246,749	***
Unit value (per short ton)	***	\$51.36	***
Cement and clinker			
Net sales (\$1,000)	***	368,423	***
Cost of goods sold (\$1,000)	***	426,671	***
Gross profit or (loss) (\$1,000)	***	(58,248)	***
SG&A (\$1,000)	***	32,114	***
Operating income or (loss) (\$1,000)	***	(90,362)	***
COGS/sales (percent)	***	115.8	***
Operating income (loss)/sales (percent)	***	(24.5)	***
<p>¹ Data presented for 2010 were provided by four domestic producers (Cemex, Lehigh, National, and Riverside/TXI) that were believed to have represented 64.4 percent and 65.9 percent of U.S. production of gray portland cement and cement clinker, respectively, in California and *** percent and *** percent of U.S. production of gray portland cement and cement clinker, respectively, in the United States. The production, capacity and shipment data presented are for calendar year 2010. The financial data presented for Cemex, Lehigh, and National are for fiscal year ending December 31, 2010. The financial data presented for Riverside are for fiscal year ending May 31, 2010.</p> <p>² Not applicable. Cement clinker is an intermediate product used only in the production of cement. The four responding firms reported no commercial shipments of cement clinker.</p>			
Note.—Unit values and ratios are calculated from unrounded data.			
Source: Response of domestic interested parties, June 1, 2011, attachments 15-17.			

In its response to the Commission's notice of institution in the second five-year review, the domestic interested parties provided 2004 production and shipment, but no financial data for the following firms: (1) Southern California firms -- *** and (2) California firms -- the aforementioned firms plus ***.¹⁰⁴ In its response to the Commission's notice of institution in the second five-year review, the domestic interested parties provided USGS data, showing that 2003 Southern California production was 10,034,328 short tons and California production was 12,777,978 short tons. Further, in its response, the domestic interested parties reported that 2004 total production and shipments by its Southern California members were *** short tons and *** short tons, respectively, and by its California members were *** short tons and *** short tons, respectively.¹⁰⁵

Certain cement data published by the USGS for 2005-09 are presented in table I-6 (United States), table I-7 (California), and table I-8 (Southern California). From 2005 to 2009, production of cement fell by 35.6 percent in the United States and by 38.1 percent in California (tables I-6 and I-7).¹⁰⁶ The gray portland cement and cement clinker industry is highly capital intensive and the production facilities generally cannot be used to produce other products. Because of the industry's high fixed costs, production facilities are driven to operate at high capacity utilization rates in order to maximize their return on investment.¹⁰⁷ However, the domestic interested parties noted in their response that the California cement producers are currently operating at "very low" capacity utilization rates, are experiencing "massive" operating losses, are in a "weakened state," and are "highly vulnerable" (see table I-5).¹⁰⁸ They noted that because of the global recession and the collapse in the housing market, the demand for cement has fallen from 2005 to 2010.¹⁰⁹ As shown in tables I-7 and I-8, the California regional producers' capacity utilization for cement fell from 88.0 percent in 2005 to 52.7 percent in 2009. The Southern California regional producers' capacity utilization for cement fell from 86.9 percent in 2005 to 75.6 percent in 2008 (the latest year for which data were available).

¹⁰⁴ *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review), Staff Report*, INV-DD-063, April 27, 2006, p. I-19.

¹⁰⁵ *Ibid.*, pp. III-2 and III-4.

¹⁰⁶ Production of cement fell by 7.5 percent in Southern California from 2005 to 2008 (table I-8). Data were not available for 2009.

¹⁰⁷ *Response of domestic interested parties*, June 1, 2011, p. 5.

¹⁰⁸ *Ibid.*, pp. 8 and 29.

¹⁰⁹ *Ibid.*, p. 29.

Table I-6
Salient cement statistics for the United States, 2005-09^{1 2}

Item	2005	2006	2007	2008	2009
Production:					
Cement ³ (1,000 short tons)	109,480	108,211	105,231	95,140	70,470
Clinker (1,000 short tons)	96,348	97,615	94,942	86,401	61,857
Shipments from mills/terminals ^{4 5 6}					
Quantity (1,000 short tons)	141,096	139,994	125,663	106,594	78,374
Value (\$1,000)	11,700,000	12,900,000	11,900,000	9,990,000	7,020,000
Average value (per short ton)	\$82.92	\$92.15	\$94.70	\$93.72	\$89.57
Stocks, yearend:					
Cement (1,000 short tons)	8,212	10,340	9,800	9,215	6,702
Clinker (1,000 short tons)	3,880	5,919	7,220	7,793	5,655

¹ Unless otherwise indicated, data are for portland (including blended) and masonry cements only. Even where presented unrounded, data are thought to be accurate to no more than three significant digits.

² Excludes Puerto Rico.

³ Includes cement made from imported clinker.

⁴ Includes imported cement.

⁵ Shipments to final domestic customers. Data are from an annual survey of plants and terminals and may differ from other data published by the USGS that are based on consolidated monthly surveys from companies.

⁶ Value free on board mill or independently reporting terminal.

Source: USGS 2009 Minerals Yearbook.

Table I-7

Salient portland and blended cement and clinker statistics for California, 2005-09¹

Item	2005	2006	2007	2008	2009
Capacity:					
Cement (1,000 short tons) ²	14,489	15,322	15,322	15,110	14,991
Clinker (1,000 short tons) ³	14,242	14,246	14,263	16,486	15,065
Production:					
Cement (1,000 short tons)	12,747	12,069	11,941	10,890	7,885
Clinker (1,000 short tons)	12,639	12,313	11,991	10,552	7,288
Capacity utilization:					
Cement (percent)	88.0	78.8	77.9	72.1	52.7
Clinker (percent)	88.7	86.3	84.1	64.0	48.4
Shipments of portland cement					
Quantity (1,000 short tons)	17,739	16,564	14,375	11,046	7,534
Value (\$1,000)	1,568,583	1,632,002	1,434,038	1,040,938	618,000
Average value (per short ton)	\$88.43	\$98.53	\$99.76	\$94.24	\$82.03
Stocks, yearend:					
Cement (1,000 short tons)	379	830	600	549	460
Clinker (1,000 short tons)	514	830	1,152	1,262	790

¹ Even where presented unrounded, data are thought to be accurate to no more than three significant digits. Includes data for gray and white portland cement. Includes cement made from imported clinker.

² Grinding capacity is based on fineness needed to produce a plant's normal output mix, including masonry cement, and allowing for downtime for routine maintenance.

³ Includes kilns active for at least one day during the year. For kilns idle all year, excludes those that cannot be restarted, fully permitted, in less than six months. Data presented are the sum of apparent annual capacities for each kiln. For each kiln, the statistic is calculated as 366 days minus days reported for routine maintenance and then multiplied by the unrounded daily capacity.

Source: *USGS Minerals Yearbook, 2005-09.*

Table I-8

Salient portland and blended cement and clinker statistics for Southern California, 2005-09¹

Item	2005	2006	2007	2008	2009
Capacity:					
Cement (1,000 short tons) ²	11,244	12,177	12,177	11,966	(³)
Clinker (1,000 short tons)	10,869	11,181	10,989	13,135	(³)
Production:					
Cement (1,000 short tons)	9,775	9,364	9,505	9,040	(³)
Clinker (1,000 short tons)	9,781	9,732	9,547	8,755	(³)
Capacity utilization:					
Cement (percent)	86.9	76.8	78.1	75.6	(³)
Clinker (percent)	90.0	87.0	86.9	66.7	(³)
Shipments of portland cement					
Quantity (1,000 short tons)	12,759	12,086	10,753	8,311	(³)
Value (\$1,000)	1,125,323	1,197,612	1,080,000	784,938	(³)
Average value (per short ton)	\$88.20	\$99.09	\$100.44	\$94.45	(³)
Stocks, yearend:					
Cement (1,000 short tons)	239	480	343	342	(³)
Clinker (1,000 short tons)	388	722	998	1,069	(³)

¹ Even where presented unrounded, data are thought to be accurate to no more than three significant digits. Includes data for gray and white portland cement. Includes cement made from imported clinker.

² Grinding capacity is based on fineness needed to produce a plant's normal output mix, including masonry cement, and allowing for downtime for routine maintenance.

³ Unavailable.

Source: USGS Minerals Yearbook, 2005-09.

Related Party Issues

The Commission considered in the original investigation whether domestic producers that either were owned by a foreign producer, imported subject product, or ground imported subject product should be excluded as related parties, and found that appropriate circumstances to do so did not exist.¹¹⁰ This reaffirmed the Commission's finding in the preliminary phase of the original investigation. Producers that were importers, or were related to exporters and/or importers of Japanese cement during the original investigation were: (1) Mitsubishi Cement Co., owned by Mitsubishi Mining & Cement Co., Ltd. of Japan; (2) California Portland Cement Co., owner of a 50 percent interest in CalMat Terminals, an importer of Japanese cement; (3) Riverside Cement Co., a joint venture partner with RIC Co., an importer of Japanese cement; and, (4) RMC Lonestar, owner of a 50 percent interest in Pacific Coast Cement Corp., an importer of Japanese cement.¹¹¹ As was the case in the original investigation, the Commission found in the first five-year review a number of related parties, either through ownership by Japanese firms or as importers of Japanese product, but concluded that appropriate circumstances did not exist to exclude any of the producers from the domestic industry.¹¹²

With respect to both the second and third five-year reviews, Mitsubishi Cement Corp. and California Portland Cement appear to be related parties. The domestic interested parties stated in their response to the Commission's notice of institution that Mitsubishi Materials, a Japanese producer and exporter, directly or indirectly controls Mitsubishi Cement Corp., which operates a plant at Lucerne Valley, CA. The domestic interested parties also reported that Taiheiyo Cement Corp. ("Taiheiyo"), a Japanese producer and exporter, directly or indirectly controls California Portland Cement, which operates cement plants at Colton, CA, and Mojave, CA.¹¹³ Neither Mitsubishi Cement Corp. nor California Portland Cement participated in this third five-year review.

U.S. IMPORTS AND APPARENT CONSUMPTION

U.S. Importers¹¹⁴

The Commission reported in the original investigation and the first and second five-year reviews that most U.S. imports of gray portland cement and cement clinker were controlled by U.S. producers, a number of which were affiliated with foreign producers either through direct ownership or joint-venture operations. The three Southern California producers which imported subject and/or nonsubject product in the original investigation and the first five-year review indicated that they imported the product to supplement their own production in order to meet local market demand. However, no importer questionnaire respondents reported subject imports from Japan during the period of the full first five-year

¹¹⁰ *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Final)*, USITC Publication 2376, April 1991, p. 13.

¹¹¹ *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Preliminary)*, USITC Publication 2297, July 1990, pp. 51-52.

¹¹² *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Final)*, USITC Publication 2376, April 1991, p. 13; and *Gray Portland Cement and Cement Clinker from Japan, Mexico, and Venezuela, Investigations Nos. 303-TA-21 (Review) and 731-TA-451, 461, and 519 (Review)*, USITC Publication 3361, October 2000, p. 8.

¹¹³ *Response of the domestic interested parties*, June 1, 2011, p. 43.

¹¹⁴ Unless otherwise noted, the discussion in this section is based on information contained in *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review)*, USITC Publication 3856, May 2006, p. I-28.

review¹¹⁵ and no respondent interested parties provided responses to the Commission's notice of institution in the second or third five-year reviews of the order concerning Japan. In fact, shortly after the imposition of the antidumping duty order, imports from Japan dropped to near zero as the Japanese effectively left the California market.

In their response to the Commission's notice of institution in this third five-year review, the domestic interested parties indicated that they were not aware of any currently operating U.S. importers of gray portland cement and cement clinker from Japan and noted that imports of the subject merchandise from Japan have been minimal due to the antidumping duty order.¹¹⁶

U.S. Imports

The quantity, value, and unit value of U.S. imports of gray portland cement and cement clinker from 2006 to 2010 are shown in table I-9. As indicated previously in the section of this report entitled "U.S. Tariff Treatment," the subject merchandise is classified under HTS subheadings 2523.10.00 (cement clinker), 2523.29.00 (other non-white portland cement), and 2523.90.00 (other hydraulic cement), all three of which may include items that are not part of the scope. Concerning subject U.S. imports, the domestic interested parties noted the following in their response to the Commission's notice of institution:

"In response to the order – in fact, in response to the Department's October 31, 1990 preliminary determination – Japanese producers sharply reduced their exports to the United States and effectively abandoned the California market. Although one or more Japanese producers did export small amounts of cement to higher-priced U.S. markets (such as Alaska) during 1991-1994, there have been virtually no imports of cement or clinker from Japan since 1994."¹¹⁷

¹¹⁵ In the original investigation, CPC Terminals, Mitsui, and RIC accounted for *** imports from Japan into Southern California. CPC Terminals, formerly CalMat Terminals, was formed in 1990 when Onoda of Japan purchased a ***-percent share in the venture which was owned by CalMat, a U.S. producer (now California Portland). CalMat was purchased by Onoda (now Taiheiyo) and operates as California Portland. RIC was a joint venture of RIC Corp. and Riverside Cement (now owned by TXI). Mitsui ***.

¹¹⁶ *Response* of the domestic interested parties, June 1, 2011, p. 43.

¹¹⁷ *Ibid.*, pp. 24-25.

Table I-9
Gray portland cement and cement clinker: U.S. imports from all sources, by market, 2006-10¹

Item	2006	2007	2008	2009	2010
Quantity (1,000 short tons)					
Southern California imports:					
Japan	2	3	0	0	0
All other	4,514	2,057	547	0	0
Total	4,517	2,060	547	0	0
California imports:					
Japan	2	3	0	0	0
All other	7,565	3,554	968	224	205
Total	7,567	3,557	968	224	205
United States imports:					
Japan	3	5	6	1	1
All other	37,882	23,195	11,546	6,751	6,653
Total	37,885	23,199	11,552	6,751	6,654
Value (\$1,000)					
Southern California imports:					
Japan	926	1,619	51	0	0
All other	292,329	145,202	39,444	28	10
Total	293,255	146,821	39,494	28	10
California imports:					
Japan	972	1,619	51	0	0
All other	481,384	239,703	67,197	12,216	12,442
Total	482,356	241,322	67,248	12,216	12,442
United States imports:					
Japan	2,220	2,824	779	537	767
All other	2,350,485	1,546,488	839,489	492,693	471,654
Total	2,352,705	1,549,312	840,269	493,230	472,421
<i>Table continued on next page.</i>					

Table I-9--Continued

Gray portland cement and cement clinker: U.S. imports from all sources, by market, 2006-10¹

Item	2006	2007	2008	2009	2010
Unit value (\$ per short ton)					
Southern California imports:					
Japan	395.93	544.26	602.83	(²)	(²)
All other	64.76	70.60	72.13	3,059.00	2,490.50
Total	64.93	71.29	72.21	3,059.00	2,490.50
California imports:					
Japan	407.22	544.26	602.83	(²)	(²)
All other	63.63	67.44	69.45	54.47	60.74
Total	63.74	67.84	69.50	54.47	60.74
United States imports:					
Japan	751.30	584.65	131.10	683.79	651.36
All other	62.05	66.67	72.71	72.98	70.90
Total	62.10	66.78	72.74	73.06	71.00
Share of quantity (percent)					
Southern California imports:					
Japan	0.1	0.1	0.0	0.0	0.0
All other	99.9	99.9	100.0	100.0	100.0
Total	100.0	100.0	100.0	100.0	100.0
California imports:					
Japan	0.0	0.1	0.0	0.0	0.0
All other	100.0	99.9	100.0	100.0	100.0
Total	100.0	100.0	100.0	100.0	100.0
United States imports:					
Japan	0.0	0.0	0.1	0.0	0.0
All other	100.0	100.0	99.9	100.0	100.0
Total	100.0	100.0	100.0	100.0	100.0
¹ Commerce revised the 2010 import statistics to correct 29,840 short tons (\$1.332 million) of material that was improperly classified under HTS 2523.90.0000 as imports from Japan to Portland, ME during August 2010. ² Undefined.					
Source: Compiled from official Commerce statistics (HTS numbers 2523.10.0000 (cement clinker), 2523.29.0000 (other non-white portland cement), and 2523.90.0000 (other hydraulic cement)).					

Ratio of Imports to U.S. Production

Based on official import statistics and USGS production data, the ratio of imports of gray portland cement and cement clinker from Japan into the State of California and into Southern California to domestic production in those regions was 0.02 percent during 2006. There were no reported imports of gray portland cement and cement clinker from Japan into the State of California during 2009-10. The ratio of U.S. cement imports from Japan to total U.S. production was even smaller at 0.003 percent in 2006 and 0.002 percent in 2009. However, the ratio of cement imports from nonsubject countries to domestic production was 35.0 percent in 2006, compared with 9.4 percent in 2009.

Apparent Consumption and Market Shares

The demand for gray portland cement depends on the demand for concrete, its end product. Concrete is used in all types of construction, particularly residential building, commercial building, and highways. Regarding demand, the domestic interested parties stated in their response to the Commission's notice of institution in this third five-year review:

“Gray portland cement has only one purpose -- the production of concrete and concrete products. Clinker is an intermediate product used only in the production of cement. Because cement is used only for producing concrete, the demand for cement is derived entirely from the demand for concrete. The demand for concrete, in turn, is derived from the demand for construction. Because there is no substitute for cement for cement in the production of concrete, concrete has no substitutes in most applications, and cement represents a very small component cost of construction, the demand for cement is very unresponsive to its prices, *i.e.*, it is “inelastic.” The decision whether to undertake a construction project -- and thus to generate increased cement consumption -- is not affected by the price of cement. The price inelasticity of cement demand makes cement producers more susceptible to injury from dumped imports than companies in most other domestic industries, because the lower prices of dumped imports do not stimulate additional demand. Instead, they merely displace domestic production ton for ton.”¹¹⁸

The demand for gray portland cement tends to be cyclical in nature because it is determined by the level of general construction. However, the gray portland cement business cycle is likely to be somewhat less volatile than individual construction markets because gray portland cement is used in nearly every type of construction, and cycles among these market segments frequently offset each other. The demand for gray portland cement also tends to be seasonal in nature, with peaks in consumption occurring in the summer months when the level of construction is highest. With respect to the cyclical nature of the industry, the domestic interested parties participating in this expedited third five-year review commented:

“Regional cement markets are highly cyclical, rising and falling with regional construction activity. Although periodic upswings and downswings are predictable, the precise timing and extent of such cyclical changes are not predictable. Downturns in construction typically reduce industry profitability as sales volumes decline as firms compete on price in an effort to retain the volumes they had. In order to justify domestic producers' investment in long-lived plant and equipment, returns at the peak of the cycle must sufficiently exceed those in the trough of the cycle to generate an average rate of

¹¹⁸ *Response of the domestic interested parties, June 1, 2011, pp. 9-10.*

return over the entire cycle that covers the cost of capital, including the special risks of investing in this kind of industry. Dumped imports keep the industry from generating such returns by accentuating downturns in the cycle and by eroding the high profits during upturns that are necessary to attract capital.”¹¹⁹

Estimated data for apparent consumption and market shares of gray portland cement for 2006-09 are shown in table I-10 (United States), table I-11 (California), and table I-12 (Southern California). These data show that apparent U.S. consumption of cement fell by 47.1 percent from 2006 to 2009 and apparent consumption in California fell by 58.7 percent during the same period.¹²⁰ The domestic interested parties attributed the decline to “the global recession and the collapse in the housing market.”¹²¹

Table I-10
Gray portland cement: U.S. production, U.S. imports, and apparent U.S. consumption, 2006-09

Item	2006	2007	2008	2009
Quantity (1,000 short tons)				
U.S. production	108,211	105,231	95,140	70,470
U.S. imports from—				
Japan	3	5	6	1
Other sources	37,882	23,195	11,546	6,751
Total U.S. imports	37,885	23,200	11,552	6,752
Apparent U.S. consumption	146,096	128,431	106,692	77,222
Share of quantity (percent)				
U.S. production	74.1	81.9	89.2	91.3
U.S. imports from—				
Japan	0.0	0.0	0.0	0.0
Other sources	25.9	18.1	10.8	8.7
Total U.S. imports	25.9	18.1	10.8	8.7
Source: Official statistics of the Department of Commerce and <i>USGS Minerals Yearbook</i> , 2005-09.				

¹¹⁹ *Ibid.*, pp. 11-12.

¹²⁰ Apparent consumption of cement in Southern California fell by 30.9 percent from 2006 to 2008. Data for 2009 are not available for Southern California.

¹²¹ *Response* of the domestic interested parties, June 1, 2011, p. 29.

Table I-11

Gray portland cement: Regional production, regional imports, and apparent consumption for CALIFORNIA, 2006-09

Item	2006	2007	2008	2009
Quantity (1,000 short tons)				
Regional production	12,069	11,941	10,890	7,885
U.S. imports into region from—				
Japan	2	3	0	0
Other sources	7,565	3,554	968	224
Total imports	7,567	3,557	968	224
Apparent consumption in region	19,636	15,498	11,858	8,109
Share of quantity (percent)				
Regional production	61.5	77.0	91.8	97.2
U.S. imports into region from—				
Japan	0.0	0.0	0.0	0.0
Other sources	38.5	22.9	8.2	2.8
Total imports	38.5	23.0	8.2	2.8
Source: Official statistics of the Department of Commerce and <i>USGS Minerals Yearbook</i> , 2005-09.				

Table I-12

Gray portland cement: Regional production, regional imports, and apparent consumption for SOUTHERN CALIFORNIA, 2006-09

Item	2006	2007	2008	2009
Quantity (1,000 short tons)				
Regional production	9,364	9,505	9,040	(¹)
U.S. imports into region from—				
Japan	2	3	0	0
Other sources	4,514	2,057	547	0
Total imports	4,517	2,060	547	0
Apparent consumption in region	13,881	11,565	9,587	(¹)
Share of quantity (percent)				
Regional production	67.5	82.2	94.3	(¹)
U.S. imports into region from—				
Japan	0.0	0.0	0.0	(¹)
Other sources	32.5	17.8	5.7	(¹)
Total imports	32.5	17.8	5.7	(¹)
¹ Not available/undefined.				
Source: Official statistics of the Department of Commerce and <i>USGS Minerals Yearbook</i> , 2005-09.				

ANTIDUMPING ACTIONS OUTSIDE THE UNITED STATES

Based on available information, Japanese exports of gray portland cement and cement clinker are not subject to any antidumping/countervailing tariffs or non-tariff barriers to trade in any countries other than the United States.

THE SUBJECT INDUSTRY IN JAPAN¹²²

At the time of the original investigation concerning Japan, the Japanese cement and clinker industry consisted of 23 producers operating 41 plants. During the first five-year review, 19 Japanese producers of the subject merchandise operating 39 plants were identified by the Commission. At that time, the Commission reported that five Japanese producers (Mitsubishi, Sumitomo Osaka, Taiheiyo, Tokuyama, and Ube) together accounted for 87.3 percent of Japanese production of gray portland cement in 1999. During the second five-year review, the Commission once again reported that the Japan cement industry was highly concentrated and that it had undergone a further contraction in the number of producing firms to 18 producers operating 33 plants. The Commission also reported that the Government of Japan approved two major mergers: (1) Chichibu Onoda Cement and Nihon Cement (formally known as Taiheiyo Cement after the merger) and (2) Ube Industries and Mitsubishi Materials. Merged companies Taiheiyo Cement and Ube/Mitsubishi accounted for 27 percent and 24 percent of total cement production in Japan during 2004, respectively. A third Japanese producer, Sumitomo Osaka Cement, accounted for 16 percent of the 2004 cement production of the Japanese industry. Thus, three firms (Taiheiyo Cement, Ube/Mitsubishi, and Sumitomo Osaka Cement) together controlled 67 percent of the output of the Japanese industry during 2004.

In their response to the Commission's notice of institution in this third five-year review, the participating domestic interested parties noted that the cement industry in Japan is currently highly concentrated. They provided the Commission with a list 17 producers of gray portland cement and clinker in Japan in their response.¹²³ The domestic interested parties also offered the following comments regarding what it sees as the Japanese producers "substantial" excess capacity:

"In evaluating the likely volume of imports in the event the orders are revoked, the Commission is also directed to consider 'any likely increases in production capacity or existing unused production capacity in the exporting country.' 19 U.S.C. § 1675a(a)(2). Cement producers in Japan currently have large amounts of unused capacity, which demonstrates that imports from Japan are certain to be significant in the absence of the order. Although total Japanese capacity has decreased since the second sunset review, the Japanese cement industry's unused capacity has remained high, and its export orientation has increased. The Commission found that the Japanese cement clinker capacity utilization rate of 78.2 percent in 1999 was indicative of excess capacity that could enable the Japanese industry to export significant amounts of cement to the California Region in the absence of the order. The 2009 capacity utilization of the Japanese industry, 79 percent, is essentially the same as the 1999 level, indicating continued ability to export significant volumes of cement to the State of California Region. Export orientation, moreover, has increased, with exports accounting for 19.7

¹²² Unless otherwise noted, the discussion in this section is based on information contained in *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review), Staff Report*, INV-DD-063, April 27, 2006, pp. IV-6 - IV-16.

¹²³ *Response* of the domestic interested parties, June 1, 2011, p. 12 and att. 32.

percent of all shipments in 2009, more than double the level of 8.3 percent in 1999 and quadruple the level of 4.5 percent in 1990.

There are at least three principal reasons for the substantial excess capacity in Japan. First, the cement industry in Japan adopted an investment strategy that was strongly oriented toward increasing exports. It invested in substantially more capacity than necessary to meet domestic demand. Second, demand in the home market of Japan has been, and will continue to be, far short of the capacity of the Japanese producers. Demand for cement fell by 24.9 percent from 2005 to 2009. Third, as discussed below, third-country markets have not absorbed, and will not absorb, the enormous excess capacity of the Japanese industry. Because of the lack of other markets, the Japanese producers will be highly motivated to reduce their tremendous overcapacity by increasing exports to the United States if the order is revoked.”¹²⁴

During the original investigation and first review, Japan was third largest cement producing country in the world after China and the United States. As of 2007, Japan was the fourth largest cement producing country after China, India, and the United States and the third largest cement exporting country after China and Thailand.¹²⁵ By 2010, the USGS places Japan as the sixth largest hydraulic cement producing country after China, India, the United States (includes Puerto Rico), Turkey, and Brazil. World hydraulic cement production data gathered by the USGS are presented in table I-13.

With respect to Japan’s export prospects, the domestic interested parties offered the following as to possible alternative markets:

“... the ability of producers in Japan to direct exports to markets other than the United States is constrained by excess production capacity in major export markets. Since the Commission’s original investigations, the capacity of producers worldwide to produce cement has expanded significantly. Furthermore, the third-country markets to which the Japanese producers might seek to export cement will not, in fact, serve as significant alternative outlets for their products.

As of 2007, Japan was the third largest exporting country in the world. It remains heavily dependent on exports. Given excess global cement capacity, however, Japanese producers lack attractive options for increased exports...

Substantial unutilized cement production capacity in the world’s two largest¹²⁶ cement consuming nations – China and India – indicates that neither country is likely to provide a significant market for increased Japanese exports.”¹²⁷

¹²⁴ *Response* of the domestic interested parties, June 1, 2011, pp. 35-36.

¹²⁵ *Response* of the domestic interested parties, June 1, 2011, att. 23 citing Japan Cement Association data. These were the identical positions it held in 2003, although the two largest cement exporting countries were then China and India. *Response* of the domestic interested parties, June 1, 2011, att. 39 citing Japan Cement Association data.

¹²⁶ *Response* of the domestic interested parties, June 1, 2011, making reference to Japan Cement Association data in att. 23.

¹²⁷ *Response* of the domestic interested parties, June 1, 2011, pp. 36-38.

Table I-13
Hydraulic cement: World production, by country, 2005-10¹

Country	2005	2006	2007	2008	2009	2010
Quantity (1,000 short tons)						
Brazil	42,665	46,181	51,313	57,287	57,042	65,036
China	1,178,193	1,363,292	1,500,418	1,543,220	1,795,647	1,984,140
Egypt	35,778	39,903	42,328	44,092	51,257	52,910
India	159,834	176,368	187,391	203,926	225,972	242,506
Japan	76,752	77,097	74,609	69,235	60,406	61,729
Russia	53,462	60,296	66,028	59,083	48,832	54,013
Spain	55,497	59,561	60,318	46,394	32,523	55,115
Turkey	47,164	52,358	54,622	59,554	59,494	66,138
United States (includes Puerto Rico)	111,225	109,913	106,758	96,573	71,500	69,996
Vietnam	33,960	36,034	40,898	44,102	52,800	55,115
All other countries	795,875	856,001	912,780	918,090	895,520	930,892
World total	2,590,405	2,877,003	3,097,463	3,141,555	3,350,992	3,637,590
Share of world production (percent)						
Brazil	1.6	1.6	1.7	1.8	1.7	1.8
China	45.5	47.4	48.4	49.1	53.6	54.5
Egypt	1.4	1.4	1.4	1.4	1.5	1.5
India	6.2	6.1	6.0	6.5	6.7	6.7
Japan	3.0	2.7	2.4	2.2	1.8	1.7
Russia	2.1	2.1	2.1	1.9	1.5	1.5
Spain	2.1	2.1	1.9	1.5	1.0	1.5
Turkey	1.8	1.8	1.8	1.9	1.8	1.8
United States (includes Puerto Rico)	4.3	3.8	3.4	3.1	2.1	1.9
Vietnam	1.3	1.3	1.3	1.4	1.6	1.5
All other countries	30.7	29.8	29.5	29.2	26.7	25.6
World total	100.0	100.0	100.0	100.0	100.0	100.0
<p>¹ World totals and estimated data are rounded to no more than three significant digits. Data are from a variety of sources, including the European Cement Association. Data may include clinker exports for some countries. Data for 2006-08 are for gray cement only; white cement output was likely to have been an additional 50,000 to 100,000 tons per year. Data have been adjusted to remove sales of cementitious materials other than finished cement (mostly for fly ash and ground granulated blast furnace slag). 2009 and 2010 data are estimated.</p> <p>Source: USGS Minerals Yearbook, 2009; and USGS Mineral Commodities Summary, Cement, 2011.</p>						

Since 1990, there has been an overall consolidation of the Japanese industry as the number of producers dropped from 23 operating 41 plants at the time of the original investigation to 19 producers operating 39 plants in 1998 at the time of the first review, and then declined to the present 18 producers operating 32 plants.¹²⁸ Over the same period of time, Japanese capacity rose from 96.1 million short tons to 105.4 million short tons, and then dropped to 81.8 million short tons in 2004 and 69.9 million short tons in 2009. Production of cement increased from 95.9 million short tons in 1990 to a high of 109.6 million short tons in 1996, then dropped to 91.8 million short tons in 1998, 79.8 million short tons in 2004, and 65.7 million short tons in 2009. Japanese consumption, at an all time high of 93.3 million short tons in 1991, declined irregularly to 90.7 million short tons in 1996, then dropped more sharply to 78.9 million short tons in 1998, before declining to 63.0 million short tons in 2004 and even further to 48.8 million short tons in 2009.¹²⁹ Japanese capacity, production, shipment, and consumption data for 2005-09 are presented in table I-14.

Table I-14
Gray portland cement and cement clinker: Japanese capacity, production, shipments, and consumption, 2005-09¹

Item	2005	2006	2007	2008	2009
Quantity (1,000 short tons)					
Clinker:					
Capacity	77,382	77,382	76,941	75,067	69,886
Production	73,634	73,524	66,690	63,052	55,226
Cement:					
Production	81,020	80,689	78,705	74,516	65,698
Shipments to--					
Home market	64,044	63,493	61,509	55,667	47,950
Export markets	11,244	11,133	10,582	12,015	11,795
Total shipments	75,288	74,626	72,091	67,682	59,745
Consumption	65,036	64,595	62,611	56,659	48,832
Ratios and shares (percent)					
Clinker capacity utilization	95.2	95.0	86.7	84.0	79.0
Share of total shipments held by--					
Home market	85.1	85.1	85.3	82.2	80.3
Export market	14.9	14.9	14.7	17.8	19.7
¹ 2010 data are not available.					
Source: <i>Japan Cement Association, Production, Sales, Consumption</i> (as cited in <i>Response of the domestic interested parties</i> , June 1, 2011, att. 7).					

¹²⁸ Japan Cement Association, April 1, 2009, found at <http://www.jassoc.or.jp/cement/2eng/ea.html>. During the second review there were 18 producers operating 33 plants.

¹²⁹ *Gray Portland Cement and Cement Clinker from Japan, Investigation No. 731-TA-461 (Second Review)*, Staff Report, INV-DD-063, April 27, 2006, p. IV-12; and *Response of the domestic interested parties*, June 1, 2011, att. 7.

As noted earlier in this report, five Japanese producers provided the Commission information concerning their operations during the full first five-year review. Taiheiyo, an integrated multinational producer, was the largest Japanese producer of gray portland cement with 10 plants and 3 grinding operations with a 1999 capacity of 33.2 million short tons.¹³⁰ Taiheiyo's 2009 production was 16.3 million short tons.¹³¹ Taiheiyo's foreign operations include production facilities in the United States,¹³² China, the Philippines, and Vietnam. During the first review, Taiheiyo exported approximately *** percent of its shipments with its principal export markets being ***.

With respect to anticipated changes in the character of its operations in the event the antidumping order were revoked, Taiheiyo commented in the first five-year review:

“***.”¹³³

During the first review, domestic interested parties contended that Japanese producers would be highly motivated to direct their exports to the U.S. market citing, as an example, Taiheiyo's questionnaire comment that in “***.” Japanese respondents countered that their motivation to export to the United States has changed from the original investigation given Taiheiyo's and Mitsubishi's ownership of a “***” of Southern California production capacity.¹³⁴

At the time of the first five-year review, Sumitomo Osaka was the second largest producer of gray portland cement in Japan, operating six plants with a 1999 capacity of 15.9 million short tons.¹³⁵ It currently operates four plants directly with a 12.8 million short ton capacity and works with an additional two cooperating companies.¹³⁶ Sumitomo merged with Osaka Cement in 1994 to form the present corporation and, in addition to its Japanese operations, has a production facility in the Philippines, and is invested in Chinese production.¹³⁷ During the first review, Sumitomo Osaka exported to ***. Concerning anticipated changes in the character of its operations were the dumping order revoked, Sumitomo Osaka noted in the first five-year review:

¹³⁰ Taiheiyo's 1999 capacity utilization rate was *** percent.

¹³¹ Taiheiyo Cement Corporation, *Annual Report 2010*, p. 4. found at <http://www.taiheiyo-cement.co.jp/english/annualreports/2010.html>. Taiheiyo's 2004 production was 19.7 million short tons, which made it the largest Japanese cement producer.

¹³² Taiheiyo owns U.S. producer California Portland with plants located in Colton, CA, Mojave, CA, and Rilitto, AZ.

¹³³ *Gray Portland Cement and Cement Clinker from Japan, Mexico, and Venezuela, Investigations Nos. 303-TA-21 (Review) and 731-TA-451, 461, and 519 (Review), Staff Report*, INV-X-201, September 18, 2000, p. IV-39.

¹³⁴ The level of Taiheiyo's investment in California, ***. During the original investigation, Taiheiyo's predecessors, Nihon and Onada, and Mitsubishi accounted for ***. In 1999, the Southern California production facilities California Portland and Mitsubishi accounted for *** percent of capacity and *** percent of production in that region. California Portland opposed revocation while Mitsubishi ***.

¹³⁵ Sumitomo Osaka's 1999 capacity utilization rate was *** percent.

¹³⁶ Sumitomo Osaka, “Guide to Cement Plants,” found at http://www.soc.co.jp/sumitomo_e/business/cement/02.html. Sumitomo Osaka's 2004 production was 12.0 million short tons, again making it the second largest Japanese producer.

¹³⁷ Sumitomo Osaka, “Investment in a Cement Company in Yunnan, China,” found at http://www.soc.co.jp/sumitomo_e/business/cement/03.html.

“***.”¹³⁸

Mitsubishi was the third largest Japanese producer at the time of the first review, operating six plants with a 1999 capacity of 14.8 million short tons.¹³⁹ In 2009, Mitsubishi produced 12.7 million short tons of cement.¹⁴⁰ Mitsubishi is a multinational producer with operations in the United States,¹⁴¹ Singapore, China, and Vietnam.¹⁴² From 1997 to 1999, Mitsubishi exported approximately *** percent of its total shipments, with its primary markets being ***. Insofar as the possible revocation of the dumping order changing the character of its operations, Mitsubishi noted in the first five-year review that even if the antidumping order were revoked, it would “***” at that time.

Ube was the fourth largest Japanese producer during the first review and is a multinational producer with facilities in China and India.¹⁴³ Ube operated three plants in Japan with a 1999 capacity of 11.8 million short tons and, in 1998, formed a joint venture with Mitsubishi to market cement. Ube’s principal export markets were ***.¹⁴⁴ Should the dumping order have been revoked, Ube indicated in the first five-year review that it anticipated ***.”

Tokuyama was the fifth largest Japanese producer at the time of the first review, operating one plant with a capacity of 6.6 million short tons.¹⁴⁵ Tokuyama’s Nanyo plant was the largest single-factory cement facility in Japan at that time. The company exported in ***. With regard to a change in the character of its operations if the dumping order were revoked, Tokuyama noted in the Commission’s first five-year review:

“***.”¹⁴⁶

¹³⁸ *Gray Portland Cement and Cement Clinker from Japan, Mexico, and Venezuela, Investigations Nos. 303-TA-21 (Review) and 731-TA-451, 461, and 519 (Review), Staff Report, INV-X-201, September 18, 2000, p. IV-40.*

¹³⁹ Mitsubishi’s 1999 capacity utilization rate was *** percent.

¹⁴⁰ Mitsubishi Materials Corporation, *Annual Report 2010*, p. 8. In 2004, Mitsubishi held its spot as the third largest producer with production of 9.9 million short tons.

¹⁴¹ Mitsubishi’s U.S. production facility is in Lucerne Valley, CA.

¹⁴² Mitsubishi Materials Corporation, *Annual Report 2010*, p. 9, found at <http://www.mmc.co.jp/corporate/en/ir/data/annual2010.pdf>.

¹⁴³ Ube remained the fourth largest producer in 2004, having produced 8.0 million short tons.

¹⁴⁴ Ube’s 1999 capacity utilization rate was *** percent.

¹⁴⁵ Tokuyama’s 1999 capacity utilization rate was *** percent. In 2004 its production of 5.8 million short tons maintained its spot as the fifth largest producer.

¹⁴⁶ *Gray Portland Cement and Cement Clinker from Japan, Mexico, and Venezuela, Investigations Nos. 303-TA-21 (Review) and 731-TA-451, 461, and 519 (Review), Staff Report, INV-X-201, September 18, 2000, p. IV-41.*

APPENDIX A

FEDERAL REGISTER NOTICES

of Initiation of Five-Year Sunset Reviews.

Antidumping duty proceedings	Department contact
Tin Mill Products from Japan (A-588-854) (2nd Review)	Dana Mermelstein, (202) 482-1391.
Pure Magnesium (Ingot) from the PRC (A-570-832) (3rd Review)	Julia Hancock, (202) 482-1394.
Helical Spring Lock Washers from the PRC (A-570-822) (3rd Review)	David Goldberger, (202) 482-4136.
Helical Spring Lock Washers from Taiwan (A-583-820) (3rd Review)	David Goldberger, (202) 482-4136.

Countervailing Duty Proceedings

No Sunset Review of countervailing duty orders are scheduled for initiation in June 2011.

Suspended Investigations

No Sunset Review of suspended investigations are scheduled for initiation in June 2011.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998). The Notice of Initiation of Five-Year ("Sunset") Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation,

the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: April 19, 2011.

Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011-10586 Filed 4-29-11; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year ("Sunset") Review

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating a five-year review ("Sunset Review") of the antidumping duty orders listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notice

of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective Date:* May 2, 2011.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205-3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty orders:

DOC case No.	ITC case No.	Country	Product	Department contact
A-588-815	731-TA-461	Japan ...	Gray Portland Cement & Clinker (3rd Review) ...	Dana Mermelstein, (202) 482-1391.
A-570-899	731-TA-1091	PRC	Artist Canvas	Julia Hancock, (202) 482-1394.

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Internet Web site at the following address:

"<http://ia.ita.doc.gov/sunset/>." All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules can be found at 19 CFR 351.303.

This notice serves as a reminder that any party submitting factual information in an antidumping duty (AD) or countervailing duty (CVD) proceeding

must certify to the accuracy and completeness of that information. See section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings initiated on or after March 14, 2011. See *Certification of Factual Information to Import Administration During*

Antidumping and Countervailing Duty Proceedings: Interim Final Rule, 76 FR 7491 (February 10, 2011) (*Interim Final Rule*), amending 19 CFR 351.303(g)(1) and (2). The formats for the revised certifications are provided at the end of the *Interim Final Rule*. The Department intends to reject factual submissions in investigations/proceedings initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order ("APO") immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b) wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. See 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note

that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.¹ Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: April 20, 2011.

Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–10589 Filed 4–29–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended ("the Act"), may request, in accordance with 19 CFR 351.213, that the Department of Commerce ("the Department") conduct an administrative review of that

¹ In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection ("CBP") data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order ("APO") to all parties having an APO within seven days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

Ball Bearing and Parts Thereof From Various Countries

Included in the list of orders for which May 2011 is the anniversary month (see below) are the antidumping duty orders on ball bearings and parts thereof from France, Germany, Italy, Japan, and the United Kingdom. With respect to the reporting requirements in any administrative reviews of these orders which the Department conducts as a result of requests it receives in May 2011, the Department has determined, after several years of experience with larger databases in recent reviews of these orders, that it has the technological ability to calculate antidumping margins for all transactions of subject merchandise. Therefore, the Department intends to apply its standard requirements in antidumping proceedings for respondents to report all U.S. sales of subject merchandise and all comparison-market sales of the foreign like product in any administrative reviews it conducts of the orders for the period May 1, 2010, through April 30, 2011.

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

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

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

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

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

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

Issued: April 25, 2011.

By order of the Commission.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2011-10277 Filed 4-27-11; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-461 (Third Review)]

Gray Portland Cement and Cement Clinker From Japan; Institution of a Five-Year Review Concerning the Antidumping Duty Order on Gray Portland Cement and Cement Clinker From Japan

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on gray portland cement and cement clinker from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is June 1, 2011. Comments on the adequacy of responses may be filed with the Commission by July 15, 2011. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* May 2, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193), 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

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 11-5-245, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

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

SUPPLEMENTARY INFORMATION:

Background.—On May 10, 1991, the Department of Commerce issued an antidumping duty order on imports of gray portland cement and cement clinker from Japan (56 FR 21658). Following first five-year reviews by Commerce and the Commission, effective November 15, 2000, Commerce issued a continuation of the antidumping duty order on imports of gray portland cement and cement clinker from Japan (65 FR 68979). Following second five-year reviews by Commerce and the Commission, effective June 16, 2006, Commerce issued a continuation of the antidumping duty order on imports of gray portland cement and cement clinker from Japan (71 FR 34892). The Commission is now conducting a third review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

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

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

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination, its full first five-year review determination, and its expedited second five-year review determination, the Commission defined a single *Domestic Like Product* consisting of gray portland cement and cement clinker coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as producers of gray portland cement and cement clinker, including “grinding only” operations. The Commission also concluded in its original determination, its full first five-year review determination, and its expedited second five-year review determination that appropriate circumstances existed for a regional industry analysis. In the original investigation, the Commission considered whether the Southern California region (defined as the counties of San Luis Obispo, Kern, Inyo, Mono, Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, San Diego, and Imperial), as proposed by the petitioners, or a larger region, the State of California, was the appropriate region. In its original determination, the Commission determined that both regions satisfied the market isolation criteria but found the more appropriate region for its analysis was Southern California; one Commissioner found the regional industry to consist of producers in the State of California. In its full first five-year review determination, the Commission found that there had been integration of the Northern and Southern regions of California and defined the region as the State of California. The Commission also determined that the record in its expedited second five-year review supported a finding of a regional industry corresponding to the region of the State of California.

For purposes of this notice, you should report information separately on each of the following *Domestic Industries*: (1) Producers of gray portland cement and cement clinker, including “grinding only” operations, located in Southern California; (2) producers of gray portland cement and cement clinker, including “grinding only” operations, located in the State of California; and (3) producers of gray portland cement and cement clinker, including “grinding only” operations, located in the United States as a whole. Additionally, this notice uses the term *Domestic Market Area* to describe the area served by each *Domestic Industry*. Consequently, for purposes of this notice there are three *Domestic Market Areas*: (1) Southern California, (2) the State of California; (3) the United States.

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

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

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission’s designated agency ethics official has advised that a five-year review is not considered the “same particular matter” as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

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

separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

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

Written submissions.—Pursuant to section 207.61 of the Commission’s rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is June 1, 2011. Pursuant to section 207.62(b) of the Commission’s rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is July 15, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission’s rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission’s rules. The Commission’s rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission’s rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission’s rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission’s rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation

of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: Please provide the requested information separately for each *Domestic Industry*, as previously defined in this notice, and, as applicable, its corresponding *Domestic Market Area*. As used below, the term "firm" includes any related firms.

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

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

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

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

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

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the

United States or other countries after 2005.

(7) A list of 3–5 leading purchasers in the *Domestic Market Area* for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product*, provide the following information on your firm's operations on that product during calendar year 2010, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

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

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

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

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

(e) The value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country*, provide the following information on your firm's(s')

operations on that product during calendar year 2010 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

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

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country*, provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

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

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the *Domestic Market Area* or in the market for the *Subject Merchandise* in the *Subject Country* after 2005, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced by the *Domestic Industry*, *Subject Merchandise* produced in the *Subject Country*, and such merchandise from other countries.

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

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

Issued: April 25, 2011.

By order of the Commission.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2011-10280 Filed 4-29-11; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-754]

In the Matter of Certain Handbags, Luggage, Accessories, and Packaging Thereof; Notice of Commission Determination Not To Review an Initial Determination Granting Complainants' Motion To Amend the Complaint and Notice of Investigation To Substitute Respondents and To Add Respondents

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 6) granting complainant's motion to amend the complaint and notice of investigation.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708-2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 5, 2011, based on a complaint filed by Louis Vuitton Malletier S.A. of Paris, France and Louis Vuitton U.S. Manufacturing, Inc., San Dimas, California (collectively "Louis Vuitton"), based on an Amended Complaint filed December 10, 2010, alleging violations of Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain handbags, luggage, accessories, and packaging thereof by reason of infringement of certain claims of U.S. Trademark Registration Nos. 297,594; 1,643,625; 1,653,663; 1,875,198; 2,773,107; 2,177,828; 2,181,753; and 1,519,828. 76 FR 585-6 (Jan. 5, 2011). The complainant named as respondents T&T Handbag Industrial Co., Ltd. of Guangzhou, China; Sanjiu Leather Co., Ltd. of Guangzhou, China; Meada Corporation (d/b/a/Diophy International) of El Monte, California ("Meada"); Pacpro, Inc. of El Monte, California; Jianyong Zheng (a/k/a/Jui Go Zheng, Jiu An Zheng, Jian Yong Zheng, Peter Zheng) of Arcadia, California; Alice Bei Wang (a/k/a Alice B. Wang) of Arcadia, California ("Alice B. Wang"); Trendy Creations, Inc. of Chatsworth,

California; The Inspired Bagger of Dallas, Texas; House of Bags of Los Angeles, California; Ronett Trading, Inc. (d/b/a/Ronett Wholesale & Import) of New York, New York; EZ Shine Group, Inc. of New York, New York; Master of Handbags of Los Angeles, California; Choicehandbags.com, Inc. (d/b/a/Choice Handbags) of Los Angeles, California; and Rasul Enterprises, LLC (d/b/a/The Handbag Warehouse) of Dallas, Texas.

On March 24, 2011, Louis Vuitton filed a motion for leave to amend the Amended Complaint and Notice of Investigation for the following reasons: (1) To add Jiu An Zheng and Jiu Gao Zheng in place of Jianyong Zhen; (2) to add Rimen Leather Co., Ltd., Guangzhou Rimen Leather Goods Company Limited, and Guangzhou Rui Ma Leatherware Co., Ltd., in place of Sanjiu Leather Co., Ltd.; and (3) to add Monhill, Inc. and Zhixian Lu as respondents. On April 1, 2011, respondents Meada and Alice B. Wang filed a response opposing the motion. No other party filed a response.

On April 11, 2011, the ALJ issued the subject ID, granting Louis Vuitton's motion pursuant to Commission Rule 210.14(b) (19 CFR 210.14(b)). No petitions for review of this ID were filed.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: April 27, 2011.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2011-10551 Filed 4-29-11; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Filing of Settlement Agreement Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Notice is hereby given that on or about April 25, 2011, a proposed Settlement Agreement in *In re: Old All, Inc. (f/k/a Aleris International, Inc.) et al.*, Case No. 09-10478 (BLS), was lodged pursuant to Fed. R. Bank. Proc. 9019 with the United States Bankruptcy Court for the District of Delaware.

The proposed Settlement Agreement resolves a claim asserted in this Chapter 11 bankruptcy proceeding by the United

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency to “* * * provide 60-day notice in the **Federal Register** * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.” Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the **Federal Register** on March 25, 2011 (76 FR 16816), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by September 12, 2011.

Public Comment Policy: We post all comments, including names and addresses of respondents, at <http://www.regulations.gov>. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

ONRR Information Collection Clearance Officer: Hyla Hurst (303) 231–3495.

Dated: August 2, 2011.

Gregory J. Gould,

Director for Office of Natural Resources Revenue.

[FR Doc. 2011–20510 Filed 8–11–11; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–461 (Third Review)]

Gray Portland Cement and Cement Clinker From Japan; Scheduling of an Expedited Five-Year Review Concerning the Antidumping Duty Order on Gray Portland Cement and Cement Clinker From Japan

AGENCY: United States International Trade Commission.

ACTION: Notice.

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

DATES: *Effective Date:* August 5, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission’s TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this review may be viewed on the Commission’s electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On August 5, 2011, the Commission determined that the domestic interested party group response to its notice of institution (76 FR 24519, May 2, 2011) of the subject five-year review was adequate and that the respondent interested party group response was inadequate.¹ The Commission did not find any other

¹ Commissioner Dean A. Pinkert did not participate.

circumstances that would warrant conducting a full review.² Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on September 12, 2011, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission’s rules.

Written submissions.—As provided in section 207.62(d) of the Commission’s rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,³ and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before October 3, 2011 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by October 3, 2011. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce’s final results is three business days after the issuance of Commerce’s results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission’s rules. The Commission’s rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission’s rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain

² A record of the Commissioners’ votes, the Commission’s statement on adequacy, and any individual Commissioner’s statements will be available from the Office of the Secretary and at the Commission’s Web site.

³ The Commission has found the responses submitted by the Committee For Fairly Traded Japanese Cement; the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers; the United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; the International Union of Operating Engineers; and Local Lodge 93, International Association of Machinists and Aerospace Workers to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

documents must also be filed in paper form, as specified in II(C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

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

Determination.—The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. § 1675(c)(5)(B).

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

By order of the Commission.

Issued: August 9, 2011.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. 2011-20544 Filed 8-11-11; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-797]

Certain Portable Electronic Devices and Related Software; Notice of Institution of Investigation; Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission.

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 8, 2011, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Apple Inc., f/k/a Apple Computer, Inc. of Cupertino, California. A supplement was filed on August 3, 2011. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain portable electronic devices and related software by reason of infringement of certain claims of U.S. Patent No. 7,844,915 ("the '915 patent"); U.S. Patent No. 7,469,381 ("the '381 patent"); U.S. Patent No. 7,084,859 ("the '859 patent"); U.S. Patent No. 7,920,129 ("the '129 patent"); and U.S. Patent No. 6,956,564 ("the '564 patent"). The complaint further alleges that an

industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist order.

ADDRESSES: The complaint and supplement, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained 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 at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2011).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 5, 2011, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain portable electronic devices and related software that infringe one or more of claims 1-5, 7-12, 14-19, and 21 of the '915 patent; claims 1-20 of the '381 patent; claims 14-20, 25, and 28 of the '859 patent; claims 1-3, 5-12, 14-19, 21, 22, and 24-28 of the '129 patent; and claims 28 and 36 of the '564 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following

are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Apple Inc., f/k/a Apple Computer, Inc., 1 Infinite Loop, Cupertino, CA 95014.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

HTC Corp.,
23 Xinghua Road, Taoyuan 330,
Taiwan.

HTC America, Inc.,
13920 SE. Eastgate Way, Suite 400,
Bellevue, WA 98005.

Exedea, Inc.,
5950 Corporate Drive,
Houston, TX 77036.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Acting Chief Administrative Law Judge Charles E. Bullock, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)-(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

of the total amount of antidumping duties calculated for the examined sales and the total entered value of the examined sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if the importer-specific assessment rate calculated in the final results of this review is above *de minimis* (i.e., at or above 0.50 percent). Pursuant to 19 CFR 351.106(c)(2), we intend to instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is zero or *de minimis* (i.e., less than 0.50 percent). See 19 CFR 351.106(c)(1).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this new shipper review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for subject merchandise that is manufactured by Enzo Juan Garaventa or Villamora and exported by Enzo Juan Garaventa or Villamora will be the rate established in the final results of this new shipper review, except no cash deposit will be required if its weighted-average margin is *de minimis* (i.e., less than 0.5 percent); (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers and/or exporters of this merchandise, shall be 30.24 percent, the all-others rate established in the LTFV investigation. See *Notice of Antidumping Duty Order; Honey From Argentina*, 66 FR 63672 (December 10, 2001). These requirements, when imposed, shall remain in effect until further notice.

Further, effective upon publication of the final results, we intend to instruct CBP that importers may no longer post a bond or other security in lieu of a cash deposit on imports of honey from Argentina, manufactured by Enzo Juan Garaventa or Villamora and exported by Enzo Juan Garaventa or Villamora. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Hearing

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of public announcement. See 19 CFR 351.224(b). Unless notified by the Department, pursuant to 19 CFR 351.309(c)(ii), interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the deadline for filing the case briefs. See 19 CFR 351.309(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Additionally, parties are requested to provide their case briefs and rebuttal briefs in electronic format (e.g., WordPerfect, Microsoft Word, Adobe Acrobat, etc.).

Interested parties who wish to request a hearing or to participate if one is requested must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. See 19 CFR 351.310(c).

Beginning August 5, 2011, with certain limited exceptions, interested parties are required to file electronically all submissions for all proceedings using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically-filed document must be successfully received in its entirety by the Department's electronic records system, IA ACCESS, by the time and date of the above-referenced deadline for the submission of case briefs. Documents excepted from the electronic submission requirements, must be filed manually (i.e., in paper form) with the APO/Dockets Unit in Room 1870 and stamped with the date and time of receipt by the deadline. See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).²

The Department will issue the final results of this review, including the results of its analysis of issues raised in

any written briefs, within 90 days of signature of these preliminary results, unless the final results are extended. See section 751(a)(2)(B)(iv) of the Act.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper review is issued and published in accordance with sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act, as well as 19 CFR 351.214(i).³

Dated: August 24, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011-22332 Filed 8-30-11; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-815]

Gray Portland Cement and Clinker From Japan: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order

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

SUMMARY: The Department has conducted an expedited (120-day) third sunset review of the antidumping duty order on gray portland cement and clinker from Japan. As a result of this third sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping as indicated in the "Final Results of Review" section of this notice.

DATES: *Effective Date:* August 31, 2011.

FOR FURTHER INFORMATION CONTACT: Catherine Cartsos or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution

³ There was an earthquake on Tuesday, August 23, 2011, which resulted in the Commerce building being closed from 2 pm until COB on that day. Because the closure affected our ability to issue this determination within the statutory deadline, we have tolled the deadline by one day.

² Available online at <http://www.gpo.gov/fdsys/pkg/FR-2011-07-06/pdf/2011-16352.pdf>.

Avenue, NW., Washington, DC 20230; telephone: (202) 482-1757 or (202) 482-1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2011, the Department published the notice of initiation of the third sunset review of the antidumping duty order on gray portland cement and clinker from Japan¹ pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). See *Initiation of Five-Year ("Sunset") Review*, 76 FR 24459 (May 2, 2011) (*Notice of Initiation*).

The Department received notice of intent to participate in this third sunset review from the domestic interested party, Committee for Fairly Traded Japanese Cement (domestic interested party), within the 15-day period specified in 19 CFR 351.218(d)(1)(i). The domestic interested party claimed interested-party status under section 771(9)(E) of the Act as a trade or business association, a majority of whose members manufacture, produce or wholesale a domestic like product in the United States.

The Department received a complete substantive response to the *Notice of Initiation* from the domestic interested party within the 30-day period specified in 19 CFR 351.218(d)(3)(i). The Department received no responses from any respondent interested parties. In accordance with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting an expedited (120-day) third sunset review of the antidumping duty order on gray portland cement and clinker from Japan.

Scope of the Order

The products covered by the order are cement and cement clinker from Japan. Cement is a hydraulic cement and the primary component of concrete. Cement clinker, an intermediate material produced when manufacturing cement, has no use other than grinding into finished cement. Microfine cement was specifically excluded from the antidumping duty order. Cement is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2523.29 and cement clinker is currently classifiable under HTS item number 2523.10. Cement has also been

entered under HTS item number 2523.90 as "other hydraulic cements." The HTS item numbers are provided for convenience and customs purposes. The written product description remains dispositive as to the scope of the product covered by the order.²

Analysis of Comments Received

All issues raised in this review are addressed in the "Issues and Decision Memorandum for the Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order on Gray Portland Cement and Clinker from Japan" from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated concurrently with this notice (I&D Memo), which is hereby adopted by this notice. The issues discussed in the I&D Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the dumping margins likely to prevail if the order was revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room 7046 of the main Department of Commerce building.

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

Final Results of Review

The Department determines that revocation of the antidumping duty order on gray portland cement and clinker from Japan would be likely to lead to continuation or recurrence of dumping at the following weighted-average dumping margins:

Company	Weighted-Average dumping margin (percent)
Onoda Cement Company, Ltd ...	70.52
Nihon Cement Company, Ltd	69.89
All Other Manufacturers/Producers/Exporters	70.23

¹ See *Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value: Gray Portland Cement and Clinker From Japan*, 56 FR 21658 (May 10, 1991), and *Amended Final Determination of Sales at Less Than Fair Value and Antidumping Order: Gray Portland Cement and Clinker From Japan*, 60 FR 39150 (August 1, 1995).

² The Department has made two scope rulings regarding subject merchandise. See *Scope Rulings*, 57 FR 19602 (May 7, 1992) (classes G and H of oil well cement are within the scope of the order), and *Scope Rulings*, 58 FR 27542 (May 10, 1993) ("Nittetsu Super Fine" cement is not within the scope of the order).

Notification Regarding APO

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

The Department is issuing and publishing the final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: August 18, 2011.

Christian Marsh,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011-22334 Filed 8-30-11; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-822]

Stainless Steel Plate in Coils From Italy: Revocation of Antidumping Duty Order

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

SUMMARY: On June 2, 2010, the Department of Commerce (the Department) initiated a second sunset review of the antidumping duty order on stainless steel plate in coils (SSPC) from Italy. See *Initiation of Five-Year ("Sunset") Review*, 75 FR 30777 (June 2, 2010) (*Initiation*). Pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), the International Trade Commission (ITC) determined that revocation of this order would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See *Stainless Steel Plate From Belgium, Italy, Korea, South Africa, and Taiwan*, 76 FR 50495 (August 15, 2011) (ITC Final). Therefore, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1)(iii), the Department is revoking the antidumping duty order on SSPC from Italy.

DATES: *Effective Date:* July 18, 2010.

FOR FURTHER INFORMATION CONTACT: Hector Rodriguez or Elizabeth Eastwood, AD/CVD Operations, Office 2, Import Administration, International

APPENDIX B

COMMISSION'S STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Gray Portland Cement and Cement Clinker from Japan
Inv. No. 731-TA-461 (Third Review)

On August 5, 2011, the Commission determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).¹

The Commission received a single response to the notice of institution filed jointly by the Committee for Fairly Traded Japanese Cement (“Committee”), an *ad hoc* committee of four domestic producers of gray portland cement and cement clinker (“cement”) located in the State of California, and four labor unions representing employees producing cement in the State of California: (1) the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers; (2) the United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; (3) The International Union of Operating Engineers; and (4) Local Lodge 93, International Association of Machinists and Aerospace Workers (collectively “Domestic Interested Parties”). The Commission found the individual responses of the Committee and each of the four labor unions to be adequate. Because Domestic Interested Parties represent a substantial proportion of production of cement in the State of California region, the Commission further determined that the domestic interested party group response was adequate.

The Commission received no response from any respondent interested party, and therefore determined that the respondent interested party group response to the notice of institution was inadequate. In the absence of an adequate respondent interested party group response or any other circumstances warranting a full review, the Commission determined to conduct an expedited review.

A record of the Commissioners’ votes is available from the Office of the Secretary and the Commission’s web site (www.usitc.gov).

¹ Commissioner Dean A. Pinkert is not participating in this review.

APPENDIX C(a)

SUMMARY DATA CONCERNING THE UNITED STATES (NATIONAL)

(Reproductions of certain summary tables in Second Review Staff Report)

Table C-3

Gray portland cement: Summary data concerning UNITED STATES (NATIONAL), 1997-99

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

Item	Reported data			Period changes		
	1997	1998	1999	1997-99	1997-98	1998-99
U.S. consumption quantity:						
Amount	104,152	111,169	116,450	11.8	6.7	4.8
Responding producers' share (1)	72.1	69.7	68.9	-3.2	-2.4	-0.8
Other producers' share (1)	13.0	11.4	8.5	-4.6	-1.7	-2.9
Importers' share (1):						
Japan	0.0	0.0	0.0	0.0	0.0	0.0
Mexico	0.9	1.1	1.0	0.1	0.2	-0.1
Venezuela	1.3	1.3	1.6	0.4	0.0	0.3
Subtotal	2.2	2.5	2.7	0.5	0.2	0.2
Other sources	12.6	16.5	19.9	7.3	3.8	3.5
Total imports	14.9	18.9	22.7	7.8	4.1	3.7
U.S. imports from:						
Japan:						
Quantity	0.373	23	33	8,704.1	6,041.1	43.4
Value	252	1,368	1,873	644.6	443.8	36.9
Unit value	\$675.03	\$59.78	\$57.09	-91.5	-91.1	-4.5
Ending inventory quantity	***	***	***	***	***	***
Mexico:						
Quantity	978	1,262	1,216	24.4	29.1	-3.6
Value	34,858	45,318	44,861	28.7	30.0	-1.0
Unit value	\$35.65	\$35.91	\$36.90	3.5	0.7	2.7
Ending inventory quantity	***	***	***	***	***	***
Venezuela:						
Quantity	1,338	1,462	1,907	42.5	9.3	30.4
Value	60,640	66,542	89,098	46.9	9.7	33.9
Unit value	\$45.32	\$45.50	\$46.72	3.1	0.4	2.7
Ending inventory quantity	***	***	***	***	***	***
Subtotal:						
Quantity	2,316	2,747	3,156	36.3	18.6	14.9
Value	95,750	113,228	135,832	41.9	18.3	20.0
Unit value	\$41.34	\$41.22	\$43.04	4.1	-0.3	4.4
Ending inventory quantity	***	***	***	***	***	***
Other sources:						
Quantity	13,165	18,303	23,223	76.4	39.0	26.9
Value	612,376	824,487	1,012,351	65.3	34.6	22.8
Unit value	\$46.52	\$45.05	\$43.59	-6.3	-3.2	-3.2
Ending inventory quantity	***	***	***	***	***	***
All sources:						
Quantity	15,481	21,050	26,379	70.4	36.0	25.3
Value	708,125	937,714	1,148,182	62.1	32.4	22.4
Unit value	\$45.74	\$44.55	\$43.53	-4.8	-2.6	-2.3
Ending inventory quantity	580	655	659	13.5	12.8	0.6
Shipments by nonresponding						
U.S. producers (quantity)	13,560	12,631	9,861	-27.3	-6.9	-21.9

Table continued on next page.

Table C-3--Continued
Gray portland cement: Summary data concerning UNITED STATES (NATIONAL), 1997-99

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

Item	Reported data			Period changes		
	1997	1998	1999	1997-99	1997-98	1998-99
Responding U.S. producers¹:						
Average capacity quantity	80,471	80,928	82,266	2.2	0.6	1.7
Production quantity	75,223	76,222	78,409	4.2	1.3	2.9
Capacity utilization (1)	93.5	94.2	95.3	1.8	0.7	1.1
U.S. shipments:						
Quantity	75,111	77,489	80,210	6.8	3.2	3.5
Value	5,026,925	5,426,160	5,703,951	13.5	7.9	5.1
Unit value	\$66.93	\$70.03	\$71.11	6.3	4.6	1.6
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	4,623	4,350	5,612	21.4	-5.9	29.0
Inventories/production (1)	6.1	5.7	7.2	1.0	-0.4	1.4
Production workers	6,777	6,843	7,030	3.7	1.0	2.7
Hours worked (1,000s)	15,206	15,125	15,570	2.4	-0.5	2.9
Wages paid (\$1,000s)	304,794	316,659	331,848	8.9	3.9	4.8
Hourly wages	\$20.04	\$20.94	\$21.31	6.3	4.4	1.8
Productivity (tons per hour)	4.4	4.5	4.5	2.7	2.4	0.3
Unit labor costs	\$4.57	\$4.66	\$4.73	3.5	2.0	1.5
Net sales (2):						
Quantity	76,011	79,214	82,001	7.9	4.2	3.5
Value	5,060,620	5,494,704	5,790,476	14.4	8.6	5.4
Unit value	\$66.58	\$69.37	\$70.61	6.1	4.2	1.8
Cost of goods sold (COGS)	3,256,853	3,495,251	3,695,137	13.5	7.3	5.7
Gross profit or (loss)	1,803,767	1,999,453	2,095,339	16.2	10.8	4.8
SG&A expenses	399,310	435,617	453,606	13.6	9.1	4.1
Operating income or (loss)	1,404,457	1,563,836	1,641,733	16.9	11.3	5.0
Capital expenditures	480,626	589,166	1,107,824	130.5	22.6	88.0
Unit COGS	\$42.85	\$44.12	\$45.06	5.2	3.0	2.1
Unit SG&A expenses	\$5.25	\$5.50	\$5.53	5.3	4.7	0.6
Unit operating income or (loss)	\$18.48	\$19.74	\$20.02	8.4	6.8	1.4
COGS/sales (1)	64.4	63.6	63.8	-0.5	-0.7	0.2
Operating income or (loss)/ sales (1)	27.8	28.5	28.4	0.6	0.7	-0.1

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

(2) Financial data reported for Portland cement and cement clinker.

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

Source: Compiled from data submitted in response to Commission questionnaires, official Commerce statistics, and data from the USGS.

APPENDIX C(b)

SUMMARY DATA CONCERNING CALIFORNIA
(Reproductions of certain summary tables in Second Review Staff Report)

Table I-4B

Gray portland cement: CALIFORNIA summary data presenting selected items from the original investigations and the first reviews on Mexico, Japan, and Venezuela, 1986-90 and 1997-99

Item	1986	1987	1988	1989	1990	1997	1998	1999
<i>(Quantity in 1,000 tons, value in 1,000 dollars, and unit values are per 1,000 tons)</i>								
GRAY PORTLAND CEMENT:								
CALIFORNIA consumption quantity:								
Amount	10,643	10,887	12,402	13,213	12,235	9,971	11,591	13,025
Producers' share	83.5	79.1	77.8	75.5	77.5	88.9	79.0	73.9
Importers' share:								
Japan	3.3	4.5	9.9	13.1	10.7	0.0	0.1	0.2
Mexico	6.5	7.9	7.4	6.7	8.2	0.2	0.2	0.4
Venezuela ¹						0.0	0.0	0.0
Subtotal	9.8	12.3	17.2	19.8	18.9	0.2	0.4	0.6
All other	6.7	8.6	5.0	4.8	3.6	10.9	20.6	25.5
Total imports	16.5	20.9	22.2	24.5	22.5	11.1	21.0	26.1
Shares of CALIFORNIA consumption supplied by--								
Producers and importers WITHIN region	96.9	97.0	96.7	96.7	96.5	100.0	100.0	100.0
Producers OUTSIDE region	3.1	3.0	3.3	3.3	3.5	0.0	0.0	0.0
CALIFORNIA imports from:								
Japan:								
Quantity	349	486	1,222	1,726	1,309	0	16	32
Value	11,926	17,373	40,361	54,567	45,821	0	702	1,328
Unit value	\$34.17	\$35.75	\$33.03	\$31.61	\$35.00	\$0.00	\$44.91	\$41.73
Mexico:								
Quantity	693	857	916	884	1,009	21	29	49
Value	24,525	27,827	28,986	27,476	34,972	846	996	1,809
Unit value	\$35.39	\$32.47	\$31.64	\$31.08	\$34.66	\$40.45	\$34.74	\$36.70
Venezuela:¹								
Quantity						0	0	0
Value						0	0	0
Unit value						\$0.00	\$0.00	\$0.00
Subtotal:								
Quantity	1,042	1,343	2,138	2,611	2,318	21	44	81
Value	36,461	45,200	69,347	82,043	80,793	846	1,698	3,137
Unit value	\$34.99	\$33.66	\$32.44	\$31.42	\$34.85	\$40.45	\$38.32	\$38.67
Table continued on next page.								

Table I-4B--Continued

Gray portland cement: CALIFORNIA summary data presenting selected items from the original investigation and the first reviews on Mexico, Japan, and Venezuela, 1986-90 and 1997-99

Item	1986	1987	1988	1989	1990	1997	1998	1999
(Quantity in 1,000 tons, value in 1,000 dollars, and unit values are per 1,000 tons)								
GRAY PORTLAND CEMENT:								
CALIFORNIA imports from--Continued								
All other sources:								
Quantity	711	937	614	629	438	1,089	2,387	3,321
Value	25,984	31,552	19,061	23,739	18,062	54,454	106,391	137,818
Unit value	\$36.55	\$33.67	\$31.04	\$37.74	\$41.24	\$50.01	\$44.58	\$41.50
All sources:								
Quantity	1,753	2,280	2,752	3,239	2,756	1,110	2,431	3,402
Value	62,436	76,752	88,408	105,782	98,855	55,301	108,089	140,955
Unit value	\$35.62	\$33.66	\$32.13	\$32.66	\$35.87	\$49.83	\$44.47	\$41.43
CALIFORNIA producers'--								
Capacity	11,733	11,733	11,480	11,528	11,628	11,616	11,659	11,829
Production	9,224	8,987	9,809	10,341	9,779	10,979	10,889	11,302
Capacity utilization	78.6	76.6	85.4	89.7	84.1	94.5	93.4	95.5
Shipments INSIDE region:								
Quantity	8,555	8,283	9,239	9,534	9,046	8,861	9,160	9,623
Value	517,993	482,970	500,314	535,918	528,660	554,486	632,446	690,878
Unit value	\$60.55	\$58.31	\$54.15	\$56.21	\$58.44	\$62.57	\$69.04	\$71.80
Shipments OUTSIDE region:								
Quantity	683	553	678	822	680	2,231	1,721	1,591
Value	38,942	31,699	37,134	47,787	41,077	134,682	110,568	94,851
Unit value	\$57.02	\$57.32	\$54.77	\$58.14	\$60.41	\$60.36	\$64.23	\$59.61
Production workers	1,651	1,537	1,403	1,362	1,309	956	994	994
Hours worked (1,000s)	3,769	3,515	3,254	3,202	2,973	2,225	2,250	2,300
GRAY PORTLAND CEMENT AND CEMENT CLINKER:								
CALIFORNIA producers'--								
Net sales (value)	546,681	531,453	543,625	575,197	547,178	706,221	768,570	816,605
COGS (value)	431,928	409,282	434,074	440,662	414,166	493,008	506,534	528,215
Gross profit (value)	114,753	122,171	109,551	134,535	133,012	213,213	262,036	288,390
Operating income (value)	74,669	86,799	78,901	101,951	101,905	163,222	207,062	230,415
Operating income or (loss)/sales (percent)	13.7	16.3	14.5	17.7	18.6	23.1	26.9	28.2
¹ 1986-90 imports from Venezuela included in imports from all other sources.								
Source: Compiled from data submitted in response to Commission questionnaires in the original investigations and first reviews, official Commerce statistics, and data from the USGS.								

Table I-6B

Gray portland cement: CALIFORNIA summary data concerning statutory criteria for regional analysis from the original investigations and current reviews on Japan, Mexico, and Venezuela, 1986-90 and 1997-99

Item	1986	1987	1988	1989	1990	1997	1998	1999
<i>(In percent, based on quantity)</i>								
Share of--								
Regional producers' shipments made within region	93	94	93	92	93	80	84	86
Regional consumption supplied by U.S. producers outside region	3	3	3	3	4	0	0	0
Region's share of--								
Total imports from Japan	68	71	75	79	68	(¹)	70	97
Total imports from Mexico	22	23	20	23	47	2	2	4
Total imports from Venezuela	(²)	(²)	(²)	(²)	(²)	0	0	0
Ratio of imports from Japan to consumption--								
Within region	3	5	10	13	11	0	(¹)	(¹)
Outside region	(¹)	(¹)	1	1	1	0	(¹)	(¹)
Ratio of imports from Mexico to consumption--								
Within region	7	8	7	7	8	(¹)	(¹)	(¹)
Outside region	3	4	5	4	2	(¹)	(¹)	(¹)
Ratio of imports from Venezuela to consumption--								
Within region	(²)	(²)	(²)	(²)	(²)	0	0	0
Outside region	(²)	(²)	(²)	(²)	(²)	0	0	0
¹ Less than 0.5 percent. ² Not available.								
Source: 1986-90 data compiled from <i>Original Report</i> . 1997-99 data compiled from data submitted in response to Commission questionnaires in the <i>First Review</i> , official Commerce statistics, and data from the USGS.								

Table C-2
Gray portland cement: Summary data concerning CALIFORNIA, 1997-99

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

Item	Reported data			Period changes		
	1997	1998	1999	1997-99	1997-98	1998-99
Regional consumption quantity:						
Amount	9,971	11,591	13,025	30.6	16.2	12.4
Regional producers' share (1) ..	88.9	79.0	73.9	-15.0	-9.8	-5.1
Importers' share (1):						
Japan	0.0	0.1	0.2	0.2	0.1	0.1
Mexico	0.2	0.2	0.4	0.2	0.0	0.1
Venezuela	0.0	0.0	0.0	0.0	0.0	0.0
Subtotal	0.2	0.4	0.6	0.4	0.2	0.2
Other sources	10.9	20.6	25.5	14.6	9.7	4.9
Total imports	11.1	21.0	26.1	15.0	9.8	5.1
U.S. imports into region from:						
Japan:						
Quantity	0	16	32	(2)	(2)	103.6
Value	0	702	1,328	(2)	(2)	89.2
Unit value	(2)	\$44.91	\$41.73	(2)	(2)	-7.1
Ending inventory quantity	(3)	(3)	(3)	(2)	(2)	(2)
Mexico:						
Quantity	21	29	49	135.5	37.0	71.9
Value	846	996	1,809	113.7	17.7	81.6
Unit value	\$40.45	\$34.74	\$36.70	-9.3	-14.1	5.6
Ending inventory quantity	(3)	(3)	(3)	(2)	(2)	(2)
Venezuela:						
Quantity	0	0	0	0.0	0.0	0.0
Value	0	0	0	0.0	0.0	0.0
Unit value	(2)	(2)	(2)	(2)	(2)	(2)
Ending inventory quantity	(3)	(3)	(3)	(2)	(2)	(2)
Subtotal:						
Quantity	21	44	81	287.6	111.7	83.1
Value	846	1,698	3,137	270.5	100.6	84.7
Unit value	\$40.45	\$38.32	\$38.67	-4.4	-5.3	0.9
Ending inventory quantity	(3)	(3)	(3)	(2)	(2)	(2)
Other sources:						
Quantity	1,089	2,387	3,321	205.0	119.2	39.2
Value	54,454	106,391	137,818	153.1	95.4	29.5
Unit value	\$50.01	\$44.58	\$41.50	-17.0	-10.9	-6.9
Ending inventory quantity	(3)	(3)	(3)	(2)	(2)	(2)
All sources:						
Quantity	1,110	2,431	3,402	206.6	119.0	40.0
Value	55,301	108,089	140,955	154.9	95.5	30.4
Unit value	\$49.83	\$44.47	\$41.43	-16.9	-10.8	-6.8
Ending inventory quantity	(3)	(3)	(3)	(2)	(2)	(2)

Table continued on next page.

Table C-2--Continued
Gray portland cement: Summary data concerning CALIFORNIA, 1997-99

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

Item	Reported data			Period changes		
	1997	1998	1999	1997-99	1997-98	1998-99
U.S. regional producers ¹ :						
Average capacity quantity	11,616	11,659	11,829	1.8	0.4	1.5
Production quantity	10,979	10,889	11,302	2.9	-0.8	3.8
Capacity utilization (1)	94.5	93.4	95.5	1.0	-1.1	2.2
U.S. shipments within region:						
Quantity	8,861	9,160	9,623	8.6	3.4	5.0
Value	554,476	632,446	690,878	24.6	14.1	9.2
Unit value	\$62.57	\$69.04	\$71.80	14.7	10.3	4.0
U.S. shipments outside region:						
Quantity	2,231	1,721	1,591	-28.7	-22.9	-7.6
Value	134,682	110,568	94,851	-29.6	-17.9	-14.2
Unit value	\$60.36	\$64.23	\$59.61	-1.2	6.4	-7.2
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	314	331	413	31.5	5.4	24.8
Inventories/production (1)	2.9	3.0	3.7	0.8	0.2	0.6
Production workers	956	994	994	4.0	4.0	0.0
Hours worked (1,000s)	2,225	2,250	2,300	3.4	1.1	2.2
Wages paid (\$1,000s)	51,565	55,509	58,168	12.8	7.6	4.8
Hourly wages	\$23.18	\$24.67	\$25.29	9.1	6.5	2.5
Productivity (tons per hour)	4.9	4.8	4.9	-0.4	-1.9	1.5
Unit labor costs	\$4.70	\$5.10	\$5.15	9.6	8.5	1.0
Net sales (4):						
Quantity	11,454	11,366	11,894	3.8	-0.8	4.6
Value	706,221	768,570	816,605	15.6	8.8	6.2
Unit value	\$61.66	\$67.62	\$68.66	11.4	9.7	1.5
Cost of goods sold (COGS)	493,008	506,534	528,215	7.1	2.7	4.3
Gross profit or (loss)	213,213	262,036	288,390	35.3	22.9	10.1
SG&A expenses	49,991	54,974	57,975	16.0	10.0	5.5
Operating income or (loss)	163,222	207,062	230,415	41.2	26.9	11.3
Capital expenditures	59,872	51,792	103,949	73.6	-13.5	100.7
Unit COGS	\$43.04	\$44.57	\$44.41	3.2	3.5	-0.3
Unit SG&A expenses	\$4.36	\$4.84	\$4.87	11.7	10.8	0.8
Unit operating income or (loss)	\$14.25	\$18.22	\$19.37	35.9	27.8	6.3
COGS/sales (1)	69.8	65.9	64.7	-5.1	-3.9	-1.2
Operating income or (loss)/ sales (1)	23.1	26.9	28.2	5.1	3.8	1.3

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

(2) Not applicable.

(3) Not available.

(4) Financial data reported for Portland cement and cement clinker.

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

Source: Compiled from data submitted in response to Commission questionnaires, official Commerce statistics, and data from the USGS.

APPENDIX C(c)

SUMMARY DATA CONCERNING SOUTHERN CALIFORNIA
(Reproductions of certain summary tables in Second Review Staff Report)

Table I-4A

Gray portland cement: SOUTHERN CALIFORNIA summary data presenting selected items from the original investigations and the first reviews on Mexico, Japan, and Venezuela, 1986-90 and 1997-99

Item	1986	1987	1988	1989	1990	1997	1998	1999
<i>(Quantity in 1,000 tons, value in 1,000 dollars, and unit values are per 1,000 tons)</i>								
GRAY PORTLAND CEMENT:								
SOUTHERN CALIFORNIA consumption quantity:								
Amount	7,115	7,302	8,409	8,807	8,064	6,485	6,999	8,263
Producers' share	78.5	72.9	69.3	67.1	69.2	77.3	67.4	61.7
Importers' share:								
Japan	4.9	6.7	14.1	18.2	14.7	0.0	0.2	0.4
Mexico	8.2	8.5	7.6	6.8	10.6	0.3	0.4	0.6
Venezuela ¹						0.0	0.0	0.0
Subtotal	13.1	15.2	21.7	25.0	25.3	0.3	0.6	1.0
All other	7.5	10.8	7.3	6.3	3.9	16.8	30.0	29.8
Total imports	20.7	26.0	29.0	31.3	29.2	17.1	30.6	30.8
Shares of SOUTHERN CALIFORNIA consumption supplied by--								
Producers and importers WITHIN region	99.2	98.9	98.3	98.4	98.4	94.4	98.0	92.5
Producers OUTSIDE region	0.8	1.1	1.7	1.6	1.6	5.6	2.0	7.5
SOUTHERN CALIFORNIA imports from:								
Japan:								
Quantity	349	486	1,183	1,607	1,186	0	16	32
Value	11,926	17,373	38,756	50,115	40,751	0	702	1,328
Unit value	\$34.17	\$35.75	\$32.76	\$31.19	\$34.33	\$0.00	\$44.91	\$41.73
Mexico:								
Quantity	586	624	642	595	857	21	29	49
Value	21,046	21,456	21,205	19,303	29,533	846	996	1,809
Unit value	\$33.91	\$34.38	\$33.03	\$32.44	\$34.46	\$40.45	\$34.74	\$36.70
Venezuela:¹								
Quantity						0	0	0
Value						0	0	0
Unit value						\$0.00	\$0.00	\$0.00
Subtotal:								
Quantity	934	1,110	1,825	2,201	2,043	21	44	81
Value	32,972	38,829	59,961	69,418	70,284	846	1,698	3,137
Unit value	\$35.30	\$34.98	\$32.86	\$31.54	\$34.40	\$40.45	\$38.32	\$38.67

Table continued on next page.

Table I-4A--Continued

Gray portland cement: SOUTHERN CALIFORNIA summary data presenting selected items from the original investigation and the first reviews on Mexico, Japan, and Venezuela, 1986-90 and 1997-99

Item	1986	1987	1988	1989	1990	1997	1998	1999
<i>(Quantity in 1,000 tons, value in 1,000 dollars, and unit values are per 1,000 tons)</i>								
GRAY PORTLAND CEMENT:								
SOUTHERN CALIFORNIA imports from--Continued								
All other sources:								
Quantity	535	790	614	552	315	1,089	2,099	2,465
Value	18,590	24,232	19,054	21,339	13,226	54,411	91,410	94,069
Unit value	\$34.75	\$30.67	\$31.03	\$38.66	\$41.99	\$49.97	\$43.54	\$38.17
All sources:								
Quantity	1,470	1,901	2,439	2,753	2,358	1,110	2,144	2,546
Value	51,562	63,061	79,015	90,757	83,510	55,257	93,108	97,205
Unit value	\$35.08	\$33.17	\$33.40	\$32.97	\$35.42	\$49.79	\$43.44	\$38.18
SOUTHERN CALIFORNIA producers'--								
Capacity	8,558	8,558	8,305	8,353	8,453	8,521	8,554	8,704
Production	6,521	6,185	6,852	7,224	6,784	7,920	7,840	8,173
Capacity utilization	76.2	72.3	82.5	86.5	80.3	93.0	91.6	93.9
Shipments INSIDE region:								
Quantity	5,588	5,325	5,830	5,906	5,579	5,010	4,715	5,099
Value	348,251	317,915	317,575	334,749	325,743	299,201	305,224	346,696
Unit value	\$62.32	\$59.70	\$54.47	\$56.68	\$58.39	\$59.72	\$64.74	\$67.99
Shipments OUTSIDE region:								
Quantity	929	773	1,043	1,305	1,173	2,979	3,108	3,010
Value	55,731	45,252	57,317	71,806	68,163	180,631	211,020	199,633
Unit value	\$59.99	\$58.54	\$54.95	\$55.02	\$58.11	\$60.63	\$67.90	\$66.32
Production workers	1,146	1,072	986	965	960	771	809	805
Hours worked (1,000s)	2,666	2,538	2,330	2,305	2,172	1,807	1,862	1,905
GRAY PORTLAND CEMENT AND CEMENT CLINKER:								
SOUTHERN CALIFORNIA producers'--								
Net sales (value)	392,135	378,378	378,979	395,894	368,509	496,895	541,801	577,206
COGS (value)	314,736	297,833	315,159	314,012	294,707	352,408	366,667	388,025
Gross profit (value)	77,399	80,545	63,820	81,882	73,802	144,487	175,124	189,181
Operating income (value)	53,099	59,415	44,743	59,912	50,010	107,913	134,591	147,537
Operating income or (loss)/sales (percent)	13.5	15.7	7.5	12.4	6.3	21.7	24.8	25.6
¹ 1986-90 imports from Venezuela included in imports from all other sources.								
Source: Compiled from data submitted in response to Commission questionnaires in the original investigations and first reviews, official Commerce statistics, and data from the USGS.								

Table I-6A

Gray portland cement: SOUTHERN CALIFORNIA summary data concerning statutory criteria for regional analysis from the original investigations and current reviews on Japan, Mexico, and Venezuela, 1986-90 and 1997-99

Item	1986	1987	1988	1989	1990	1997	1998	1999
<i>(In percent, based on quantity)</i>								
Share of--								
Regional producers' shipments made within region	87	87	85	82	83	63	60	63
Regional consumption supplied by U.S. producers outside region	1	1	2	2	2	6	2	8
Region's share of--								
Total imports from Japan	68	71	73	74	61	(¹)	70	97
Total imports from Mexico	19	17	14	15	40	(¹)	(¹)	(¹)
Total imports from Venezuela	(²)	(²)	(²)	(²)	(²)	0	0	0
Ratio of imports from Japan to consumption--								
Within region	5	7	14	18	15	0	(¹)	(¹)
Outside region	(¹)	(¹)	(¹)	1	1	0	(¹)	(¹)
Ratio of imports from Mexico to consumption--								
Within region	8	9	8	7	11	(¹)	(¹)	1
Outside region	3	4	5	4	2	1	1	1
Ratio of imports from Venezuela to consumption--								
Within region	(²)	(²)	(²)	(²)	(²)	0	0	0
Outside region	(²)	(²)	(²)	(²)	(²)	0	0	0
¹ Less than 0.5 percent. ² Not available.								
Source: 1986-90 data compiled from <i>Original Report</i> . 1997-99 data compiled from data submitted in response to Commission questionnaires in the <i>First Review</i> , official Commerce statistics, and data from the USGS.								

Table C-1
Gray portland cement: Summary data concerning SOUTHERN CALIFORNIA, 1997-99

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

Item	Reported data			Period changes		
	1997	1998	1999	1997-99	1997-98	1998-99
Regional consumption quantity:						
Amount	6,485	6,999	8,263	27.4	7.9	18.1
Regional producers' share (1) ..	77.3	67.4	61.7	-15.5	-9.9	-5.7
External producers' share (1) ..	5.6	2.0	7.5	1.8	-3.6	5.5
Importers' share (1):						
Japan	0.0	0.2	0.4	0.4	0.2	0.2
Mexico	0.3	0.4	0.6	0.3	0.1	0.2
Venezuela	0.0	0.0	0.0	0.0	0.0	0.0
Subtotal	0.3	0.6	1.0	0.7	0.3	0.3
Other sources	16.8	30.0	29.8	13.0	13.2	-0.2
Total imports	17.1	30.6	30.8	13.7	13.5	0.2
U.S. imports into region from:						
Japan:						
Quantity	0	16	32	(2)	(2)	103.6
Value	0	702	1,328	(2)	(2)	89.2
Unit value	(2)	\$44.91	\$41.73	(2)	(2)	-7.1
Ending inventory quantity	(3)	(3)	(3)	(2)	(2)	(2)
Mexico:						
Quantity	21	29	49	135.5	37.0	71.9
Value	846	996	1,809	113.7	17.7	81.6
Unit value	\$40.45	\$34.74	\$36.70	-9.3	-14.1	5.6
Ending inventory quantity	(3)	(3)	(3)	(2)	(2)	(2)
Venezuela:						
Quantity	0	0	0	(2)	(2)	(2)
Value	0	0	0	(2)	(2)	(2)
Unit value	(2)	(2)	(2)	(2)	(2)	(2)
Ending inventory quantity	(3)	(3)	(3)	(2)	(2)	(2)
Subtotal:						
Quantity	21	44	81	287.6	111.7	83.1
Value	846	1,698	3,137	270.5	100.6	84.7
Unit value	\$40.45	\$38.32	\$38.67	-4.4	-5.3	0.9
Ending inventory quantity	(3)	(3)	(3)	(2)	(2)	(2)
Other sources:						
Quantity	1,089	2,099	2,465	126.4	92.8	17.4
Value	54,411	91,410	94,069	72.9	68.0	2.9
Unit value	\$49.97	\$43.54	\$38.17	-23.6	-12.9	-12.3
Ending inventory quantity	(3)	(3)	(3)	(2)	(2)	(2)
All sources:						
Quantity	1,110	2,144	2,546	129.4	93.2	18.8
Value	55,257	93,108	97,205	75.9	68.5	4.4
Unit value	\$49.79	\$43.44	\$38.18	-23.3	-12.8	-12.1
Ending inventory quantity	(3)	(3)	(3)	(2)	(2)	(2)
Shipment quantity into the region						
by external U.S. producers	365	140	618	69.2	-61.6	340.9

Table continued on next page.

Table C-1--Continued

Gray portland cement: Summary data concerning SOUTHERN CALIFORNIA, 1997-99

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

Item	Reported data			Period changes		
	1997	1998	1999	1997-99	1997-98	1998-99
U.S. regional producers:						
Average capacity quantity	8,521	8,554	8,704	2.1	0.4	1.8
Production quantity	7,920	7,840	8,173	3.2	-1.0	4.3
Capacity utilization (1)	93.0	91.6	93.9	0.9	-1.3	2.2
U.S. shipments within region:						
Quantity	5,010	4,715	5,099	1.8	-5.9	8.2
Value	299,201	305,225	346,696	15.9	2.0	13.6
Unit value	\$59.72	\$64.74	\$67.99	13.8	8.4	5.0
U.S. shipments outside region:						
Quantity	2,979	3,108	3,010	1.0	4.3	-3.1
Value	180,631	211,020	199,633	10.5	16.8	-5.4
Unit value	\$60.63	\$67.90	\$66.32	9.4	12.0	-2.3
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	219	235	297	35.6	7.3	26.4
Inventories/production (1)	2.8	3.0	3.6	0.9	0.2	0.6
Production workers	771	809	805	4.4	4.9	-0.4
Hours worked (1,000s)	1,807	1,862	1,905	5.4	3.0	2.3
Wages paid (\$1,000s)	43,601	46,553	48,968	12.3	6.8	5.2
Hourly wages	\$24.13	\$25.00	\$25.70	6.5	3.6	2.8
Productivity (tons per hour)	4.4	4.2	4.3	-2.1	-3.9	1.9
Unit labor costs	\$5.50	\$5.94	\$5.99	8.8	7.9	0.9
Net sales (4):						
Quantity	8,351	8,307	8,790	5.3	-0.5	5.8
Value	496,895	541,801	577,206	16.2	9.0	6.5
Unit value	\$59.50	\$65.22	\$65.67	10.4	9.6	0.7
Cost of goods sold (COGS)	352,408	366,677	388,025	10.1	4.0	5.8
Gross profit or (loss)	144,487	175,124	189,181	30.9	21.2	8.0
SG&A expenses	36,574	40,533	41,644	13.9	10.8	2.7
Operating income or (loss)	107,913	134,591	147,537	36.7	24.7	9.6
Capital expenditures	47,317	36,404	84,388	78.3	-23.1	131.8
Unit COGS	\$42.20	\$44.14	\$44.14	4.6	4.6	0.0
Unit SG&A expenses	\$4.38	\$4.88	\$4.74	8.2	11.4	-2.9
Unit operating income or (loss)	\$12.92	\$16.20	\$16.78	29.9	25.4	3.6
COGS/sales (1)	70.9	67.7	67.2	-3.7	-3.2	-0.5
Operating income or (loss)/ sales (1)	21.7	24.8	25.6	3.8	3.1	0.7

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

(2) Not applicable.

(3) Not available.

(4) Financial data reported for Portland cement and cement clinker.

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

Source: Compiled from data submitted in response to Commission questionnaires, official Commerce statistics, and data from the USGS.

APPENDIX C(d)

U.S. IMPORT DATA, BY REGION AND SOURCE, 1989-2005

(Reproductions of certain summary tables in Second Review Staff Report)

Table C-4
Cement: U.S. imports, by region and source, 1989-2005

Region/Source	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Quantity (1,000 short tons)																	
Southern California (1):																	
Japan	1,607	(3)	(3)	(3)	(3)	(3)	(3)	(3)	0	0	16	32	36	0	(3)	1	3
Mexico	595	195	0	531	414	391	248	421	21	29	29	49	32	3	0	63	168
Venezuela	46	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
All other sources	506	0	(3)	28	33	53	(3)	0	1,089	2,099	2,465	2,471	3,143	2,681	2,683	3,438	3,955
Total	2,753	195	(3)	560	448	444	249	421	1,110	2,144	2,546	2,539	3,146	2,681	2,684	3,502	4,126
Total California (2):																	
Japan	1,726	(3)	(3)	(3)	(3)	(3)	(3)	(3)	0	16	16	32	36	0	(3)	1	3
Mexico	884	195	0	531	414	391	248	421	21	29	49	32	3	0	0	63	168
Venezuela	46	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
All other sources	583	(3)	(3)	28	70	54	1	1	1,089	2,387	3,321	3,392	4,258	3,514	3,809	5,326	6,543
Total	3,239	195	(3)	560	484	445	250	422	1,110	2,431	3,402	3,460	4,260	3,514	3,810	5,390	6,714
All other districts:																	
Japan	454	(3)	(3)	306	47	15	(3)	(3)	(3)	7	1	1	(3)	1	(3)	1	1
Mexico	3,014	41	5	329	406	248	619	880	957	1,233	1,167	1,295	1,594	1,161	816	1,307	1,950
Venezuela	653	6	9	60	261	586	1,027	1,041	1,338	1,462	1,907	2,046	1,562	1,648	1,716	2,185	2,005
All other sources	6,222	111	19	3,448	4,503	8,219	9,703	10,018	12,076	15,916	19,902	19,618	17,912	17,201	16,875	17,994	21,478
Total	10,344	158	34	4,143	5,218	9,068	11,350	11,939	14,371	18,619	22,977	22,959	21,068	20,010	19,408	21,488	25,435
Total United States:																	
Japan	2,180	(3)	(3)	306	47	15	(3)	(3)	(3)	23	33	37	1	(3)	1	2	4
Mexico	3,898	236	5	860	820	639	868	1,301	978	1,262	1,216	1,327	1,596	1,161	816	1,370	2,118
Venezuela	699	6	9	60	261	586	1,027	1,041	1,338	1,462	1,907	2,046	1,562	1,648	1,716	2,185	2,005
All other sources	6,805	111	19	3,477	4,573	8,273	9,704	10,018	13,165	18,303	23,223	23,010	22,170	20,715	20,685	23,321	28,021
Total	13,583	354	34	4,703	5,702	9,514	11,600	12,361	15,481	21,050	26,379	26,419	25,329	23,525	23,217	26,877	32,149

(1) Los Angeles and San Diego.

(2) Los Angeles, San Diego, and San Francisco.

(3) Less than 500 short tons.

Source: USDOC (HTS 2523.29.0000 and 2523.90.0000).

