

GRAY PORTLAND CEMENT AND CEMENT CLINKER FROM VENEZUELA

Determination of the Commission in Investigation No. 303-TA-21 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation

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Determination of the Commission in Investigation No. 731-TA-519 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation

UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information that would reveal the confidential business information of individual firms may not be published and therefore has been deleted from this report. Deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 303-TA-21 (Preliminary)
and 731-TA-519 (Preliminary)

Gray Portland Cement and Cement Clinker from Venezuela

Determinations

On the basis of the record¹ developed in the subject investigations, the Commission determines, pursuant to sections 303 and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1303 and 1673b(a)) (the act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Venezuela of gray portland cement and cement clinker, provided for in subheadings 2523.29.00, 2523.90.00, and 2523.10.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Venezuela and sold in the United States at less than fair value (LTFV).

Background

On May 21, 1991, a petition was filed with the Commission and the Department of Commerce by counsel for the Ad Hoc Committee of Florida Producers, Washington, DC, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and LTFV imports of gray portland cement and cement clinker from Venezuela. Accordingly, effective May 21, 1991, the Commission instituted countervailing duty investigation No. 303-TA-21 (Preliminary) and antidumping investigation No. 731-TA-519 (Preliminary).

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

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of May 29, 1991 (56 F.R. 24202). The conference was held in Washington, DC, on June 11, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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VIEWS OF COMMISSIONER LODWICK AND COMMISSIONER NEWQUIST¹

Based on the record obtained in these preliminary investigations, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of gray portland cement and cement clinker from Venezuela that allegedly are sold at less than fair value (LTFV) and subsidized by the Government of Venezuela.

LIKE PRODUCT

We begin our analysis by defining the "like product." The "like product" is a "product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to investigation."² The articles subject to these investigations are gray portland cement and cement clinker from Venezuela.³ Petitioner Ad Hoc Committee of Florida Producers of Gray Portland Cement has requested that we define a single like

¹ Acting Chairman Brunsdale also joins the sections of this opinion concerning like product, related parties, and, except for the last paragraph, condition of the regional industry.

² 19 U.S.C. § 1677(10). Our decision regarding the appropriate like product(s) in an investigation is essentially a factual determination, and we have applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. *Asociacion Colombiana de Exportadores de Flores v. United States*, 693 F. Supp. 1165, 1169 (CIT 1988) ("Asocoflores"). In analyzing like product issues, we generally consider a number of factors relating to characteristics and uses including (1) physical characteristics, (2) uses, (3) interchangeability of the products, (4) channels of distribution, (5) customer or producer perceptions, (6) common manufacturing facilities and production employees, (7) production processes and, where appropriate, (8) price. See, e.g., Asocoflores, 693 F. Supp. at 1170; *Heavy Forged Handtools from the People's Republic of China*, Inv. No. 731-TA-457 (Final), USITC Pub. 2357 at 4 (February 1991); *3.5" Microdisks and Media Therefor from Japan*, Inv. No. 731-TA-389 (Final), USITC Pub. 2170 at 7-8 (March 1989). No single factor is necessarily dispositive, and we may consider other factors we deem relevant based upon the facts of a particular investigation.

³ See 56 Fed. Reg. 27496 (June 14, 1991).

product coextensive with the articles under investigation.⁴ No respondent has objected to petitioner's proposed like product designation. In numerous recent investigations, the Commission has defined gray portland cement and cement clinker to constitute a single like product.⁵ We similarly determine in these investigations that gray portland cement and cement clinker constitute a single like product.

REGIONAL INDUSTRY

Appropriateness of Regional Industry Analysis

Petitioner has requested use of a regional industry analysis in these investigations pursuant to section 771(4)(C) of the Tariff Act of 1930. This provision 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

⁴ Petition at 27-28.

⁵ Gray Portland Cement and Cement Clinker from Mexico, Inv. No. 731-TA-451 (Preliminary), USITC Pub. 2235 at 5 (November 1989) ("Mexico Cement Preliminary"); Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Preliminary), USITC Pub. 2297 at 31, 49-50 (July 1990) ("Japan Cement Preliminary"); Gray Portland Cement and Cement Clinker from Mexico, Inv. No. 731-TA-451 (Final), USITC Pub. 2305 at 4 (August 1990) ("Mexico Cement Final"); Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Final), USITC Pub. 2376 at 13 (April 1991) ("Japan Cement Final").

collective output of a like product constitutes a major proportion of the total domestic production of that product, is not injured, if there is a concentration of subsidized or dumped imports 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 subsidized or dumped imports.⁶

The Commission has considered regional industry analysis to be discretionary, based on the language "appropriate circumstances" and "may be treated" found in the statute.⁷

The Court of International Trade, however, has cautioned against "[a]rbitrary or free handed sculpting of regional markets."⁸ The Commission has been concerned that regional analysis be utilized only in appropriate circumstances in order to prevent imposing duties on imports sold in the entire national market in cases in which the detrimental impact of the imports is limited to a small segment of that market. It has defined appropriate circumstances on several occasions, focusing on whether a separate geographic market exists and whether the market is isolated and insular.⁹

⁶ 19 U.S.C. § 1677(4)(C).

⁷ See, e.g., Mexico Cement Final, USITC Pub. 2305 at 15; Frozen French Fried Potatoes from Canada, Inv. No. 731-TA-93 (Preliminary), USITC Pub. 1259 at 6 (June 1982); Fall-Harvested Round White Potatoes from Canada, Inv. No. 731-TA-124 (Final), USITC Pub. 1463 at 7 (December 1983); Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 at 5 (January 1986); Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. No. 731-TA-349 (Final), USITC Pub. 1994 (July 1987).

⁸ See Atlantic Sugar, Ltd. v. United States, 519 F. Supp. 916, 920 (CIT 1981); see also Portland Hydraulic Cement from Australia and Japan, Inv. Nos. 731-TA-108-109 (Preliminary), USITC Pub. 1310 at 11 n.30 (November 1982).

⁹ See Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 at 5 (January 1986); Cut-to-Length Carbon Steel Plate from the Federal Republic of Germany, Inv. No. 731-TA-147 (Preliminary Remand), USITC Pub. 1550 at 8 (July 1984).

In the recent investigation concerning gray portland cement and cement clinker from Japan, we used a two-step approach to regional analysis.¹⁰ Under this approach, we first determined whether a regional market exists based on the two "market isolation" factors identified in subsections (i) and (ii) of the statute. As a second step, we then considered whether imports were concentrated in any regional market so defined. Effectively, import concentration was a condition precedent to analysis of material injury (or threat thereof) to a regional industry.

As a general matter, the Commission has found in past investigations that "appropriate circumstances" exist for it to engage in a regional industry analysis of domestic cement production.¹¹ Although these prior decisions are not precedential, the same considerations apply in these investigations.¹² Gray portland cement and clinker has a low value-to-weight ratio and is

¹⁰ Japan Cement Final, USITC Pub. 2376 at 16; Japan Cement Preliminary, USITC Pub. 2297 at 23, 61-62.

¹¹ The Commission has used a regional industry analysis in 12 of 13 previous investigations concerning cement. See Report at A-5, Table 1. In the remaining case, Portland Hydraulic Cement and Cement Clinker from Colombia, France, Greece, Japan, Mexico, the Republic of Korea, Spain and Venezuela, Inv. Nos. 731-TA-356-363 (Preliminary), USITC Pub. 1925 (December 1986), the parties did not raise the regional industry issue. The petitioner in that case noted that cement was produced and sold in a series of regional markets, but argued that regional markets were all being injured by imports and therefore injury could be assessed on a national basis.

¹² The argument of respondent Venezolana de Cementos, S.A.C.A. ("Vencemos") that regional industry analysis is inappropriate in the instant investigations because certain Florida cement producers operate plants nationwide does not warrant extended discussion. The Commission has previously determined that the statute does not require that producers within a region be completely independent of, or unrelated to, producers outside the region. Aluminum Sulfate from Venezuela, Inv. Nos. 701-TA-299, 731-TA-431 (Final), USITC Pub. 2242 at 10 (December 1989).

fungible.¹³ High overland transportation costs tend to make the areas in which cement is produced and marketed isolated and insular.¹⁴

Market Isolation Criteria. Pursuant to the two-step analytical method discussed above, we first determine whether the statewide Florida region proposed in the petition satisfies the statutory market isolation criteria.¹⁵ Producers in the State of Florida shipped over 95 percent of their cement production within the state throughout the period of investigation.¹⁶ This satisfies the statutory isolation criterion for "shipments out."¹⁷

¹³ Report at A-15.

¹⁴ See Report at A-15.

¹⁵ At the conference and in its postconference brief, petitioner advocated use of a region ("the Alternative Region") consisting of the State of Florida excluding eleven counties in the western section of the state's panhandle. Because petitioner first raised its arguments concerning the Alternative Region at the conference, the investigative staff was unable to request consumption and shipment data concerning that region in its questionnaires. Although petitioner endeavored to provide data concerning the market isolation criteria for the Alternative Region in its postconference brief, it did not provide data for the entire period of investigation. The data that it did provide are based in part on information which has not been verified to and cannot be corroborated by the staff. Because of the lack of complete, verified information, we have not considered the Alternative Region in these preliminary investigations. We will, however, in any final investigations obtain information concerning the Alternative Region and address petitioner's argument that it is a more appropriate region than the State of Florida.

¹⁶ Report, Table 4.

¹⁷ See, e.g., Japan Cement Final, USITC Pub. 2376 at 18, 44 (82.6% found to be sufficient); Sugars and Sirups from Canada, Inv. No. 731-TA-3 (Final) USITC Pub. 1047 at 8 (March 1980) (96% found to be sufficient); Frozen French Fried Potatoes from Canada, Inv. No. 731-TA-93 (Preliminary), USITC Pub. 1259 at 7 (June 1982) (66% found not to be sufficient); Portland Hydraulic Cement from Australia and Japan, Inv. Nos. 731-TA-108-109 (Final), USITC Pub. 1310 at 5 (October 1983) (92% found to be sufficient); Fall-Harvested Round White Potatoes from Canada, Inv. No. 731-TA-124 (Final), USITC Pub. 1463 at 7 (December 1983) (84.7% found to be sufficient); Offshore Platform Jackets and Piles from the Republic of Korea and Japan, Inv. Nos. 701-TA-248 and 731-TA-259-260 (Final), USITC Pub. 1848 at 8 (May 1986) (100% found to be

(continued...)

Throughout the period of investigation, 10.5 percent of consumption in the State of Florida was supplied by U.S. producers outside the state. This percentage increased from 6.5 percent in 1988 to 15.6 percent in the first quarter of 1991.¹⁸ The Commission has stated that no precise numerical cutoff exists for outside supply above which an area is disqualified from regional industry status.¹⁹ In Atlantic Sugar, Ltd. v. United States,²⁰ the Court of International Trade suggested that 12 percent outside supply may be too high to be considered insubstantial "in the abstract," but nonetheless affirmed a Commission determination holding the market isolation criteria satisfied when 12 percent of regional consumption was supplied by producers outside the region. The Commission has found on several occasions that percentages of outside supply of less than 10 percent were acceptable.²¹ It determined in one case that 30 percent was too large,²² and in a second that percentages

¹⁷(...continued)

sufficient); Operators for Jalousie and Awning Windows from El Salvador, Inv. Nos. 701-TA-272 and 731-TA-319 (Final), USITC Pub. 1934 at 9 (January 1987) (over 80% found to be sufficient).

¹⁸ Report, Tables 4, 6.

¹⁹ See Cut-to-Length Carbon Steel Plate from Germany, Inv. No. 731-TA-147 (Preliminary-Remand), USITC Pub. 1550 at 9 n.11 (July 1984).

²⁰ 2 CIT 295, 298 (1981).

²¹ See, e.g., Mexico Cement Final, USITC Pub. 2305 at 15 (between 8 and 8.5% acceptable); Sugars and Sirups from Canada, Inv. No. 731-TA-3 (Final), USITC Pub. 1047 at 4, 14 (March 1980) (5.5% acceptable); Portland Hydraulic Cement from Australia and Japan, Inv. Nos. 731-TA-108-109 (Preliminary), USITC Pub. 1310 at 9 (November 1982) (less than 10% acceptable)

²² See Frozen French Fried Potatoes from Canada, Inv. No. 731-TA-93 (Preliminary), USITC Pub. 1259 at 7 (June 1982).

that ranged between 25 and 50 percent were too large.²³

The percentage of outside shipments to the State of Florida, particularly during the latter portion of the period of investigation, exceeds the percentages in several previous investigations that the Commission has found to satisfy the "shipments in" criterion. We nevertheless believe that persuasive grounds support concluding that the State of Florida satisfies the market isolation requirements of the statute. First, the 10.5 percent level of "shipments in" for the overall period of investigation is not significantly above levels found to satisfy the statutory criteria in prior investigations. Second, the record in these investigations suggests that penetration by outside U.S. producers is higher along the northern border of the state than in the remainder of Florida. Some markets in the northern areas of the state are more proximate to out-of-state producers than Florida producers and are sufficiently distant from Florida producers that the latter cannot offer competitive cement prices.²⁴ Conversely, out-of-state producers are too distant to be competitive in markets in the central and southern regions of Florida.²⁵ The same Atlantic Sugar CIT opinion indicating that a 12 percent

²³ 12-Volt Lead-Acid Type Automotive Storage Batteries from the Republic of Korea, Inv. No. 731-TA-261 (Preliminary), USITC Pub. 1710 at 8 (June 1985).

²⁴ Petitioner's Postconference Brief, exs. 5, 7. Petitioner has submitted material in its postconference brief suggesting that market penetration by Florida producers in certain panhandle markets is extremely low. See id. at 14, exs. 5, 6.

²⁵ For example, the Alabama cement producer located nearest the state of Florida is Holnam, Inc., whose a production facility is in Theodore, Ala. See Report at A-24; Petitioner's Postconference Brief, ex. 7. This facility is over 500 miles from Orlando and over 700 miles from Miami. Yet approximately 95 percent of U.S. producer's portland cement shipments in the United States are to customers located within 300 miles of the production site. Report at A-15.

"shipments in" figure could be inconsistent with the finding of an isolated market also held that the figure was mitigated by regional supply patterns:

It would be unreasonable to expect any market to be hermetically sealed off from the rest of the country. It follows that the existence of a modicum of supply from elsewhere on the perimeter of a region is consistent with the existence of a separate market in that region.²⁶

For purposes of these preliminary investigations, we conclude that the apparent concentration of out-of-state shipments into markets on the perimeter of the state supports treating the State of Florida as an isolated market.²⁷

Concentration of Imports. In the final step of the regional industry analysis, we consider whether there is the requisite concentration of imports within the pertinent region. There is no precise limit for determining when import concentration is sufficient.²⁸ The percentage of total Venezuelan

²⁶ 2 CIT at 298; see also Portland Hydraulic Cement from Australia and Japan, Inv. Nos. 731-TA-108-109 (Preliminary), USITC Pub. 1310 at 9 (November 1982).

²⁷ We will reexamine this issue in any final investigations. Additionally, we will develop further the record concerning the pattern and geographic concentration of out-of-state shipments into Florida.

²⁸ The Commission has generally found percentages higher than 80 percent of total imports subject to investigation to be sufficient. See, e.g., Portland Hydraulic Cement from Australia and Japan, Inv. Nos. 731-TA-108-109 (Preliminary), USITC Pub. 1310 at 10 (November 1982) (99%); Sugars and Sirups from Canada, Inv. No. 731-TA-3 (Final), USITC Pub. 1047 (March 1980) (96.7%); Offshore Platform Jacket and Piles from the Republic of Korea and Japan, Inv. Nos. 701-TA-248 and 731-TA-259-260 (Final), USITC Pub. 1848 at 10 (May 1986) (100%). The requisite concentration has also been found, however, at levels as low as 68 percent, see Fall-Harvested Round White Potatoes from Canada, Inv. No. 731-TA-124 (Final), USITC Pub. 1463 at 7 (December 1983), and 43 percent, see Certain Steel Wire Nails from the Republic of Korea, Inv. No. 731-TA-26 (Final), USITC Pub. 1088 at 11-12 (August 1980). In the final Japan cement investigation, a majority of the Commissioners found import penetration between 61.2 percent and 73.7 percent to be sufficient. Japan Cement Final, USITC Pub. 2376 at 20-21, 48-50. Still other Commission determinations have questioned whether the concentration level was sufficient when the percentages of imports ranged from 66.3 percent to 79.2 percent, see Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. No. 731-TA-349 (Final), USITC Pub. 1994 (July 1987), and found insufficient concentration when the imports into
(continued...)

imports to the United States entering Florida was 66.0 percent in 1988, 63.5 percent in 1989, 83.2 percent in 1990, and 100 percent in the first quarter of 1991.²⁹ Determining whether the subject imports are concentrated in the region is an area in which the Commission exercises considerable discretion. In the circumstances of this industry, and based on the information in the record, we conclude for purposes of these preliminary investigations that imports from Venezuela are sufficiently concentrated to warrant consideration of material injury or threat thereof to a regional industry composed of domestic producers of cement in Florida.

Related Parties

Section 771(4)(A) of the Tariff Act of 1930 defines the relevant domestic industry as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."³⁰ Under section 771(4)(B), however, producers who are related to exporters or importers, or who are themselves importers of allegedly dumped or subsidized merchandise, may be excluded from the domestic or regional industry in appropriate circumstances.³¹ National Portland Cement Co. ("National"), an

²⁸(...continued)

the region ranged from 69.2 percent to 80.1 percent. See Certain Welded Carbon Steel Pipes and Tubes from the Philippines and Singapore, Inv. Nos. 731-TA 293, 294 and 296 (Final), USITC Pub. 1907 at 6-7 & n.19 (November 1986).

²⁹ Report, Table 4.

³⁰ 19 U.S.C. § 1677(4)(A).

³¹ 19 U.S.C. § 1677(4)(B).

operator of a portland cement grinding facility in Florida,³² has imported clinker from Venezuela during the period of investigation.³³

We consequently must decide whether to exclude National from the regional industry pursuant to the related parties provision. This determination is discretionary in nature.³⁴ The primary factors that the Commission examines in deciding whether appropriate circumstances exist to exclude the related parties include:

- (1) the percentage of domestic production attributable to related producers;
- (2) the reason why importing producers choose to import the articles under investigation -- to benefit from the unfair trade practice or to enable them to continue production and compete in the domestic market; and
- (3) the competitive position of the related domestic producer vis-a-vis

³² In the Mexico and Japan cement investigations, the Commission concluded that grinding operations should be included within the regional industry on the basis that "if the like product includes cement, the grinding and blending of clinker to produce cement constitutes domestic production." Mexico Cement Preliminary, USITC Pub. 2235 at 17-18. Although petitioner notes its continued objection to the inclusion of grinding operations in the domestic or regional industry, Petition at 6 & n.1, it has not furnished any basis for us to reconsider our position on this issue. We have accordingly determined in these investigations to continue to include grinding operations in the regional industry.

³³ Report at A-24.

³⁴ See Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (CIT 1987). If a company qualifies as a related party under section 771(4)(B), the Commission determines in view of the producer's related status whether "appropriate circumstances" exist for excluding the company in question from the definition of the domestic or regional industry. See, e.g., Digital Readout Systems and Subassemblies Thereof from Japan, Inv. No. 731-TA-390 (Final), USITC Pub. 2150 at 15 (January 1989). The related parties provision may be employed to avoid any distortion in the aggregate data bearing on the condition of the industry that might result from including related parties whose operations are shielded from the effects of the subject imports. Heavy Forged Handtools from the People's Republic of China, Inv. No. 731-TA-457 (Final), USITC Pub. 2357 at 18 (February 1991).

other domestic producers.³⁵

Much of the data pertaining to application of these factors with respect to National is proprietary. We can note that National imports clinker from Venezuela sporadically and in small volumes. We consider it unlikely that National imports to benefit from unfair trade practices or that its imports place it in a different competitive position from other Florida producers. Further, we determine that National's primary interest lies in domestic production.³⁶ Additionally, the firm-by-firm performance data compiled by the staff indicates that National's inclusion is unlikely to skew or materially affect overall industry performance.³⁷ We accordingly have determined not to exclude National from the pertinent regional industry.

CONDITION OF THE REGIONAL INDUSTRY

In determining the condition of the regional industry, we consider, among other factors, domestic consumption, domestic production, capacity, capacity utilization, shipments, inventories, employment, market share, domestic prices, profitability, the ability to raise capital, and

³⁵ See, e.g., Thermostatically Controlled Appliance Plugs and Internal Probe Thermostats Therefor From Canada, Japan, Malaysia and Taiwan, Inv. Nos. 701-TA-292, 731-TA-400, 402-404 (Final), USITC Pub. 2152 (January 1989); Granular Polytetrafluoroethylene Resin from Italy and Japan, Inv. No. 731-TA-385-386 (Final), USITC Pub. 2112 (August 1988); Rock Salt from Canada, Inv. No. 731-TA-239 (Final), USITC Pub. 1798 (January 1986). The Commission has also considered whether each company's books are kept separately from its "relations" and whether the primary interests of the related producers lie in domestic production or in importation. See, e.g., Rock Salt, USITC Pub. 1798 at 12.

³⁶ See Certain All-Terrain Vehicles from Japan, Inv. No. 731-TA-388 (Final), USITC Pub. 2163 at 19-20 (March 1989).

³⁷ Report, Appendix C.

investment.³⁸ In addition, we evaluate all of these factors in the "context of the business cycle and conditions of competition that are distinctive to the affected industry."³⁹

Under a regional industry analysis, producers of "all or almost all" of the production in the region must be materially injured.⁴⁰ The Commission has generally concluded that making individual determinations of material injury on a producer-by-producer basis pursuant to the "all or almost all" standard is inappropriate.⁴¹ Nonetheless, producer-by-producer consideration can highlight salient points that would be masked by solely an aggregate analysis. For example, if a small producer has incurred massive financial losses which result in an overall bleak financial picture of the industry's condition, the

³⁸ 19 U.S.C. § 1677(7)(C)(iii).

³⁹ 19 U.S.C. § 1677(7)(C)(iii).

⁴⁰ 19 U.S.C. § 1677(4)(C)(1982).

⁴¹ In *Atlantic Sugar, Ltd. v. United States*, 744 F.2d 1556, 1562 n.27 (Fed. Cir. 1984), the U.S. Court of Appeals for the Federal Circuit indicated that there is no basis in the statute or the legislative history for a producer-by-producer analysis.

In cases involving nationwide industries, the Commission must determine whether a domestic industry, defined as the producers "as a whole of a like product," or the producers "whose collective output of the like product constitutes a major proportion of the total domestic production," 19 U.S.C. § 1677(4)(A), is materially injured or threatened with material injury by reason of the imports subject to investigation. In such cases, there is clearly no requirement that the Commission make its determination on a plant-by-plant or producer-by-producer basis. We do not believe that the differently-worded threshold of producers of "all or almost all" of the production in a region necessarily entails a different analytical approach.

Additionally, although the statute has been substantially amended twice since the Commission first employed its regional industry injury analysis, Congress has never acted to modify or disapprove the Commission's practice of generally declining to engage in a producer-by-producer analysis. Congressional silence on this point constitutes tacit endorsement of the Commission's practice. *Chapparral Steel Co. v. United States*, 901 F.2d 1097, 1106 (Fed. Cir. 1990); *Kelly v. United States*, 826 F.2d 1049, 1052 (Fed. Cir. 1987).

Commission might nonetheless conclude that the financial performance of the remaining producers indicates that the regional industry is not materially injured. There is no single correct choice of analytical method. In light of the statutory injunction to determine whether producers of all or almost all of the regional production are materially injured or threatened with material injury, in addition to considering aggregate information on regional producers, we have carefully considered the producer-specific performance information in the record. We note that, in most cases, the producer-specific information did not reveal any significantly different performance than did the aggregated information.⁴²

Apparent consumption of gray portland cement in Florida decreased by 10.8 percent between 1988 and 1990, notwithstanding a 2.6 percent increase between 1988 and 1989, and decreased by 28.2 percent between the first quarters of 1990 and 1991. Apparent consumption of cement clinker in Florida rose by 0.9 percent between 1988 and 1990, but declined by 26.8 percent in the first quarter of 1991, as compared with the first quarter of 1990.⁴³

The volume of cement and clinker production and shipments by Florida producers showed trends similar to those of apparent consumption. The quantity of cement shipments by Florida producers within the state declined by 5.7 percent between 1988 and 1990, and declined by 17.9 percent between the first quarters of 1990 and 1991.⁴⁴ Cement production fell by 4.9 percent

⁴² Because company-specific information is confidential, it is not specifically discussed.

⁴³ Report, Table 6.

⁴⁴ Report, Table 8. The trends for total cement shipments of Florida producers, which are confidential, are similar to those for shipments within
(continued...)

between 1988 and 1990, and by 16.2 percent between the first quarters of 1990 and 1991. Clinker production increased by 1.9 percent between 1988 and 1990 and declined by 18.2 percent between the first quarters of 1990 and 1991. Because productive capacity for both cement and clinker remained stable throughout the period of investigation, capacity utilization declined. Capacity utilization for cement declined from a high of 79.2 percent in 1989 to 71.8 percent in 1990 and 62.2 percent in the first quarter of 1991. Similarly, capacity utilization for clinker slipped from a peak of 93.4 percent in 1989 to 90.6 percent in 1990 and 77.8 percent in the first quarter of 1991.⁴⁵

Inventories increased substantially throughout the period of investigation. Florida producers' portland cement inventories rose by 44.6 percent between 1988 and the first quarter of 1991. Clinker inventories increased by 81.0 percent during the same period.⁴⁶

Many significant employment-related indicators were negative. The number of production and related workers fell by 16.2 percent during the period of investigation. Hours worked by production and related workers declined by 10.0 percent between 1988 and 1990 and by 12.7 percent between the first quarters of 1990 and 1991. Total wages paid to production and related workers declined by 2.0 percent between 1988 and 1990, and also declined between the first quarters of 1990 and 1991. By contrast, hourly wages and

⁴⁴(...continued)

the state. Clinker shipments by Florida producers were insignificant during the period of investigation.

⁴⁵ Report, Table 7.

⁴⁶ Report, Table 9.

total compensation increased during the period of investigation.⁴⁷

Prices showed mixed trends. In two of the four local markets from which price data were requested, domestic cement prices varied within a narrow range throughout the period of investigation.⁴⁸ In the other two markets, domestic prices increased moderately, peaking in the summer of 1990.⁴⁹

Florida producers' financial results significantly improved between 1988 and 1989 but deteriorated thereafter. Operating income increased by 227.9 percent between 1988 and 1989, declined by 38.9 percent between 1989 and 1990, and declined by 82.8 percent between the first quarters of 1990 and 1991. The producers had an overall net loss before income taxes during each period investigated except 1989; the first quarter 1991 loss was 76.4 percent of the full year 1990 loss.⁵⁰ Return on assets, an indicator that we have examined in prior cement investigations, showed similar trends. The operating return on both total assets and book value of fixed assets increased dramatically between 1988 and 1989, fell between 1989 and 1990, and reached negative levels in the first quarter of 1991.⁵¹

Capital expenditures by Florida producers sharply increased throughout the period of investigation.⁵² Nevertheless, during each period investigated, the amount of capital expenses was significantly lower than the amount of

⁴⁷ Report, Table 10.

⁴⁸ Report at A-56, A-61.

⁴⁹ Report at A-56-58.

⁵⁰ Report, Table 11.

⁵¹ Report, Table 19.

⁵² Report at A-37.

depreciation and amortization.⁵³ This indicates that, even with an increased rate of capital expenditures, Florida producers still cannot replace capital assets at the rate they are aging. Research and development expenditures were not significant.⁵⁴

In prior investigations, the Commission has considered the cyclical nature of the cement industry, which is characterized by poor performance in periods of low or declining consumption, and boom performance during periods of high or increasing consumption, with consumption driven largely by trends in the construction industry.⁵⁵ Indeed, the Omnibus Trade and Competitiveness Act of 1988 directs us to "examine all relevant economic factors . . . within the context of the business cycle and conditions of competition that are distinctive to the affected industry."⁵⁶ Consequently, in our consideration of the question of material injury, we have taken into account that demand for portland cement is highly dependent on construction activity in Florida, which has declined since early 1990.⁵⁷

Thus, if all other factors remained the same, we would expect the 1990 and first quarter 1991 indicators for the Florida cement industry to be characterized by declining trends. But all other factors did not remain the same. One pertinent "condition of competition" that characterized the cement

⁵³ Compare Report at A-37 with id., Table 11.

⁵⁴ Report at A-37.

⁵⁵ See, e.g., Japan Cement Final, USITC Pub. 2376 at 28; Portland Hydraulic Cement and Cement Clinker from Colombia, France, Greece, Japan, Mexico, the Republic of Korea, Spain, and Venezuela, Inv. Nos. 731-TA-356-363 (Preliminary), USITC Pub. 1925 at 17 (December 1986).

⁵⁶ 19 U.S.C. § 1677(7)(C)(iii).

⁵⁷ Report at A-16-18.

industry in Florida was the vast decrease, and ultimate disappearance, of LTFV cement imports from Mexico during the last two quarters of 1989 and the first two quarters of 1990.⁵⁸ We would anticipate that elimination of what had been the Florida cement producers' principal competition would have positive effects on those producers' performance, notwithstanding the downturn in cement demand during 1990 and the first quarter of 1991. Nonetheless, Florida producers' shipments, employment, capacity utilization, and profitability declined during these periods -- in some instances precipitously. We consequently conclude that, in light of both the business cycle and all pertinent conditions of competition, there is a reasonable indication that the Florida cement industry is incurring material injury.

REASONABLE INDICATION OF MATERIAL INJURY
BY REASON OF LTFV AND SUBSIDIZED IMPORTS

In making preliminary determinations in antidumping and countervailing duty investigations, we consider whether there is a reasonable indication that the material injury being suffered by the domestic industry is "by reason of" the imports under investigation.⁵⁹ We consider the volume of imports, their effect on prices for the like product, and their impact on domestic producers.⁶⁰ In doing so, we consider whether import volumes or increases in volume are significant, whether there has been significant underselling by imports, whether imports significantly depress or suppress prices for the like product, and such factors as domestic production, sales, capacity utilization,

⁵⁸ See Petitioner's Conference Economic Exhibits, Fig. B.

⁵⁹ 19 U.S.C. § 1673b(a).

⁶⁰ 19 U.S.C. § 1677(7)(B)(i).

inventories, employment, and profits.⁶¹

Although we may consider information that indicates that injury to the industry is caused by factors other than the allegedly LTFV imports, we cannot weigh causes.⁶² The imports need only be a cause of material injury.⁶³

The volume of cement imports from Venezuela into Florida increased substantially during the period of investigation in both absolute and relative terms. The quantity of such imports increased by 7.2 percent between 1988 and 1989, 152.5 percent between 1989 and 1990, and 52.1 percent between the first quarters of 1990 and 1991. Because Florida cement consumption declined during the same period, market penetration rose even more dramatically. Market penetration in Florida for Venezuelan cement increased from 5.9 percent in 1988 to 18.0 percent in 1990 and 20.7 percent in the first quarter of 1991.⁶⁴ We consequently conclude that both the volume of imports and the increase in import volumes are significant.

The record compiled in this preliminary investigation does not indicate that imported Venezuelan cement has greatly undersold the domestic product.⁶⁵

⁶¹ 19 U.S.C. § 1677(7)(C).

⁶² "Current law does not . . . contemplate that the effects from the subsidized (or LTFV) imports be weighted against the effects associated with other factors (e.g. the volume and prices of nonsubsidized imports, contraction in demand or changes in patterns of consumption, domestic producers, developments in technology, and the export performance and productivity of the domestic industry) which may be contributing to overall injury to an industry." S. Rep. No. 249, 96th Cong., 1st Sess. 57 (1979). See also H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979).

⁶³ *Citrosuco Paulista, S.A. v. United States*, 704 F. Supp. 1075, 1101 (CIT 1988); *Hercules, Inc. v. United States*, 673 F. Supp. 454, 481-82 (CIT 1987).

⁶⁴ Report, Table 24. The amount of clinker imports from Venezuela into Florida during the period of investigation was insignificant. *Id.*, Table 23.

⁶⁵ Report at A-56-61.

This is not especially surprising considering the dynamics of the cement market. Because portland cement is largely a homogenous product, prices charged by different suppliers to a customer at a given location tend to be similar at any specific time; moreover, competing suppliers' prices tend to move in the same direction within a relatively short time period.⁶⁶

Thus, we cannot conclude that cement imports from Venezuela have had no price effects on Florida producers without further investigating the possibility of price suppression or depression. In this regard, the record indicates that although cement prices rose in the summer of 1990 -- shortly after the exit of LTFV imports from Mexico -- in all four Florida markets surveyed, they subsequently fell in each market. Additionally, March 1991 prices were at or below price levels reached in 1989 in three of the four markets.⁶⁷ The price decline since the summer of 1990 suggests that the increased volumes of allegedly LTFV and subsidized imports from Venezuela may have prevented domestic producers from attaining or maintaining the price levels they would otherwise have reached. In other words, Venezuelan cement may simply have replaced the Mexican product in the role of price-suppressing LTFV import.⁶⁸ We intend to explore this issue further in the final investigation.

Finally, the current record furnishes indications that the subject

⁶⁶ Report at A-54.

⁶⁷ Report, Tables 27-30.

⁶⁸ In an effort to substantiate (or refute) this proposition, we intend to develop information during any final investigations concerning how the departure of Mexican imports affected the volumes of other countries' imports into Florida and/or shipments into the region by U.S. producers from outside the region.

imports have had detrimental effects upon the regional industry. As previously stated, Florida producers had substantial unused capacity and rapidly declining capacity utilization rates towards the latter stages of the period of investigation. In light of the highly fungible nature of cement,⁶⁹ the large increases in volumes of Venezuelan cement in a Florida market characterized by declining demand indicates that the subject imports appear to have deprived Florida cement producers of sales volumes, and consequently have been a cause of their decreasing capacity utilization and deteriorating financial condition.^{70 71} The record additionally indicates that the Venezuelan imports contributed to the decisions of Florida producers to defer or cancel capital expansion plans they made upon issuance of the antidumping order against cement imports from Mexico.⁷²

⁶⁹ Both petitioner's and respondents' economic consultants agreed on this point. See Tr. at 37-38 (Wechsler); Cementos Caribe Postconference Brief, ex. A at 9.

⁷⁰ Although factors cited by respondents (e.g., declining demand, disinclination of independent ready-mix concrete firms to purchase from vertically-integrated Florida producers) may have contributed to the regional industry's difficulties, we cannot conclude on the basis of the current record the subject imports were not a cause of injury. As previously stated, we are not permitted to weigh causes.

⁷¹ Commissioner Lodwick notes that if imports were truly a residual source of supply which "rise and fall in tandem with Florida consumption" as respondents suggest, e.g., Vencemos Postconference Brief at 36, one would expect the decrease in import volumes to equal the decrease in consumption volumes. In addition, if Florida producers had excess productive capacity available in 1989 due to the effects of LTFV Mexican imports, it could be expected that their capacity utilization would increase with the large decline in Mexican imports in 1990. The simultaneous decrease in Florida consumption and departure of Mexican imports would be expected to result in a decrease in import levels greater than the decrease in consumption levels. Instead: (1) between 1989 and 1990, the level of overall imports declined less than the overall decline in Florida apparent consumption, and (2) capacity utilization of Florida producers fell instead of rising. See Report, Tables 7, 24.

⁷² Tr. at 32-33 (Geschky); Confidential Report at B-17.

Based on the foregoing considerations, we determine that there is a reasonable indication that the regional industry is materially injured by reason of imports of allegedly LTFV and subsidized gray portland cement and cement clinker from Venezuela.

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VIEWS OF ACTING CHAIRMAN ANNE E. BRUNSDALE

Gray Portland Cement and Cement Clinker from Venezuela
Invs. Nos. 303-TA-21 and 731-TA-519 (Preliminary)

Based on the information gathered in this preliminary investigation, I conclude that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of gray portland cement and cement clinker from Venezuela that are allegedly both subsidized by the government of Venezuela and sold at less than fair value. I join Commissioners Lodwick and Newquist in their discussion of the issues of like product and related parties. I also concur with their discussion of the condition of the domestic industry as an accurate portrayal of the state of the industry during the period of investigation. However, I differ from my colleagues in that I do not believe an analysis of the condition of the domestic industry is sufficient to establish that a domestic industry is or is not injured by reason of dumped or subsidized imports -- the latter being the issue the statute requires us to address.¹ Nor do I believe that an independent legal determination based on the condition of the industry is either required by the statute or useful.²

¹ 19 U.S.C. 1671(a)(2) and 1673(2).

² See Certain Light-Walled Rectangular Pipes and Tubes from Taiwan, Inv. No. 731-TA-410 (Final), USITC Pub. 2169 (March 1989) at 10-15 (Views of Chairman Brunsdale and Vice Chairman Cass). I do, however, find the discussion of the condition of the domestic industry helpful in determining whether any injury resulting from dumped or subsidized imports is material.

I also concur with my colleagues' determination that the State of Florida is the appropriate regional market within which to examine the effects of the allegedly dumped and subsidized Venezuelan imports and their determination that there is a reasonable indication that the regional cement industry located in the State of Florida is materially injured by reason of these imports. However, my understanding of the statute governing the definition of a regional industry and the finding of material injury to such a regional industry is somewhat different from that of my colleagues. In addition, as is well known, my approach to causation differs from theirs. I therefore set forth my views on these two issues below.

Regional Market

Petitioner in this case urges the Commission to analyze the effect of the dumped imports within a regional market and notes that the Commission has found regional industries to be appropriate for the analysis of unfair cement imports in all but one of the 13 investigations involving this product the Commission has conducted since 1961.³ In this case, petitioner initially proposed that the market be defined as the State of Florida.⁴

³ Petition at 29.

⁴ Petition at 5 and 31-35. At the staff conference and in its post-conference brief, petitioner proposes an alternative region consisting of the State of Florida except for the "panhandle" counties west of Tallahassee. (Conference transcript at 16-18; (continued...))

The relevant portion of Title VII 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.⁵

In the current case, these two criteria appear to be satisfied by a market consisting of the State of Florida. Producers located in Florida sold in excess of 95 percent of their production in the state during the period of investigation.⁶ Based on previous Commission decisions, such figures clearly satisfy the statutory requirement that all or almost all of the production of producers located in the region be sold in the region.

Looking at the second criterion, shipments by U.S. producers located outside of the State of Florida to destinations inside the state rose from 6.5 percent of consumption in 1988 to 15.6

⁴ (...continued)

Petitioner's Post-Conference Brief at 6-7.) I do not consider the alternative region here because the Commission was unable to collect data on this region in this preliminary investigation. However, I expect that in any final investigation on this matter additional data on the proposed alternative region will be available so that I might revisit the issue of the appropriate regional market.

⁵ 19 U.S.C. 1677(4)(C).

⁶ Staff Report at A-16, Table 4.

percent in the first quarter of 1991. For 1990, "shipments in" stood at 12.8 percent.⁷ Over the entire period of investigation, the Venezuelan imports amounted to 10.3 percent of consumption in the State of Florida.⁸

While the 15.6 percent figure for the first quarter of 1991 is getting close to a level that could be substantial, I believe that, over the whole period of investigation, the data support a finding of sufficient isolation. I note that the only case in which the Court of International Trade has addressed the issue of what constitutes substantial involved outside shipments that averaged 12 percent over the period of investigation. The Court, while rejecting the argument that 12 percent would never be substantial, accepted the Commission's conclusion that the shipments into the region were not substantial in that particular case.⁹ The Court's willingness to accept the 12 percent average figure was based on a finding that "a portion of the supply from elsewhere is generally confined to" certain areas on the periphery of the regional market. A similar situation appears to arise in the present case where virtually all cement consumed in

⁷ Id.

⁸ Based on figures in Id. at A-19, Table 6.

⁹ Atlantic Sugar, Ltd, et al., v. United States, 2 CIT 295 at 297 (1981).

the panhandle region of Florida is supplied by U.S. producers located outside of the state of Florida.^{10,11}

Therefore, the State of Florida appears to meet the statutory requirements to be defined as a regional industry.¹²

Material Injury by Reason of Dumped Imports

While the record in a preliminary antidumping investigation is less developed than in a final investigation, I am required to answer the same basic question in both instances. I therefore find it useful to employ in preliminaries the same simple tools of economic analysis I utilize in final investigations. By using economic analysis, one can examine directly -- as our governing statute requires -- the impact of the imports in question on the

¹⁰ Compare figures in Petitioner's Post-Conference Brief at 14 with figures in Staff Report at A-19, Table 6. I note that the figures in Petitioner's Post-Conference Brief have not been confirmed by Commission staff.

¹¹ These data, if confirmed, would seem to suggest that the better market within which to analyze the effect of the subject imports is the alternative region proposed by petitioner rather than the entire State of Florida. As I noted above, I expect to revisit this issue in any final investigation.

¹² Respondents argue that a regional industry analysis is inappropriate in this case. Their argument is based, in part, on a claim that the cement producers located in Florida are national producers because they have plants located all over the country. (Post-Conference Brief of Respondent Venezolana de Cementos, S.A.C.A, ("Venezolana") at 9-10 and Post-Conference Brief of Respondent Cementos Caribe, C.A., ("Cementos") at 2.) For purposes of this preliminary determination, I accept petitioner's argument for a regional industry, which is consistent with Commission precedent in cement cases. However, I invite the parties to further address this argument in any final investigation so that I might also revisit this issue at that time.

domestic industry, the nature of any such impact, and finally whether that impact constitutes material injury.¹³

Effect on Prices and Volumes Sold by the Domestic Industry. In any antidumping or countervailing duty investigation, I must consider how the dumped or subsidized imports affect the demand for the domestic like product. I know from basic economic principles that unfair imports will, in most cases, tend to reduce demand for the domestic product. I must determine whether such a reduction occurred in any specific case and, if so, how large it was.

Two factors are of particular importance in evaluating this effect. The first is the substitutability between the domestic product and the subject imports. The more substitutable the domestic and imported products, the greater the effect of any dumping or subsidies on the domestic industry, because more of the purchasers of the domestic product will switch to the imported product if it is sold at an unfairly low price. The second factor is the effect of a change in price on the total demand for the product. If the expansion in total sales from a

¹³ A more thorough discussion of the economic analysis I use in my approach to causation analysis is contained in Internal Combustion Forklift Trucks from Japan, Inv. No. 731-TA-377 (Final), USITC Pub. 2082, at 66-83 (May 1988) (Additional Views of Vice Chairman Anne E. Brunsdale); see also Certain Steel Pails from Mexico, Inv. No. 731-TA-435 (Final), USITC Pub. 2277, at 24-28 (March 1990) (Additional Views of Chairman Anne E. Brunsdale) and Certain Residential Door Locks and Parts Thereof From Taiwan, Inv. No. 731-TA-433 (Final), USITC Pub. 2253, at 33-36 (January 1990) (Additional Views of Chairman Anne E. Brunsdale).

reduction in price is small, more of any increase in sales of the imports will come at the expense of reduced sales by domestic producers. As a result, the lower the price-responsiveness of total sales, the greater the effect of any dumping or subsidies.

In the current case, I can draw on my analyses in the recent Mexican cement case to provide information on these two parameters. In that case, I noted that all cement is virtually identical physically and that all cement generally conforms to the same standards established by the American Society for Testing Material (ASTM). Thus, imported and domestic cement are very good substitutes.¹⁴

I also found that the demand for cement would not change much in response to a decline in the product's price. Cement is used to produce concrete, which is used mainly in construction. Further, the cost of concrete represents a relatively small portion of the cost of most construction projects and there are no good substitutes for concrete in these projects.¹⁵

Both the high degree of substitutability and the low price responsiveness of total demand make it more likely that an

¹⁴ Gray Portland Cement and Cement Clinker from Mexico, Inv. No. 731-TA-451 (Final), USITC Pub. 2305 (August 1990), at 36-38. In the Mexican case, I found that spatial differences reduced the elasticity of substitution -- the quantitative measure of substitutability -- somewhat below the level one might expect from the physical characteristics of cement. Such spatial differences do not appear to be important in the present case because of the smaller and more compact regional market within which the effect of the imports is being analyzed.

¹⁵ Id. at 39.

industry will be materially injured if a substantial quantity of imports are sold at less than fair value.¹⁶

Import Penetration by Unfair Imports and the Dumping Margin. In

order to understand the economic impact that dumped or subsidized imports have on the domestic industry, it is necessary to consider the market share of the unfairly traded imports and the size of the dumping and subsidy margins. The larger the share of unfairly traded imports in the domestic market -- in this case the State of Florida -- the greater will be the effect of any change in the imports' price on the demand for the offerings of other producers. Thus, it is more likely that domestic producers are materially injured when the penetration level of the unfairly traded imports is high.

The dumping and subsidy margins are important because they tell us how much the price of the unfair imports is reduced by the dumping and the subsidies. The larger the margins, the greater the effect of subject imports on the domestic industry.

¹⁶ In any analysis involving a regional industry, it is necessary to consider how any unfair pricing will affect the quantity of the product supplied to consumers in the region by producers located outside of the region. A change in price as a result of any dumping or subsidy could bring forth a large change in the quantity of the product being supplied by producers outside of the regional market. If so, the injury being suffered by regional producers could be substantially smaller than what an analyst would otherwise estimate. In any final investigation in this case, I would be interested in the views of the parties on the extent to which shipments into the region from outside of that region have been affected by the presence of unfair imports or would be affected by its cessation.

Based on quantity data, imports of portland cement from Venezuela into Florida increased from 5.9 percent of consumption in the region in 1988 to 20.7 percent in the first quarter of 1991. In 1990, Venezuelan imports accounted for 18.0 percent of apparent consumption in the State of Florida.¹⁷

Petitioner alleges that Venezuelan cement producers and exporters benefit from a variety of government programs that confer countervailable subsidies. Petitioner estimates the total effect of these programs is a net subsidy margin that exceeds 15 percent.¹⁸ Petitioner also alleges dumping margins of between 31 and 54 percent.¹⁹ While these margins are little more than petitioners' claims, they are the best information currently available concerning the level of the subsidies and dumping and suggest that the price of Venezuelan cement may be significantly below "fair" levels.

All of the factors discussed above support a finding of a reasonable indication that an industry in the United States is materially injured by reason of imports of Venezuelan cement. The market share of the Venezuelan cement is high and increasing; the limited information on the extent of unfair pricing suggests that prices may be considerably below fair; imported and domestic cement are good substitutes; and any price decline occasioned by

¹⁷ Staff Report at A-51, Table 24.

¹⁸ Id. at A-14.

¹⁹ Id. at A-15.

the allegedly dumped or subsidized imports will not substantially increase the demand for cement.²⁰

Concentration of Imports within the Regional Market

Before I can find material injury or the threat of material injury in a regional market, two additional conditions must be satisfied. First, the producers of almost all of the output of the like product in the regional market must be materially injured. Second, imports must be concentrated within the regional market.²¹

²⁰ Respondent Venezolana calls the Commission's attention to the need to place its analysis in the context of the business cycle and to avoid treating any decline in the performance of the cement industry in Florida resulting from the downturn in the demand for construction as resulting from the alleged dumping or subsidies. (See Post-Conference Brief of Respondent Venezolana at 27-29.) Such a consideration is important for my colleagues who based their determinations in these cases on the trends in industry performance. Moreover, it is extremely difficult to determine what portion of any downturn is the result of unfair import pricing and what part would have occurred anyway because of the business cycle. This is one of the advantages of the approach I use: My analytic method directly isolates the effect of the unfair imports rather than requiring a special analysis to separate the effects of the unfair imports from the expansionary or contractionary effects of the business cycle.

²¹ The relevant language in the statute reads:

[Where appropriate circumstances for the use of a regional industry analysis are found to exist,] 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 like product constitutes a major proportion of the total production of that product, is not injured, if there is a concentration of subsidized or dumped imports into such an isolated market and if producers of all, or
(continued...)

In the current case, two factors suggest that any material injury is suffered by all of the producers in the region. First, as discussed above, the cement produced by one firm is virtually indistinguishable from that produced by another, whether it is produced domestically or abroad. Thus, there are no product differences that would shield some producers from the injury being suffered by others. Second, all of the cement plants in Florida are located near either Tampa or Miami,²² and these two cities are only about 250 miles apart. There are import terminals at several locations along Florida's Atlantic coast as well as terminals located on the Gulf Coast near Tampa.²³ Since significant amounts of cement are shipped up to 300 miles from the plant or the importer's terminal,²⁴ it seems likely that all of the plants in Florida will face competition from any unfair imports and will therefore share in any material injury.

Looking at the concentration of Venezuelan cement imports within the regional market, I note that the percentage of such imports going into the State of Florida increased from 66.0 percent in 1988 and 63.5 percent in 1989 to 100 percent in the

²¹ (...continued)

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 subsidized or dumped imports. (19 U.S.C. 1677(4)(C).)

²² Staff Report at A-20 - A-22.

²³ Id. at A-25, Figure 5.

²⁴ Id. at A-15.

first quarter of 1991. In 1990, 83.2 percent of Venezuelan imports were sold in Florida.²⁵ While the figures for the early parts of the period of investigation do not indicate the requisite concentration of the imports, the figures in the latter part of the period are clearly sufficient.²⁶

Therefore, based on the evidence available to us in this preliminary investigation, I find that there is a reasonable indication of material injury to producers of gray portland cement and cement clinker located in the State of Florida by reason of imports of these products from Venezuela that are allegedly subsidized or sold at less than fair value.

²⁵ Id. at A-16, Table 4.

²⁶ For a discussion of my standards on this issue, see Gray Portland Cement and Cement Clinker From Japan, Inv. No. 731-TA-461 (Final), USITC Pub. 2376 (April 1991), at 72-74 (Views of Acting Chairman Anne E. Brunsdale).

Views of Commissioner David B. Rohr

I determine there is a reasonable indication that an industry in the United States is materially injured by reason of imports of gray portland cement and cement clinker from Venezuela alleged to be subsidized and sold in the United States at less than fair value (LTFV). In making these determinations, I find the appropriate domestic industry is composed of producers of gray portland cement and cement clinker located in the State of Florida. I make these determinations pursuant to the standards for preliminary determinations set forth by the Court of Appeals for the Federal Circuit in *American Lamb Co. v. United States*,¹ That is, I cannot say that there is clear and convincing evidence that allegedly subsidized and LTFV imports from Venezuela are not a cause of material injury to producers of all or almost all of regional production, and I cannot say that, to the extent the data suggests such a conclusion, there is no reasonable likelihood that contrary evidence would not be adduced in a final investigations. In such circumstances, I must make affirmative preliminary determinations.

Like Product

The imported articles subject to these investigations include gray portland cement and cement clinker.² In the most recent investigations conducted by the Commission in which these articles were subject to investigation, the Commission found there to be a single like product that included both of these articles.³ The criteria set forth in the statute and in judicial

¹ 785 F.2d 994, 1001 (Fed. Cir. 1986).

² 56 Fed. Reg. 27496 (June 14, 1991).

³ Portland Hydraulic Cement and Cement Clinker from Colombia, France, Greece, Japan, Mexico, the Republic of Korea, Spain and Venezuela, Inv. No. 731-TA-356-363 (Preliminary), USITC Publication 1925 (1986) (*1986 Cement*); Gray Portland Cement and Cement Clinker from Mexico, Inv. No. 731-TA-451 (Preliminary), USITC Publication 2235 (1989) (*Mexican Cement Preliminary*); Gray Portland Cement and Cement Clinker from Mexico, Inv. No. 731-TA-451 (Final), USITC Publication 2305 (August 1990) (*Mexican Cement Final*); Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Preliminary), USITC Publication 2297 (July 1990) (*Japanese Cement Preliminary*); Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Final), USITC Publication 2376 (April 1991) (*Japanese Cement Final*).

interpretations of the statute and used by the Commission to determine the appropriate like product are set forth in detail in most Commission majority opinions.⁴ I see no need to repeat them here. I find there is nothing in these criteria and nothing in the facts as brought out in these investigations that would lead me to change the definition of like product found appropriate in the Commission's recent previous investigations involving these articles.⁵ There is a single like product in these investigations including both gray portland cement and cement clinker.

Domestic Industry

A. Regional Industry

The Commission has been involved in 13 investigations of U.S. cement producers since 1960.⁶ In all but one of these cases, the Commission has found it appropriate to analyze the cement industry on a regional basis. The Commission found different regions to be appropriate based on the facts of each investigation. As I pointed out in my prior opinions, the principal, if not in many cases the only, difference in the investigations that accounts for the different regions found to be appropriate were the different imports subject to each investigation.

In my additional views in our recent investigations involving both Mexican and Japanese cement, I noted that cement has usually been viewed as a particularly appropriate candidate for regional analysis.⁷ The fact that 12 of 13 prior investigations of cement by the

⁴ *Mexican Cement Preliminary* at 3-5.

⁵ Report at A-4 through A-8. I also note that none of the parties in these investigations have challenged the like product definition as including both cement and clinker.

⁶ Report at A-4 to A-5. The thirteenth case is the Japanese cement investigation conducted in 1990-91. See *Japanese Cement Final*.

⁷ *Mexican Cement Preliminary*, Additional Views of Commissioner David B. Rohr Concerning Regional Industry, Injury to a Regional Industry, and Threat, at 50 (*Rohr Mexican Preliminary Cement Views*); *Japanese Cement Final*, Separate Views of Commissioner David B. Rohr Finding Threat of Material Injury, at 47-50, (*Rohr Final Japanese Cement Views*).

Commission were conducted on a regional basis is a vivid indication of this proposition.⁸ In these investigations, two questions have been raised about the appropriateness of a regional analysis. Respondents argued that Florida does not meet the statutory criteria to be considered a regional market and petitioners argued for the exclusion of certain counties in the Florida panhandle from the region.

To begin with petitioners' arguments, I wish to state my concern that the petitioners raised this argument too late in the investigations to allow the Commission to collect sufficient information to properly consider the issue. In such a situation, I would be inclined to dismiss the argument or at least note that it would not be appropriate to continue the investigations solely because of the different data that might be developed in any final investigations on the issue. However, I also note that these investigations should be continued regardless of this issue. Further, I view this issue as largely academic because there are no domestic producers in the Florida panhandle whose data would be affected by a Commission decision to include or exclude that area. The other effect of exclusion on the Commission's substantive analysis would be, if any, to exclude shipments by both domestic producers and importers to the region thereby lowering import concentrations in a manner adverse to petitioners' case. The issues respondents raised relate to the basic discussion of the statutory criteria that are considered below.

Applying the regional industry provisions set forth in section 771(4)(C) of the Tariff Act of 1930, as amended,⁹ and as interpreted by this Commission, I find that the appropriate "region" for analysis encompasses the State of Florida. In my past opinions in the Mexican and Japanese cement investigations, I noted various difficulties which the Commission encounters in applying the regional industry provisions of title VII. I set forth an outline of an interpretation of the statute that I felt was consistent with the statutory language, purpose, and most of the past Commission precedent. In my additional views in the *Japanese Cement*

⁸ The *1986 Cement* case is the one exception. The decision not to engage in a regional analysis was based on factors unique to that investigation.

⁹ 19 U.S.C. §1677(4)(C).

Final, I summarized the approach I would take as involving the two criteria of section 771(4)(c)(i)&(ii), the import concentration into the region and the market realities relevant to the sale of cement.¹⁰

Section 771(4)(C)(i) states that in determining the appropriateness of a regional analysis the Commission should consider whether:

the producers within such market sell all or almost all of their production of the like product in question in that market.

The data in these investigations establish that this is in fact the case. Over the period of investigations the regional Florida producers consistently shipped more than 95 percent of their production within the region.

Section 771(4)(C)(ii) states that in determining the appropriateness of a regional analysis the Commission should consider whether:

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.

It is less clear according to the data whether Florida should be deemed to satisfy this criteria. The data show that an increasing amount of Florida consumption is being supplied by domestic producers outside of Florida. The percentage of Florida consumption supplied by such outside domestic suppliers increased from seven percent in 1988 to 12 percent in 1989 to 13 percent in 1990, and from 15 percent in interim 1990 to 16 percent in interim 1991.

At the present time, however, we do not have a great deal of information about these shipments by nonregional producers. In any final investigations I will seek additional information about such shipments, in particular, whether most of such shipments tend to occur in the "fringes" of the region and whether there is any substantial overlap between such shipments and what appears to be the roughly 300-mile radius within which normal cement sales are made.

¹⁰ *Japanese Cement Final, Separate Views of Commissioner David B. Rohr Finding Threat of Material Injury*, at 48-49.

Import concentration into the Florida region by Venezuelan imports is large and growing. While only 66 percent of Venezuelan imports were made to the Florida region in 1988 and 1989, import concentration jumped to 83 percent in 1990, with interim figures of 95 percent and 100 percent.

Finally, market realities tend to support a continuation of the Commission's tradition of regional analysis of cement cases in these investigations. As in past cases, the data establish that the vast majority of shipments of cement occur within a 300-mile marketing area. In these investigations, in 1990, roughly 96 percent of shipments of the regional producers were made within such an area and 100 percent of the shipments of importers were made within such areas. Of the five domestic producers two are located in close proximity in southern Florida near Miami and the other three in relatively close proximity north of Tampa on the Gulf coast of the state. Four large import terminals are located on the Gulf coast in proximity to Tampa and two more near Miami. Of the remaining eight major import terminals, six are located on the eastern coast of Florida with substantial overlap of marketing areas with the domestic producers, while two more are located in the far northeast corner of the state near Jacksonville. Clearly, although the import terminals near Jacksonville may be problematic, there is a substantial overlap between the marketing areas for the imports and the five domestic producers located in Florida. I conclude that market realities support the existence of a separate regional market and a separate regional industry in Florida.

B. Grinding-Only Operations and Related Parties

I determine that it is appropriate to include within the domestic industry those operations which only grind clinker into cement. I also conclude that it is not appropriate to exclude any producers from the domestic industry on the basis of the related parties provision of title VII, section 771(4)(B).¹¹

I begin by noting that the Commission, as a factual matter, has consistently held that the operations whereby clinker is transformed into finished cement are more than "minor

¹¹ 19 U.S.C. §1677(4)(B).

finishing operations," and that it is appropriate to include such operations in the domestic industry.¹² There is little to distinguish any "grinding-only" operations from the grinding operations of integrated producers, which operations no one suggests be excluded.

With respect to related parties, only one of the domestic producers imported the product under investigation from Venezuelan into Florida during the period of investigation. These imports were of clinker which the producer ground into cement. The amount of such imports was too small to have a significant effect on its domestic operations. Further, the data on this producer's domestic operation can be analyzed without including the results of its operations involving this imported clinker. I conclude it would be inappropriate to exclude any domestic producer from the regional industry.

Condition of the Domestic Industry

Having carefully examined the condition of the Florida regional cement industry in the context of the business cycles relevant to cement, and taking into consideration that one might expect this industry, at this point in time, to be doing less than the "average" of the cycle, I cannot conclude that there is clear and convincing evidence that the domestic industry is not currently experiencing material injury. I conclude, therefore, that there is a reasonable indication that producers of "all or almost all" of Florida regional production are currently experiencing material injury. In reaching this conclusion, I have examined the aggregate indicators of industry performance traditionally examined by the Commission, as well as how those aggregates are affected by individual plant performance.¹³ I also base my conclusion on the "percentage of production" method of analysis that I set forth in the Mexican and Japanese cement cases as the most appropriate way to analyze the "all or almost all" injury

¹² It is a separate question, appropriate to be considered in the context of related parties, whether the grinding-only operation should be excluded because it was grinding a small amount of clinker imported from a country subject to investigation.

¹³ In general it does not appear the operations of any individual plants present any significant aberrations that change the aggregates.

criteria required by section 771(4)(C) in regional industry investigations.¹⁴

The Business Cycle

In the 1988 amendments to title VII, Congress admonished the Commission that the performance of an industry cannot be evaluated in the abstract but rather in the context of the business cycle and the conditions of competition peculiar to each industry. I note that it has always been my practice to do so. I also believe that to consider the context of the business cycle means that we must consider both the upswings and the downturns of the business cycle.

I note, for example, that the cement industry has consistently argued that because of the cyclical nature of its business it needs particularly high profits during cyclical upturns to offset the very low profits it traditionally obtains during downturns. I have consistently agreed with this basic argument, as I explained in the Mexican and Japanese cement cases. But I have also recognized that this argument means one cannot expect the cement industry to obtain high levels of profits throughout the business cycle, and that not to achieve a consistently high level of profits during a cyclical downturn is not necessarily a sign of injury. In the *Mexican Cement Final*, for example I noted that different parts of the "southern tier" region were at different points in their business cycle and therefore in evaluating the condition of the industry adjusted downward the expectation of what operating results should be for those producers in parts of the region experiencing cyclical downturns.

In the present investigations, it is clear that the region, and consequently the industry, began to experience a cyclic downturn reflected in the results of operations in 1990 and continuing in the limited data for 1991. As a result, a downturn in many of the industry's performance indicators is expected, natural, and most importantly, not necessarily indicative

¹⁴ I concurred with my colleagues' aggregated analysis, but also indicated that I believed a disaggregated analysis was appropriate in regional cases. For such analysis, I looked at percentages of production meeting various standards suggested by the information of record as being relevant to the question of material injury. *Rohr Mexican Cement Preliminary Views* at 52-55.

of material injury. In essence, the question the Commission is required to ask in evaluating the "context of the business cycle" where there is a significant turn of the cycle is whether the performance is worse than would be expected given the downturn of the cycle. This is a question to be answered in the context of evaluating the condition of the industry. The subsequent causal question will be whether imports are a cause of this worse than expected performance.

In these investigations, I believe that the Commission needs more information to evaluate the severity of the current downcycle and whether producers of all or almost all of regional production are, in fact, doing worse than should be expected during this phase of the business cycle. It has been suggested that a comparison of the present cycle to past cycles may be useful in making this evaluation. I note, however, as the Commission recognized in the 1986 Cement investigation, comparisons between cycles is difficult because "caeteris" is never "paribus." Neither the highs nor the lows of previous cycles are dispositive of what should be expected in different conditions applicable to the next cycle. I strongly urge the parties to these investigations to provide as much guidance and information to the Commission as possible on this issue.

The Percentage of Production Analysis

As detailed in memorandum CO64-Q-045, dated July 1, 1991, I have once again examined the performance data of the regional cement industry in accordance with a percentage of production analysis. The analysis relates the performance of the regional producers to their percentage of regional production in order to objectively identify the distortions in the aggregate data necessary to answer the statutory question of whether producers of all or almost all of regional production are being materially injured.

In these investigations, I have continued to refine this methodology. In the prior investigations, I had to wait until late in the investigation after assessing the overall data and arguments of the parties to decide appropriate performance levels at which to analyze the data. For example, if, on the basis of the data, a five percent increase in production or a 10

percent operating income margin seemed appropriate, I would seek to determine what percentage of production was operating above and below that level. I would then have a snapshot of the percentage of production at that level.

With my current methodology, I can avoid having a single snapshot of the industry at one or two levels, but rather, as evidenced by the tables contained in CO64-O-045, develop a complete overview of the percentages of production associated with the actual achieved performance of the entire industry. As I have previously stated, in order to appropriately answer the statutory question posed in a regional industry investigation, the Commission must employ some methodology to avoid the distortions inherent in aggregates and simple arithmetic averages. The percentage of production analysis is the only methodology that I have found which can objectively deal with these distortions. I therefore continue to employ it.

Overall regional production increased five percent between 1988 and 1989 and declined nine percent the next year. Over the period of investigation, production declined five percent and continued to decline by 16 percent in a comparison of the data for the first quarters of 1990 and 1991 (the "interim period" comparison). The percentage of production tables show that between 1988 and 1989 all producers increased their production. Three producers accounting for 68 percent of regional production record production increased their production by a percentage comparable to the aggregate increase. One producer had a significantly smaller increase and another a substantially greater increase.

Between 1989 and 1990, three producers, accounting for 62 percent of production, had production declines. One of the remaining producers produced the same amount of cement as the previous year while another, accounting for over 20 percent of regional production, increased its production by four percent. Over the period of investigation, two producers, accounting for 46 percent of regional production, registered production declines, one producer recorded no change in production levels while two other accounting for 39 percent of production reported production increases. In the interim period, three producers, accounting for roughly 54 percent of production, recorded further substantial declines in production

levels while two recorded increases. One of these producers, accounting for 20 percent of regional production, increased production by as much as 14 percent.

Neither cement capacity nor clinker capacity increased or decreased during the period of the Commission's investigations. In 1988, when average cement capacity utilization was 75 percent, individual capacity utilizations ranged from 58 percent to 97 percent, with 50 percent of production achieving utilization rates of over 90 percent. In 1989, with average cement capacity utilization increasing to 79 percent, individual utilization rates ranged from 59 percent to 101 percent with 50 percent of production achieving at least a 98 percent utilization rate.

In 1990, average cement capacity utilization declined to 72 percent. Individual rates ranged from 59 percent to 92 percent and only one producer accounting for 16 percent of production achieved a rate above 90 percent. The 1990 interim data are comparable to the overall 1990 data. Surprisingly, although the 1991 interim data show that the capacity utilization rates of several companies declined substantially, at least one company accounting for 20 percent of regional cement production achieved a cement capacity utilization rate of 104 percent.

Clinker capacity utilizations average higher than cement capacity utilizations. Average utilization changed from 89 percent in 1988 to 93 percent in 1989 before dropping to 91 percent in 1990 and changing from 95 percent in interim 1990 to 78 percent in interim 1991. Of the four clinker producers, two, accounting for 41 percent of regional cement production, operated at less than average utilization rates. The other two producers operated above the average rate. One of these producers, accounting for 17 percent of regional cement production, operated at 100 percent capacity. In 1989, three of the four producers increased their capacity utilization rates while the fourth remained at 100 percent.

In 1990, only one producer actually experienced a significant drop in its clinker capacity utilization. In interim 1990, most producers were performing at very high clinker capacity utilization rates. Two of these producers, accounting for 39 percent of regional cement production, achieved 100 percent utilization rates. Interim 1991 shows a drop off on

the part of most producers, but two producers, accounting for half of regional production, operated at 98 percent clinker capacity utilization. One of these producers, accounting for more than 20 percent of regional cement production, achieved a clinker capacity utilization of 112 percent.

Overall regional shipments increased by slightly over four percent between 1988 and 1989, then declined by over 9.5 percent in 1990. Over the period of investigation, shipments declined by over 5.5 percent with a further decline of almost 18 percent in the interim period comparisons. The percentage of production tables show that every producer increased its shipments in 1989, and that four of five decreased their shipments in 1990 and over the period. The remaining producer, which accounted for close to 20 percent of regional production, had much smaller increase in shipments in 1990 than it had in 1989, but managed to record an overall increase of nine percent over the period. In the interim period comparisons, three producers, accounting for 55 percent of regional production, show sharp declines in shipments while the remaining two producers increased their shipments. One producer, accounting for 20 percent of regional production, increased shipments by as much as nine percent.

With respect to the employment indicators, which include hours worked, productivity, compensation, and unit costs, I note declines in the most recent time periods consistent with the other data and consistent with the existence of a downturn in the business cycle. The percentage of production data show additionally that there is usually at least one producer, accounting usually between 15 and 20 percent of regional production, and sometimes two producers, together accounting for between 30 and 40 percent of production, who appear to be operating much better than the other producers. While these "better than average" producers are also operating at lower levels in 1990 and interim 1991 than during the peak years of the cycle, the question for the final investigations will be whether, viewing their performance in the context of the business cycle, it is proper to conclude that producers of all or almost all regional production are currently experiencing material injury.

Aggregate net sales of the regional industry increased 13 percent from 1988 to 1989

then decreased eight percent to 1990, for an overall period increase of approximately four percent. In the interim period, net sales declined by a substantial 11 percent. Aggregate operating income levels fluctuated to an even greater degree, increasing by over 11 million dollars or 225 percent from 1988 to 1989, then declining by some 6 million dollars, or almost 40 percent to 1990, and further dropping by 82 percent in 1991.

The percentage of production tables show declines in net sales in 1990 from four of five producers and a very modest two percent increase on the part of the remaining producers. In the interim period data, two of five producers managed to increase net sales, one of whom increased its sales by as much as eight percent. In examining the percentage of production tables, I note the distinct deterioration in profitability in 1990 and 1991.¹⁵ Except in the interim period, however, at least one company improved its profitability in each year. Because of the extreme volatility of the operating income figures, I do not place great weight on them and instead rely on what are usually more illustrative indicators, the operating income margin, and the operating return on assets ratio.

The arithmetic average operating income margin for the industry increased from four percent in 1988 to 10 percent in 1989 before dropping to seven percent in 1990. The interim comparisons show a drop from nine percent in interim 1990 to two percent in interim 1991.¹⁶ The percentage of production tables show one producer accounting for 15 percent of regional production operating above 10 percent in 1988. Three producers, accounting for 68 percent of production operated above 10 percent in 1989. One of these producers, accounting for 15 percent of production, operated above 20 percent profitability. In 1990, most producers'

¹⁵ I note an error in CO64-O-045 in the tables concerning operating income. Specifically, for one company operating income started at a negative position improved to a still negative position in 1989 and finally became positive in 1990. After a positive interim 1990 its operating income again went negative in interim 1991. In calculating performance as change from period to period the change which was positive in each of the yearly comparisons and in the overall period comparison shows up in the table as a negative rather than a positive.

¹⁶ There is legitimate question raised in this investigation whether the considerable volume of sales made by certain regional producers to related purchasers at what appear to be less than market value have resulted in lessened profitability for the cement producers while shifting profits to the purchasing downstream companies. The Commission will investigate this matter should the matter return to the Commission for a final investigation.

operating margins declined, although one managed to increase its operating income margin from zero percent to three percent. Two others, although seeing their operating income margins decline, managed to achieve nine percent operating profits. The interim data show further declines with only one company, accounting for 25 percent of regional production, managing to operate in excess of a five percent operating income margin.

Operating returns on assets ratios are generally lower for this industry than its operating income margin, an observation consistent with the arguments made by petitioners in previous investigations concerning the relationship between operating income margins and assets ratio. The data follow the same pattern as the operating income margins at a level roughly one half as high.¹⁷ The discrepancy between operating income margin and operating returns on assets ratios does, however, appear to be somewhat greater than the Commission has seen in prior investigations and will be examined further. I further note that several producers had operating assets ratios in excess of their operating income margins.

In 1988, only one producer accounting for 18 percent of production achieved an OROA above 10 percent, that being a very substantial 19 percent. In 1989, two producers, accounting for roughly 38 percent of production, achieved OROAs above 10 percent. In 1990, most producers saw significant declines in their OROA, as no one achieved a 10 percent OROA. Two producers accounting for respectively 16 percent and 20 percent managed to achieve 5 and 6 percent OROA in 1990. Interim data is of questionable utility because it relates quarterly profits to total assets which cannot be apportioned but appears to show a continued decline.

As in the past, the Commission's financial analysts have been able to provide a variance analysis of the industry's income statements which provides additional useful information about the nature of the financial changes observable in the data. This variance analysis shows that pricing does not appear to have been major factor in the declining profitability of the industry as a whole during the period of investigation. Even in 1990 and

¹⁷ The relationship does not hold true in the interim comparisons because assets cannot be apportioned on a quarterly basis.

in interim 1991, price changes had a positive effect on the industries income. The major problem, particularly in both 1990 and in the interim period was the declining volume of sales along with the associated changes in the industry's costs. In my view this tends to focus the ultimate question of causation on the volume rather than the price effects of the imports, as will be discussed below.

It is clear to me that the industry, since the end of 1989 or early 1990, has been experiencing downward trends in most of its performance indicators. It is also clear that these downward trends are not affecting each producer in the same fashion and that some firms are doing significantly better than others. I cannot say, however, at this time, that the evidence is clear and convincing that not all or almost all of regional production are currently experiencing material injury. I therefore find that there is a reasonable indication that producers of all or almost all of regional production are currently experiencing material injury.

Causation

Imports from Venezuela rose slightly from 414 thousand short tons to 444 thousand short tons between 1988 and 1989. Between 1989 and 1990, imports jumped dramatically to 1121 thousand short tons. As a percentage of total imports into Florida, Venezuelan imports jumped from 13 and 15 percent in 1988 and 1989 to almost 50 percent in 1990. Venezuelan imports increased to 71 percent of total Florida imports in interim 1991. Clinker imports were negligible.

As a percentage of Florida regional consumption, Venezuelan imports increased from roughly 6 percent in 1988 and 1989 to 18 percent in 1990, with a further increase to 21 percent in interim 1991. The data seem to indicate, however, that most of the growth in Venezuelan imports was at the expense of other imports rather than the domestic industry. First, domestic regional market share has increased steadily throughout the period of investigation from 47 percent to 48 percent to 50 percent with a further increase to 56 percent in interim 1991. Second, anecdotal evidence from certain purchasers of the former Mexican imports and the

current imports, collected in the course of investigating lost sales and lost revenue allegations, seems to confirm this. Further information from purchasers can be collected in any final investigations.

As to pricing, there are very limited instances of underselling of the Venezuelan product in the Florida markets. In the Tampa market, Venezuelan cement has been priced at or above the domestic price since the second quarter of 1989. Although the margins of overselling have narrowed somewhat in recent months, the price of Venezuelan cement remains above the domestic price. In the Orange Country area, Venezuelan imports do not begin to appear until 1990 around the time of the Mexican cement case. This is the one market in which there is consistent underselling of the domestic product by the imports. In the Tri-County marketing area, Venezuelan imports have been present throughout the period of investigation. While the overselling is consistent, I also note that the margins of overselling declined in 1990 at the time the Mexican product became subject to duties. I must also note that the closing of the margin appears to have been the result of domestic price increases rather than import price declines. In the Jacksonville area, which is furthest away from the domestic producers, there has been little underselling since the beginning of 1989. The margins of overselling, in this market, also seem to have increased in 1990 unlike the margins in other markets. Again this seems more related to domestic price declines rather than significant changes in import price levels. I also note that in 1991, Venezuelan imports began to undersell the domestic product, this time apparently attributable to a lowering of import price.

Finally, with regard to allegations of lost sales and lost revenue, I note that the allegations received in these preliminary investigations involves a rather small percentage of Venezuelan imports, particularly considering the large increase of such imports in 1990. Many of the allegations could not be confirmed at this stage of the investigations. There is also the suggestion that at least some concrete distributors have been purchasing imports because of increased competition in their business from the primary cement producers who have expanded their operations downstream to compete with them.

In conclusion, I see a very considerable increase in Venezuelan import volumes. Much of this increase may be attributable to a switch of former purchasers of Mexican cement to Venezuelan cement. This does not explain, however, given the overall decline in consumption in Florida, why the former purchasers of Mexican cement would have continued purchases at levels similar to prior levels while other purchasers, primarily of the domestic product, seemingly have had to reduce their purchases due to a decline in demand. This matter will require further investigation should these investigations return to the Commission for a final investigation.

With regard to price, I note that overselling rather than underselling appears to be more frequent, although there has been some narrowing of margins since the Mexican cement case. This is important but not dispositive since it is volume rather than price which appears to be having the major impact on this industry. Further information on pricing and information from purchasers of Venezuelan cement should be available if this matter returns to the Commission for a final investigation.¹⁸

Conclusion

The performance of the regional industry has deteriorated significantly during 1990 and interim 1991. This deterioration has not affected all producers equally, and a significant portion of regional production is operating at better levels than the remainder of such regional production. There is clearly some relationship between the declines in the industry and the downturn of the business cycle in Florida. I cannot say that the evidence is clear and convincing that this means that producers of all or almost all of regional production is not experiencing material injury. Further there has been a very significant increase in the volume of Venezuelan imports at a time in which the industry appears most significantly affected by

¹⁸ Because I have made a determination of a reasonable indication of present injury, I do not discuss threat in these views. Because of the nature of the cement industry and the important effect an analysis of the business cycle will have in any further investigation of this matter the Commission will continue to gather additional information relevant to the issue of threat and the parties are advised to pursue these issues as well.

a decline in the volume of its sales. The evidence is not clear and convincing that imports are not a cause of the deterioration in the industry's performance. I therefore conclude that there is a reasonable indication that producers of all or almost all of regional production are experiencing material injury by reason of allegedly subsidized and LTFV imports from Venezuela.

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INFORMATION OBTAINED IN THE INVESTIGATIONS

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INTRODUCTION

On May 21, 1991, counsel for the Ad Hoc Committee of Florida Producers of Gray Portland Cement,¹ Washington, DC, filed petitions with the U.S. International Trade Commission (the Commission) and the U.S. Department of Commerce (Commerce) alleging that an industry in the United States is materially injured and is threatened with material injury by reason of imports from Venezuela of gray portland cement (hereinafter "portland cement") and cement clinker, that are alleged to be subsidized by the Government of Venezuela and sold in the United States at less than fair value (LTFV). Imports of portland cement and cement clinker are provided for in subheadings 2523.10.00, 2523.29.00, and 2523.90.00 of the Harmonized Tariff Schedule of the United States (HTS) (previously reported under items 511.1420 and 511.1440 of the former Tariff Schedules of the United States Annotated (TSUSA)).²

Accordingly, effective May 21, 1991, the Commission instituted investigations Nos. 303-TA-21 (Preliminary)³ and 731-TA-519 (Preliminary), under sections 303 and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1303 and 1673b(a)), respectively, to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of the allegedly subsidized and LTFV imports of portland cement and cement clinker into the United States.

Notice of the institution of these investigations and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of May 29, 1991 (56 F.R. 24202). Commerce published its notices of institution in the Federal Register of June 14, 1991 (56 F.R. 27496). The conference was held on June 11, 1991,⁵ and the Commission's vote in these investigations was held on July 2, 1991. The statute directs that the Commission make its determinations in these investigations within 45 days after receipt of the petition, or by July 5, 1991.

¹ The petition lists the following members of the Ad Hoc Committee of Florida Producers of Gray Portland Cement: Southdown, Inc., Houston, TX; Florida Crushed Stone, Leesburg, FL; and Tarmac America, Inc., Herndon, VA.

² These investigations do not include white, nonstaining portland hydraulic cement, provided for in subheading 2523.21.00 of the HTS (previously in item 511.1100 of the former TSUSA).

³ Venezuela is not a signatory of the General Agreement on Tariffs and Trade (GATT) subsidies code and thus is not "under the Agreement" pursuant to sec. 701(b) of the act. However, Venezuela has been accorded an injury investigation under sec. 303 of the act for those articles that are duty-A-3 free.

⁴ Copies of the Commission's and Commerce's notices are shown in app. A.

⁵ A list of witnesses appearing at the conference is presented in app. B.

**PREVIOUS COMMISSION INVESTIGATIONS CONCERNING
PORTLAND CEMENT**

There have been 13 previous Commission investigations concerning portland cement, dating back to 1960. All of these have been antidumping investigations concerning portland cement, other than white, nonstaining portland cement, with the investigation in 1986 and the recent investigations on Mexico and Japan⁶ involving cement clinker as well. The first nine investigations were conducted under the provisions of the Antidumping Act of 1921. Of the 13 completed investigations, all but the 1986 investigation were determined on the basis of a regional, rather than a national, industry. A listing of the Commission's previous investigations is presented in table 1.

THE PRESENT INVESTIGATIONS

In the present investigations, the petitioner has filed on behalf of a regional industry--the State of Florida producers of portland cement and cement clinker.⁷ Petitioner contends (1) that the producers in Florida sell over 95 percent of their production of portland cement in that market and (2) that the demand in Florida is not supplied, to any substantial degree, by producers of the product in question located elsewhere in the United States.⁸ Petitioner argues that these two criteria are sufficient for the Florida region to satisfy the statutory criteria for regional industry analysis.⁹ Counsel for respondents testified at the conference that Florida is not an

⁶ United States International Trade Commission, Gray Portland Cement and Cement Clinker from Mexico (Investigation No. 731-TA-451 (Final)), USITC Pub. 2305, Aug. 1990; Gray Portland Cement and Cement Clinker from Japan (Investigation No. 731-TA-461 (Final)), USITC Pub. 2376, Apr. 1991.

⁷ At the conference, petitioner stated that the appropriate region should be the State of Florida or alternatively, Florida without the panhandle, transcript (TR), pp. 17-18; postconference brief, pp. 10-15. The panhandle includes the following counties: Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, and Washington (fig. 1). Since this was the first time the issue of an "alternate" region was raised, little information has been collected on the portland cement market in that area. The panhandle's share of Florida consumption of portland cement reportedly ranged from 3.3 percent in 1988 to 3.8 percent in 1990, TR, p. 17 and Exhibit 2.

⁸ Petitioner contends that less than 10 percent of the portland cement consumed in Florida is supplied by producers outside Florida. Because Florida is largely a peninsula 500 miles long and 120 miles wide, most of it, except for the panhandle and northern border, is insulated from other domestic producers' shipments over land. Petitioner notes that the Commission found that the Florida region satisfied the "shipments in" and "shipments out" criteria of the statute in the Mexico preliminary determination, TR, p. 154

⁹ 19 U.S.C. 1677(4)(C).

Table 1
Portland cement and cement clinker: Previous investigations, determinations,
countries subject to investigation, and geographic scope of domestic industry¹

Year of determination	Nature of determination	Subject countries	Geographic scope of domestic industry
1960	Negative	Canada	
1961	Affirmative	Sweden	Rhode Island, eastern Massachusetts, and eastern Connecticut (1 market area)
1961	Affirmative	Belgium	East coast of Florida
1961	Affirmative	Portugal	Connecticut, Massachusetts, and New Jersey (1 market area)
1962	Negative	Dominican Republic	Metropolitan New York City and Puerto Rico (2 market areas)
1963	Affirmative	Dominican Republic	Metropolitan New York City
1975	Affirmative ²	Mexico	Arizona, New Mexico, and southwestern Texas (1 market area)
1976	Negative	Mexico	Florida and southeastern Georgia (1 market area)
1978	Negative	Canada	"Northeast U.S. market," and the "Canadian border U.S. market" ³ (2 optional market areas)
1983	Negative	Australia, and Japan	California and Nevada (1 region)
1986	Negative	Colombia, France, Greece, Japan, Mexico, The Republic of Korea, Spain, and Venezuela	National
1990	Affirmative	Mexico	"Southern-tier region" and the "alternative Southern-tier region" ⁴ (2 optional market areas)
1991	Affirmative	Japan	Southern California

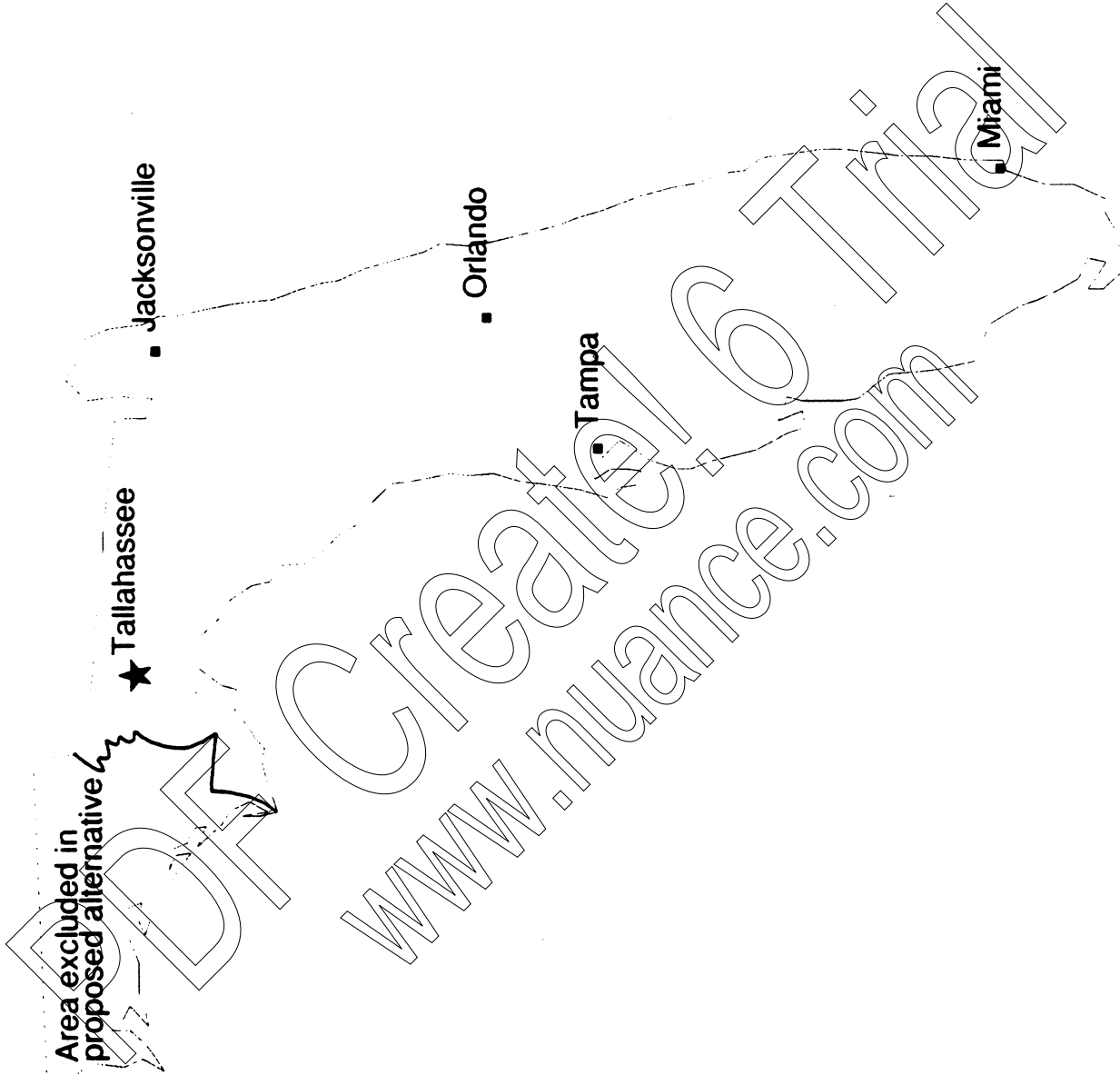
¹ Prior to the Trade Act of 1974, the statute provided for an injury analysis on the basis of a "competitive market area;" thereafter it specified a "marketing area" or "region."

² The Commission "does not determine that there is no reasonable indication that an industry is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States." Subsequent to this determination, the Department of the Treasury made a negative LTFV determination and the investigation was terminated.

³ The "northeast U.S. market" included the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont. The "Canadian border U.S. market" included the States of Alaska, Idaho, Illinois, Indiana, Michigan, Minnesota, Montana, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Washington, Wisconsin, and Wyoming, but did not include those States listed in the "northeast U.S. market."

⁴ The "Southern-tier region" included the States of Florida, Alabama, Mississippi, Louisiana, Texas, New Mexico, Arizona, and California in their entirety. The "alternative Southern-tier region" included the States of Florida, Texas, New Mexico, and Arizona, in their entirety, and only the southern part of California and the coastal counties of Alabama, Mississippi, and Louisiana.

Figure 1
Petitioner's proposed region and alternative region



appropriate region under the statute.¹⁰ For this report, information was collected from producers and importers located in Florida.¹¹ Information for the entire U.S. industry was derived from U.S. Bureau of Mines data and other publicly available data.

With respect to the issue of "like product," the petitioner argues that because cement clinker is an intermediate product generated during the production of cement and has no other use than to be ground into finished cement, cement clinker and portland cement constitute one like product.¹² Petitioner further states that most U.S. producers do not sell cement clinker as a routine matter as cement clinker is only used to make cement.¹³ No party to the proceeding has challenged the petitioner's "like product" definition.

Insofar as the "domestic industry" is concerned, petitioner states that because the like product is portland cement and cement clinker, the domestic industry consists of the producers of the same in Florida. Petitioner further argues that, since the production of cement clinker accounts for over 80 percent of the cost of producing portland cement, the grinding of cement clinker is a minor finishing operation.¹⁴ Petitioner states that since grinding of cement clinker is a minor finishing operation, the grinding operations of National Portland Cement should not be part of the domestic regional industry.¹⁵

¹⁰ TR, pp. 78-79. In its postconference brief (pp. 9-13), counsel for respondents argued that the unique characteristics of the Florida market and the nature of the domestic industry demonstrate that a regional industry analysis would be inappropriate. However, if a regional analysis is used, portions of Alabama, Georgia, and South Carolina might need to be included in the analysis of the "shipments in/shipments out" data, postconference brief, pp. 14-17.

¹¹ The Commission mailed producers' questionnaires to collect information on trade, financial, employment, and pricing data from all known producers in Florida. Importers' questionnaires were sent to companies believed to be importing the product from Venezuela.

¹² Petition, pp. 27-28.

¹³ The few isolated sales of clinker in the United States are to other cement producers that grind the purchased clinker into cement, petition, p. 28.

¹⁴ Petition, p. 28.

¹⁵ The Commission rejected this argument in the preliminary investigation on imports from Mexico noting "if the like product includes cement, then grinding and blending of clinker to produce cement constitutes domestic production, and therefore these companies are properly included in the domestic industry." USITC, Gray Portland Cement and Cement Clinker from Mexico, USITC Pub. 2235, pp. 17-18. In the most recent investigation involving these articles (Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Final)), the Commission viewed cement and cement clinker as one like product and grinding operations were considered to be part of the industry.

THE PRODUCT

Description and Uses

Gray portland cement is a fungible product in that imports (including those from Venezuela) and the domestically produced product are readily interchangeable. The cement is a hydraulic cement 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 (as 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 and ground by either a wet or dry process. The resulting mill feed is sintered at about 2,700 degrees Fahrenheit in refractory-lined, cylindrical, steel rotary kilns to make cement clinker, which is in the form of small, grayish-black pellets. Cement clinker is quite different in appearance and properties from the finished product and has no other use than for the production of cement.

Cement clinker may be stockpiled outside in a dry climate, but must be protected from moisture in areas with varied weather conditions. When the cement clinker is ground into cement, about 5 percent gypsum and other materials are added to retard the absorption of water and allow for easier handling. The final grinding step and the materials added are very important in determining the specifications and type of finished cement.

Gray portland cement is a hydraulic cement, distinguished from nonhydraulic cement by the fact that it will set, or harden, under water; nonhydraulic cement will not set under water. Portland¹⁶ cement is the most important of the four major categories of hydraulic cements,¹⁷ accounting for about 95 percent of domestic production and, reportedly, for almost all imports.

All cement, including imports from Venezuela, generally conforms to the standards established by the American Society for Testing Materials (ASTM). General descriptions of the five standard types of portland cement are given by ASTM as follows:¹⁸

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.

¹⁶ The name was given in 1824 by Joseph Aspdin, a bricklayer of Leeds, England, to a hydraulic lime that he patented because, when set with water and sand, it resembled a natural limestone quarried on the Isle of Portland in England.

¹⁷ Portland, masonry, pozzolanic, and natural or Roman cement are the four major categories of hydraulic cements.

¹⁸ ASTM designation C-150, petition, p. 8.

In 1989, type I and II portland cement together accounted for 92.1 percent of the quantity of all shipments of portland hydraulic cement from U.S. plants (table 2). Specifications for type I and type II portland hydraulic cement are very similar. The chemical specifications for types I and II 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 consist of portland cement.

Table 2
Portland cement:¹ Shipments from U.S.² plants, by types of cements, 1989

Type of cement	Quantity <u>1,000</u> <u>short tons</u>	Value <u>1,000</u> <u>dollars</u>	Unit value <u>Per short</u> <u>ton</u>
General use (types I and II).....	77,597	3,718,291	\$47.92
High-early strength (type III)...	3,133	164,291	52.45
Sulfate-resisting (type V).....	758	43,970	58.03
Oil well.....	869	42,316	48.70
White.....	456	70,715	155.24
Slag and pozzolan.....	545	29,618	54.33
Expansive.....	40	3,999	100.62
Miscellaneous ³	832	48,358	58.10
Total or average.....	84,229	4,121,558	48.93

¹ The U.S. Bureau of Mines' 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: U.S. Department of the Interior, Bureau of Mines, Minerals Yearbook, "Cement 1989," Oct. 1990, p. 16.

Cement is hygroscopic; that is, it has a tendency to absorb water. Because cement and water form concrete, cement must be handled and stored in a manner which 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. Concrete 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 ^{A-9} steel reinforcement to obtain greater strength and durability. One ton of portland cement is used to make about 4 cubic yards of concrete.

Concrete, being 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 3 shows the types of customers for cement during 1989.

Table 3
Portland cement:¹ U.S. producers' shipments² as a percentage of total shipments, by types of customers, 1989

Type of customer	Percent of total
Building material dealers.....	4.8
Concrete product manufacturers.....	11.3
Ready-mixed concrete.....	73.0
Highway contractors.....	4.7
Other contractors.....	3.6
Federal, state, and other government agencies.....	.3
All other.....	2.3
Total.....	100.0

¹ Includes cement imported and distributed by domestic producers.

² Includes Puerto Rico.

Source: U.S. Department of the Interior, Bureau of Mines, Minerals Yearbook, Cement 1989, Oct. 1990, p. 15.

Production Process

For both the imported and domestic product, the production process for gray portland cement is standardized. There are basically two processes used to blend the raw materials to produce cement: the wet process and the dry process, which are both depicted in figure 2. 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, having been used in Europe before the manufacture of portland cement in the United States.

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 Venezuela improve the efficiency of the dry process by feeding the blended raw meal through a preheater and precalciner in which it

is partially heated using vented kiln gases¹⁹ and partially calcined by direct firing in a blast furnace²⁰ before entering the rotary kiln. In 1988, U.S. cement plants with preheater-precalfiner technology were * * *.²¹ In the dry-process facilities that do not include preheater-precalfiner technology, the raw meal is fed directly into a rotary kiln in which it is calcined into clinker. Figure 3 depicts the new technology used in the dry-process manufacture of portland cement.

The main advantage of the dry process is that it is more fuel efficient, depending on the moisture content of raw materials economically available;²² preheaters and precalfiners further improve this efficiency. In general, the dry process with preheaters consumes 19 percent less fuel than the national average of fuel consumed by all kilns per short ton of clinker production, whereas the wet process consumes 12 percent more than the national average.²³ Kiln size is also a factor in fuel efficiency, with larger kilns being more efficient than the smaller ones.²⁴ However, the dry process requires more electricity per unit of output than the wet process.²⁵ 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 precalfiners).²⁶ Some in the industry think that increasing electrical costs (which vary nationwide), compared with fuel costs, could reduce the fuel cost advantage of the dry process.²⁷

In the United States, approximately 63 percent of the cement clinker production facilities use the dry process;²⁸ 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. Most production facilities in Venezuela also employ the dry process, reportedly using internationally accepted state-of-the-art equipment,²⁹ which would be comparable with that used by the U.S. industry.

For both the wet and dry process, the major sources of energy to operate the kiln include coal, fuel oil, and natural gas. In the United States, the cement industry uses predominantly coal; the Venezuelan industry uses natural gas and fuel oils.³⁰ The choice of fuel is 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

¹⁹ 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), vol. II, pp. 26-25.

²⁰ Petition, p. 12.

²¹ Telephone interview with * * *.

²² U.S. Department of Commerce, A Competitive Assessment of the U.S. Cement Industry (July 1987), p. 138.

²³ Ibid., p. 150.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid., p. 154.

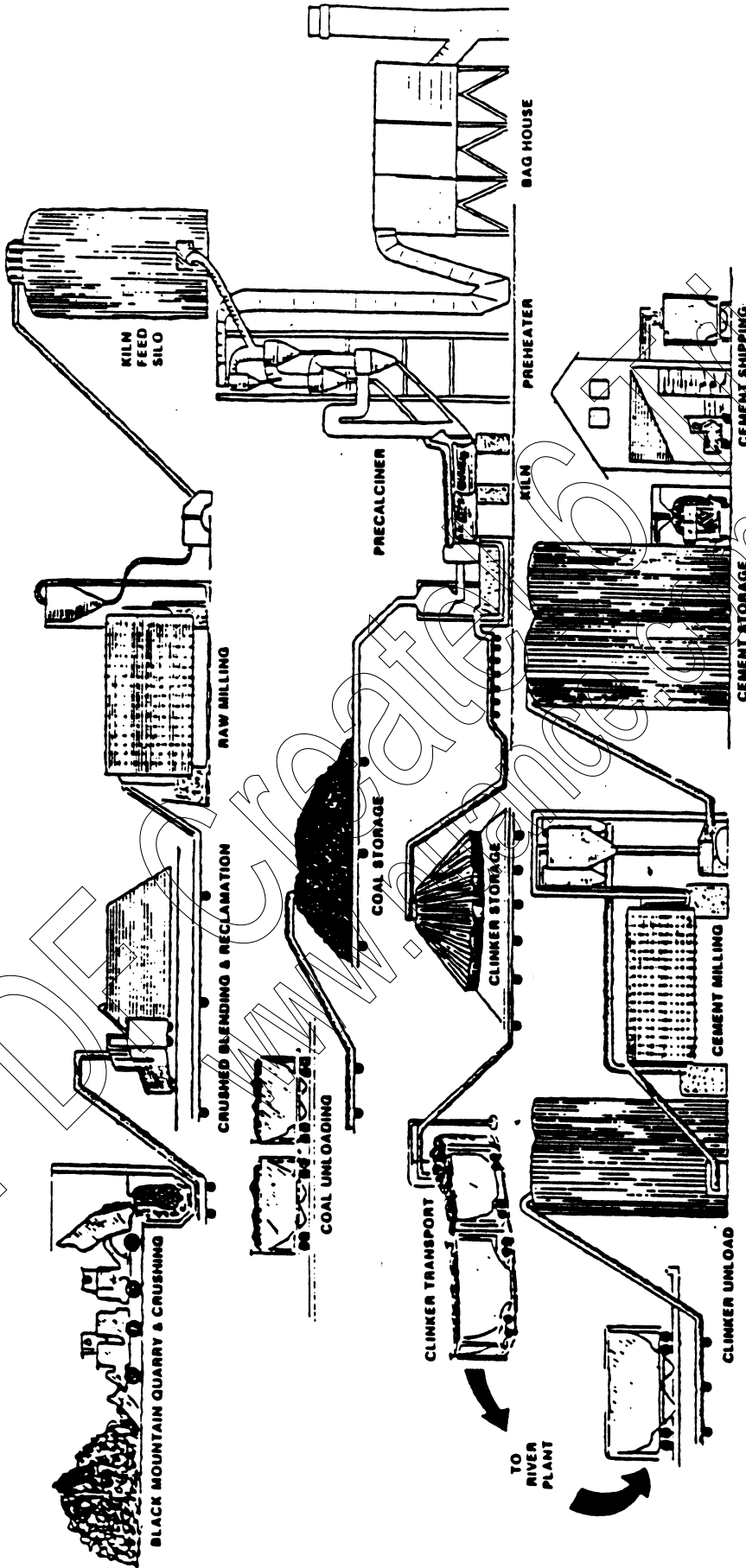
²⁷ Ibid.

²⁸ U.S. Department of the Interior, Bureau of Mines, Directory of Cement Producers and Importers in 1990, Sept. 28, 1990, pp. 9-18.

²⁹ TR, pp. 148-150.

³⁰ TR, p. 148.

Figure 3
New technology in dry-process cement manufacture



Source: Southwestern Portland Cement Co.

additional capital cost for handling equipment to convert from one fuel to another.³¹ The U.S. industry switched from fuel oil to coal as a result of increased oil prices and increased concern over fuel supply sources.³²

U.S. Tariff Treatment

U.S. imports of portland cement (other than white, nonstaining portland cement) from countries entitled to the column 1-general (most-favored-nation) duty rate, including Venezuela, enter free of duty under subheadings 2523.29.00 and 2523.90.00 of the Harmonized Tariff Schedule (HTS). U.S. imports of cement clinker from countries entitled to the column 1-general duty rate enter free of duty under subheading 2523.10.00. The column 2 rate of duty for both portland cement and cement clinker is \$1.32 per metric ton, including the weight of the container, and is applicable to imports from those Communist countries and areas specified in general note 3(b) of the HTS.

NATURE AND EXTENT OF THE ALLEGED SUBSIDIES AND SALES AT LTFV

Alleged Subsidies

The petitioner alleges that Venezuelan producers and exporters of portland cement and cement clinker benefit from a wide variety of programs that constitute subsidies within the meaning of countervailing duty laws.³³ The petition alleges that exporters of designated products may receive direct payments equal to a percentage of the f.o.b. export price of the merchandise. The Venezuelan exporter repatriates its foreign currency and receives the appropriate free-market exchange rate for conversion of the foreign currency into Bolivars (the Venezuelan currency unit), plus an additional amount based upon the product and the established local content. Producers of portland cement and cement clinker are eligible for short-term financing under the fund for financing exports (FINEXPO) because they export portland cement and cement clinker.

FINEXPO also provides preferential export financing for exporters. Under this program, companies can receive financing for operations or capital needs. In addition, certain tax benefits are available to Venezuelan manufacturers of finished or intermediate goods based on the domestic value-added level. Eligible companies could receive tax credits ranging from 10 to 25 percent of the value of new investments. The Financing Company of Venezuela (FIVCA) provides long-term financing to the Venezuelan industrial sector in accordance with economic policies established by the Government of Venezuela. Petitioner estimates that the net subsidy margin for Venezuelan producers and exporters of portland cement exceeds 15 percent ad valorem.

Although Venezuela is not a "country under the agreement" pursuant to section 701(b) of the act, the Commission is conducting a countervailing duty

³¹ A Competitive Assessment of the U.S. Cement Industry, p. 150.

³² Ibid., p. 132.

³³ Counsel for respondents argues that these allegations are without merit, either because the programs are no longer in existence or because the relevant producers have not benefitted from them, postconference brief, p. 41.

investigation pursuant to section 303 of the act because portland cement from Venezuela enters the United States duty-free.

Alleged Sales at LTFV

In order to calculate the estimated dumping margins for portland cement and cement clinker, petitioner compared the U.S. price (purchase price and exporter's sales price) of the subject product with estimates for foreign market value, which were calculated on the basis of adjusted ex-factory home market price quotations for bulk portland I cement in July 1990.³⁴ Petitioner's LTFV price comparisons revealed dumping margins of 31 percent to 54 percent.

THE DOMESTIC MARKET

The Regional Character

Because of the low value-to-weight ratio and the fungible character of cement, transportation costs are an important limiting factor on its shipment.³⁵ Approximately 95 percent of U.S. producers' portland cement shipments in the United States are to customers located within 300 miles of the production site. The following tabulation presents the distribution of Florida producers' shipments of portland cement, by distances, in 1990 (in percent):

<u>Miles shipped</u>	<u>Share of domestic shipments</u>
0-99.....	77
100-299.....	19
300-499.....	***
500 or more..	***

Importers of portland cement from Venezuela located in Florida shipped all of their portland cement within a 300-mile radius of their terminals in 1990. The following tabulation presents the distribution of shipments of portland cement by Florida importers of cement from Venezuela, by distance shipped, in 1990 (in percent):

<u>Miles shipped</u>	<u>Share of import shipments</u>
0-99.....	***
100-299.....	***
300-499.....	***
500 or more..	***

Florida producers of portland cement reported that virtually all of their shipments remain within Florida. There were no reported export

³⁴ Petitioner relied on prices at which portland cement is sold or offered for sale in the principal markets of Venezuela, as reported by a consultant retained to obtain ex-factory prices from Venezuelan producers for bulk sales in Venezuela.

³⁵ If water transport is feasible, shipment from a plant to a more distant distribution terminal on a waterway broadens the market.

shipments of portland cement. The share of Florida consumption of portland cement supplied by U.S. producers outside the State rose from 6.5 percent in 1988 to 12.8 percent in 1990. The concentration of imports from Venezuela into Florida increased from 66.0 percent in 1988 to 83.2 percent in 1990. Information on the statutory criteria set forth for regional analysis is presented in table 4. In addition, appendix C presents selected trade and financial data by plants.

Table 4
Portland cement: Selected data pertaining to the alleged Florida region, 1988-90, January-March 1990, and January-March 1991

(In percent, based on quantity)					
Item	1988	1989	1990	January-March--	
				1990	1991
Share of Florida producers' shipments made to destinations within Florida.....	***	***	***	***	***
Share of Florida consumption supplied by U.S. producers outside Florida.....	6.5	11.5	12.8	15.4	15.6
Florida's share of total imports from Venezuela.....	66.0	63.5	83.2	94.9	100.0
Ratio of imports from Venezuela to consumption--					
Within Florida.....	5.9	6.2	18.0	9.8	20.7
In all other areas.....	.2	.3	.3	.1	0

Source: Florida consumption supplied by producers outside Florida is from the U.S. Bureau of Mines. Import data are compiled from official statistics of the U.S. Department of Commerce. All other data are compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Factors Affecting Demand³⁶

As noted earlier, virtually all portland cement is used in the manufacture of concrete, one of the essential building materials for most types of construction. Thus, the demand for portland cement is highly dependent on general construction activity.³⁷ Regional demand for portland cement can be affected by many factors such as demographic movements, industrial development patterns, public spending levels, and variations in

³⁶ Counsel for Cementos Caribe, C.A., a Venezuelan producer/exporter, stated in its postconference brief (Exhibit A, p. 11) that "the Florida cement market will receive a significant boost in demand from the gasoline tax enacted in 1990, whose revenues are earmarked for state infrastructure expenditures, principally roads and highways."

³⁷ In Florida, residential construction accounts for a larger share of cement usage than in the rest of the United States, making Florida producers more dependent on home building than producers in the rest of the United States; petition, p. 11.

other economic factors. For example, concrete tends to be somewhat more popular for building construction in the South than in northern areas, where wood and steel are used more frequently. In addition, the cyclical nature of the construction sector is an important factor affecting demand for cement.³⁸ In Florida, the construction upturn, which began in 1983, ended early in 1990, and demand is continuing to decline in 1991.³⁹

One indicator of construction activity is the number of construction permits authorized. Table 5 presents data on such authorizations by regions and by types of permit.

Table 5
Authorizations of construction permits, by regions and by types of permit, 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March--	
				1990	1991
Quantity (units)					
Residential:					
Florida.....	170,597	164,985	127,383	36,528	21,651
Total United States....	1,455,623	1,340,646	1,095,833	300,813	183,773
Value (million dollars)					
Nonresidential: ¹					
Florida.....	5,158	5,270	4,809	1,255	874
Total United States....	76,060	72,126	67,944	15,302	12,202

¹ Deflated by implicit price deflator.

Source: Compiled from statistics of the U.S. Department of Commerce, Bureau of the Census.

In Florida, 83 percent of cement consumption is used in building, as compared to a U.S. average of 64 percent. This disparity can be explained by the high degree of cement used in residential construction. Homes in Florida are typically single story and often built with concrete block on concrete slabs and with concrete tile roofs. Cement/concrete is preferred to wood as a building material because it is more tolerant to humidity and insects and is preferred to steel because it is corrosion-resistant, an important property in Florida's salty environment.⁴⁰ The number of authorizations for residential construction in Florida declined by 25 percent from 1988 to 1990. This trend continued during January-March 1991, declining by over 40 percent compared with the corresponding period of 1990. Nonresidential authorizations in Florida (in real dollar terms) increased by 2 percent between 1988 and 1989 and then decreased by almost 9 percent in 1990 in comparison with those in

³⁸ The severity of cyclical construction changes, particularly since 1970, has been a serious problem to the cement industry.

³⁹ TR, p. 24.

⁴⁰ U.S. Department of Commerce, A Competitive Assessment of the U.S. Cement Industry (July 1987), p. 50.

1989. The value of authorizations, adjusted for inflation, decreased by 30 percent during January-March 1991 compared with the corresponding period of 1990.

Authorizations of residential permits in the United States declined by 25 percent from 1988 to 1990 and declined by 39 percent during January-March 1991 compared with those in the corresponding period of 1990. The value of authorizations of nonresidential permits, adjusted for inflation, decreased by over 10 percent from 1988 to 1990 and decreased by 20 percent in interim 1991 compared with the corresponding period of 1990.

Apparent U.S. Consumption

Table 6 shows apparent consumption of portland cement and cement clinker in Florida, as well as the portion of consumption supplied by U.S. producers outside the region. Additionally, table 6 presents total apparent consumption of portland cement and cement clinker for the United States.⁴¹

Regional portland cement consumption for Florida represents the total of shipments, as reported in Commission questionnaires, within the State of Florida by producers⁴² operating within Florida, plus shipments supplied from U.S. producers outside Florida,⁴³ plus imports⁴⁴ into Florida.⁴⁵

Given cement clinker's status as an intermediate material used in the production of finished portland cement, data on consumption, production, capacity, and capacity utilization must be evaluated separately for cement clinker and finished portland cement to avoid double counting or other aberrations. Consumption of cement clinker is the total of Florida's production, as reported in questionnaires of the U.S. International

⁴¹ U.S. Bureau of Mines data have been used for total U.S. apparent consumption.

⁴² National Portland Cement's facility is a grinder operation. That is, it produces cement from cement clinker that is imported or purchased from domestic sources, rather than producing its own clinker. For purposes of this investigation, data reported by National Portland Cement are aggregated with those of the producers who produce and grind their own clinker to produce portland cement.

⁴³ To obtain the share of regional consumption in Florida supplied by producers outside the State, Commission staff subtracted producers' shipments reported in Commission questionnaires and imports into Florida as reported in official import statistics of the Department of Commerce from the State total consumption figures published by the U.S. Bureau of Mines. Ideally, the difference between the figures would supply the quantity of shipments into the State from sources outside the region.

⁴⁴ For imports, official statistics of the U.S. Department of Commerce have been used. Examination of the responses to Commission importer questionnaires indicates that almost all imports into Florida are shipped within Florida. Therefore, it is assumed that the imports into Florida shown in the official statistics are shipped within Florida. To the extent any of these imports are shipped outside Florida, consumption may be slightly overstated.

⁴⁵ In calculating consumption, there were no export shipments to be extracted from overall shipments data.

Table 6
 Portland cement and cement clinker: Shipments by Florida producers,¹
 production,² imports, and apparent consumption, 1988-90, January-March 1990, and
 January-March 1991

(In 1,000 short tons)

Item	1988	1989	1990	January-March--	
				1990	1991
Portland cement:					
Florida:					
Apparent consumption.....	7,002	7,181	6,248	1,713	1,230
Shipments by regional producers/grinders.....	3,285	3,425	3,099	832	683
Imports from--					
Venezuela.....	414	444	1,121	167	254
All other sources.....	2,845	2,485	1,226	450	100
Total imports.....	3,259	2,930	2,347	617	354
Consumption supplied from--					
Within region.....	6,544	6,355	5,446	1,449	1,038
Outside region.....	458	826	802	264	193
Total United States:					
Apparent consumption.....	90,300	89,081	87,836	17,295	13,510
Cement clinker:					
Florida:					
Apparent consumption.....	3,034	3,239	3,062	812	594
Production by regional producers.....	2,590	2,721	2,639	686	561
Imports from--					
Venezuela.....	0	26	0	0	0
All other sources.....	444	492	423	126	33
Total, all sources.....	444	518	423	126	33
Total United States:					
Apparent consumption.....	72,359	72,221	(³)	(³)	(³)
Production.....	70,440	70,475	(³)	(³)	(³)
Imports from--					
Venezuela.....	0	45	139	0	0
All other sources.....	1,919	1,700	1,716	311	269
Total, all sources.....	1,919	1,745	1,854	311	269

¹ Includes shipments of portland cement by both producers and grinders.

² Production for clinker only.

³ Data for 1990, January-March 1990, and January-March 1991 are not available. Data for 1990 will be available from the Bureau of Mines in July.

Note.--Because of rounding, figures may not add to the totals shown.

Source: For portland cement, apparent consumption is computed from Bureau of Mines data. For cement clinker, regional apparent consumption is computed from data submitted in response to questionnaires of the U.S. International Trade Commission and official import statistics of the U.S. Department of Commerce. Total U.S. cement clinker consumption is computed from Bureau of Mines data and official import statistics of the U.S. Department of Commerce.

Trade Commission, plus official imports into Florida. Since the Bureau of Mines reports only production of cement clinker, it is not possible to derive cement clinker supplied by out-of-state producers. On the basis of data submitted in response to questionnaires, virtually all of Florida's production and imports of cement clinker is shipped to destinations within Florida.

Apparent consumption of portland cement in Florida rose by almost 3 percent between 1988 and 1989 before declining by 13 percent in 1990 and 28 percent in January-March 1991. Florida producers' shipments and imports of portland cement declined during 1990 and interim 1991. As one would expect, cement clinker consumption in Florida followed the trend in apparent consumption of portland cement.

Florida Producers

According to the U.S. Bureau of Mines, there were 122 active cement manufacturing plants operating in the United States in 1989, down from 126 in 1988. The list of plants includes eight operations solely for the grinding of imported, purchased, or interplant transfers of clinker.

Foreign ownership of U.S. cement plants is high and growing,⁴⁶ with a number of facilities changing hands since 1986.⁴⁷ According to the January 1989 ROI Cement Industry Research Reports publication, "The Organization of the North American Cement Industry," the greatest changes in the North American cement industry "more than anything else over the past decade have been the great increase in joint ventures and foreign ownership, especially by international cement companies." In 1989, 67 of the plants in the United States were operated by foreign ownership or joint ventures with foreign-owned participants.

Blue Circle Industries PLC (Blue Circle) of the United Kingdom has cement interests of 3.6 million tons in the United States. Cementos Mexicanos (Cemex), which currently operates 25.2 million tons of cement capacity in Mexico, has formed several joint ventures with U.S. cement companies in recent years. Lone Star Industries (Lone Star) fully owns and operates 4.8 million tons of cement capacity in the United States and has joint-venture interests totaling another 3.9 million tons. Lone Star purchased many of its U.S. cement assets in the 1970s, making it the largest cement company in the United States. In the 1980s, however, Lone Star either sold many of its assets entirely or included them in joint ventures.

The Florida portland cement industry is concentrated in two areas of the State: the Tampa area⁴⁸ and the Miami area. The producers are located in

⁴⁶ As a result of several large company acquisitions because of the continuing attractiveness of the U.S. market to foreign concerns, foreign investors now own more than 70 percent of U.S. cement production capacity.

⁴⁷ U.S. producers also made some long-term trade agreements with importers and foreign producers.

⁴⁸ National Portland has grinding facilities in Palmetto, which is south of Tampa.

areas of the State where ample supplies of raw materials exist.⁴⁹ Three of the five firms in Florida are integrated, with the degree of integration varying considerably. Those owning ready-mix and/or concrete product operations are Southdown, Inc. (Florida Mining and Minerals Corp.); Rinker Materials Corp.; and Tarmac Florida, Inc.⁵⁰ Florida Crushed Stone owns aggregate operations (raw materials, such as sand, gravel, and crushed cement). Figure 4 presents the firms' locations in Florida and their 1989 cement clinker capacity.

There are presently four active production facilities⁵¹ and one grinder operation in Florida.⁵² Florida Mining and Minerals Corp. (FM&M) in Brooksville, FL, was formed in 1971 by the merger of a ready-mix concrete company and a crushed stone company. FM&M was purchased by Southdown, Inc.,⁵³ in May 1988 as part of its acquisition of Moore McCormack Resources, Inc. The acquisition included other cement production facilities in Kosmosdale, KY; Pittsburgh, PA; Knoxville, TN; and Glens Falls, NY. FM&M operates two kilns in Brooksville,⁵⁴ about 50 miles from Tampa. Both kilns, installed in 1975 and 1982, utilize a dry process with preheaters and are coal-fired.⁵⁵ Florida Crushed Stone (FCS), also located in Brooksville, is the newest of the Florida facilities, having begun operations in 1987. FCS also uses the dry grinding process in its production facilities. Tarmac Florida, Inc. (Tarmac) operates a plant in Medley, FL,⁵⁶ and is a wholly-owned subsidiary of Tarmac America, Inc. Tarmac America is owned by Tarmac PLC, a firm located in Wolverhampton, United Kingdom. Tarmac began operation of the Medley facility in March 1988 as a joint venture with Lone Star to lease and operate a cement plant on land owned by Lone Star in Dade County, FL, and the operating cement terminals located in Jacksonville and Edgewater, FL.⁵⁷ There are four kilns at Tarmac's plant; kilns 1 and 2 have not been operated for 6 years; kiln 3 has been

⁴⁹ Respondents argue that Florida producers are constrained by a shortage of locally available limestone that meets the low alkaline content necessary for cement production, TR, p. 123; postconference brief of Venezolana de Cementos (Vencemos), p. 31. Mr. James Perdue, General Sales & Marketing Manager for Lafarge, outlined three major barriers to expansion of productive capacity in Florida; one was the unavailability, in all but two areas within the State, of the necessary raw materials, Affidavit, June 14, 1991. Petitioners agree that the necessary raw materials are available in only two sections of the State, TR, p. 71.

⁵⁰ These cement producers use much of their output to supply their own downstream operations (batch plants) and, therefore, have an outlet for most of the cement they produce.

⁵¹ All four firms own aggregate operations (raw materials) and/or ready-mix and concrete product operations (e.g., concrete block, concrete pipe, prestressed concrete, etc.).

⁵² Lafarge of Tampa, FL, ceased its grinding operations in the fall of 1987 * * *; telephone conversation with * * *, May 21, 1991. Lafarge has cement operations throughout the United States, including plants in Alabama and Texas.

⁵³ Southdown was the second largest producer in the United States in 1989.

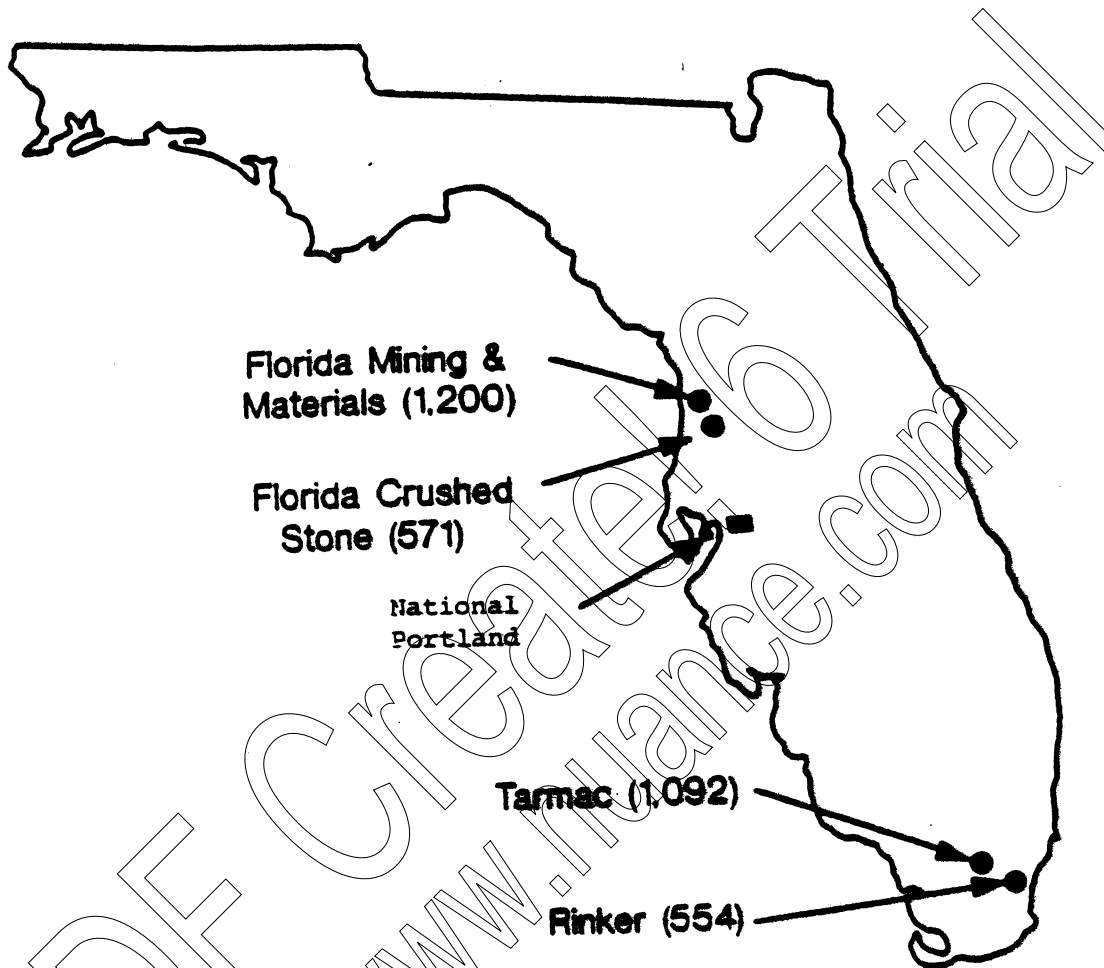
⁵⁴ * * * FM&M shut down one kiln on Jan. 21, 1991.

⁵⁵ FM&M also produces masonry cement at its Brooksville plant.

⁵⁶ * * *.

⁵⁷ Lone Star operated a three-kiln plant in Miami but only one kiln was modified to burn coal. This kiln, installed in 1975, utilizes a wet process.

Figure 4
Florida producer/grinder locations and 1989 clinker capacity (in thousands of tons)



Source:
1989 Plant Information Survey
Portland Cement Assoc.

■ Grinding only

Source: Conference Exhibit 3.

operated by Tarmac since March 1988; and installation of kiln 4 was never completed by Lone Star.⁵⁸ All three firms are in support of the petition and are members of the petitioning group. Rinker Materials Corp. (Rinker) is located in Miami, FL, and in 1988 was purchased by CSR America, Inc.,⁵⁹ Atlanta, GA. Tarmac and Rinker use the wet-grinding process in their production facilities. Rinker imports portland cement from * * *.

National Portland Cement Co. (National) operates grinding facilities at its plant in Palmetto, FL. In 1989, National sold its remaining 59 percent interest to a group of Spanish producers: Cementos Molins, S.A.; Uniland Cementera, S.A.; and Asland, S.A. The group initially purchased a 41-percent interest in the firm in 1988. National imported cement clinker from * * *. National also imports cement clinker from other sources, among them * * *, for grinding into portland cement. * * *.

The names, plant locations, and shares of reported 1990 regional production of Florida producers of portland cement are presented in the following tabulation:

<u>Firm</u>	<u>Location</u>	<u>Share of reported 1990 regional production (percent)</u>
Petitioning Committee:		
Florida Mining and Minerals Corp.	Brooksville	***
Florida Crushed Stone.	Brooksville	***
Tarmac Florida.	Medley	***
Other producers:		
Rinker Materials Corp. ¹	Miami	***
National Portland Cement Co. ^{2 3}	Palmetto	***

¹ * * *.

² * * *.

³ Grinder operations only.

Florida Importers

On a national basis, U.S. producers, grinders, and importers having an affiliation with foreign producers (either through direct ownership or a joint-venture operation) account for many of the imports from all sources of portland cement and cement clinker into the United States. In the Commission's 1986 investigation, U.S. producers⁶⁰ responding to questionnaires accounted for nearly 40 percent of all portland cement imported into the United States during 1985. Given cement clinker's status as an intermediate product in the production of portland cement, all of the clinker would be imported by or for U.S. producer or grinder operations.

⁵⁸ TR, p. 29.

⁵⁹ CSR America, Inc., is owned by CSR Investments Overseas Limited, Sydney, Australia.

⁶⁰ Including grinders.

Seven importers accounting for nearly all imports of portland cement and cement clinker from Venezuela during the period of investigation responded to the Commission's questionnaire. The Florida importers are located on both the west and east coasts, where there are deep-water ports (fig. 5). National, a grinder, was the only importer of cement clinker into Florida from Venezuela during the period of investigation. National imported * * *. In 1991, National reported * * *. National's import terminal is located in Manatee.

Lafarge Corporation⁶¹ (Lafarge) imports finished portland cement from Venezuela and Mexico.⁶² Lafarge and its wholly owned Canadian subsidiary operate 16 cement manufacturing facilities, 9 in the United States,⁶³ and 7 in Canada. Lafarge Coppee S.A., the French parent, is one of the world's largest cement manufacturers. Through its affiliated companies, it operates 12 wholly owned cement plants in France and has a 50-percent or more interest in two plants in Germany and three plants in Brazil. In addition, it has a 20-percent interest in a plant in Venezuela.⁶⁴ * * *. Lafarge has four import terminals in Tampa and Palm Beach.

Rinker, a producer in Miami, FL, * * *. Rinker maintains import terminals in Canaveral and Port Everglades. Lehigh Portland Cement Co. is a wholly-owned subsidiary of * * *. Lehigh has plants located throughout the United States. Lehigh imports portland cement from * * *, into Jacksonville, FL. Lehigh sells the majority of its imports within Florida, and a small amount to firms located * * *. Other importers in Florida include Blue Circle, Inc., owned by Blue Circle Industries of the United Kingdom, with three terminals located in Jacksonville, Canaveral, and Fort Lauderdale; Continental Cement Co. of Florida, owned by * * *, with two terminals located in Canaveral and Fort Lauderdale; and Eastern Cement Corp., also with two terminals located in Manatee and Palm Beach. Prior to the period of investigation, Ideal (now Holnam, Inc.⁶⁵) imported portland cement into Tampa but currently produces portland cement in its Theodore, AL, production facility. Holnam ships some of its production of portland cement by barge to its Tampa terminal * * *.⁶⁶ At the conference, counsel for respondents testified that Holnam shipped 350,000 tons of cement per year into the Florida market (TR, p. 143). Counsel for petitioners provided information on Holnam's Florida shipments in Exhibit 9 of its postconference brief. The information provided shows that Holnam shipped an average of * * * tons of cement per year into Florida in * * *.

⁶¹ Lafarge Coppee S.A., Paris, France, owns 60.3 percent of Lafarge Corporation. Lafarge was the largest cement producer in the United States in 1989.

⁶² * * *.

⁶³ Lafarge also operates four grinding facilities.

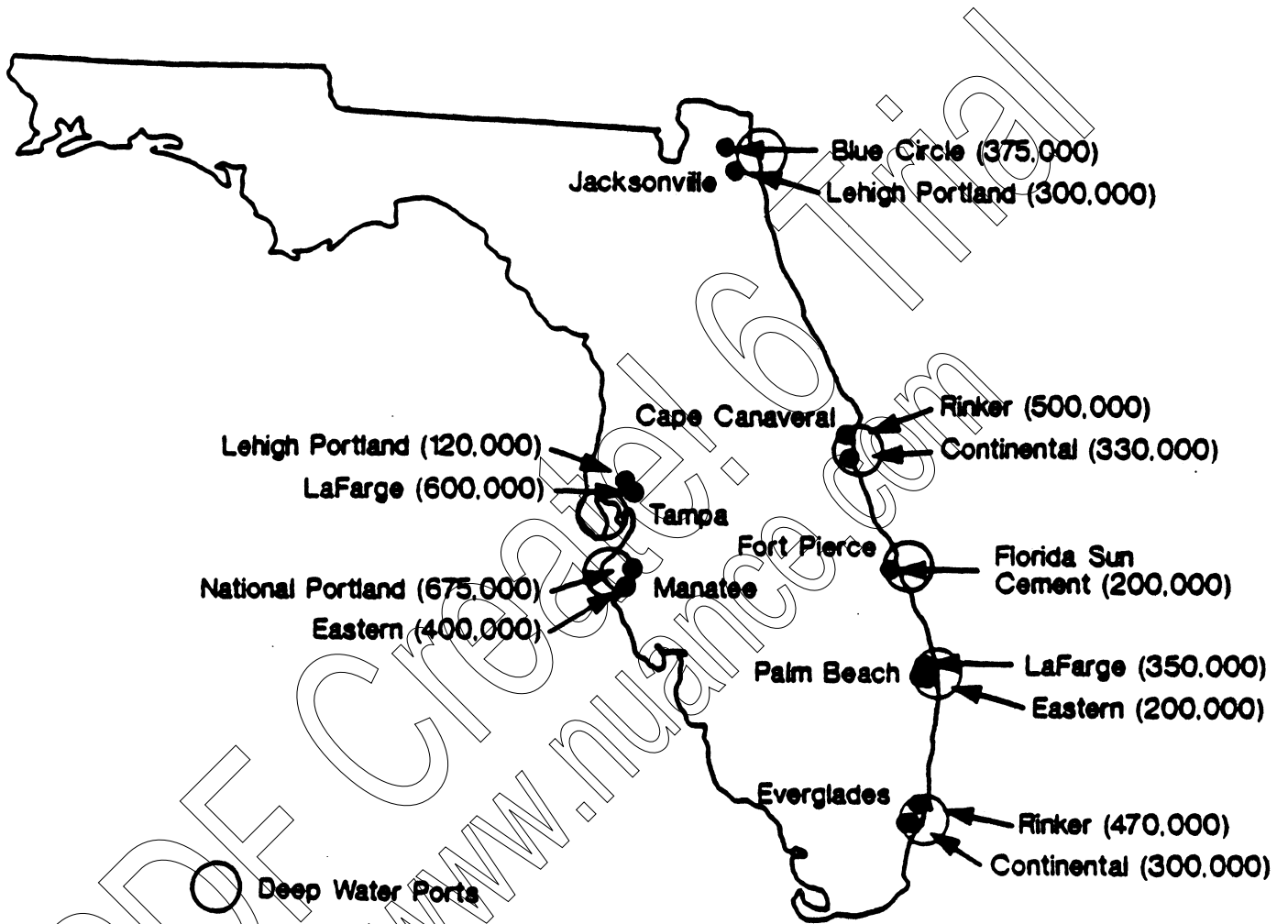
⁶⁴ Petitioner argues that because of this interest, Lafarge would not allow the plant to remain idle; rather, it would produce at full capacity and export to its terminals in Florida, TR, p. 52.

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⁶⁵ Ideal Basic Industries and Dundee Cement were consolidated under the corporate name Holnam, Inc., by their parent Holderbank Group Co. in 1989.

⁶⁶ Telephone conversation with * * *.

Figure 5
Florida import terminals and grinding facilities with estimated annual throughput capacities



Note: Throughput capacity for import terminals conservatively estimated at ten times storage capacity. In fact, throughput capacity could be substantially greater. National Portland's capacity is based on capability to grind imported clinker.

Source: Conference Exhibit 3.

**CONSIDERATION OF MATERIAL INJURY
TO AN INDUSTRY IN THE UNITED STATES**

The information presented in this section of the report is based on the questionnaire responses of five firms that represent all known producers and grinders of portland cement and cement clinker in Florida.⁶⁷

Florida Production, Capacity, and Capacity Utilization⁶⁸

Table 7 details production in Florida of portland cement ground from U.S. producers' own cement clinker, from imported cement clinker, and from cement clinker purchased from other sources in the United States. In addition, it presents Florida capacity and production data on cement clinker. Capacity to produce portland cement was 4.5 million short tons during 1988-90. Production of portland cement rose by 5.0 percent from 1988 to 1989 and fell by 9.4 percent from 1989 to 1990. Production continued to decline, by 16.2 percent, in the interim period of 1991 when compared with the corresponding period of 1990. Capacity to produce cement clinker was 2.9 million short tons during 1988-90. Production of cement clinker, understandably, followed the same trend as that for portland cement. Capacity utilization for portland cement rose from 75.4 percent in 1988 to 79.2 percent in 1989 and fell to 71.8 percent in 1990. Capacity utilization declined to 62.2 percent in January-March 1991 compared to 74.2 percent in January-March 1990. Capacity utilization for cement clinker rose from 88.9 percent in 1988 to 93.4 percent in 1989 and then fell to 90.6 percent in 1990. Capacity utilization declined to 77.8 percent in interim 1991 compared to 95.1 percent in interim 1990.

In its questionnaire, the Commission requested Florida producers to provide detailed information about any plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns because of strikes or equipment failure; curtailment of production because of shortages of materials; or any other change in the character of their operations or organization relating to the production of portland cement or cement clinker. FCS reported that * * *. Rinker reported that * * *. FM&M reportedly shut down one of its two kilns on * * *, to * * *. Tarmac has four kilns at its plant; kilns 1 and 2 have annual clinker capacities of approximately 200,000 tons each but have not been operated for approximately 6 years. Kiln 3 has an annual clinker capacity of approximately 675,000 tons and has been operated by Tarmac since March 1988. In 1990 Tarmac incurred nearly \$* * * in expenditures to upgrade and reactivate kiln 2. Tarmac purchased and installed a new and advanced kiln chain system, rebricked the kiln, and replaced all the bearings. To complete the reactivation of the kiln would require additional expenditures

⁶⁷ Florida producers were requested to provide data on a calendar-year basis; * * * provided its 1988-90 data on a fiscal year basis. * * * provided data for 10 months in 1988 * * *. At the request of Commission staff, * * * annualized the 1988 data.

⁶⁸ Production capacity is defined as "full production capacity"--the maximum level of production that a plant could reasonably be expected to attain under normal operating conditions.

Table 7

Portland cement and cement clinker: Florida capacity, production, and capacity utilization, by products, 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March--	
				1990	1991
<u>Production (1,000 short tons)</u>					
Portland cement from--					
Firm's cement clinker.....	***	***	***	***	***
Imported cement clinker....	***	***	***	***	***
Other purchases of cement clinker.....	***	***	***	***	***
Total.....	3,407	3,577	3,241	838	702
Cement clinker.....	2,590	2,721	2,639	686	561
<u>End-of-period capacity (1,000 short tons)</u>					
Portland cement.....	4,516	4,516	4,516	1,129	1,129
Cement clinker.....	2,913	2,913	2,913	721	721
<u>Capacity utilization (percent)</u>					
Portland cement.....	75.4	79.2	71.8	74.2	62.2
Cement clinker.....	88.9	93.4	90.6	95.1	77.8

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

of up to \$* * *. Due to the present economic conditions in Florida, Tarmac decided not to spend the additional funds.⁶⁹

Shipments by Florida Producers

Florida producers ship virtually all of their shipments of portland cement from their plants and from storage terminals near large metropolitan areas. According to the U.S. Bureau of Mines, over 90 percent of total shipments of portland cement are of bulk product. Virtually all (over 95 percent) of U.S. producers' reported shipments occurred within Florida. * * * reported shipments outside Florida during the period of investigation.⁷⁰ Most domestically produced cement clinker is used captively by the producer to produce finished portland cement. Consequently, shipments in this category are rather small when compared with shipments of portland cement. For instance, * * *, all within Florida. * * *. No exports were reported by any of the producers responding to the Commission's questionnaire.

Table 8 presents data on shipments by Florida producers of portland cement and cement clinker within Florida and outside Florida. Shipments of

⁶⁹ TR, pp. 32-34.

⁷⁰ * * *.

Table 8

Portland cement and cement clinker: Shipments by Florida producers, by products and by types, 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March--	
				1990	1991
<u>Quantity (1,000 short tons)</u>					
Portland cement:					
Within Florida:					
Company transfers.....	1,299	1,287	1,290	345	316
Domestic shipments.....	1,986	2,138	1,809	487	367
Subtotal.....	3,285	3,425	3,099	832	683
Outside Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Total U.S. shipments.....	***	***	***	***	***
Cement clinker:					
Within Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Outside Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Total U.S. shipments.....	***	***	***	***	***
<u>Value (1,000 dollars)</u>					
Portland cement:					
Within Florida:					
Company transfers.....	50,128	55,364	56,800	14,743	14,200
Domestic shipments.....	79,474	93,735	79,727	21,224	16,626
Subtotal.....	129,602	149,099	136,527	35,967	30,826
Outside Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Total U.S. shipments.....	***	***	***	***	***
Cement clinker:					
Within Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Outside Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Total U.S. shipments.....	***	***	***	***	***

Table continued on next page.

Table 8--Continued

Portland cement and cement clinker: Shipments by Florida producers, by products and by types, 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March--	
				1990	1991
	Unit value (per short ton)				
Portland cement:					
Within Florida:					
Company transfers.....	\$38.59	\$43.02	\$44.03	\$42.73	\$44.94
Domestic shipments.....	40.02	43.84	44.07	43.58	45.30
Average.....	39.45	43.53	44.06	43.23	45.13
Outside Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Average.....	***	***	***	***	***
Average, U.S. shipments....	***	***	***	***	***
Cement clinker:					
Within Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Average.....	***	***	***	***	***
Outside Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Average.....	***	***	***	***	***
Average, U.S. shipments....	***	***	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Portland cement within Florida increased by 4.3 percent (by quantity) between 1988 and 1989 and then decreased by 9.5 percent in 1990. Shipments continued to decrease in interim 1991, falling by 17.9 percent when compared with interim 1990. Shipments outside Florida * * *.

End-of-Period Inventories of Florida Producers

Producers' end-of-period inventories of portland cement and cement clinker are presented in table 9. Inventories of portland cement increased by 54.7 percent during 1988-90 and by 10.4 percent in January-March 1991 compared to the corresponding period in 1990. Producers' inventories of portland cement, as a share of production, ranged from 4.1 percent to 7.2 percent during the period of investigation, while cement clinker inventories ranged from 1.9 percent to * * *.

Table 9

Portland cement and cement clinker: End-of-period inventories of Florida producers, by products, 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March--	
				1990	1991
Quantity (1,000 short tons)					
Portland cement.....	139	169	215	182	201
Cement clinker.....	58	52	***	76	105
Ratio to production (percent)					
Portland cement.....	4.1	4.7	6.6	5.4	7.2
Cement clinker.....	2.2	1.9	***	2.8	4.7

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Employment and Wages of Florida Producers

In past investigations, U.S. producers were unable to separate workers producing cement clinker from those producing finished portland cement because most of the workers did both. Therefore, in these investigations the Commission requested employment data for portland cement and cement clinker combined (table 10). * * * is the only producer whose workforce is represented by a union.

The number of production and related workers in Florida decreased by 13.0 percent during 1988-90 and by 4.8 percent in interim 1991 compared with the same period a year earlier. Hourly wages increased from \$10.65 in 1988 to \$12.47 in 1989 and then decreased to \$11.60 in 1990. Hourly wages increased to \$12.63 in January-March 1991 compared with wages of \$12.39 in the corresponding period of 1990.

In its questionnaire, the Commission requested Florida producers to provide detailed information concerning reductions in the number of production and related workers producing portland cement and/or cement clinker during 1988-90, January-March 1990, and January-March 1991, if such reductions involved at least 5 percent of the workforce, or 50 workers. * * *.

Table 10

Portland cement: Average number of Florida production and related workers producing portland cement, hours worked,¹ wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs,² 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March--	
				1990	1991
Production and related workers (PRWs).....	468	446	407	412	392
Hours worked by PRWs (1,000 hours).....	1,130	1,095	1,017	244	213
Wages paid to PRWs (1,000 dollars).....	12,031	13,659	11,793	3,023	2,691
Total compensation paid to PRWs (1,000 dollars).....	15,307	17,494	15,625	3,895	3,636
Hourly wages paid to PRWs....	\$10.65	\$12.47	\$11.60	\$12.39	\$12.63
Hourly total compensation paid to PRWs.....	\$13.55	\$15.98	\$15.36	\$15.96	\$17.07
Productivity (short tons of cement per hour).....	3.0	3.3	3.2	3.4	3.3
Unit labor costs (per short ton of cement).....	\$4.49	\$4.89	\$4.82	\$4.65	\$5.18

¹ Includes hours worked plus hours of paid leave time.

² On the basis of total compensation paid.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Financial Experience of Florida Producers

Five plants of U.S. producers,⁷¹ accounting for * * * percent of reported production of portland cement in the State of Florida in 1991, provided income-and-loss data on their portland cement and cement clinker operations and on their overall establishment operations. Portland cement and cement clinker net sales accounted for an average of 84 percent of total net sales of overall establishment operations during the period covered by the investigations.

Portland Cement and Cement Clinker Operations

Income-and-loss data are shown in table 11. Net sales of portland cement and cement clinker increased by 12.9 percent, from \$134.5 million in 1988 to \$151.8 million in 1989 and then declined by 8.0 percent to \$139.7

⁷¹ The 5 plants and their fiscal year ends are the Brooksville plant of Florida Crushed Stone Company (Dec. 31); the Brooksville plant of Florida Mining & Materials Division of Southdown, Inc. (Dec. 31); the Palmetto plant of National Portland Cement Co. (Dec. 31); the Miami plant of Rinker Materials Corp. (Mar. 31); and the Medley plant of Tarmac Florida, Inc. (Dec. 31).

Table 11

Income-and-loss experience of Florida producers on their operations producing portland cement and cement clinker, fiscal years 1988-90, January-March 1990, and January-March 1991

Item	1988 ¹	1989 ²	1990	January-March--	
				1990	1991
	Value (1,000 dollars)				
Net sales.....	134,469	151,846	139,737	36,060	31,981
Cost of goods sold.....	117,267	121,300	116,136	29,143	27,764
Gross profit.....	17,202	30,546	23,601	6,917	4,217
Selling, general, and administrative expenses....	12,386	14,754	13,946	3,717	3,667
Operating income.....	4,816	15,792	9,655	3,200	550
Interest expense.....	***	***	***	***	***
Other income, net.....	***	***	***	***	***
Net income or (loss) before income taxes.....	(8,745)	452	(4,398)	(67)	(3,362)
Depreciation and amortiza- tion.....	10,561	10,441	10,991	2,681	2,840
Cash flow ³	1,816	10,893	6,593	2,614	(522)
	Ratio to net sales (percent)				
Cost of goods sold.....	87.2	79.9	83.1	80.8	86.8
Gross profit.....	12.8	20.1	16.9	19.2	13.2
Selling, general, and administrative expenses....	9.2	9.7	10.0	10.3	11.5
Operating income.....	3.6	10.4	6.9	8.9	1.7
Net income or (loss) before income taxes.....	(6.5)	0.3	(3.1)	(0.2)	(10.5)
	Number of firms reporting				
Operating losses.....	1	1	0	0	1
Net losses.....	2	2	2	2	4
Data.....	5	5	5	5	5

¹ * * * supplied data for 10 months in 1988 because * * *. These data are annualized for comparative purposes.

² * * * provided data for 9 months in 1989, * * *. These data are annualized for comparative purposes.

³ Cash flow is defined as net income or loss plus depreciation and amortization.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

million in 1990. Such sales further dropped by 11.3 percent from \$36.1 million in January-March 1990 to \$32.0 million in the corresponding period of 1991.

Aggregate operating income increased from \$4.8 million, or 3.6 percent of net sales, in 1988 to \$15.8 million, or 10.4 percent of net sales, in 1989 and then fell to \$9.7 million, or 6.9 percent of net sales, in 1990. During the interim periods, such income fell from \$3.2 million, or 8.9 percent of net sales, in 1990 to \$550,000, or 1.7 percent of net sales, in 1991. Interest expense averaged around * * * percent of total net sales during the reporting period, and in view of the low level of operating income margins, the industry sustained pretax losses each year except 1989, when it barely broke even. The majority of interest expense was reported by two firms, * * * respectively, of total net sales during 1988-90.

The key financial data are presented by firm in table C-7 in appendix C.

* * * * *

The breakdown of the quantity and value of net sales into trade and company transfers of portland cement and cement clinker is presented in table 12. As a share of the total quantity or value of sales of portland cement and cement clinker combined, trade sales of clinker accounted for * * * percent during the reporting period. Company transfers of portland cement increased from about * * * percent of total net sales in terms of quantity and value in 1988 and 1989 to * * * percent in 1990 and approximately * * * percent in January-March 1991.

Income-and-loss data on a per-short-ton basis are shown in table 13. On that basis, average net sales of portland cement and cement clinker combined increased from \$39.27 in 1988 to \$43.09 in 1989, \$43.48 in 1990, and \$44.42 in January-March 1991. The average transfer unit values were slightly lower than the average trade unit sales values. * * *.

The average cost of goods sold increased from \$34.25 per short ton in 1988 to \$34.42 in 1989, \$36.13 in 1990, and \$38.56 in January-March 1991. Average selling, general, and administrative (SG&A) expenses per short ton increased from \$3.62 in 1988 to \$4.19 in 1989, \$4.34 in 1990, and to \$5.09 in January-March 1991. These changes in unit revenues and costs and their relationship with volume changes (net sales quantities) are reflected in the variance analysis below.

An analysis of the decline or increase in gross profit and operating income on sales of portland cement and cement clinker combined between 1988 and 1990, during each of the intervening 2-year periods, and between January-March 1990 and 1991 is presented in table 14. The data presented in this table represent an analysis of the changes in gross profit and operating income based on a variance analysis. The variance analysis indicates the relative impact of changes in price, volume, and cost on profit levels between two periods. Such analysis is a reasonable analytical tool in this case because portland cement is essentially a fungible product and there is no significant impact due to changing product mix.

Table 12

Portland cement and cement clinker: Florida producers' quantity and value of net sales, by types of sales, fiscal years 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March--	
				1990	1991
Quantity (1,000 short tons)					
Net sales:					
Trade:					
Cement.....	***	***	***	***	***
Clinker.....	***	***	***	***	***
Transfer:					
Cement.....	***	***	***	***	***
Clinker.....	***	***	***	***	***
Total.....	3,424	3,524	3,214	836	720
Value (1,000 dollars)					
Net sales:					
Trade:					
Cement.....	***	***	***	***	***
Clinker.....	***	***	***	***	***
Transfer:					
Cement.....	***	***	***	***	***
Clinker.....	***	***	***	***	***
Total.....	134,469	151,846	139,737	36,060	31,981

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 13

Income-and-loss experience (on a per-short-ton basis) of Florida producers on their operations producing portland cement and cement clinker, fiscal years 1988-90, January-March 1990, and January-March 1991

Item	(Per short ton ¹)				
	1988	1989	1990	January-March- 1990	January-March- 1991
Net sales:					
Trade:					
Cement.....	\$**	\$**	\$**	\$**	\$**
Clinker.....	**	**	**	**	**
Transfer:					
Cement.....	**	**	**	**	**
Clinker.....	**	**	**	**	**
Average net sales.....	39.27	43.09	43.48	43.13	44.42
Cost of sales.....	34.25	34.42	36.13	34.86	38.56
Gross profit.....	5.02	8.67	7.34	8.27	5.86
Selling, general, and administrative expenses.....	3.62	4.19	4.34	4.45	5.09
Operating income.....	1.41	4.48	3.00	3.83	0.76
Interest expense.....	**	**	**	**	**
Other income, net.....	**	**	**	**	**
Net income or (loss) before income taxes.....	(2.55)	0.13	(1.37)	(0.08)	(4.67)
Depreciation and amortization included above.....	3.08	2.96	3.42	3.21	3.94
Cash flow ²	0.53	3.09	2.05	3.13	(0.73)

¹ Because of rounding, numbers may not add to values shown.

² Cash flow is defined as net income or loss plus depreciation and amortization.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 14

Portland cement and cement clinker: Variances¹ in net sales; cost of goods sold; gross profit; selling, general, and administrative expenses; and operating income² due to changes in price, volume, costs, and/or expenses of Florida producers between fiscal years 1988-90, 1988-89, 1989-90, and between the January-March periods of 1990 and 1991

(In thousands of dollars)

Item	1988-90	1988-89	1989-90	Jan.- Mar. 1990-91
Net sales:				
Price variance.....	13,515	13,450	1,249	925
Volume variance.....	(8,247)	3,927	(13,358)	(5,004)
Total net sales variance.....	5,268	17,377	(12,109)	(4,079)
Cost of goods sold (COGS):				
Cost variance.....	(6,061)	(608)	(5,507)	(2,665)
Volume variance.....	7,192	(3,425)	10,671	4,044
Total COGS variance.....	1,131	(4,033)	5,164	1,379
Gross profit variance.....	6,399	13,344	(6,945)	(2,700)
SG&A expenses:				
Expense variance.....	(2,320)	(2,006)	(490)	(466)
Volume variance.....	760	(362)	1,298	516
Total SG&A variance.....	(1,560)	(2,368)	808	50
Operating income variance....	4,839	10,976	(6,137)	(2,650)

¹ Unfavorable variances are shown in parentheses; all others are favorable.

² Comparable to changes in net sales; cost of goods sold; gross profit; selling, general, and administrative expenses; and operating income, as presented in table 11.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Price, cost, and expense variances were determined by calculating for each respective period (annual or 1988-90 or interim) the change in average unit value for price, cost, and expense and multiplying this unit change by the volume of units sold in the year the period ends. Volume variances for net sales, cost of goods sold, and SG&A expenses were computed by multiplying the change in volume between each applicable periods (annual or 1988-90 or interim) by the average unit value in the year the period starts.

The total increase of \$4.8 million in operating income between 1988 and 1990 resulted from a \$5.3 million rise in net sales revenue and a decline of \$1.1 million in cost of goods sold, which was offset by an increase of \$1.6 million in SG&A expenses. The \$5.3 million net sales increase is a combination of \$13.5 million attributable to a rise in sales price, offset by \$8.2 million due to a decline in sales volume. The net savings in cost of goods sold of \$1.1 million is a combination of \$7.2 million attributable to a decline in sales volume, offset by \$6.1 million attributable to an increase in the unit cost of production.

Between 1988 and 1989, the increase in operating income was mainly due to favorable price and volume variances in net sales. Between 1989 and 1990, the drop in operating income was mainly due to a high unfavorable volume variance in net sales and the higher increase in unit cost compared to unit sales revenue. Between January-March 1990 and January-March 1991, the decrease in operating income was mainly due to a relatively higher unfavorable volume variance in net sales and the unfavorable cost variances.

Overall Establishment Operations

Income-and-loss data on overall operations of the establishments within which portland cement and cement clinker are produced are presented in table 15. The trends for net sales and operating income margins of establishment operations are similar to those for the portland cement and cement clinker operations.

Selected balance sheet items and certain ratios of * * * on their establishment operations are presented in tables 16, 17, and 18, respectively. * * *.

Investment in Productive Facilities

The value of property, plant, and equipment and total assets of the reporting plants are presented in table 19. The return on the book value of fixed assets and the return on total assets are also shown in the table. Operating and net returns on the book value of fixed assets and on total assets followed generally the same trend as did the ratios of operating and net income to net sales during the reporting periods.

* * *. This revaluation does not affect comparisons between periods as it is reflected in all reporting periods.

Capital Expenditures

The capital expenditures incurred by the reporting plants are shown in the following tabulation (in thousands of dollars):

<u>Item</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>Jan.-Mar.--</u>	
				<u>1990</u>	<u>1991</u>
Portland cement and cement clinker.....	2,029	3,453	6,272	992	***

Research and Development Expenses

None of the responding plants except * * * reported research and development expenses for the period covered by the investigations. * * *.

Table 15

Income-and-loss experience of Florida producers on the overall operations of their establishments wherein portland cement and cement clinker are produced, fiscal years 1988-90, January-March 1990, and January-March 1991

Item	1988 ¹	1989 ²	1990	January-March--	
				1990	1991
Value (1,000 dollars)					
Net sales.....	161,535	181,237	164,380	42,952	37,964
Cost of goods sold.....	132,123	138,504	131,046	33,228	32,177
Gross profit.....	29,412	42,733	33,334	9,724	5,787
Selling, general, and administrative expenses....	13,232	16,093	15,093	4,044	3,946
Operating income.....	16,180	26,640	18,241	5,680	1,841
Interest expense.....	***	***	***	***	***
Other income, net.....	***	***	***	***	***
Net income or (loss) before income taxes.....	2,070	10,630	3,544	2,254	(2,192)
Depreciation and amortiza- tion.....	11,271	11,142	11,739	2,874	3,001
Cash flow ³	13,341	21,772	15,283	5,128	809
Ratio to net sales (percent)					
Cost of goods sold.....	81.8	76.4	79.7	77.4	84.8
Gross profit.....	18.2	23.6	20.3	22.6	15.2
Selling, general, and administrative expenses....	8.2	8.9	9.2	9.4	10.4
Operating income.....	10.0	14.7	11.1	13.2	4.8
Net income or (loss) before income taxes.....	1.3	5.9	2.2	5.2	(5.8)
Number of firms reporting					
Operating losses.....	1	1	0	0	1
Net losses.....	2	1	1	2	2
Data.....	5	5	5	5	5

¹ * * * supplied data for 10 months in 1988 because * * *. These data are annualized for comparative purposes.

² * * * provided data for 9 months in 1989, * * *. These data are annualized for comparative purposes.

³ Cash flow is defined as net income or loss plus depreciation and amortization.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 16

Selected balance sheet items and ratios of * * * for its overall operations of the establishment wherein portland cement and cement clinker are produced, as of the end of fiscal years ending December 31, 1987-90

Item	1987	1988	1989	1990
	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 17

Selected balance sheet items and ratios of * * * for its overall operations of the establishment wherein portland cement and cement clinker are produced, as of the end of fiscal years ending December 31, 1987-90

Item	1987	1988	1989	1990
	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 18

Selected balance sheet items and ratios of * * * for its overall operations of the establishment wherein portland cement and cement clinker are produced, as of the end of fiscal years ending March 31, 1988 and 1989, and December 31, 1989 and 1990

Item	1987	1988	1989	1990
	*	*	*	*

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 19

Value of assets and return on assets of Florida producers' establishments wherein portland cement and cement clinker are produced, fiscal years 1988-90, January-March 1990, and January-March 1991

Item	As of the end of fiscal year--			As of Mar. 31--	
	1988	1989	1990	1990	1991
	Value (1,000 dollars)				
All products:					
Fixed assets:					
Original cost.....	279,658	279,540	278,658	279,759	278,650
Book value.....	248,036	238,813	226,726	236,345	224,160
Total assets ¹	277,141	270,676	259,373	268,527	255,980
Portland cement and cement clinker:					
Fixed assets:					
Original cost.....	271,450	270,982	269,794	270,051	271,878
Book value.....	240,044	230,778	218,739	227,317	218,120
Total assets ²	268,364	262,074	250,457	258,696	249,227
	Return on book value of fixed assets (percent) ³				
All products:					
Operating return ⁴	5.5	8.7	6.1	7.8	1.8
Net return ⁵	(0.2)	2.0	(0.4)	2.0	(5.4)
Portland cement and cement clinker:					
Operating return ⁴	1.8	5.5	3.0	4.3	(0.1)
Net return ⁵	(3.8)	(1.2)	(3.4)	(1.4)	(7.3)
	Return on total assets (percent) ³				
All products:					
Operating return ⁴	4.9	7.7	5.3	6.8	1.6
Net return ⁵	(0.2)	1.8	(0.3)	1.7	(4.7)
Portland cement and cement clinker:					
Operating return ⁴	1.6	4.8	2.7	3.8	(0.1)
Net return ⁵	(3.4)	(1.0)	(2.9)	(1.2)	(6.4)

¹ Defined as book value of fixed assets plus current and noncurrent assets.

² Total establishment assets are apportioned, by firm, to product groups on the basis of the ratios of the respective book values of fixed assets.

³ Computed using data from only those firms supplying both asset and income-and-loss information, and as such, may not be derivable from data presented. Data for the partial-year periods are calculated using annualized income-and-loss information.

⁴ Defined as operating income or loss divided by asset value.

⁵ Defined as net income or loss divided by asset value.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Impact of Imports on Capital and Investment

The Commission requested each producer to describe any actual and/or potential negative effects of imports of portland cement and/or cement clinker from Venezuela on its existing development and production efforts, growth, investment, and ability to raise capital. Their responses are shown in appendix D.

CONSIDERATION OF THE QUESTION OF THREAT OF MATERIAL INJURY

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. § 1677(7)(F)(i)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant factors⁷²--

(I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

(V) any substantial increase in inventories of the merchandise in the United States,

(VI) the presence of underutilized capacity for producing the merchandise in the exporting country,

⁷² Section 771(7)(F)(ii) of the act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,

(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 736, are also used to produce the merchandise under investigation,

(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.⁷³

Agricultural products (item (IX)) are not an issue in these investigations. The available information on the nature of the alleged subsidies (item (I) above) is presented in the section of this report entitled "Nature and Extent of the Alleged Subsidies and Sales at LTFV;" information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury;" and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in the section entitled "Consideration of Material Injury to an Industry in the United States." Available information follows on U.S. inventories of the subject products (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets.

⁷³ Section 771(7)(F)(iii) of the act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

Ability of Foreign Producers to Generate Exports and the Availability of Export Markets other than the United States

Production of cement in Venezuela began in 1907, but producers operated at low levels until the 1940s, by which time the industry was regarded as mature. Total shipments of cement began expanding in the early 1970s. Between 1982 and 1983, falling domestic consumption caused total shipments to decline by 20 percent.⁷⁴ Starting in 1984, Venezuelan cement producers began producing and selling cement conforming to the standards established by the ASTM, and exports subsequently expanded fairly rapidly. Florida is a natural market for Venezuela's portland cement because of proximity, but the United States is not the only destination for Venezuela's exports. Almost half of its exports are to the Caribbean, with most of the remainder being exported to the United States.

Venezuela's exports of portland cement increased in 1989-90 because of a contraction in economic activity which led to a cumulative 32 percent drop in domestic cement consumption. There is presently an economic recovery underway in Venezuela which could result in a decrease in the levels of its exports of portland cement. Venezuela is undergoing a major transformation of its economy through an economic adjustment program financed by the International Monetary Fund, World Bank, and International Development Bank. The program aims at achieving balanced and sustained economic growth by reducing the government's role in the economy and increasing the private sector's share of gross domestic product; reducing the relative importance of oil in the economy and promoting private foreign and domestic investments; and deregulating the economy and opening it to international competition. Respondents assert that as a result of the program, domestic cement consumption increased by 27 percent in the first 5 months of 1991.⁷⁵ The parties to the investigations have divergent views as to the future growth of the Venezuelan market. Petitioner contends that the recent capacity expansions in Venezuela will increase Venezuela's exports to Florida. Counsel for respondents noted that Venezuelan exports of portland cement and cement clinker to the United States declined 15 percent in the first 5 months of 1991, and that Venezuelan consumption over the same period increased 27.2 percent. Counsel testified that these trends will continue as the Venezuelan economy rebounds from a severe recession in 1989, and that this domestic economic growth will absorb the new production capacity.⁷⁶

Historically, cement plants were located inland in order to be closer to the sources of the raw materials, such as limestone and clay. Some producers have now built coastal terminals to facilitate their export activities (fig. 6).⁷⁷ Presently the Venezuelan cement industry consists of seven producers of portland cement and cement clinker and one firm having only grinding operations.⁷⁸ These firms produce primarily portland type I and II cement in

⁷⁴ Petition, Attachment E, Exhibit 1.

⁷⁵ Testimony by Mauricio Araujo at the conference, TR, pp. 127-131.

⁷⁶ TR, p. 82 and pp. 125-131.

⁷⁷ Vencemos' Pertigalete plant and the Cementos Caribe plants are located on the northern coast of Venezuela with easy access to deep water ports, TR, p. 51.

⁷⁸ The three main export plants in Venezuela are Vencemos-Pertigalete, Vencemos-Maracaibo, and Cementos Caribe.

Figure 6
Venezuela cement plants and terminals, 1991



Source: Conference Exhibit 5.

10 production facilities.⁷⁹ More than 80 percent of the portland cement consumed in Venezuela is Portland I.

Venezolana de Cementos (Vencemos) is the largest Venezuelan producer and exporter, operating 14 kilns with total production capacity per day of approximately 12,500 metric tons in its four plants: Pertigalete I, Pertigalete II, Maracaibo, and Lara. Vencemos has a sea terminal located in Catia La Mar. Pertigalete I and Maracaibo use the wet process; Pertigalete II uses the dry process. The Lara plant produces exclusively white portland cement using the wet process. Fabrica Nacional operates six kilns in two plants having a total production capacity per day of 4,750 metric tons. Both plants use the dry process. Cementos Caribe operates only one kiln, with production capacity of 3,000 metric tons per day, using the dry process. In addition to its maritime terminal at Cumarebo, the company has another terminal with bagging capabilities located in El Palito.⁸⁰

Consolidada de Cementos has a production capacity of 1,500 metric tons per day using the dry process and has a port terminal in Chichipiviche from which it exports cement to the United States and the Caribbean. C.A. Cementos Tachira has a daily production capacity of 500 metric tons of cement using the wet process. This company basically serves the Andean region and is the only Venezuelan firm producing cement using coal for fuel. Cementos Guayana is the only Venezuelan company that produces portland cement by mixing it with ground processed clinker. Cementos Catatumbo has production capacity of approximately 2,100 metric tons of cement per day using the dry process. Cementos Catatumbo also exports clinker.

A number of plant expansions have been announced. Vencemos has initiated an expansion of its Pertigalete plant,⁸¹ which will increase its capacity by 3,350 metric tons of cement clinker daily, or by approximately 1 million metric tons annually.⁸² Cementos Caribe was planning an expansion of 3,000 metric tons of cement clinker daily at its existing facility. The expansion was indefinitely postponed in early 1990. By the end of 1991, Fabrica Nacional de Cementos expects to complete improvement to its grinding equipment in order to increase its existing capacity by about 425 metric tons per day. Also Consolidada de Cementos (CONCECA) expects to expand capacity in late 1992 at its San Sebastian plant, from 10 million bags annually to 13 million bags annually, or by approximately 500 metric tons per day.⁸³

The larger producers' domestic cement sales are performed and administered by a "comercializadora," which functions as a sales company acting on behalf of the cement producer. Typically the producer has a controlling interest in its "comercializadora."

⁷⁹ Not including Cementos Guayana, the firm which has only grinding operations, as it exclusively produces slag-cement.

⁸⁰ This terminal allows Cementos to supply cement to the central region of the country.

⁸¹ The new kiln (No. 7) began trial runs in late September 1990 and has been in partial production since that date.

⁸² Vencemos estimates total 1991 production of * * * metric tons.

⁸³ Petition, Attachment E, pp. 12-13.

Ready-mix dealers have their own channels of distribution, with some dealers being related by ownership to the cement producers, while others are independent. There are no railroads in Venezuela; therefore, virtually all inland transportation is by truck.

Table 20 provides portland cement and cement clinker capacity, production, capacity utilization, home market shipments, exports to the United States and all other countries, and end-of-period inventories, for virtually all Venezuelan producers⁸⁴ (regardless of whether they export). These figures were provided by counsel for Vencemos and the Asociación Venezolana de Productores de Cementos (AVPC). Venezuelan exports of portland cement and cement clinker to the United States increased by 136 percent during 1988-90. Such exports are projected to decline by 56 percent during 1991-93.

Capacity utilization increased from 87.3 percent in 1988 to 88.1 percent in 1990. Capacity utilization is projected to be 75.8 percent in 1991.⁸⁵ End-of-period inventories increased by 91.1 percent between 1988-89 and decreased by 4.7 percent between 1989-90.

Florida Inventories of Portland Cement and Cement Clinker from Venezuela

Table 21 presents end-of-period inventories held by Florida importers of portland cement and cement clinker from Venezuela. Inventories of portland cement, on the basis of quantity, rose from 1988 to 1990 by approximately 280 percent. Inventories continued to increase in interim 1991, rising by approximately * * * percent compared to interim 1990. End-of-period inventories as a share of imports rose from 9.1 percent in 1988 to * * * percent in 1989 and then declined to 14.1 percent in 1990. Inventories as a share of imports increased to * * * percent in January-March 1991 compared to 3.6 percent in the corresponding period of 1990. End-of-period inventories of cement clinker from Venezuela * * *.

CONSIDERATION OF THE CAUSAL RELATIONSHIP BETWEEN IMPORTS OF THE SUBJECT MERCHANDISE AND THE ALLEGED MATERIAL INJURY

U.S. Imports

Florida has historically been a cement importer in order to meet its large demand for the product. The location of Florida, with its good ports and the narrow configuration of the State, has made it an easy market for imports to penetrate.

⁸⁴ Data for * * *.

⁸⁵ Counsel for respondents submitted capacity information in its questionnaire response of June 10, 1991. The data supplied for 1988-90 were updated on June 13, 1991 (see footnote 1, table 20). A-46

Table 20

Portland cement and cement clinker: Venezuelan production capacity,¹ production,² capacity utilization, shipments, and end-of-period inventories, actual 1988-90, and projected 1991-93 data³

(1,000 short tons, except as noted)

Item	1988	1989	1990	1991 ⁴	1992 ⁴	1993 ⁴
Production capacity.....	6,859	6,881	7,200	8,772	8,829	9,474
Clinker production.....	5,987	6,043	6,341	6,646	6,945	7,279
Capacity utilization (percent).....	87.3	87.8	88.1	75.8	78.7	76.8
Shipments:						
Home market.....	5,481	4,079	3,727	4,659	5,404	5,945
Exports to the United States.....	608	812	1,433	972	743	634
Exports to all other countries.....	418	687	1,154	972	743	634
Total shipments.....	6,507	5,579	6,314	6,602	6,890	7,213
End-of-period inven- tories.....	391	747	712	712	712	712

¹ According to counsel, the only constant in determining production capacity in the cement industry is the nominal rated capacity of the kilns which produce clinker. As a result, production capacity is typically measured as follows: Annual capacity = Nominal daily capacity x (365 days - average no. of down days). To calculate the Venezuelan capacity for the period 1988-90, counsel used a * * * day year (* * * down days) with * * * hours of production per operating day. For the period 1991-93, capacity was calculated by using a * * * day year (* * * down days). The companies respondents' counsel identified as exporters, Vencemos and Caribe, experienced a weighted average of * * * down days over the period 1988-90. Calculated capacity utilization for the two exporters was * * * percent in 1988, * * * percent in 1989, and * * * percent in 1990. The aggregate numbers supplied by counsel are not confidential; telephone conversation, June 27, 1991.

² Excludes white cement clinker and type "H" cement clinker.

³ The data provided by counsel are presented in thousands of short tons of clinker equivalent. The kilns which determine the capacity of cement plants produce clinker, not cement. Since the principal element that determines production capacity, production potential, and export potential is clinker, respondent converted all cement data by dividing the cement tonnage by 1.05.

⁴ Projected.

Note.--Because of rounding, figures may not add to totals shown.

Source: Compiled from data submitted by counsel for the Venezuelan respondents.

Table 21
 Portland cement and cement clinker: End-of-period inventories of Florida importers, by products and by sources, 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March--	
				1990	1991
Quantity (1,000 short tons)					
Portland cement:					
Venezuela.....	43	***	163	25	***
Other sources.....	187	***	87	137	***
Total.....	230	260	250	162	227
Cement clinker:					
Venezuela.....	***	***	***	***	***
Other sources.....	***	***	***	***	***
Total.....	***	***	***	***	***
Ratio to imports (percent)					
Portland cement:					
Venezuela.....	9.1	***	14.1	3.6	***
Other sources.....	7.4	***	6.8	8.4	***
Average.....	7.6	8.5	10.3	6.9	14.7
Cement clinker:					
Venezuela.....	***	***	***	***	***
Other sources.....	***	***	***	***	***
Average.....	***	***	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Imports of portland cement from Venezuela into Florida increased 171 percent during 1988-90 and increased by 53 percent in January-March 1991 compared with the corresponding period of 1990 (table 22).⁸⁶ Venezuela's share of total imports into Florida increased from 12.7 percent in 1988 to 47.8 percent in 1990. Venezuela's share of total imports into Florida jumped to 71.8 percent in January-March 1991. The only imports of cement clinker from Venezuela into Florida were in 1989 (table 23). The Tampa Customs district was the largest recipient of imports of portland cement from Venezuela during the period of investigation.

⁸⁶ Imports of portland cement as reported in responses to questionnaires of the U.S. International Trade Commission are presented in app. E.

Table 22
Portland cement: U.S. imports from Venezuela and all other sources, by regions, 1988-90, January March 1990, and January-March 1991

Region and source	1988	1989	1990	January-March--	
				1990	1991
<u>Quantity (1,000 short tons)</u>					
Florida:					
Venezuela.....	414	444	1,121	167	254
All other sources.....	2,845	2,485	1,226	450	100
Total, all sources....	3,259	2,930	2,347	617	354
Total United States:					
Venezuela.....	627	699	1,348	176	254
All other sources.....	14,598	12,887	9,660	2,072	1,047
Total, all sources....	15,225	13,586	11,008	2,248	1,301
<u>Value (1,000 dollars)¹</u>					
Florida:					
Venezuela.....	14,460	16,782	42,138	6,162	10,374
All other sources.....	88,779	87,293	45,316	15,335	4,064
Total, all sources....	103,239	104,075	87,454	21,497	14,438
Total United States:					
Venezuela.....	21,944	28,154	51,665	6,539	10,374
All other sources.....	502,157	472,062	382,421	74,044	44,867
Total, all sources....	524,102	500,216	434,086	80,583	55,241
<u>Percent of total quantity</u>					
Florida:					
Venezuela.....	12.7	15.2	47.8	27.1	71.8
All other sources.....	87.3	84.8	52.2	72.9	28.2
Total, all sources....	100.0	100.0	100.0	100.0	100.0
Total United States:					
Venezuela.....	4.1	5.1	12.2	7.8	19.5
All other sources.....	95.9	94.9	87.8	92.2	80.5
Total, all sources....	100.0	100.0	100.0	100.0	100.0

¹ Landed duty-paid value.

Note.-- Because of rounding, figures may not add to totals shown.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Total U.S. imports of portland cement from Venezuela increased 115 percent during 1988-90 and increased by 44 percent in January-March 1991 compared to the corresponding period of 1990. Imports of cement clinker from Venezuela occurred in 1989 and 1990. The only imports of Venezuelan portland cement into the contiguous Customs Districts of Mobile, AL, and Savannah, GA, during the period of investigation were 8,314 short tons imported into Savannah in 1989.

Table 23

Cement clinker: U.S. imports from Venezuela and all other sources, by regions, 1988-90, January-March 1990, and January-March 1991

Region and source	1988	1989	1990	January-March--	
				1990	1991
<u>Quantity (1,000 short tons)</u>					
Florida:					
Venezuela.....	0	26	0	0	0
All other sources.....	444	492	423	126	33
Total, all sources....	444	518	423	126	33
Total United States:					
Venezuela.....	0	45	139	0	0
All other sources.....	1,919	1,700	1,716	311	269
Total, all sources....	1,919	1,745	1,854	311	269
<u>Value (1,000 dollars)¹</u>					
Florida:					
Venezuela.....	0	672	0	0	0
All other sources.....	13,068	12,627	13,139	3,956	1,102
Total, all sources....	13,068	13,299	13,139	3,956	1,102
Total United States:					
Venezuela.....	0	1,538	5,991	0	0
All other sources.....	60,097	60,989	66,330	13,112	9,955
Total, all sources....	60,097	62,528	72,322	13,112	9,955
<u>Percent of total quantity</u>					
Florida:					
Venezuela.....	0	5.0	0	0	0
All other sources.....	100.0	95.0	100.0	100.0	100.0
Total, all sources....	100.0	100.0	100.0	100.0	100.0
Total United States:					
Venezuela.....	0	2.6	7.5	0	0
All other sources.....	100.0	97.4	92.5	100.0	100.0
Total, all sources....	100.0	100.0	100.0	100.0	100.0

¹ Landed duty-paid value.

Note. --Because of rounding, figures may not add to totals shown.

Source: Compiled from official statistics of the U.S. Department of Commerce.

**Market Penetration by the Allegedly Subsidized
and LTFV Imports**

The ratios of imports of portland cement and cement clinker to apparent consumption for Venezuela and all other countries are presented in tables 24 and 25.

Table 24

Portland cement: U.S. and regional apparent consumption, imports from Venezuela and all other sources, and ratios of imports to consumption, 1988-90, January March 1990, and January-March 1991

Region and source	1988	1989	1990	January-March--	
				1990	1991
Quantity (1,000 short tons)					
Florida:					
Apparent consumption....	7,002	7,181	6,248	1,713	1,230
Imports:					
Venezuela.....	414	444	1,121	167	254
All other sources.....	2,845	2,485	1,226	450	100
Total imports.....	3,259	2,930	2,347	617	354
Total United States:					
Apparent consumption....	90,300	89,081	87,836	17,295	13,510
Imports:					
Venezuela.....	627	699	1,348	176	254
All other sources.....	14,598	12,887	9,660	2,072	1,047
Total imports..	15,225	13,586	11,008	2,248	1,301
Ratio of imports to consumption (percent)					
Florida:					
Venezuela.....	5.9	6.2	18.0	9.8	20.7
All other sources.....	40.6	34.6	19.6	26.3	8.1
Total.....	46.6	40.8	37.6	36.0	28.8
Total United States:					
Venezuela.....	.7	.8	1.5	1.0	1.9
All other sources.....	16.2	14.5	11.0	12.0	7.8
Total.....	16.9	15.3	12.5	13.0	9.6

Source: Apparent consumption is computed from Bureau of Mines data. Imports are compiled from official statistics of the U.S. Department of Commerce.

Venezuela's share of apparent consumption of portland cement in Florida rose from 5.9 percent in 1988 to 18.0 percent in 1990. Venezuela's share of Florida's apparent consumption increased to 20.7 percent in January-March 1991. Imports from all other sources declined as a share of the Florida market, falling from 40.6 percent in 1988 to 8.1 percent in January-March 1991. Venezuela's share of Florida's consumption of cement clinker was zero in all periods except in 1989, when it was 0.8 percent. Florida's market share for all imports of cement clinker decreased irregularly from 14.6 percent in 1988 to 13.8 percent in 1990. The market share for such imports decreased from 15.5 percent in the first quarter of 1990 to 5.6 percent in interim 1991.

Table 25

Cement clinker: U.S. and regional apparent consumption, imports from Venezuela and all other sources, and ratios of imports to consumption, 1988-90, January-March 1990, and January-March 1991

Region and source	1988	1989	1990	January-March--	
				1990	1991
Quantity (1,000 short tons)					
Florida:					
Apparent consumption....	3,034	3,239	3,062	812	594
Imports:					
Venezuela.....	0	26	0	0	0
All other sources.....	444	492	423	126	33
Total imports.....	444	518	423	126	33
Total United States:					
Apparent consumption....	72,359	72,221	(¹)	(¹)	(¹)
Imports:					
Venezuela.....	0	45	139	0	0
All other sources.....	1,919	1,700	1,716	311	269
Total imports.....	1,919	1,745	1,854	311	269
Ratio of imports to consumption (percent)					
Florida:					
Venezuela.....	0	.8	0	0	0
All other sources.....	14.6	15.2	13.8	15.5	5.6
Total.....	14.6	16.0	13.8	15.5	5.6
Total United States:					
Venezuela.....	0	.1	(¹)	(¹)	(¹)
All other sources.....	2.7	2.4	(¹)	(¹)	(¹)
Total.....	2.7	2.4	(¹)	(¹)	(¹)

¹ Data for 1990, January-March 1990, and January-March 1991 are not available. Data for 1990 will be available from the Bureau of Mines in July.

Source: Regional apparent consumption is computed from data submitted in response to questionnaires of the U.S. International Trade Commission and official import statistics of the U.S. Department of Commerce. Total U.S. cement clinker consumption is computed from Bureau of Mines data and official statistics of the U.S. Department of Commerce.

Prices

Portland cement is a primary ingredient in the production of concrete and, thus, is essential to all types of general construction, particularly residential buildings, commercial buildings, and highways. The demand for portland cement tends to be cyclical in nature because it is determined by the level of general construction. However, the volatility of the portland cement business cycle may be somewhat mitigated in its severity because portland cement is used in nearly every type of construction, and cycles among these market segments frequently offset each other. In addition, overall portland cement consumption benefits from the fact that regional business cycles are often localized.⁸⁷ The demand for 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.⁸⁸

One indicator of construction is the value of authorizations of building permits for private nonresidential construction. The following tabulation shows the value of these authorizations in millions of dollars in three of the four market areas for which pricing was requested:⁸⁹

	1986	1987	1988	1989	1990
Tampa, FL.....	1,074.1	1,086.4	973.5	875.0	645.2 ¹
Orlando, FL.....	618.6	767.0	678.6	726.5	597.7 ¹
Miami, FL.....	519.4	529.3	527.7	548.8	(²)

¹ Data for January-November 1990.

² Data not available.

In Tampa, the value of permit authorizations decreased every year from 1986 to 1989, declining by 19 percent overall during this period. During the first 11 months of 1990, the value was nearly 17 percent lower than in the corresponding period in 1989. In Orlando, the value of permit authorizations increased by 24 percent from 1986 to 1987 and then decreased by 12 percent during 1988 before increasing by 7 percent in 1989. Incomplete data indicate that the value of these authorizations in Orlando was lower during the first eleven months of 1990 than in the same period in 1989. In Miami, the value of permit authorizations increased by 2 percent in 1987, decreased minimally in 1988, and then increased by 4 percent in 1989.

Because transportation costs for portland cement are high, shipments are generally made within 300 miles of the plant, and the market for cement tends to be regional in nature.⁹⁰ The demand in each region is influenced by many different factors, such as demographic movements, industrial development

⁸⁷ In fact, many producers have cement plants in different regions, allowing them to take advantage of different demands in different regions. The U.S. Cement Industry, an Economic Report, Third Edition, Jan. 1984, p. 15.

⁸⁸ Because of this seasonality, producers tend to build up inventories of clinker and finished cement in the winter; this allows producers to grind more cement per day during the building season. The U.S. Cement Industry, an Economic Report, Third Edition, Jan. 1984, p. 14.

⁸⁹ Source: Construction Review, U.S. Department of Commerce, January/February 1991, pp. 31-34. These data were not available for Jacksonville, the other market area for which pricing data were requested.

⁹⁰ If water transportation is available, cement can be shipped farther than 300 miles, thus increasing the market area.

patterns, public spending levels, and local availability of competitive building materials.⁹¹

In general, there are no substitutes for portland cement in the production of concrete.⁹² There are, however, several substitutes for concrete. In the nonresidential construction market, structural steel is the primary substitute for concrete, while wood is the main substitute in residential construction. Other substitutes for concrete include asphalt (in the paving market), brick, precast concrete panels, and certain products of metal, glass, and plastics.⁹³

Since portland cement has a low value-to-weight ratio, inland transportation costs are an important part of the final delivered price to a customer. Prices can differ from location to location, even within a single metropolitan area. However, because portland cement is largely a homogeneous product, prices charged by different suppliers to a customer at a given location tend to be similar at any point in time. When changing supply and demand conditions cause prices to decrease, prices of competing firms tend to move in the same direction within a relatively short time period, as each firm tries to maintain its market share.

Portland cement prices have traditionally been determined through a "base-point" pricing system. Under this system, the cement mill 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. The delivered price for portland cement consists of an f.o.b. mill price and any freight costs.⁹⁴ In areas where freight costs are regulated, a mill may be forced to reduce its f.o.b. price component and its net revenues in order to compete with the base-point mill. In general, firms trying to enter new markets farther from their plant have to absorb additional freight costs in order to compete with firms closer to the markets. Thus, distance plays an important role in a supplier's willingness and ability to sell to a particular customer.

Shipments of portland cement, in bulk, by mode of transportation in 1989 are shown in table 26.

⁹¹ A Competitive Assessment of the U.S. Cement Industry, Department of Commerce, July 1987, p. 9.

⁹² One U.S. producer and three importers reported that flyash may be used to partially substitute cement as an additive mixture in the production of concrete. However, flyash can only be used for certain applications and in most cases can replace only 10-15 percent of the portland cement. Because of these limitations, flyash is not a widely accepted substitute for portland cement. Ibid, p. 10.

⁹³ Ibid, p. 11.

⁹⁴ Florida producers and importers reported that they sell portland cement on both a delivered and an f.o.b. basis.

Table 26
Portland cement: Bulk shipments from U.S. plants,¹ by types of carriers, 1989

(In thousands of tons)				
Type of carrier	Plant to terminal	Terminal to consumers	Plant to consumers	Total to consumers
Railroad.....	8,915	1,525	3,041	4,566
Truck.....	3,408	27,210	44,306	71,516
Barge and boat..	9,392	2,879	214	3,093
Unspecified ²	517	495	581	1,076
Total.....	22,232	32,109	48,142	80,251

¹ Bulk shipments accounted for 95.3 percent of total shipments in 1989.

² Includes cement used at the plant.

Source: U.S. Bureau of Mines, Mineral Industry Surveys, "Cement in 1989," July 13, 1990.

Nationally, shipments of portland cement from the U.S. producers' plants to their distribution terminals were by rail, truck, and barge. Rail (40 percent) and barges and boats (42 percent) carried the majority of the cement to the terminals, and trucks accounted for most of the remainder. Shipments from distribution terminals to consumers accounted for 40 percent of all shipments to consumers, and were predominantly (85 percent) by truck. Approximately 60 percent of total shipments went directly to consumers, and the vast majority, 92 percent, of such shipments were made by truck.⁹⁵ Most highway transport trucks carry about 25 short tons of cement, whereas a standard rail car holds about 100 short tons. A standard barge transports approximately 1,500 short tons of dry material.

The actual hauling of portland cement to end users is generally performed by independent common carriers or by subsidiary trucking firms of ready-mix companies. Some ready-mix companies have trucks and pick up the portland cement at the plant for their basic needs. Since transportation costs account for a significant portion of the delivered price, shipments are generally made relatively close to the plant. In fact, questionnaire responses of U.S. producers in Florida indicate that over 70 percent of shipments of portland cement are made within 100 miles of their plant or terminal; most of the remainder of shipments are made within 200 miles.

Producers and importers were asked to estimate the transportation costs for sales within specific distances from each firm's plant or storage facility. Average transportation costs reported by Florida producers for shipments within 50 miles of the plant were \$4.62 per ton. Average shipping costs increased to \$7.81 for shipments within 51-100 miles, and to \$11.18 for 101-200 miles. For shipments that are 201 to 300 miles from the plant, transportation costs increased significantly to about \$21.00 per ton.⁹⁶

⁹⁵ For Florida, four of five responding producers stated that 100 percent of their shipments to customers were made by truck. The fifth producer stated that * * * percent of its shipments were by truck and * * * percent were by rail. Four of six importers stated that 100 percent of their shipments were made by truck. Of the two remaining importers, one stated that * * * percent of its shipments were by truck and * * * percent were by rail. The other stated that * * * percent were shipped by truck and * * * percent were picked up by the customer.

⁹⁶ * * *.

Average transportation costs reported by Florida importers of Venezuelan cement were \$5.01 for 0-50 miles and \$9.21 for 51-100 miles.⁹⁷

Leadtimes for delivery of domestic and imported portland cement are similar, with the majority of producers and importers responding that delivery occurs within 24 hours. Most producers and importers stated that the minimum quantity requirement for deliveries of cement is a truckload of about 25 tons. Producers and importers do not generally charge a premium for subminimum quantity purchases; however, purchasers are sometimes required to pay shipping charges for a full truckload.

Price data were requested from Florida producers and importers of Venezuelan portland cement for their sales to four distinct market areas in Florida.⁹⁸ The market areas chosen for price comparisons were Tampa; Orange County; a tri-county area including Dade, Palm Beach, and Broward counties; and Jacksonville. Producers and importers were requested to provide price data for their total shipments to the ready-mix customer purchasing the largest volume (within a 700-2,800 ton range) each month from January 1988 to March 1991. Usable pricing data were reported by four Florida producers and six importers of Venezuelan cement;⁹⁹ these producers and importers accounted for virtually all of the domestic production and the imports from Venezuela into Florida.¹⁰⁰ Pricing data are analyzed on a delivered basis because of the significance of freight costs for portland cement.

Weighted-average monthly prices for domestic portland cement sold in the four selected market areas in Florida increased moderately or demonstrated no clear trend from January 1988 to March 1991. Prices of imports from Venezuela also increased moderately or remained largely unchanged during this period.

Tampa Area

Prices of domestic portland cement in the Tampa area fluctuated in a narrow band during the 39-month period, showing no clear trend (table 27). The prices ranged from a high of \$47.62 to a low of \$42.68. Prices during the first 3 months of 1991 were slightly higher than in the corresponding months in 1988.

Prices of imported portland cement from Venezuela, which were available from June 1988 to March 1991, increased irregularly during this 34-month period in the Tampa area. From June 1988 to March 1989 these prices were constant at \$* * * per ton. They increased to \$* * * in April 1989 and remained above \$* * * throughout the rest of the period. From August 1990 through March 1991 they consistently exceeded \$* * * per ton.

Prices of imported portland cement from Venezuela were lower than domestic prices in 12 out of 34 months. Margins of underselling ranged from 0.4 percent to 6.5 percent. Eleven of the 12 instances of underselling occurred between June 1988 and April 1989. From May 1989 to March 1991, import prices in the Tampa area were higher than domestic prices in 22 out

⁹⁷ * * *

⁹⁸ For purposes of this discussion, a market area is defined as a relatively narrow geographic area within which there is little variation between suppliers in freight charges to customers.

⁹⁹ * * *

¹⁰⁰ In addition to Florida, imports from Venezuela are also brought into Virginia and other states.

Table 27

Portland cement: Weighted-average delivered prices and margins of under/(over) selling reported by Florida producers and importers for sales in the Tampa market area, by months, January 1988-March 1991

(Per short ton)			
Period	U.S. price	Venezuelan price	Margin Percent
1988:			
January.....	\$43.46	(¹)	(¹)
February.....	43.38	(¹)	(¹)
March.....	43.30	(¹)	(¹)
April.....	43.30	(¹)	(¹)
May.....	45.80	(¹)	(¹)
June.....	45.78	\$***	***
July.....	45.79	***	***
August.....	45.59	***	***
September....	45.53	***	***
October.....	45.44	***	***
November.....	45.35	***	***
December.....	45.35	***	***
1989:			
January.....	45.63	***	***
February.....	45.96	***	***
March.....	45.99	***	***
April.....	46.00	***	***
May.....	45.89	***	***
June.....	45.86	***	***
July.....	45.69	***	***
August.....	44.19	***	***
September....	43.78	***	***
October.....	43.96	***	***
November.....	44.08	***	***
December.....	43.28	***	***
1990:			
January.....	43.09	***	***
February.....	42.74	***	***
March.....	43.14	***	***
April.....	42.86	***	***
May.....	42.68	***	***
June.....	42.79	***	***
July.....	43.00	***	***
August.....	46.37	***	***
September....	47.62	***	***
October.....	45.89	***	***
November.....	47.11	***	***
December.....	46.19	***	***
1991:			
January.....	46.22	***	***
February.....	46.32	***	***
March.....	45.51	***	***

¹ No data reported.

Note.--Percentage margins are calculated from unrounded figures; thus, margins cannot always be directly calculated from the rounded prices in the table.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

of 23 months, by margins ranging from 0.2 percent to 11.6 percent.

Orange County Area

Prices for domestic portland cement in the Orange County area increased moderately from January 1988 to March 1991 (table 28). They rose irregularly from \$43.60 per ton in January 1988 to \$50.45 in January 1989 and remained near this level until July and August of 1990, when they rose above \$55.00. They decreased to \$51.70 in the following month, and remained near that level in 5 of the next 6 months. The price of \$51.73 reported for March 1991 was nearly 20 percent higher than the price in March 1988.

Prices of imports from Venezuela, which were only available from January 1990 to March 1991, remained largely unchanged. They varied from a high of \$* * * to a low of \$* * *. In * * * out of * * * months the import price held steady at \$* * *.

Imports from Venezuela were priced lower than domestic portland cement in 13 out of 15 months. Margins of underselling ranged from 1.1 percent to 10.3 percent. In the other two months the import price was slightly higher than the domestic price.

Tri-County Area

Prices for domestic portland cement in the tri-county area were significantly higher than in the other areas and increased moderately from January 1988 to March 1991 despite fluctuations (table 29). Starting at a level of \$42.96 in January 1988, they increased irregularly over the next 27 months, reaching a peak of \$57.96 in March 1990. Prices then edged downward during the next year, reaching a level of \$55.45 in March 1991. The March 1991 price was nearly 20 percent higher than the level recorded in March 1988.

After increasing significantly in early 1989, prices of imports from Venezuela remained relatively stable throughout the remainder of 1989, 1990, and the first 3 months of 1991. The price increased from \$* * * per ton in January 1988 to \$* * * in August and then rose sharply to \$* * * in January 1989. During the next 26 months the price remained largely unchanged, varying between \$* * * and \$* * *. The January 1991 price was * * * percent higher than the level recorded in January 1988.

Imports from Venezuela were priced higher than the domestic product in 31 out of 35 months where comparisons were possible, by margins ranging from 0.2 percent to 16.4 percent. In the 3 months where imports were priced lower, margins of underselling ranged from 0.1 percent to 1.7 percent. In one month during the period, the domestic and import prices were approximately equal.

Table 28
 Portland cement: Weighted-average delivered prices and margins of under/(over) selling reported by Florida producers and importers for sales in the Orange County market area, by months, January 1988-March 1991

(Per short ton)			
Period	U.S. price	Venezuelan price	Margin Percent
1988:			
January.....	\$43.60	(1)	(1)
February.....	43.43	(1)	(1)
March.....	43.19	(1)	(1)
April.....	45.82	(1)	(1)
May.....	45.83	(1)	(1)
June.....	45.88	(1)	(1)
July.....	46.02	(1)	(1)
August.....	45.98	(1)	(1)
September.....	45.89	(1)	(1)
October.....	45.95	(1)	(1)
November.....	45.95	(1)	(1)
December.....	45.82	(1)	(1)
1989:			
January.....	50.45	(1)	(1)
February.....	50.42	(1)	(1)
March.....	50.43	(1)	(1)
April.....	50.30	(1)	(1)
May.....	50.40	(1)	(1)
June.....	50.38	(1)	(1)
July.....	50.43	(1)	(1)
August.....	50.42	(1)	(1)
September.....	50.43	(1)	(1)
October.....	50.40	(1)	(1)
November.....	49.77	(1)	(1)
December.....	48.70	(1)	(1)
1990:			
January.....	48.90	\$***	***
February.....	50.19	***	***
March.....	50.46	***	***
April.....	50.43	***	***
May.....	50.43	***	***
June.....	50.39	***	***
July.....	55.56	***	***
August.....	55.30	***	***
September.....	51.70	***	***
October.....	51.70	***	***
November.....	51.70	***	***
December.....	51.70	***	***
1991:			
January.....	49.29	***	***
February.....	51.74	***	***
March.....	51.73	***	***

¹ No data reported.

Note.--Percentage margins are calculated from unrounded figures; thus, margins cannot always be directly calculated from the rounded prices in the table.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission. ^{A-59}

Table 29

Portland cement: Weighted-average delivered prices and margins of under/(over) selling reported by Florida producers and importers for sales in the Tri-County market area, by months, January 1988-March 1991

(Per short ton)			
Period	U.S. price	Venezuelan price	Margin Percent
1988:			
January.....	\$42.96	\$***	***
February.....	43.27	(1)	(1)
March.....	46.36	(1)	(1)
April.....	46.61	(1)	(1)
May.....	46.80	(1)	(1)
June.....	47.02	***	***
July.....	48.15	***	***
August.....	48.99	***	***
September.....	48.65	***	***
October.....	49.34	***	***
November.....	47.69	***	***
December.....	49.28	***	***
1989:			
January.....	55.69	***	***
February.....	54.91	***	***
March.....	55.26	***	***
April.....	55.07	***	***
May.....	53.28	***	***
June.....	54.80	***	***
July.....	53.36	***	***
August.....	55.04	***	***
September.....	56.58	***	***
October.....	55.46	***	***
November.....	55.66	***	***
December.....	56.30	***	***
1990:			
January.....	56.54	***	***
February.....	56.94	***	***
March.....	57.96	***	***
April.....	57.18	***	***
May.....	57.92	***	***
June.....	57.78	***	***
July.....	57.25	57.48	(0.4)
August.....	57.46	58.56	(1.9)
September.....	56.52	57.46	0.1
October.....	57.51	57.54	0.0
November.....	56.43	57.21	(1.4)
December.....	55.97	57.20	(2.2)
1991:			
January.....	56.12	56.82	(1.2)
February.....	54.71	57.00	(4.2)
March.....	55.45	56.97	(2.8)

¹ No data reported.

Note.--Percentage margins are calculated from unrounded figures; thus, margins cannot always be directly calculated from the rounded prices in the table.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Jacksonville Area

Domestic prices of portland cement in the Jacksonville area varied within a narrow range from January 1988 to March 1991, displaying no clear trend (table 30). They ranged from a low of \$* * * per ton during February-June 1988 to a high of \$* * * during January-April 1989.

Prices of imports from Venezuela increased during the first 2 years of the period, and then declined during the last year. Prices increased from \$46.67 in January 1988 to \$* * * in January 1989, and rose further to a peak of \$* * * in January 1990. However, they decreased irregularly over the next 12 months to \$49.70 in January 1991, and remained near this level in February and March 1991.

Imports of portland cement from Venezuela in the Jacksonville area were priced higher than the domestic product in 19 out of 39 months, by margins ranging from 0.2 percent to 11.1 percent. Imports were priced lower than the domestic product in 12 months, with margins of underselling ranging from 0.2 percent to 7.9 percent. In the remaining 8 months, domestic and import prices were the same. Eight of the 12 instances of underselling occurred in 1988, one occurred in 1990, and three occurred in January-March 1991.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the Venezuelan bolivar maintained its value relative to the U.S. dollar during January-December 1988 and then depreciated 72.7 percent through March 1991 (table 31).¹⁰¹ Adjusted for movements in producer price indexes in the United States and Venezuela, the real value of the Venezuelan currency showed an overall depreciation of 27 percent for the period January 1988 through March 1991.

Lost Sales and Lost Revenues

Domestic producers provided 25 allegations of lost sales and 29 allegations of lost revenue relating to imports of portland cement from Venezuela during the investigation period. The alleged lost sales involved 427,000 tons of portland cement, valued at \$23.9 million, and the lost revenue allegations concerned revenue losses of \$1.1 million on sales of 376,000 tons of portland cement. The staff was able to contact five purchasers to investigate these allegations.

* * * alleged that it lost a sale of * * * tons of portland cement, valued at \$* * *, to * * * in * * * due to competition from imports from Venezuela. * * * also alleged that in * * *, it lost revenues of \$* * * on a sale to * * * because of import competition from Venezuela. * * * was not able to address the specific allegations. However, he stated that * * *, which is a small ready-mix company, has maintained a * * * since the company began operations in * * *. * * * has pursued this policy because it wants a reliable supplier that provides portland cement that is consistent in granular size, coloration, and general quality. According to * * *, * * * has never solicited bids from competing suppliers when it purchases portland cement and

¹⁰¹ International Financial Statistics, June 1991.

Table 30

Portland cement: Weighted-average delivered prices and margins of under/(over) selling reported by Florida producers and importers for sales in the Jacksonville market area, by months, January 1988-March 1991

(Per short ton)			
Period	U.S. price	Venezuelan price	Margin Percent
1988:			
January.....	\$***	\$46.67	***
February.....	***	46.07	***
March.....	***	***	***
April.....	***	***	***
May.....	***	***	***
June.....	***	***	***
July.....	***	***	***
August.....	***	***	***
September.....	***	***	***
October.....	***	***	***
November.....	***	***	***
December.....	***	***	***
1989:			
January.....	***	***	***
February.....	***	***	***
March.....	***	***	***
April.....	***	***	***
May.....	***	***	***
June.....	***	***	***
July.....	***	***	***
August.....	***	***	***
September.....	***	***	***
October.....	***	***	***
November.....	***	***	***
December.....	***	***	***
1990:			
January.....	***	***	***
February.....	***	55.66	***
March.....	***	53.24	***
April.....	***	55.36	***
May.....	***	52.68	***
June.....	***	49.57	***
July.....	***	52.68	***
August.....	***	52.68	***
September.....	***	52.68	***
October.....	***	52.68	***
November.....	***	51.68	***
December.....	***	51.68	***
1991:			
January.....	***	49.70	***
February.....	***	49.25	***
March.....	***	49.41	***

Note.--Percentage margins are calculated from unrounded figures; thus, margins cannot always be directly calculated from the rounded prices in the table.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 31

Exchange rates:¹ Indexes of nominal and real exchange rates of the Venezuelan bolivar, and indexes of producer prices in the United States and Venezuela,² by quarters, January 1988-March 1991

Period	U.S. producer price index	Venezuelan producer price index	Nominal exchange rate index	Real exchange rate index ³
1988:				
January-March.....	100.0	100.0	100.0	100.0
April-June.....	101.6	102.8	100.0	101.2
July-September.....	103.1	108.2	100.0	105.0
October-December....	103.5	114.2	100.0	110.3
1989:				
January-March.....	105.8	148.7	67.3	94.5
April-June.....	107.7	216.2	38.6	77.4
July-September.....	107.3	235.6	38.6	84.7
October-December....	107.7	239.2	34.5	76.8
1990:				
January-March.....	109.3	248.6	33.6	76.5
April-June.....	109.1	258.7	31.8	75.3
July-September.....	111.0	276.0	29.6	73.6
October-December....	114.4	285.1	29.1	72.5
1991:				
January-March.....	112.7 ⁴	300.9	27.3	73.0

¹ Exchange rates expressed in U.S. dollars per Venezuelan bolivar.

² Producer price indexes--intended to measure final product prices--are based on period-average quarterly indexes presented in line 63 of the International Financial Statistics.

³ The real exchange rate is derived from the nominal rate adjusted for relative movements in producer prices in the United States and Venezuela.

⁴ Derived from U.S. price data reported for January-February only.

Note.--January-March 1988 = 100.

Source: International Monetary Fund, International Financial Statistics, June 1991.

therefore, in his view, the lost revenue allegation is not valid.

*** further stated that *** had purchased all of its portland cement from an independent domestic cement producer from ***. However, according to ***, that independent company ***, and at that time began offering concrete in competition with *** and other small ready-mix concrete producers. *** did not want to rely on a competitor for its portland cement needs, and ***, and has continued to rely solely upon this source up to the present. *** would not provide either the name of the current portland cement supplier or the country of origin of the imports.

*** believes that independent ready-mix companies are at a severe disadvantage when competing with integrated companies, and that imports of portland cement are necessary to fully meet the needs of small companies such as ***. He argues that in periods of strong demand, integrated companies use all, or most of the portland cement they produce to satisfy their own needs. As a result, very little portland cement is available to meet the needs of the independent ready-mix companies.

*** also alleged that it lost a sale of *** tons of portland cement to ***, valued at approximately \$***, in ***. *** alleged that *** purchased the Venezuelan imports at a cost of only \$***. *** further alleged that it lost revenues of \$*** on a sale of *** tons to *** in *** due to import competition from Venezuela. ***, of ***, a small to medium-sized ready-mix concrete company, could not address the lost sales allegation since he ***. In addition, *** was *** at that time and therefore *** available. *** could not specifically address the lost revenue allegation either. However, he stated that the quantity of portland cement involved appeared ***. He felt that the transaction probably involved about *** tons. He also questioned the *** of the alleged price differential between the domestic and the imported portland cement. According to ***, prices of all suppliers of domestic and imported portland cement tend to be very nearly the same at any given time. He said that during the past year, the price of domestic portland cement has generally been about \$*** per ton *** than imported portland cement from Venezuela. *** stated that *** currently purchases about *** of its portland cement from domestic sources and about *** from import sources, including Venezuela.

*** also alleged that it lost a sale of *** tons, valued at \$***, to *** in *** as a result of competition from imports from Venezuela. *** denied this allegation. He said that during the time period indicated in the allegation, *** was relying exclusively on import sources for portland cement and was not soliciting offers of portland cement from domestic producers. *** said that his company began purchasing portland cement from domestic sources *** and currently relies upon *** and *** to meet its needs. *** would not provide the names of the suppliers or the countries of origin of the imports.

*** alleged that it lost a sale of *** tons of portland cement, valued at \$***, to *** on *** as a result of competition from imports from Venezuela. *** denied the allegation. He said that his company usually buys *** tons of portland cement at a time on a day-to-day basis and that *** has never committed itself to a purchase of the size specified in the allegation.

*** further stated that his company buys portland cement from all sources, domestic and imported, though he did not provide the names of his suppliers. *** believes that domestic producers lack the capacity to supply the needs of independent ready-mix companies, and feels that imports are an important source of portland cement supplies. *** also stated that he has recently had quality problems with some of the portland cement purchased from a domestic producer. He said that it has not mixed well with some of the additives that he uses in making concrete.

*** further alleged that it lost a sale of *** tons of portland cement, valued at \$***, to *** on *** as a result of import competition from Venezuela. ***, who is responsible for portland cement purchases at ***, denied the allegation. He said that his company has always bought portland cement from domestic producers, and has never considered imports in making its purchase decisions.

APPENDIX A

**FEDERAL REGISTER NOTICES OF THE U.S. INTERNATIONAL TRADE
COMMISSION AND THE U.S. DEPARTMENT OF COMMERCE**

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For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207), and part 201, subparts A through E (19 CFR Part 201, as amended by 56 FR 11918, Mar. 21, 1991).
EFFECTIVE DATE: May 21, 1991.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk (202-252-1190), 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 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on May 21, 1991, by the Ad Hoc Committee of Florida Producers of Gray Portland Cement, Washington, DC.

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission as provided in § 201.11 of the Commission's rules, not later than seven (7) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on June 11, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Valerie Newkirk (202-252-1190)

not later than June 7, 1991, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before June 14, 1991, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

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

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

Issued: May 22, 1991.

By order of the Commission.

Kenneth R. Mason,
 Secretary.

[FR Doc. 91-12593 Filed 5-28-91; 8:45 am]
 BILLING CODE 7020-02-M

**INTERNATIONAL TRADE
 COMMISSION**

[Investigations Nos. 303-TA-21
 (Preliminary) and 731-TA-519 (Preliminary)]

**Gray Portland Cement and Cement
 Clinker From Venezuela**

AGENCY: United States International
 Trade Commission.

ACTION: Institution and scheduling of
 preliminary countervailing duty and
 antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 303-TA-21 (Preliminary) under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) and of preliminary antidumping investigation No. 731-TA-519 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Venezuela of gray portland cement and cement clinker, provided for in subheadings 2523.29.00, 2523.90.00, and 2523.10.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Venezuela and sold in the United States at less than fair value. The Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in this case by July 5, 1991.

DEPARTMENT OF COMMERCE

International Trade Administration
[A-307-903]

Notice of Initiation of Antidumping Duty Investigation: Gray Portland Cement and Clinker From Venezuela

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: June 14, 1991.

FOR FURTHER INFORMATION CONTACT: David C. Smith, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3798.

Initiation

The Petition

On May 21, 1991, the Ad Hoc Committee of Florida Producers of Gray Portland Cement (the Ad Hoc Committee) filed with the Department of Commerce (the Department) an antidumping duty petition on behalf of the United States industry producing gray portland cement and clinker. In accordance with 19 CFR 353.12, the petitioner alleges that imports of gray portland cement and clinker from Venezuela are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a regional U.S. industry (Florida).

The petitioner has stated that it has standing to file the petition because it is an interested party, as defined in 19 CFR 353.2(k), and because it has filed the petition on behalf of the regional U.S. industry producing gray portland cement and clinker. If any interested party, as described in 19 CFR 353.2(k)(3), (4), (5), or (6), wishes to register support for, or opposition to, this investigation, please file written notification with the Assistant Secretary for Import Administration.

United States Price and Foreign Market Value

The petitioner's estimate of United States Price (USP) is based on the findings of a market research consultant,

for Type I gray portland cement, sold at FOB, port of export prices for July 1990. Type I cement is a general use cement as defined by the American Society of Testing Materials (ASTM). The Ad Hoc Committee was unable to determine the extent of applicable deductions for inland freight and loading/unloading charges, if any, and therefore has not reduced USP for any such charges. The petitioner reduced USP for brokerage charges based on an interview with a Venezuelan customs broker who reported that FOB, port of export prices are inclusive of brokerage fees averaging two percent.

The Ad Hoc Committee's estimate of Foreign Market Value (FMV) is also based on the findings of a market research consultant. The market research consultant reported home market price quotations for "Portland I" cement, the home market product it considers to be most similar to the Type I cement exported to the United States, both in terms of characteristics and uses.

The petitioner obtained ex-factory price quotations for Portland I cement for July 1990 and converted those prices to United States currency using rates published by the International Monetary Fund. The Ad Hoc Committee reduced FMV by 15 percent to account for discounts generally given to large customers.

Based on a comparison of USP and a discounted FMV, the Ad Hoc Committee has alleged a dumping margin of 31 percent.

Initiation of Investigation

Under 19 CFR 353.13(a), the Department must determine, within 20 days after a petition is filed, whether the petition properly alleges the basis on which an antidumping duty may be imposed under section 731 of the Act, and whether the petition contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on gray portland cement and clinker from Venezuela and find that it meets the requirements of 19 CFR 353.13(a). Therefore, we are initiating an antidumping duty investigation to determine whether imports of gray portland cement and clinker from Venezuela are being, or are likely to be, sold in the United States at less than fair value.

In accordance with 19 CFR 353.13(b) we are notifying the International Trade Commission (ITC) of this action.

Any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of

the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

Scope of Investigation

The products covered by this investigation are gray portland cement and clinker. Gray portland cement and clinker are currently classified under subheadings 2523.29 and 2523.10 of the *Harmonized Tariff Schedule* (HTS). Gray portland cement has also been entered under HTS subheading 2523.90 as "other hydraulic cements." Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material produced when manufacturing cement, has no use other than grinding into finished cement. Oil well cement is also included within the scope of this investigation; microfine cement is not included within the scope of this investigation. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Preliminary Determination by ITC

The ITC will determine by July 5, 1991, whether there is a reasonable indication that imports of gray portland cement and clinker from Venezuela are materially injuring, or threaten material injury to, a regional U.S. industry. If its determination is negative, the investigation will be terminated. If affirmative, the Department will make its preliminary determination on or before October 28, 1991, unless the investigation is terminated pursuant to 19 CFR 353.17 or the preliminary determination is extended pursuant to 19 CFR 353.15.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: June 10, 1991.
 Marjorie A. Chorlins,
 Acting Assistant Secretary for Import Administration.
 [FR Doc. 91-14217 Filed 6-13-91; 8:45 am]
 BILLING CODE 3510-06-M

[C-307-804]

**Notice of Initiation of Countervailing
Duty Investigation: Gray Portland
Cement and Clinker From Venezuela**

AGENCY: Import Administration,
International Trade Administration,
Commerce.

EFFECTIVE DATE: June 14, 1991.

FOR FURTHER INFORMATION CONTACT:
Beth Graham or Ross Cotjanle, Office of
Countervailing Investigations, Import
Administration, U.S. Department of
Commerce, 14th Street and Constitution
Avenue, NW., Washington, DC 20230;
telephone: (202) 377-4105 or 377-3534.

Initiation

The Petition

On May 21, 1991, the Ad Hoc Committee of Florida Producers of Gray Portland Cement filed with the Department of Commerce (the Department) a countervailing duty petition on behalf of the United States industry producing gray portland cement and clinker ("cement"). In accordance with 19 CFR 355.12, the petitioner alleges that manufacturers, producers or exporters of cement in Venezuela receive bounties or grants within the meaning of section 701 of the Tariff Act

of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a regional U.S. industry (Florida).

In past countervailing duty investigations, Venezuela was considered to be a "country under the Agreement" within the meaning of section 701(b)(3) of the Act. As such, Title VII of the Act applied in those investigations, and the U.S. International Trade Commission (ITC) was required to determine whether imports of the subject merchandise from Venezuela materially injured, or threatened material injury to, a U.S. industry.

On August 31, 1990, Venezuela became a contracting party to the General Agreement on Tariffs and Trade (GATT). Since qualification as a "country under the Agreement" under section 701(b)(3) requires that the GATT not apply between the United States and the country from which the subject merchandise is imported, Venezuela is no longer eligible for treatment as a "country under the Agreement" within the meaning of section 701(b)(3). However, because Venezuela is a GATT contracting party and the merchandise included within the scope of this investigation is nondutiable, the petitioner is nonetheless required to allege that, and the ITC is required to determine whether, pursuant to section 303(a)(2), imports of such merchandise from Venezuela materially injure, or threaten material injury to, a U.S. industry.

The petitioner has stated that it has standing to file the petition because it is an interested party, as defined in 19 CFR 355.2(i), and because it has filed the petition on behalf of the U.S. industry producing cement. If any interested party, as described in 19 CFR 355.2(i) (3), (4), (5), or (6), wishes to register support for, or opposition to, this investigation, please file written notification with the Assistant Secretary for Import Administration.

Allegations of Bounties or Grants

Petitioner lists a number of practices by the Government of Venezuela which allegedly confer bounties or grants on manufacturers, producers or exporters of a cement. We are initiating an investigation of the following programs.

A. Fund for Financing Exports ("FINEXPO") Programs

- Export Bond Program
- Short-term Financing
- Preferential Export Financing
- B. Preferential Tax Incentives

C. Financing Company of Venezuela ("FIVCA") Loans

Initiation of Investigation

Under 19 CFR 355.13(a), the Department must determine, within 20 days after a petition is filed, whether the petition properly alleges the bases on which a countervailing duty may be imposed under section 303 of the Act, and whether the petition contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on cement from Venezuela and find that it meets the requirements of 19 CFR 355.13(a).

Therefore, we are initiating a countervailing duty investigation to determine whether Venezuelan manufacturers, producers or exporters of cement receive bounties or grants.

In accordance with 19 CFR 355.13(b) we are notifying the International Trade Commission (ITC) of this action.

Any producer or reseller seeking exclusion from a potential countervailing duty order must submit its request for exclusion within 30 days of the date of the publication of this notice.

The procedures and requirements regarding the filing of such requests are contained in 19 CFR 355.14.

Scope of Investigation

The products covered by this investigation are gray portland cement and clinker. Gray portland cement and clinker are currently classified under subheadings 2523.29 and 2523.10 of the Harmonized Tariff Schedule (HTS). Gray portland cement has also been entered under subheading 2523.90 as "other hydraulic cements." Gray portland 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. Oil well cement is also included within the scope of this investigation; microfine cement is not included within the scope of this investigation. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Preliminary Determination by ITC

The ITC will determine by July 5, 1991, whether there is a reasonable indication that imports of cement from Venezuela are materially injuring, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated. If affirmative, the Department will make its preliminary determination on or before August 14, 1991, unless the investigation is terminated pursuant to

19 CFR 355.17 or the preliminary determination is extended pursuant to 19 CFR 355.15.

This notice is published pursuant to section 702(c)(2) of the Act and 19 CFR 355.13(b).

Dated: June 10, 1991.

Marjorie A Chorlino,
Acting Assistant Secretary for Import Administration.

[FR Doc. 91-14219 Filed 6-13-91; 8:45 am]

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APPENDIX B
CALENDAR OF PUBLIC CONFERENCE

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CALENDAR OF THE PUBLIC CONFERENCE

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

Subject: GRAY PORTLAND CEMENT AND CEMENT CLINKER FROM VENEZUELA

Investigation Nos: 303-TA-21 and 731-TA-519 (Preliminary)

Date and Time: June 11, 1991 - 9:30 a.m.

Sessions were held in connection with the investigations in ALJ Courtroom B (Room 111), United States International Trade Commission, 500 E Street, SW, Washington, DC.

In support of the Imposition of Countervailing and Antidumping Duties:

Kilpatrick & Cody--Counsel
Washington, DC
On behalf of

The Ad Hoc Committee of Florida Producers of Gray Portland Cement
Washington, DC

Wayne Geschky, Tarmac Florida, Inc.

C.M. Coleman, V.P. & General Manager, Florida Mining & Materials

Clarence Comer, President & Chief Executive, Southdown, Inc.

Andrew Wechsler, Senior Vice President, Economists Incorporated

Joseph W. Dorn)
)--OF COUNSEL
Martin McNerney)

In Opposition to the Imposition of Countervailing and Antidumping Duties:

Arnold & Porter--Counsel
Washington, DC
and

Akin, Gump, Strauss, Hauer & Feld
Washington, DC (Co-Counsel)
on behalf of

Asociacion Venezolana de Productores de Cementos
Venezolana de Cementos S.A.C.A.

In Opposition to the Imposition of Countervailing and Antidumping Duties
cont'd:

Robert Litan, Senior Fellow, Brookings Institute

Dan Klett, ICF Consulting Associates

Rick Martin, President, R.C. Martin Concrete

Leland Smith, Vice President, Lafarge Corporation

Anjel Graterol, Vice President, Vencemos

Mauricio Garcia Araujo, President, M.M. FINTEC

Michael T. Shor)
Lawrence A. Schneider)--OF COUNSEL
Susan R. Benda)

Patrick F. J. Macrory)
)--OF COUNSEL
Spencer S. Griffith)

Nonparty in Opposition

Mayer, Brown & Platt
Washington, DC
on behalf of

Lafarge Corporation

Jim Perdue, General Sales Manager, Lafarge, Florida

Simeon M. Kriesberg)--OF COUNSEL

APPENDIX C

**TRADE AND FINANCIAL DATA FOR FLORIDA, BY PLANTS,
1988-90, JANUARY-MARCH 1990, AND JANUARY-MARCH 1991**

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APPENDIX D
EFFECTS OF IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT
AND PRODUCTION EFFORTS, GROWTH, INVESTMENT,
AND ABILITY TO RAISE CAPITAL

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EFFECTS OF IMPORTS ON PRODUCERS' EXISTING DEVELOPMENT
AND PRODUCTION EFFORTS, GROWTH, INVESTMENT,
AND ABILITY TO RAISE CAPITAL

The Commission requested U.S. producers to describe and explain the actual and potential negative effects of imports of portland cement and/or cement clinker from Venezuela on the producers' existing development and production efforts, growth, investment, and ability to raise capital. The responses by producers are shown below, by company.

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APPENDIX E
DATA SUPPLIED BY IMPORTERS IN FLORIDA

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Table E-1

Portland cement and cement clinker: Florida imports, by products and by sources, 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March--	
				1990	1991
Quantity (1,000 short tons)					
Portland cement:					
Venezuela.....	***	***	***	***	***
Other sources.....	***	***	***	***	***
Total.....	3,008	3,060	2,431	585	385
Cement clinker: ¹					
Venezuela.....	***	***	***	***	***
Other sources.....	***	***	***	***	***
Total.....	***	***	***	***	***
Value (1,000 dollars)					
Portland cement:					
Venezuela.....	***	***	***	***	***
Other sources.....	***	***	***	***	***
Total.....	105,489	114,842	94,271	22,030	16,066
Cement clinker:					
Venezuela.....	***	***	***	***	***
Other sources.....	***	***	***	***	***
Total.....	***	***	***	***	***
Unit value (per short ton)					
Portland cement:					
Venezuela.....	\$***	\$***	\$***	\$***	\$***
Other sources.....	***	***	***	***	***
Average.....	35.07	37.53	38.78	37.66	41.73
Cement clinker:					
Venezuela.....	***	***	***	***	***
Other sources.....	***	***	***	***	***
Average.....	***	***	***	***	***

¹ In the case of clinker imports, all took place in lieu of clinker production.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table E-2

Portland cement and cement clinker: Shipments of Florida imports from Venezuela, by products and by types, 1988-90, January-March 1990, and January-March 1991

Item	1988	1989	1990	January-March--	
				1990	1991
<u>Quantity (1,000 short tons)</u>					
Portland cement:					
Within Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	444	417	1,071	230	253
Outside Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Total U.S. shipments.....	***	***	***	***	***
Cement clinker:					
Within Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Outside Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Total U.S. shipments.....	***	***	***	***	***
<u>Value (1,000 dollars)</u>					
Portland cement:					
Within Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	18,259	18,221	50,127	10,551	12,485
Outside Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Total U.S. shipments.....	***	***	***	***	***
Cement clinker:					
Within Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	***	***	***	***	***
Outside Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	HP
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Table E-2--Continued
 Portland cement and cement clinker: Shipments of Florida imports from
 Venezuela, by products and by types, 1988-90, January-March 1990, and
 January-March 1991

Item	1988	1989	1990	January-March--	
				1990	1991
	Unit value (per short ton)				
Portland cement:					
Within Florida:					
Company transfers.....	\$***	\$***	\$***	\$***	\$***
Domestic shipments.....	***	***	***	***	***
Average.....	41.12	43.70	46.80	45.87	49.35
Outside Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Average.....	***	***	***	***	***
Average, U.S. shipments....	***	***	***	***	***
Cement clinker:					
Within Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Average.....	***	***	***	***	***
Outside Florida:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Average.....	***	***	***	***	***
Average, U.S. shipments....	***	***	***	***	***

Source: Compiled from data submitted in response to questionnaires of the
 U.S. International Trade Commission

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