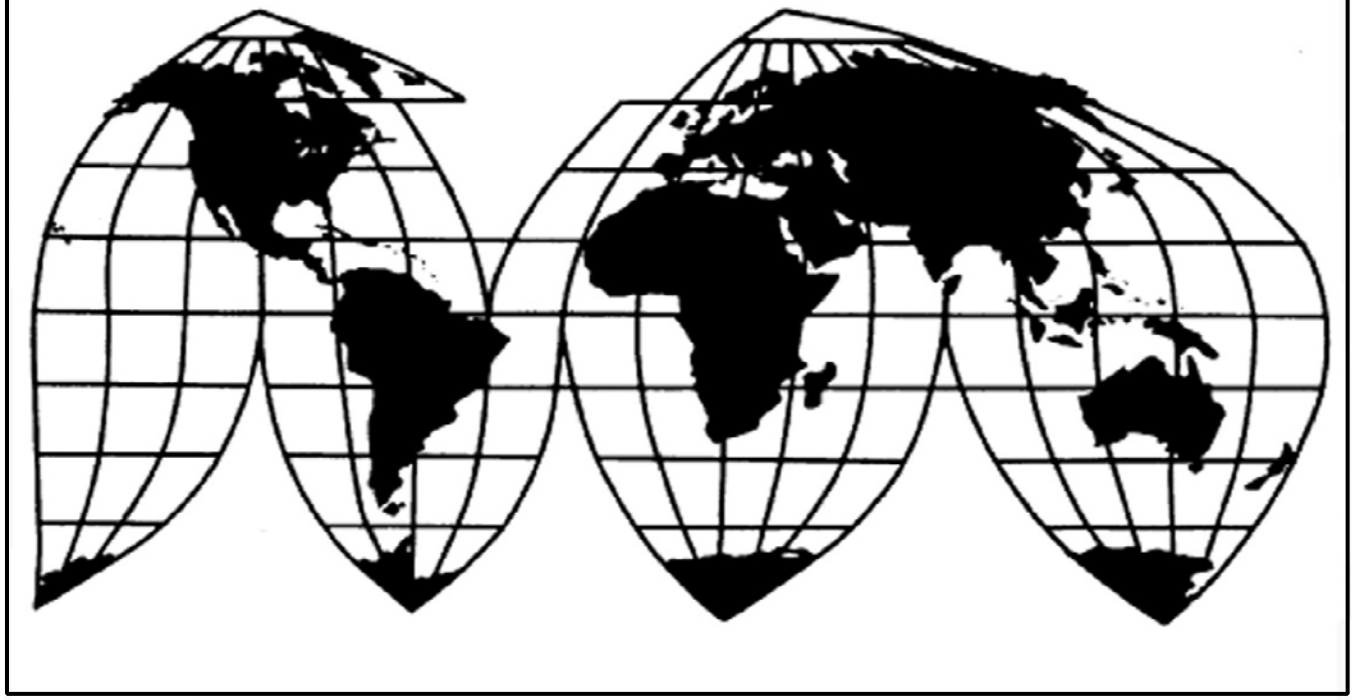
Light-Walled Rectangular Pipe and Tube from Mexico

Investigation No. 731-TA-1120 (Remand)

Publication 4272 **February 2011**

U.S. International Trade Commission



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U.S. International Trade Commission

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CONTENTS

VIEWS OF THE COMMISSION

By decision and order dated November 26, 2010, a NAFTA Chapter 19 Binational Panel affirmed in part and remanded in part the Commission's unanimous final affirmative determination in Light-Walled Rectangular Pipe and Tube from China, Korea, and Mexico ("LWRP").[1] Upon consideration of the remand order, we determine again that an industry in the United States is materially injured by reason of imports of LWRP from Mexico that have been found by the Department of Commerce ("Commerce") to be sold in the United States at less than fair value ("LTFV").

I. BACKGROUND

On July 17, 2008, the Commission voted unanimously (5-0) that an industry in the United States was materially injured by reason of subject imports of LWRP from China, Korea, and Mexico.[2]

On August 29, 2008, Mexican respondent Nacional de Acero S.A. de C.V. ("Nacional") requested a NAFTA Panel Review of the Commission's final antidumping injury determination with respect to LWRP from Mexico. On November 26, 2010, the Panel issued its Remand Order, in which it affirmed in part and remanded in part the Commission's determination.

With respect to the remand, the Panel instructed the Commission to address:

(I) the relationship between the 2008 announced price increases and the pendency of the investigation, and

(II) the Complainant's attempt to rebut the presumption that any market changes in 2008 were the result of the filing of the petition and Commerce's preliminary affirmative determinations.

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[1] Light-Walled Rectangular Pipe and Tube from China, Korea, and Mexico Inv. Nos. 701-TA-449 and 731-TA-1118-1120 (Final), USITC Pub. No. 4024 (July 2008) ("Original Views"). Commissioner Pinkert did not participate in these investigations and does not participate in this remand.

[2] Light-Walled Rectangular Pipe and Tube from China, Korea, and Mexico, Inv. Nos. 701-TA-449 and 731-TA-1118-1120 (Final), USITC Pub. 4024 (July 2008). On June 27, 2007, in response to petitions filed on behalf of twelve U.S. producers, the Commission instituted antidumping and countervailing duty investigations regarding imports of LWRP from China, Korea, Mexico, and Turkey. Commerce issued its final determination in LWRP from Turkey on April 11, 2008, earlier than it issued its determination regarding LWRP from China, Korea, and Mexico. Accordingly, on May 14, 2008, the Commission voted unanimously (5-0) in the affirmative, and, by the statutory deadline of May 27, 2008, transmitted its determination finding that an industry in the United States was materially injured by reason of imports of LWRP from Turkey that had been found by Commerce to be sold at LTFV. Pursuant to 19 U.S.C. § 1677(7)(G)(I), and without challenge from Mexican respondents, the Commission cumulated subject imports from China, Korea, Mexico, and Turkey to evaluate the volume and price effects of subject imports for the purpose of the Commission's present injury analysis in both of its determinations.

II. The Domestic Industry Producing LWRP Is Materially Injured By Reason of Subject Imports from Mexico

We have considered the record as a whole in light of the instructions in the Panel's opinion. Having considered the Panel's order and having examined the record in conformity with that order, we again determine that an industry in the United States is materially injured by reason of imports of LWRP from Mexico that have been found by Commerce to be sold in the United States at LTFV. Because the Panel did not remand our prior legal standard analyses and findings, as well as our analyses and conclusions on domestic like product, domestic industry, cumulation, the conditions of competition, volume, and price effects, we did not reconsider those issues and we adopt our Original Views on those issues in their entirety. We also incorporate in full our findings on impact, as supplemented and further explained below in response to the Panel's instructions.

A. Impact of Subject Imports

The Panel remanded the case to the Commission because it found that the Commission "failed to provide a sufficient explanation of the relationship between the 2008 announced price increases and the pendency of the investigation and, also, that the Commission did not address the Complainant's attempt to rebut the presumption that any market changes in 2008 were the result of the filing of the petition and Commerce{'s} preliminary affirmative determinations."[3] Moreover, the Panel stated that it could not "determine from the Commission's final determination whether the other two reasons that the Commission cited independently suffice as grounds for according less weight to the 2008 price increase announcements."[4] We address these issues and explain further below the bases for our finding concerning the impact of subject imports.

At the outset, we note that, in line with our normal practice, we gathered, compiled, and analyzed three years of annual data (2005-2007), that were provided to us by domestic and foreign producers, importers, and purchasers of LWRP in responses to our questionnaires in these investigations. The evidence on the record also included data gathered from public sources, hearing testimony, and numerous written submissions provided by the parties. Based on our review of all the record evidence, we found that from 2005 to 2007, as the absolute and relative volumes of cumulated subject imports increased, and significant volumes of cumulated subject imports consistently undersold the domestic like product by significant margins leading to price depression and/or price suppression, the condition of the U.S. industry deteriorated markedly. The record showed that almost all of the domestic industry's relevant economic indicators declined over this period. Mexican Respondents did not challenge these findings concerning the data from the three year period.[5]

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[3] Panel Order at 47.

[4] Panel Order at 47.

[5] Nacional's Brief at 5, 12.

Rather, Mexican Respondents argued before us that the condition of the domestic industry had greatly changed in 2008 because U.S. producers had in that year announced price increases that "far outstripped" the increases in their raw material costs. Based on their analysis of the 2008 data, Mexican Respondents argued that the Commission may not find that the domestic industry is currently experiencing injury because it was able to achieve much higher profits in the first quarter of 2008.[6]

In our Original Views, we specifically addressed Mexican respondents' argument and, based on record evidence, we provided four independent reasons[7] each of which provided a sufficient basis to establish why we were "not persuaded that price increase announcements in 2008 are entitled to much weight in our material injury determination."[8]

First, as we noted in our Original Views and state again here, "{r}ecord evidence provided by Petitioners shows that ***[9] Mexican Respondent Hylsa relied on price increase announcements by Bull Moose, the largest domestic producer of LWRP, to support its claim that the domestic industry was massively profitable in 2008. Bull Moose, however, provided the Commission with its actual average selling price for LWRP for January through April 2008 as well as its actual steel costs over the same period. A comparison of the two showed that ***[10]

The other domestic producer detailed in Hylsa's analysis, Leavitt Tube, also provided the Commission with an analysis of its cost and price increases for the first quarter of 2008 in Petitioners' posthearing brief.[11] Leavitt stated:

*** [12]

Hylsa's analysis, which assumed that 100 percent of the announced price increases for the first quarter of 2008 by Bull Moose and Leavitt were realized is thus contradicted by those companies' own data. Accordingly, this reason alone provides sufficient support to reduce the weight given to the 2008 price increase announcements.

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[6] Hylsa's Posthearing Brief at 6-8.

[7] Those reasons were as follows: first, that announced price increases were not realized in 2007 and ***; second, that there was not sufficient record evidence to place price and raw material cost increases into proper context; third, that costs for the domestic industry also increased in 2008, and fourth, any announced price increases in 2008 occurred not only after the petitions in these investigations were filed but also after Commerce announced its affirmative preliminary antidumping and countervailing duty determinations. Original Views at 14-15 n.75.

[8] Original Views at 14-15 n.75. *See e.g., Hyundai Elecs. Indus. v. United States*, 21 CIT 481, 485 (1997) ("as the trier of fact, {the ITC} has considerable discretion in weighing the probative value and relevance of evidence."); *Mitsubishi Materials Corp. v. United States*, 20 CIT 328, 332, 918 F. Supp, 422, 426 (1996) ("The {ITC} weighs evidence as the trier of fact in these cases, and has authority to reject or discount data that it determines is unreliable.")

[9] See Petitioners' Posthearing Brief at A-22 and Exhibit 8 (showing that Bull Moose achieved *** on LWRP in 2008).

[10] Petitioners' Posthearing Brief at A-22 and Exhibit 8. ***

[11] Petitioners' Posthearing Brief at Exhibit 9.

[12] Petitioners' Posthearing Brief at Exhibit 9.

As we noted in our Original Views and again here, we need only to look to the last year of the period of investigation, 2007, to see the faulty logic employed by Nacional to support its erroneous allegation that announcements of price increases meant that the domestic industry was highly profitable in 2008. In 2007, the domestic industry made several price increase announcements.[13] Based on Nacional's view that we must accept a 100 percent realization rate for all price increase announcements, the domestic industry's prices should have increased in 2007. Rather, the record demonstrated that domestic prices actually declined to their lowest levels of the period by the end of 2007.[14] In fact, the data for 2007 showed that the domestic industry had a zero percent realization rate for its price increase announcements in 2007. Moreover, the domestic producers' questionnaire data also showed that the domestic industry's operating margins had declined to their lowest levels of the period in 2007. In light of these data, as well as the data provided by domestic producers Bull Moose and Leavitt establishing that they did not in fact achieve a 100 percent price increase realization rate for 2008, we place little weight on Hylsa's analysis of 2008 price increase announcements that simply assumed a 100 percent realization rate. In fact, data on the record for 2007 indicated that no announced price increases that year had actually been realized:

> We note that, unlike the pricing and cost data gathered for the period of investigation (2005-2007) through questionnaire responses, we do not have questionnaire data for 2008 to place any evidence on price or raw material cost increases in 2008 in its proper context. Nevertheless, information on the record from 2007 shows that announced price increases by the domestic industry were ultimately not accepted, as reported prices declined throughout 2007.[15]

Accordingly, the Commission was amply justified in reducing the weight given to the 2008 price increase announcements.

Second, as discussed above, we noted that the Commission did not have questionnaire responses for 2008 "to place any evidence on price or raw material cost increases in 2008 in its proper context."[16] After examining all of the 2008 price and cost information that was properly on the record before us, submitted by Mexican Respondents as well as U.S. producers, we concluded that none of the 2008 data could provide as comprehensive an understanding of the

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[13] Hearing Tr. at 104 (Katsafanas), ("information on the record that in 2007 members of the domestic industry attempted price increases to stem this hemorrhaging of price; and those 2007 price increases were unsuccessful."); *See* Petitioners' Posthearing Brief at Exhibit 9.

[14] CR/PR Staff Report in *Light-Walled Rectangular Pipe and Tube from China, Korea, and Mexico* at Tables 12-16.

[15] Original Views at 14-15 n.75.

[16] Original Views at 14-15 n.75.

domestic industry as the information that we had collected and evaluated for the period of investigation. For example, regarding the 2007 price increase announcements, we could analyze and verify whether any price increases were actually realized by the domestic industry via the pricing data gathered through certified questionnaire responses. We could not do this for the 2008 price increase announcements because we did not have questionnaire data for 2008. Rather, our record contained disputed evidence concerning the realization rate of the 2008 price increases. As discussed above, the questionnaire data we did have, showing a zero percent realization rate of price increase announcements by the domestic industry in 2007, cast serious doubt on the Mexican Respondents' assumption of a 100 percent realization rate for the 2008 price increase announcements. In short, the relative probative quality of the 2008 evidence, in comparison to the evidence from the period of investigation, provided reasonable grounds for the Commission to decline to place much weight on the 2008 price increase announcements.

Third, using the same data set as Hylsa used in its analysis, as we noted in our Original Views and reiterate here, "while there is some information on the record regarding announced price increases, there is also information on the record showing that costs, particularly for hot-rolled steel, have also increased dramatically in 2008."[17] Prices do not exist in a vacuum; rather, they must be analyzed in relation to costs in order to determine whether a manufacturer is profitable. The data on the record showed that the rise in raw material prices in April 2008 alone was approximately equal to the entire increase in prices during the first quarter of 2008, which was substantial in and of itself. The data reinforced Petitioners' statements at the hearing "marveling" at a base price of $1,000 a ton for hot-rolled steel.[18]

Not only is Hylsa's analysis contradicted by data submitted by domestic producers ***, but a representative from domestic producer Southland Tube also testified at the hearing that LWRP price increases had not kept up with the primary steel price increases:

> {S}ince the fourth quarter of last year I have paid over $380 a ton increase for my flat-rolled steel, and my increase announcements to the trade for tubing have amounted to $280, so I'm $100 a ton behind the eight ball. I have not recovered all my costs yet.[19]

The record evidence established that realized price increases in 2008 did not in fact far outstrip the increases in domestic producers' raw material costs, but rather at most may have barely covered increases in costs.[20] Accordingly, these data also provide sufficient independent support to reduce the weight given to the 2008 price increase announcements.[21]

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[17] Original Views at 15 n.74-75; CR/PR Staff Report in *Light-Walled Rectangular Pipe and Tube from Turkey* at Figure V-1.

[18] Hearing Tr. at 104 (Katsafanas).

[19] Hearing Tr. at 79 (Montgomery).

[20] *See* Petitioners' Posthearing Brief at Exhibits 8 & 9; Hearing Tr. at 79 (Montgomery).

[21] In its remand comments, Nacional argues that there is a timing mismatch between coil costs and LWRP prices and that when the data on prices and costs are accurately presented, such data show that the

In sum, we believe that the aforementioned reasons alone provide sufficient independent grounds for reducing the weight of the 2008 price increase announcements in our analysis, even if the Panel finds that our reliance on 19 U.S.C. § 1677(7)(I), as discussed below, as a fourth reason for reducing the weight given to the 2008 price increase announcements was improper.

Turning to our final reason for reducing the weight of the 2008 price increase announcements, which is the direct subject of the Panel's remand, we note that in our Original Views we found that "any announced price increases in 2008 occurred not only after the petitions in these investigations were filed, but also after Commerce announced its affirmative preliminary antidumping and countervailing duty determinations."[22] Pursuant to the Panel's remand order, we provide below our reasons for applying the statutory provision relating to post-petition data.

In final phase investigations, the statutory provision governing the Commission's treatment of post-petition information, 19 U.S.C. § 1677(7)(I), states that:

> The Commission shall consider whether any change in the volume, price effects, or impact of imports of the subject merchandise since the filing of the petition in an investigation … is related to the pendency of the investigation and, if so, the Commission may reduce the weight accorded to the data for the period after the filing of the petition in making its determination of material injury . . . .

The statute thus requires the Commission to consider whether changes in volume, price effects, or impact are related to the pendency of the investigation. If the Commission determines that such changes are related to the pendency of the investigation, it then has the discretion under the statute to reduce the weight accorded to such information. The Statement of Administrative Action ("SAA")[23] states that "[t]he imposition of provisional duties, in particular, can cause a reduction in import volumes and an increase in prices of both the subject imports and the

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domestic industry was "extremely profitable" in 2008 due to its price increases. Nacional's Rebuttal Comments at 7-10. We note that Nacional failed to make this argument before us during the investigations, and we therefore reject this argument as untimely. Nevertheless, for Nacional to claim that the realization of any price increases in 2008 was not connected to the pendency of the investigations is unsupported by the record, given the fact that there was a zero percent realization rate of price increases in 2007 prior to Commerce's preliminary affirmative determinations.

[22] Original Views at 15 n.75.

[23] The SAA is found at H.R. Doc. No. 103-316 (1994). The SAA submitted to the Congress by the President of the United States "shall be regarded as an authoritative expression by the United States concerning the interpretation and application of the Uruguay Round Agreements and this Act {The Tariff Act of 1930} in any judicial proceeding in which a question arises concerning such interpretation or application." 19 U.S.C. § 3512(d) (2000). It provides that it is "an authoritative expression by the Administration concerning its views regarding the interpretation and application of the Uruguay Round agreements, both for purposes of U.S. international obligations and domestic law." SAA at 656.

domestic like product."[24] The SAA also recognized that improvements in the domestic industry's condition during the investigation may be an indication of a change related to the filing of the petition or the imposition of provisional duties.[25] Thus, the statute was enacted to recognize explicitly that declining subject imports, increasing prices, and improvements in the domestic industry's condition are expected and natural consequences of the filing of a petition and subsequent affirmative preliminary determinations, and to prevent such natural consequences from precluding an affirmative determination.

Furthermore, in considering whether any changes are related to the pendency of the investigation, the SAA states that the Commission may presume that such changes are related to the pendency of the investigation, rather than any other cause, absent sufficient evidence to the contrary:

> {W}hen the Commission finds evidence on the record of a significant change in data concerning the imports or their effects subsequent to the filing of the petition or the imposition of provisional duties, the Commission may presume that such change is related to the pendency of the investigation. In the absence of sufficient evidence rebutting that presumption and establishing that such change is related to factors other than the pendency of the investigation, the Commission may reduce the weight to be accorded to the affected data.[26]

Thus, we were statutorily entitled to presume that the realized price increases by the domestic industry in 2008 were due to these investigations, and the burden was on Mexican respondents to rebut the presumption and to demonstrate with sufficient evidence that the change was related to other factors.

We presumed that the ability of the domestic industry to achieve some price increases in 2008 was related to the pendency of these investigations, whereas in 2007 the domestic industry's price increases announcements were not realized in any instance. The successful price increases by the domestic industry in 2008 occurred only after Commerce announced its

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[24] SAA at 854; *See, e.g., Superalloy Degassed Chromium from Japan*, Inv. No. 731-TA-1090 (Final), USITC Pub. 3825 (December 2005) at 15 n.122; *Magnesium from China and Russia*, Inv. Nos. 731-TA-1071 and 1072 (Final), USITC Pub. 3763 (April 2005) at 20 (noting overselling that occurred after the filing of the petition).

[25] SAA at 854.

[26] *Id.* The Court of International Trade had consistently upheld decisions by the Commission to accord less weight to data due to the pendency of investigations. *See, e.g., Corus Staal BV v. U.S. Int'l Trade Comm'n*, 27 CIT 459, 464 (2003) (finding that the Commission properly reduced the weight accorded to post petition data where it found it likely that the filing of the petitions contributed to the decline in import volume during this period); *Saarstahl AG v. United States*, 858 F. Supp 196, 200 (Ct. Int'l. Trade 1994) (explaining that the Commission reasonably found that improvements in the condition of the domestic industry resulted *inter alia* from preliminary investigations); *Metallverken Nederland, B.V. v. United States*, 744 F. Supp., 281, 284 (Ct. Int'l. Trade 1990) (holding that data may be distorted by the initiation of investigations).

affirmative preliminary determinations. On November 30, 2007, Commerce issued its preliminary countervailing duty determination for China, establishing significant bonding requirements on imports from the country that accounted for 28.2 percent of U.S. imports in 2007 and 9.9 percent of the U.S. market in 2007.[27] On January 30, 2008, before the vast majority of price increase announcements were made, Commerce published its preliminary antidumping duty determinations for all of the subject countries imposing further bonds on the subject imports. Accordingly, we were entitled to presume that the change in the data, *i.e.*, any successful price increases actually realized by the domestic industry in 2008, was related to the pendency of these investigations.

The burden was then on the party to provide "sufficient evidence rebutting that presumption and establishing that such change is related to factors other than the pendency of the investigation . . . ."[28] As the Panel noted in its Remand Order, the only contention Nacional raised before the Commission to attempt to rebut the presumption was that the price increase announcement letters did not make specific reference to the investigation as the basis for the announcements.[29] We find that the mere lack of an explicit statement in the domestic producers' price increase announcements linking the proposed price increases to the pendency of the investigations, without anything more, is not sufficient to rebut the presumption. The SAA emphasizes that the actual ability to increase prices may be one of the natural consequences or results of affirmative Commerce preliminary determinations, even if the motivation behind the price increase was to offset rising costs. Therefore we do not believe that it is required or even expected that a domestic industry would explicitly reference the pendency of the investigations in a price increase announcement.

In these investigations, the record establishes that the domestic industry issued price increase announcements in both 2007 and 2008 in an attempt to offset rising costs.[30] That reason for issuing price increase announcements did not change from 2007 to 2008. The change in data that did occur from 2007 to 2008 concerned the domestic industry's ability to actually realize some of these price increases. In 2007, prior to Commerce's preliminary affirmative determinations, the domestic producers were unsuccessful in realizing such price increases. In 2008, however, the domestic producers were actually able to realize some of the announced price increases, but only after Commerce's preliminary affirmative determinations in November 2007 and January 2008.[31] In light of this record, and the lack of any alternative explanation for the change in data offered by Nacional, we find that the domestic industry was able to realize some

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[27] CR/PR Staff Report in *Light-Walled Rectangular Pipe and Tube from Turkey* at Tables IV-2 and IV-11.

[28] SAA at 854.

[29] Panel Order at 46, 47 n.17. The Panel rejected Nacional's attempts to raise additional rebuttal points before the panel because Nacional failed to raise the additional rebuttal points before the Commission, and therefore failed to exhaust its administrative remedies. Panel Order at 47 n.17.

[30] *See* Petitioners' Posthearing Brief at Ex. 8; Nacional's Posthearing Brief at Ex. 1, p.23.

[31] As discussed above, the evidence on the record of these investigations from the largest domestic producers shows that those realized price increases in 2008 *** increases in costs, and certainly did not lead to a "massively" profitable industry as Nacional suggests.

price increases in 2008, after not realizing any in 2007, only after Commerce issued its affirmative preliminary duty determinations. We are therefore statutorily entitled to presume that this change in data was related to the pendency of the investigations.

Furthermore, additional record evidence directly linked the pendency of these investigations to the ability of domestic producers to actually realize some price increases. After Commerce issued its preliminary countervailing duty determination for China on November 30, 2007, in which it imposed margins on imports from China, cumulated import volume fell from *** short tons in November to *** short tons in December 2007.[32] Domestic producers confirmed that it was only after cumulated subject import volumes fell due to the preliminary relief afforded by these cases, that they were able to achieve some actual price increases in 2008. For example, at the hearing the Vice President and General Manager of Southland Tube testified:

> We suffered significant volume losses in the latter part of '06 and the early part of '07. This forced us to institute a pricing program in which we offered certain quantities of product to certain customers at deeply discounted prices, greatly sacrificing our ability to make a profit on that order in order to keep them competitive with imported pricing. At least a few other U.S. producers did the same thing. Fortunately, the preliminary relief afforded by these trade cases reduced import offers and allowed us to rescind these programs.[33]

Similarly, the Vice President of Sales and Marketing for Vest, Incorporated testified:

> As Vice President of Sales during 2007, I repeatedly lowered our prices in order to maintain volume at our mills and to prevent layoffs. This decision was entirely due to the price competition from unfairly traded imports from both China and Korea in our market on the West Coast in 2007.
>
> ***
>
> As you can see from our confidential questionnaire response, I was cutting prices in spite of the fact that our costs for steel, labor and energy were going up. The results were devastating to our profitability. Therefore, our tubing business, like that of all our West Coast

[32] CR/PR Staff Report in *Light-Walled Rectangular Pipe and Tube from China, Korea, and Mexico* at Table 5. The December 2007 cumulated subject import volumes were also well below the cumulated subject import volumes in December 2005 and December 2006. CR/PR Staff Report in *Light-Walled Rectangular Pipe and Tube from China, Korea, and Mexico* at Table 5.

[33] Hearing Tr. at 41 (Montgomery).

> competitors, and as you have heard, from other producers across the country, is really dependent on our ability to get relief from unfair trade practices. My owners will not allow me to again cut prices in 2008 as I did in 2007; we simply cannot afford to.
>
> As Jim mentioned, the U.S. housing market crisis has sharply reduced the demand for ornamental tubing in the western market. Thankfully, unfairly traded imports were eliminated due entirely to the preliminary findings of this Commission and the Department of Commerce. In short, the bounce that we have seen as a result is allowing us to operate at the same volume levels as last year with domestic tubing replacing imports in the declining market.[34]

Accordingly, the data on the record and the testimony from the domestic producers themselves confirmed that the change in the data was related to the pendency of the investigations. In light of this unrebutted evidence directly linking the pendency of the investigations to any actually realized price increases in 2008, it was entirely reasonable for us to reduce the weight of the evidence given to the 2008 price increase announcements.

Moreover, as the SAA makes clear, the burden was on Nacional not only to provide evidence to rebut the presumption, but also to establish that the change in the data was "related to factors other than the pendency of the investigation."[35] Nacional failed to demonstrate that factors in the market other than the pendency of the cases allowed the domestic industry to actually realize price increases in 2008. We find that simply noting that the price increase announcements did not discuss why the domestic industry believed that the price increases might be achieved, without any further evidence, fails to establish that the domestic industry's ability to actually realize some price increases in 2008 bore no relationship to the investigations.

CONCLUSION

For the foregoing reasons, we determine that an industry in the United States is materially injured by reason of imports of LWRP from Mexico that have been found by Commerce to be sold in the United States at LTFV.

[34] Hearing Tr. at 49-50 (Knox).

[35] SAA at 854.

APPENDIX A

FEDERAL REGISTER NOTICES

rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: For information specific to this investigation, contact project leader Douglas Newman (202) 205–3328, *douglas.newman@usitc.gov,* in the Commission's Office of Industries. For information on legal aspects of the investigation contact William Gearhart, *william.gearhart@usitc.gov,* of the Commission's Office of the General Counsel at (202) 205–3091. The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). 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.

Background: The Commission published its notice instituting this investigation in the **Federal Register** of March 21, 1990 (55 FR 10512), and published its most recent previous determination for the 2010 amount in the **Federal Register** of December 23, 2009 (74 FR 68282). The Commission uses official statistics of the U.S. Department of Energy and the U.S. Department of Commerce to make these determinations.

By order of the Commission.
Issued: December 22, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–32696 Filed 12–28–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–449 and 731–TA–1118–1120 (Remand)]

Light-Walled Rectangular Pipe and Tube From China, Korea, and Mexico

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The U.S. International Trade Commission ("Commission") hereby gives notice that it is inviting the parties to the North American Free Trade Agreement (NAFTA) Chapter 19 panel proceeding in *Light-Walled Rectangular Pipe and Tube from Mexico,* USA–MEX–1904–04, to file comments in the remand proceeding ordered by the NAFTA binational panel. For further information concerning the conduct of this proceeding 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, subpart A (19 CFR part 207).

DATES: *Effective Date:* Date of Publication in **Federal Register.**

FOR FURTHER INFORMATION CONTACT: David B. Fishberg (202–708–2614) or Andrea C. Casson (202–205–3105), Office of General Counsel, 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 of Investigation Nos. 701–TA–449 and 731–TA–1118–1120 may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—In July 2008, the Commission determined that an industry in the United States was materially injured by reason of subsidized imports of light-walled rectangular pipe and tube ("LWR pipe and tube") from China, and imports of LWR pipe and tube from China, Korea, and Mexico that were found to be sold at less than fair value. Nacional de Acero S. A. De C. V. subsequently challenged the Commission's determination concerning imports from Mexico, under the binational panel procedures set out in Chapter 19 of the North American Free Trade Agreement ("NAFTA").

A NAFTA Panel issued an opinion in the matter on November 26, 2010. In its opinion, the Panel remanded the matter to the Commission with instructions that the Commission address:

(I) the relationship between the 2008 announced price increases and the pendency of the investigation, and

(II) the Complainant's attempt to rebut the presumption that any market changes in 2008 were the result of the filing of the petition and Commerce's preliminary affirmative determinations. In all other respects the Panel affirmed the Commission's opinion.

Participation in the proceeding.—Only those persons who were both interested parties to the original investigation (*i.e.,* persons listed on the Commission Secretary's service list) and who participated in the NAFTA Chapter 19 panel proceeding may participate in the remand proceeding. Business proprietary information ("BPI") referred to during the remand proceeding will be governed, as appropriate, by the administrative protective order issued in the original investigation.

Written Submissions.—The Commission is not reopening the record in this proceeding for submission of new factual information. The Commission will, however, permit parties to file comments pertaining to the issues on which the Panel has remanded this matter. These comments must be limited to the precise issues in the Panel's remand instructions quoted above, and must be based solely on the information already in the Commission's record and may not include additional factual information. The deadline for filing comments is January 7, 2011. Comments shall be limited to no more than ten (10) double-spaced and single-sided pages of textual material.

All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also 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).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the NAFTA Chapter 19 panel proceeding must be served on all other such parties, and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

By order of the Commission.
Issued: December 23, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

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