

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 701-TA-376-379 (Preliminary) and
Investigations Nos. 731-TA-788-793 (Preliminary)

CERTAIN STAINLESS STEEL PLATE FROM BELGIUM, CANADA,
ITALY, KOREA, SOUTH AFRICA, AND TAIWAN

DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Belgium, Italy, Korea, and South Africa of certain stainless steel plate in coils, provided for in subheadings 7219.11.00, 7219.12.00, 7219.31.00, and 7220.11.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the respective Governments of Belgium, Italy, Korea, and South Africa. The Commission also determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of such imports from Belgium, Canada, Italy, Korea, South Africa, and Taiwan that are alleged to be sold in the United States at less than fair value.

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in these investigations under section 703(b) and section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in the investigations under section 705(a) and section 735(a) of the Act. Parties that filed entries of appearance

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

in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

BACKGROUND

On March 31, 1998, a petition was filed with the Commission and the Department of Commerce by Armco, Inc., Pittsburgh, PA; J&L Specialty Steel, Inc. (J&L), Pittsburgh, PA; Lukens Inc., Coatesville, PA, North American Stainless (NAS), Ghent, KY; and the United Steelworkers of America, AFL-CIO/CLC, alleging that an industry in the United States is materially injured by reason of subsidized or LTFV imports of certain stainless steel plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan . Accordingly, effective March 31, 1998, the Commission instituted antidumping investigations Nos. 701-TA-376-379 (Preliminary) and investigations Nos. 731-TA-788-793 (Preliminary).

Notice of the institution of the Commission's investigation 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 April 9, 1998 (63 FR 17445). The conference was held in Washington, DC, on April 21, 1998, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on May 15, 1998. The views of the Commission are contained in USITC Publication 3107 (May 1998), entitled "Certain Stainless Steel Plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan: Investigations Nos. 701-TA-376-379 (Preliminary) and Investigations Nos. 731-TA-788-793 (Preliminary)." ."

By order of the Commission.

Donna R. Koehnke
Secretary

Issued:

IEWS OF THE COMMISSION

Based on the record in these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of certain stainless steel plate in coils from Belgium, Canada, Italy, Korea, South Africa, and Taiwan that allegedly are subsidized and sold in the United States at less than fair value ("LTFV").

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

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

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930 as amended ("the Act") defines the relevant industry as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."³ In turn, the Act defines "domestic like product" as: "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation. . . ."⁴

Our decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.⁵ No single factor is dispositive, and the Commission may

¹ 19 U.S.C. §§ 1671b(a) and 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-1004 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT __, Slip Op. 96-51 at 4-6 (March 11, 1996).

² American Lamb, 785 F.2d at 1001 (Fed. Cir. 1986); see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

³ 19 U.S.C. § 1677(4)(A).

⁴ 19 U.S.C. § 1677(10).

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

consider other factors relevant to a particular investigation.⁶ The Commission looks for clear dividing lines among possible like products, and disregards minor variations.⁷ Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise allegedly subsidized and sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.⁸

B. Product Description

In its notice of initiation, Commerce defined the imported merchandise within the scope of these investigations as:

certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this petition are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.⁹

The subject merchandise is certain stainless steel plate in coils, which is a flat-rolled product, 254 mm (10 inches) or over in width and 4.75 mm (0.1875 inch) or over in thickness; it is annealed and pickled and may be further processed.¹⁰ While stainless steel plate is produced and sold in various forms, (e.g., coiled or discrete/flat) or stages of production (e.g., not annealed and pickled or black plate, cold-rolled or polished, or cut-to-length plate), only coiled stainless steel plate that has been annealed and pickled, and possibly further processed, is subject to investigation.¹¹

At issue in these investigations is whether we should include within the domestic like product certain domestically produced merchandise in addition to the types of merchandise included by Commerce in the scope of its investigations, and whether we should define two like products to correspond to the

⁶ See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

⁷ Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49. See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979)(Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.")

⁸ Hosiden Corp. v. Advanced Display Manufacturers, 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

⁹ See Notice of Initiation of Antidumping Duty Investigations: Stainless Steel Plate in Coils from Belgium, Canada, Italy, Republic of South Africa, South Korea, and Taiwan, 63 Fed. Reg. 20580, 20581 (April 27, 1998). Confidential Report ("CR") at A-6; Public Report ("PR") at A-6.

¹⁰ CR at I-2; PR at I-2.

¹¹ CR at I-2-4; PR at I-3. The following types of stainless steel products are explicitly excluded from the scope of investigation: 1) plate not in coils, i.e., cut-to-length (CTL) plate cut from coiled plate, and plate which has never been coiled produced in discrete or flat form; 2) plate that is not annealed and pickled, i.e., the semi-finished version of plate before it is annealed and pickled, which is commonly referred to as "black plate or band;" 3) hot-rolled sheet and strip, which differs from plate in terms of thickness, i.e., it is less than 4.75 mm whereas plate is 4.75 mm and over; and 4) flat bars.

subject merchandise. Accordingly, in the following sections, we consider four domestic like product issues. The first three issues concern whether the domestic like product should be defined to include: (1) stainless steel plate not in coils; or (2) stainless steel plate not annealed and pickled (*i.e.*, black plate); or (3) all stainless steel hot-rolled products in coils (*i.e.*, sheet, strip, and plate), annealed and pickled.¹² Commerce has explicitly excluded from the scope of its investigations all three of these products. The fourth issue concerns whether hot-rolled and cold-rolled stainless steel plate in coils should be defined as separate domestic like products.

For the reasons discussed below, for purposes of these preliminary determinations we find a single domestic like product, “certain stainless steel plate in coils,” corresponding with the description of the subject merchandise.¹³

C. Domestic Like Product Issues in These Investigations

1. Whether the domestic like product should be defined more broadly than the subject merchandise to include stainless steel plate not in coils

Respondent Avesta proposed that the Commission should define the like product to include both coiled plate and plate not in coils (also called piece plate).¹⁴ Plate not in coils consists of two distinct products: (1) discrete plate (also called plate mill plate (PMP), piece plate, or flat plate) that has never been coiled; and (2) cut-to-length (CTL) plate (also sometimes called piece plate), which is a downstream product produced from coiled plate. Commerce specifically excluded plate not in coils from the scope of investigation.¹⁵ The Commission generally does not include downstream articles, such as CTL plate, in the domestic like product when the downstream imported product (*i.e.*, CTL plate) corresponding to the downstream domestic product is not within the scope of investigation.¹⁶ Therefore, we do not include CTL plate in our definition of the domestic like product.

Using the traditional six factor analysis, we examine whether the other type of plate not in coils, discrete plate, should be included in the like product with subject coiled plate.

i. Physical Characteristics and Uses

Stainless steel plate, whether coiled or discrete, is made of raw materials that include stainless and carbon steel scrap, ferro alloys, and alloy elements, such as nickel, chromium, and molybdenum, with the mix in metallurgy dependent on the requirements of the end use.¹⁷ Both coiled and discrete product meet

¹² In general, when making a like product determination, Vice Chairman Bragg first attempts to identify a domestic product that is “like” the merchandise subject to the scope of the investigation identified by Commerce, and only in the absence of a product that is “like” the subject merchandise does she attempt to identify a product that is “most similar in characteristics and uses.” For purposes of these preliminary determinations, Vice Chairman Bragg finds that the domestic like product is limited to certain stainless steel plate in coils.

¹³ Commissioner Crawford finds that hot-rolled stainless steel plate in coils and cold-rolled stainless steel plate in coils are separate like products. *See* note 83 *infra*.

¹⁴ *See* Respondent’s (Avesta) Postconference Brief at 1-2.

¹⁵ 63 Fed. Reg. 20581 (April 27, 1998).

¹⁶ Steel Concrete Reinforcing Bars from Turkey, Inv. No. 731-TA-745 (Preliminary), USITC Pub. 2955 at 3-6 (April 1996)(“Rebar from Turkey”); Tungsten Ore Concentrates from the People’s Republic of China, Inv. No. 731-TA-497 (Preliminary), USITC Pub. 2367 at 9 (March 1991).

¹⁷ CR at V-1; PR at V-1.

the same ASTM standard.¹⁸ Plate in coil is shipped in a continuous coiled form whereas discrete plate is flat.¹⁹ While both forms are produced as wide as 96 inches and as thick as 0.5 inch, only discrete plate can be produced in wider and thicker dimensions.²⁰ According to U.S. producers, discrete plate is manufactured in dimensions mostly not available in coiled plate.²¹ While responses to Commission questionnaires provided some evidence that both coiled plate and plate not in coils (*i.e.*, discrete plate and CTL plate) are sold in thicknesses under 0.5 inch, we viewed this information on plate not in coils with caution because it may include the downstream article, CTL plate, in addition to discrete plate.²²

Stainless steel plate both in coils and discrete form are used for the fabrication of storage tanks, process vessels, and equipment in the chemical and petrochemical, dairy, restaurant, food and beverage, pulp and paper, pharmaceutical, construction, textile, and other industries where the corrosion resistance, heat resistance, or ease of maintenance of stainless steel is needed.²³ Plate in coils, however, is also used in continuous fabrication operations such as pipe and tube manufacturing and stamping applications.²⁴ Discrete plate is preferred for construction applications, nuclear facilities, high pressure applications, large tanks requiring few welds,²⁵ and pollution control equipment that require grades that cannot be produced continuously.²⁶

ii. Interchangeability

Differences in width and thickness may govern specific end uses and limit interchangeability between coiled plate and discrete plate.²⁷ Stainless steel plate used to be produced primarily in the discrete form, as noted in the 1983 investigation. Coiled plate appears to have replaced discrete plate in the lighter gauges and narrower widths, because it is substantially cheaper to produce than discrete plate.²⁸ This is true notwithstanding that in many of the end use applications, the coiled product must be uncoiled,

¹⁸ CR at I-2; PR at I-2. American Society for Testing and Materials (ASTM) Standard A 480/480M.

¹⁹ See Petitioners' Postconference Brief, Exhibit 1 at 4 and 5.

²⁰ CR at I-3; PR at I-2. Thicknesses for discrete plate or PMP generally range from ½ inch to 6 inches (with rolling capabilities up to 30 inches); widths for discrete plate generally range from 96 to 120 inches (with rolling capabilities up to 195 inches), with some discrete plate still produced in widths ranging from 60 to 96 inches. By contrast, widths for coiled plate generally are in the 48-60 inches range, with recent domestic production of coiled plate at the outer limits of 96 inches. Staff Memorandum (Olympia Hand), dated May 11, 1998 *** ("Staff Memorandum dated May 11, 1998").

²¹ Staff Memorandum dated May 11, 1998.

²² According to Commission questionnaire responses, about *** of U.S. producers' 1997 sales of plate not in coils was over 0.5 inch thickness. There is more of a contrast between the two products in the sales of the wider dimensions: about *** of 1997 sales of coiled plate was in a width greater than 60 inches, with about *** of plate not in coils sold in those wider sizes. CR/PR at Tables I-1 and I-2. While imports were generally in widths up to 60 inches, *** of imported plate not in coils from Belgium in 1997 was in widths greater than 60 inches. CR/PR at Table I-3.

²³ CR at I-3 and II-6; PR at I-2 and II-3, and Petitioners' Postconference Brief, Exhibit 1 at 5.

²⁴ CR at I-4; PR at I-3, and Petitioners' Postconference Brief, Exhibit 1 at 5.

²⁵ Staff Memorandum, dated May 11, 1998.

²⁶ Petitioners' Postconference Brief, Exhibit 1 at 5.

²⁷ Complete interchangeability is not required to include various articles within a single like product. See *e.g.*, Asocoflores v. United States, 693 F. Supp. 1165, 1168 (Ct. Int'l Trade 1988)(fact that consumer cannot substitute size six skirt for size ten does not make the two skirts different like products); Aramide Maatschappij V.O.F. v. United States, 19 CIT 884, 887 (1995).

²⁸ Staff Memorandum, dated May 11, 1998. Domestic producers indicated that there has been a trend towards customers purchasing plate in coils instead of discrete plate. CR at II-7; PR II-4.

flattened, and cut at a service center prior to use in the intended application.²⁹ The availability of the product in coil form offers the service center and the ultimate customer more utility because the product can be cut to the exact length required, rather than cut from standard lengths of discrete plate. This provides for less waste and potentially reduces the cost to the ultimate user.³⁰ While discrete plate is an alternative to coiled plate, coiled plate is preferred for many uses due to the reduction of waste and better gauge control.³¹ According to U.S. producers, consumers generally do not switch back and forth within a particular product application.³²

iii. Channels of Distribution

Stainless steel plate in coils is sold primarily to service centers/distributors, with some sales to end users, such as pipe and tube manufacturers.³³ The channels of distribution for discrete plate are similar to coiled plate; it is estimated that about 50 percent of sales are to service centers/distributors and 50 percent to end users.³⁴

iv. Customer and Producer Perceptions

As discussed above, there appears to be a trend by customers toward purchasing coiled plate rather than discrete plate. Customers who need the distinct qualities of one or the other product perceive the products to be different. However, there is some evidence of an overlap in production and customers' purchases of both products even in the smaller thicknesses and, to a lesser degree, the smaller widths.³⁵

v. Common Manufacturing Facilities and Employees

The production of stainless steel plate, whether in coil or discrete form, uses the same or similar production facilities and employees prior to the hot-rolling stage.³⁶ Three U.S. producers produce both coiled and discrete plate, three produce only the coiled form, and one produces only the discrete form.³⁷

It is at the hot-rolling stage that the production processes for coiled and discrete plate may diverge. Coiled plate is rolled on a hot strip mill, which could be either a continuous mill or a Steckel mill, into bands that continue to a coiler and are wrapped into coils. Discrete plate is rolled on a reversing mill of either the Steckel type or a sheared plate mill. Thus, while the rolling production facilities and equipment

²⁹ CR at I-3 and I-4; PR at I-2.

³⁰ CR at I-4; PR at I-2 and I-3.

³¹ CR at II-7; PR at II-4.

³² Staff Memorandum, dated May 11, 1998.

³³ CR at II-2, PR at II-1, and Table II-1. Service centers/distributors accounted for 70.5 percent of U.S. producers' 1997 sales by quantity of coiled plate and end users accounted for 29.5 percent of sales. *Id.*

³⁴ Staff Memorandum, dated May 11, 1998.

³⁵ CR/PR at Tables I-1 and I-2. *** CR at II-7 and I-8, PR at II-4 and I-5. Another domestic producer indicated that "the evolution of production technologies is blurring the traditional distinction between piece and coil-produced products" because coil products today are being produced in thicknesses and widths "that previously were only possible using reversing mill rolling and finishing operations, resulting in a piece plate." Respondent's (Avesta) Postconference Brief at 1-2.

³⁶ CR at I-4 and I-5; PR at I-3.

³⁷ Conf. Tr. at 60; Petitioners' Postconference Brief, Exhibit 1 at 9. There is a fourth U.S. producer of discrete plate, G.O. Carlson. ***.

may be the same if the producer employs a reversing mill of the Steckel type to make its plate,³⁸ U.S. producers nevertheless produce discrete plate and coiled plate at different production facilities.³⁹

While the processes that follow hot-rolling are the same for coiled and discrete plate, the equipment is different, based on the form of the product. After rolling, the plate is annealed, a process that involves reheating the steel uniformly to a specific temperature to relax or soften the metal, and pickling or cleaning with acid to remove the surface scale that forms during hot-rolling. While coiled plate is processed through a continuous annealing and pickling line, discrete plate is annealed and pickled piece by piece in separate facilities. It is at this stage that stainless steel plate obtains its essential characteristic -- corrosion resistance. A small percentage of stainless steel plate is further processed by cold-working or cold-rolling in order to attain improved surface finishes and/or closer dimensional tolerances.

vi. Price

Prices for stainless steel plate are based on weight and grade.⁴⁰ Petitioners allege that coiled plate is always cheaper than discrete plate.⁴¹

vii. Conclusion

While coiled plate and discrete plate generally share some common product qualities, physical characteristics and end-uses, and similar channels of distribution, there are limits to interchangeability, a general perception by producers that they are separate products, and there are no common production facilities at the hot-rolling stage. There also is some evidence that discrete plate is more expensive than comparable coiled plate. We do not include discrete plate in the domestic like product.

2. Whether the domestic like product should be defined more broadly than the subject merchandise to include stainless steel plate not annealed and pickled (i.e., black plate)

Korean and Canadian Respondents proposed that the Commission include “black plate” in its definition of domestic like product.⁴² Thus, we considered whether black plate, which is stainless steel plate in coils that has not been annealed and pickled, is the same like product as such plate that has been annealed and pickled, viewing black plate as an upstream or semi-finished product. Commerce has explicitly excluded black plate from the scope of its investigations. We employ a semifinished product analysis rather than our “traditional” like product analysis when analyzing whether a product at an earlier stage of its production process is “like” a finished or further processed product. Under this analysis, the Commission examines: (1) whether the upstream article is dedicated to the production of the downstream article, or has independent uses; (2) whether there are perceived to be separate markets for the upstream

³⁸ For coiled plate, the Steckel mill uses a coiler, and for discrete plate, the Steckel mill has shearing equipment at the end of the line.

³⁹ Staff Memorandum, dated May 11, 1998. Avesta produces discrete plate in New Castle, IN, and coiled plate in Baltimore, MD. Allegheny Ludlum produces discrete plate in Washington, PA and coiled plate in Brackinridge, PA. Lukens produces discrete plate in Coatesville, PA and coiled plate in Washington, PA and Massilon, OH. Id.

⁴⁰ CR at V-4; PR at V-6.

⁴¹ Petitioners' Postconference Brief, Exhibit 1 at 8. According to petitioners, discrete plate “entails much higher production costs due to the simple economics of producing in smaller quantities on slower, less efficient reversing mills.” Id.

⁴² See Respondent's (Korea) Postconference Brief at 3-9; Respondent's (Canada) Postconference Brief at 1-2.

and downstream articles; (3) differences in the physical characteristics and functions of the upstream and downstream articles; (4) differences in the costs or value of the vertically differentiated articles; and (5) significance and extent of the processes used to transform the upstream into the downstream articles.⁴³

The record indicates that the upstream article, black plate, is dedicated to the production of certain stainless steel plate in coils, or white plate.⁴⁴ The record indicates that there is a relatively small independent market for black plate in the railway wagon industry, specifically for coal wagons, and that a few mills purchase and produce pipe and tube from black plate,⁴⁵ but generally there are different markets for black plate and for certain stainless steel plate in coils. Black plate is largely sold to steel producers for further processing, or annealing and pickling, while certain stainless steel plate in coils is sold to service centers/distributors and end users.⁴⁶

There are also significant differences in the physical characteristics between the two products. Black plate is produced from the hot-rolling stage of stainless steel production.⁴⁷ The surface of the plate is black and rather crusty, in contrast with the clean surface normally associated with stainless steel.⁴⁸ Before the plate can be used for any corrosion resistant application, it must be annealed and descaled or pickled.⁴⁹ Following the pickling operation the plate has a white appearance and is often referred to as white plate or band.⁵⁰

The amount of value added to certain stainless steel plate in coil by the annealing and pickling process is estimated to be over 20 percent of the value of the production of the finished product.⁵¹ It is estimated that white or finished coiled plate costs 8 to 12 cents more per pound on the open market than black plate.

Finally, the production of converting black plate to commercially viable stainless steel plate involves a number of additional operations, which require specialized equipment and separate employees.⁵²

⁴³ Certain Preserved Mushrooms from Chile, China, India, and Indonesia, Inv. Nos. 731-TA-776-779 (Preliminary), USITC Pub. 3086 at 7 (Feb. 1998) (“Mushrooms”).

⁴⁴ CR at I-3 and I-6, PR at I-2 and I-4; Conf. Tr. at 119; Petitioners' Postconference Brief at 16.

⁴⁵ CR at I-9, n. 21; PR at I-6, n. 21. Petitioners allege that the mills that purchase black plate have annealing and pickling capabilities. Petitioners' Postconference Brief at 16.

⁴⁶ Service centers and end users generally do not have the annealing and pickling capabilities that are required for further processing black plate. Thus, black plate is similar to other upstream products such as slabs.

⁴⁷ CR at I-3; PR at I-2. Black plate has a heavy surface oxide, which is dark in color, that is formed while the steel is at high temperature. At this stage in the production, the plate is stiff, brittle and susceptible to cracking and other problems. Conf. Tr. at 23.

⁴⁸ Conf. Tr. at 23.

⁴⁹ CR at I-3; PR at I-2. Parties disagreed on whether the essential characteristics of certain stainless steel plate in coils -- corrosion resistance -- are embodied by annealing and pickling or by the original metallurgy mix. Respondent's (Korea) Postconference Brief at 6; Respondent's (Avesta) Postconference Brief at 5; Petitioners' Postconference Brief at 17. See also Conf. Tr. at 158.

⁵⁰ CR at I-3; PR at I-2.

⁵¹ The amount of value added by annealing and pickling is based on the following estimates of value for segments of the production process: front end melting adds 8 to 10 cents per pound, hot rolling adds 5 to 6 cents per pound, annealing and pickling adds 4 to 5 cents per pound and cold rolling adds 1 to 7 cents per pound. CR at V-1, PR at V-1; Conf. Tr. at 55-57. The additional process of cutting coiled plate to length is estimated to add 4 to 5 cents per pound to the value. Id. These estimates differ slightly from the ones provided by ***. CR at I-10, n. 20; PR at I-6, n. 20. The ***.

⁵² The conversion process requires the black plate to be uncoiled, flattened, end-sheared, annealed, shot-blasted, pickled, edge-trimmed, dried and rolled into a finished coil. Avesta Brief at 5. The annealing process itself involves heating, cooling, and reheating the steel at a controlled temperature for specific lengths of time. CR at I-6, PR at I-4; Petitioners' Postconference Brief at 18 and 19. The plate is then cleaned by a grit blasting

Petitioners claim that the capital expenditures related to installing annealing and pickling equipment are substantial.⁵³

We do not include black plate in the definition of the domestic like product certain stainless steel plate in coils. Although the upstream product, black plate, is virtually dedicated to the production of the subject product, there are differences between the markets, physical characteristics, functions, and values of the two products.⁵⁴ In addition, the annealing and pickling process necessary to transform the upstream article, black plate, into the subject product is not insignificant.

3. Whether the domestic like product should be defined more broadly than the subject merchandise to include all stainless steel hot-rolled coiled products (i.e., sheet, strip, and plate), annealed and pickled

Belgian, Italian, and South African Respondents proposed that the Commission “should find one like product comprising all stainless steel hot-rolled coils, annealed and pickled, regardless of thickness.”⁵⁵ Stainless steel sheet and strip, which are included in this proposal, are explicitly excluded from Commerce's scope of investigation in this case. Petitioners argued that the Commission's domestic like product determination should be guided by its finding in a 1983 investigation involving stainless steel plate from the United Kingdom in which plate was found to be a separate like product from sheet and strip.⁵⁶ However, we note that the Commission is not bound by prior determinations concerning similar imported products.⁵⁷ Rather, the Commission bases its domestic like product determination on the record in these investigations. Accordingly, using the traditional six factor analysis, we examined whether the domestic like product should include other stainless steel hot-rolled coils, annealed and pickled, such as sheet and strip.

machine to remove the scale from the hot mill and the annealing furnace. Next, the pickling process involves immersing the steel in acid that dissolves that scale, followed by a water rinse, and finally the recoiling.

⁵³ Petitioners' Postconference Brief at 18; Conf. Tr. at 55-57.

⁵⁴ See, e.g., Stainless Steel Bar from Brazil, India, Japan, and Spain, Inv. Nos. 731-TA-678-9 and 681-2 (Final), USITC Pub. 2856 at I-5 - I-8 (Feb. 1995)(using a semifinished product analysis, Commission defined a single like product consisting of hot-rolled and cold-rolled stainless steel bar; both of which were subject to investigation)(“Stainless Steel Bar”). Compare Mushrooms, USITC Pub. 3086 at 5-8 (Feb. 1998)(nonsubject upstream product, fresh mushrooms, was not included in like product consisting of preserved mushrooms); Certain Carbon Steel Plate from China, Russia, South Africa, and Ukraine, Inv. Nos. 731-TA-753-756 (Final), USITC Pub. 3076 at 5-7 (Dec. 1997)(nonsubject upstream coiled plate not included in like product).

⁵⁵ Respondent's (South Africa) Postconference Brief at 2; Respondent's (Italy) Postconference Brief at 1; Respondent's (Belgium) Postconference Brief at 1. These respondents argued that, “today, all hot-rolled coils, whether referred to as CMP or HRAP, represent a continuum of products which are produced in the same mill and on the same equipment regardless of thickness, and which are perceived by the industry as being one single like product.” Respondent's (South Africa) Postconference Brief at 2.

⁵⁶ Stainless Steel Sheet and Strip from the Federal Republic of Germany and France and Stainless Steel Sheet and Strip and Plate from the United Kingdom, Inv. Nos. 731-TA-92 and 95, and Inv. Nos. 701-TA-195 and 196, USITC Pub. 1391 (June 1983)(“1983 Stainless Steel Plate”). Petitioners contend that because in that case both like products were included within the scope of Commerce's investigation defining the like product here to mirror the scope is consistent with the 1983 Stainless Steel Plate investigation. Petitioners' Postconference Brief at 6-10; Petition at 5-9.

⁵⁷ Nippon, 19 CIT at 455; Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169, n.5 (Ct. Int'l Trade 1988) (“Asocoflores”)(particularly addressing like product determination); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int'l Trade 1988).

i. Physical Characteristics and Uses

Flat-rolled stainless and heat-resisting steel plate, sheet, and strip are defined in ASTM Standard A 480/480M.⁵⁸ The chemical composition of these products generally is similar, with the mix in metallurgy dependent on the end-use requirements. Sheet, strip, and plate share many similar characteristics and normally may be sold either in coil form or as flat, rectangular shapes. Plate and sheet are available in coils as wide as 96 inches. Sheet of all thicknesses and plate as thick as 0.5 inch are available in coils. Parties disagreed on whether these products have similar uses. As discussed above, plate is used for fabrication of storage tanks, process vessels and equipment in a number of industries where its corrosion resistance is needed. Some plate also is used for production of pipes and tubes. Petitioners claimed that “the thinner gauge of hot-rolled sheet renders it unsuitable for the heavy-duty tanks, containers and other structural components for which most stainless coiled plate is used” and that it is used primarily in pipe and tube production.⁵⁹ Respondents claimed that hot-rolled stainless steel “can be used for the same generic applications, regardless of whether it is thinner or thicker than 4.75 mm.”^{60 61}

ii. Interchangeability

Parties disagreed on whether plate and the other hot-rolled products are interchangeable. While there is some evidence that plate may be an alternative for sheet and strip for certain uses,⁶² other evidence suggests that the gauge thickness is extremely critical for certain applications which would preclude using other than the required thickness.⁶³

iii. Channels of Distribution

Stainless steel plate in coils is sold primarily to service centers/distributors, with some sales to end users, such as pipe and tube manufacturers.⁶⁴ Parties disagreed on whether sheet and strip also is sold

⁵⁸ CR at I-2 and I-3; PR at I-2. Plate is defined as a flat-rolled or forged product that is 254 mm (10 inches) and over in width and 4.75 mm (0.1875 inches) or over in thickness. Sheet is defined as 600 mm (24 inches) and over in width and under 4.75 mm (0.1875 inches) in thickness. Strip is defined as under 600 mm (24 inches) in width and under 4.75 mm (0.1875 inches) in thickness.

⁵⁹ Petitioners' Postconference Brief at 12.

⁶⁰ Respondent's (South Africa) Postconference Brief at 3 and 4. Respondents contended that the same end users purchase hot-rolled product of various thicknesses for the same application.

⁶¹ We note that in the 1983 Stainless Steel Plate case, the Commission found that plate was used primarily in the production of industrial equipment and that sheet and strip was used extensively in the production of consumer durable goods. USITC Pub. 1391 at 5, A-12, and A-63.

⁶² See CR at I-4 and II-7 (regarding substitute products); PR at I-3 and II-4. Respondents claim that these products are “interchangeable to the extent that . . . [hot-rolled products] of various thicknesses can be used for the same application or end use, and the thickness is determined only by the engineering design of the particular product being produced.” Respondent's (South Africa) Postconference Brief at 5.

⁶³ In arguing that “there is no interchangeability between stainless steel coiled plate and hot-rolled stainless steel sheet,” petitioners point to purchasers' and producers' statements about controlling gauge thickness to argue that “the gauge of the plate is a critical consideration for the producer and for the customer of stainless steel plate. . . . [which] serves to preclude interchangeability between the two products.” Petitioners' Postconference Brief at 12 and 13.

⁶⁴ Petitioners' Postconference Brief at 13; Respondent's (S. Africa) Postconference Brief at 6.

primarily to service centers/distributors or end users.⁶⁵ The Commission has no other information in these preliminary investigations regarding channels of distribution for sheet and strip to confirm or refute these allegations.

iv. Customer and Producer Perceptions

Industry standards for stainless steel products explicitly distinguish between plate, on the one hand, and sheet and strip, on the other.⁶⁶ The HTS no longer uses the terms “plate” or “sheet” but still distinguishes by the thicknesses provided in the scope of investigation. While production employees may not perceive a significant difference between products by thickness, producers' sales staff and customers continue to refer to hot-rolled product by the terms “plate” and “sheet.”

v. Common Manufacturing Facilities and Employees

Technological advances in the production processes for stainless steel products have resulted in the ability to make plate in coiled form and to increasingly produce such coiled plate in wider and thicker dimensions. Many producers have the ability to produce, or are presently producing, coiled plate and other hot-rolled products such as sheet and strip on the same hot strip mills. Thus, hot-rolled products, such as sheet, strip, and plate, share similar production processes and in some cases common manufacturing facilities and employees.⁶⁷ However, there is one distinct difference. Most stainless steel sheet and strip are further processed by cold-rolling before sale,⁶⁸ whereas only a very small percentage of stainless steel plate is cold-rolled, and most of that has the less extensive cold-worked process of a light skin pass.⁶⁹ Cold rolling is not a minor or inexpensive process. The cost of cold-rolling is equal to or greater than either the costs of hot-rolling, or the annealing and pickling processes.⁷⁰ Moreover, it is estimated that cold-rolling can reduce the thickness of the product by as much as 40 percent.⁷¹

vi. Price

⁶⁵ Petitioners contended that hot-rolled sheet and strip is sold primarily to pipe and tube producers while respondents argued that similar to plate it is sold to service centers, distributors, and traders. Petitioners' Postconference Brief at 13; Respondent's (S. Africa) Postconference Brief at 6.

⁶⁶ Compare ASTM A480 regarding stainless products to ASTM A635, ASTM A568, and ASTM A6 regarding carbon products. Specifically, ASTM A635 views coiled carbon flat products in plate gauges as coiled sheet, rather than plate, whereas the definition in ASTM A480 expressly differentiates stainless steel plate from stainless steel sheet based on thickness, and not according to whether the products are in coils. Petitioners also maintained that the AISI distinguishes between plate and sheet for stainless products but not for carbon steel products. Petitioners' Postconference Brief at 9.

⁶⁷ The Commission has limited information in these preliminary investigations on which facilities produce both sheet and plate on common equipment.

⁶⁸ CR at II-1, n.1; PR at II-1, n.1. One U.S. producer indicated that *** of stainless steel sheet is further processed by cold rolling before sale.

⁶⁹ CR at I-12-13 and II-1; PR at I-7 and II-1. U.S. producers produced approximately *** tons of cold-rolled stainless steel plate in 1997, although much of this had just a light skin pass. The U.S. produced cold-worked or rolled plate accounted for about *** of U.S. production of certain stainless steel plate in coil in 1997. *Id.* and CR/PR at Table III-1. In 1997, about *** of imports from Belgium were either cold-rolled or cold-worked. Respondent's (Belgium) Postconference Brief at Appendix A and CR/PR at Table IV-1.

⁷⁰ Conf. Tr. at 56-7.

⁷¹ Conf. Tr. at 56-7.

Prices for hot-rolled stainless steel, whether in plate or sheet and strip form, are based on weight and grade.⁷² Thus, plate generally is more expensive than sheet of similar grade and size due to the extra weight resulting from the greater thickness.

vii. Conclusion

In past investigations, when the Commission has considered multiple like products based upon alleged distinctions among types of products, it has looked for clear dividing lines in characteristics and uses of the various products.⁷³ When considering a continuum of products which involves expanding the like product beyond the scope, the Commission is faced with determining where the line ends.⁷⁴

Sheet and strip, on the one hand, and plate, on the other, share similar chemical compositions and dimensions, except that plate is thicker, which may result in different uses and channels of distribution, limit interchangeability, and result in higher prices. While sheet and plate generally have similar and common manufacturing processes and equipment, sheet and strip generally undergo the more extensive and expensive additional process of cold-rolling before being sold. While some factors support a single like product continuum, it is not clear where the dividing line occurs with these products, or with products such as sheet and strip not in coils, or cold-rolled sheet and strip. Therefore, for the purposes of these preliminary determinations, we do not include hot-rolled sheet and strip in coils in our definition of the domestic like product. However, we intend to explore in any final investigations whether hot-rolled, and possibly cold-rolled, sheet and strip should be included in the definition of the domestic like product.

4. Whether hot-rolled and cold-rolled stainless steel plate in coils should be defined as separate domestic like products

The Korean Respondent proposed that “cold-rolled stainless plate . . . is a separate like product from hot-rolled stainless plate.”⁷⁵ Precisely what goods, however, are encompassed within Korean Respondent's proposed “cold-rolled stainless steel plate” domestic like product is unclear because it appears that the domestic industry produces little, if any, cold-rolled stainless steel plate in coils. Moreover, there is confusion among the parties as to whether the terms “further processed (e.g., cold-rolled . . .)” included in the scope of subject merchandise means an extensive traditional cold-rolling process or a minor skin pass cold-working process. The evidence in the record suggests that the domestic industry

⁷² CR at V-4; PR at V-6.

⁷³ See Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49. See e.g., Rebar from Turkey, Inv. No. 731-TA-745 (Final), USITC Pub. 3034 at 4-8 (April 1997)(subject small and large size rebars were defined as a single product corresponding to the scope); Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, and the United Kingdom, Inv. Nos. 701-TA-319-332, 334, 336-342, 344, 347-353, 731-TA-573-579, 581-592, 594-597, 599-609, 612-619 (Final), USITC Pub. 2664 at 12-14 (Aug. 1993)(single like product of sheet and plate corresponding to scope).

⁷⁴ Minivans from Japan, Inv. No. 731-TA-522 (Final), USITC Pub. 2529 at 6 (July 1992)(The majority opinion in Minivans stated: “there is no clearer dividing line if the like product were defined to include minivans plus any other category of vehicles. If we broadened the like product to include, for example station wagons, it is not clear that a rational basis would exist for excluding passenger automobiles from the like product.”); see also Vector Supercomputers from Japan, Inv. No. 731-TA-750 (Final), USITC Pub. 3062 at 4-12 and n. 59 (Oct. 1997).

⁷⁵ Conf. Tr. at 116. Korean Respondent contended that cold-rolled and hot-rolled stainless steel “have traditionally been treated as separate like products due to their different production processes and end-uses. Respondent's (Korea) Postconference Brief at 10. See also Respondent's (Italy) Postconference Brief at 14; Petitioners' Postconference Brief at 20.

performs a minor cold-worked process on the domestic stainless steel plate in coils rather than the traditional cold-rolled process. While we generally have very little information on the cold-worked and cold-rolled processes for the subject product, we briefly compare hot-rolled and cold-worked/rolled subject product using a semi-finished product analysis.

Hot-rolled stainless steel plate is the main intermediate product for the further processed product, whether it is cold-worked or cold-rolled. Less than 10 percent⁷⁶ of hot-rolled stainless steel plate in coils is either cold-worked or rolled.⁷⁷ Hot-rolled stainless steel plate, thus, is not dedicated to use as an intermediate product for cold-rolled product but instead predominately has independent uses. The limited evidence on the record in these preliminary investigations shows that the cold-worked product has similar characteristics, although with a slightly improved finish, with similar functions and markets as the hot-rolled product.⁷⁸ In contrast, there is some evidence that suggests cold-rolled products may have different characteristics, including 30-40 percent reduction in size, different specialized functions, and different markets from the hot-rolled product.⁷⁹ It is estimated that the value added by the cold-worked process is 1 cent per pound whereas the cold-rolled process is estimated to add 7 cents per pound.⁸⁰ The cold-worked process is considered a minor operation consisting of a skin passing to remove any edge wave and to flatten the surface of the hot-rolled product.⁸¹ In contrast, the cold-rolled process involves a reduction in the thickness of the plate by 30 to 40 percent and an additional annealing process.⁸²

We do not have enough evidence in these preliminary investigations to either precisely define or analyze a proposed separate “cold-rolled” like product. While the available evidence on a traditional cold-rolled process suggests finding “cold-rolled” plate to be a separate like product, it is unclear whether such a product is produced in the United States. In contrast, our analysis regarding a cold-worked product generally supports its inclusion in the definition of the hot-rolled like product. We therefore define one like product consisting of both hot and cold-worked/rolled product for purposes of these preliminary determinations. However, we will reconsider this issue further in any final investigations.⁸³

⁷⁶ The U.S. produced cold-worked or rolled stainless steel plate accounted for about *** or approximately *** tons, of U.S. production of certain stainless steel plate in coil in 1997. CR/PR at I-12 and I-13/I-7 and Table III-1. In 1997, about *** of Belgian imports were either cold-rolled or cold-worked. Respondent's (Belgium) Postconference Brief at Appendix A and CR/PR at Table IV-1. Both Korean Respondent and Petitioners acknowledged that the market for cold-rolled stainless steel plate is extremely limited. Respondent's (Korea) Postconference Brief at 9-10 and Conf. Tr. 53.

⁷⁷ In contrast, the majority of hot-rolled stainless steel sheet and stainless steel bar are processed further with the extensive traditional cold-rolling process. See CR at II-1, n.1; PR at II-1, n.1; 1983 Stainless Steel Plate, USITC Pub. 1391 at 5 and A-12; Stainless Steel Bar, USITC Pub. 2856 at I-7 (Feb. 1995) (“more than 85 percent of hot-formed SSB is dedicated to the production of cold-finished SSB.”).

⁷⁸ Petitioners' Postconference Brief at 20.

⁷⁹ Respondent's (Korea) Postconference Brief at 9 and 10; Respondent's (Italy) Postconference Brief at 14.

⁸⁰ Conf. Tr. at 57.

⁸¹ Conf. Tr. at 57 and 58.

⁸² Conf. Tr. at 57 and 58.

⁸³ Commissioner Crawford finds that cold-rolled stainless steel coiled plate is a separate like product for the following reasons. Commerce's scope of investigation specifically includes subject imports that are further processed by cold-rolling, and thus duties will be imposed on cold-rolled imports if an order is issued. The standard industry definition of cold-rolling, by itself, justifies finding a separate like product. Furthermore, the record contains sufficient evidence to find that cold-rolled products are a separate like product. The cold-rolled process reduces the thickness of the plate by 30 to 40 percent, which indicates that it is used in significantly different applications than hot-rolled stainless steel plate. In addition, the evidence indicates that less than 10 percent of hot-rolled stainless steel plate in coils is cold-rolled, which demonstrates that the upstream product is not dedicated to manufacturing the downstream product, and that there are separate markets for the two. For these reasons,

D. Domestic Industry

The domestic industry is defined as "the producers as a [w]hole of a domestic like product"⁸⁴ In defining the domestic industry, the Commission's general practice has been to include in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.⁸⁵ Based on our domestic like product determination, we determine that the domestic industry consists of all domestic producers of certain stainless steel plate in coils.⁸⁶

Commissioner Crawford finds that cold-rolled stainless steel plate is a separate like product.

⁸⁴ 19 U.S.C. § 1677(4)(A).

⁸⁵ See United States Steel Group, et al. v. United States, 873 F. Supp. 673, 681-684 (Ct. Int'l Trade 1994), aff'd, 96 F. 3d 1352 (Fed. Cir. 1996).

⁸⁶ There are 6 domestic firms producing stainless steel plate in coils. These firms accounted for 100 percent of U.S. production of stainless steel plate in coils during 1997, and all responded to the Commission's questionnaires. CR at I-2; PR at I-1. There is no evidence that domestic producers of the domestic like product import subject merchandise, stainless steel plate, annealed and pickled and in coil. The Korean Respondent appeared to raise a related party issue regarding imports of non-subject black plate by domestic producers of a "properly defined" like product that includes black plate. Respondent's (Korea) Postconference Brief at 11. However, even if we had defined the domestic like product to include black plate, as proposed by the Korean and Canadian Respondents, there would not be a related party issue since the subject merchandise does not, and would not, include black plate. See 19 U.S.C. § 1677(4)(B)(i) (" . . . if a producer of the domestic like product is also an importer of the subject merchandise, the producer may, in appropriate circumstances, be excluded from the industry.")

III. CUMULATION

Section 771(7)(G)(i) requires the Commission to cumulate imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the United States market.⁸⁷ There is no dispute that the petitions on all six countries were filed on the same day. The only cumulation issue is whether the subject imports compete with each other and with the domestic like product. In assessing whether imports compete with each other and with the domestic like product,⁸⁸ the Commission has generally considered four factors, including:

- (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;⁸⁹
- (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and
- (4) whether the imports are simultaneously present in the market.⁹⁰

While no single factor is determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the imports compete with each other and with the domestic like product.⁹¹ Only a “reasonable overlap” of competition is required.⁹²

For purposes of these preliminary determinations, we find a sufficient degree of fungibility among subject imports from all six countries and with the domestic like product. The record reveals that stainless steel plate is generally viewed as a commodity product, and similar grades and dimensions are interchangeable regardless of origin.⁹³ Stainless steel plate is produced to standard industry specifications

⁸⁷ 19 U.S.C. § 1677(7)(G)(i). None of the four statutory exceptions to the general rule on cumulation apply to these investigations. See 19 U.S.C. § 1677(7)(G)(ii).

⁸⁸ The Statement of Administrative Action submitted to Congress in connection with the Uruguay Round Agreements Act (P.L. 103-465, approved Dec. 8, 1994) expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. 316, Vol. 1, 103d Cong., 2d Sess. (1994)(“SAA”) at 848 citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int’l Trade), aff’d, 859 F.2d 915 (Fed. Cir. 1988).

⁸⁹ Commissioner Crawford finds that substitutability, not fungibility, is a more accurate reflection of the statute. See Dissenting Views of Commissioner Carol T. Crawford in Stainless Steel Bar from Brazil, India, Japan and Spain, Inv. Nos. 731-TA-678, 679, 681, and 682 (Final), USITC Pub. 2856 (Feb. 1995), for a description of her views on cumulation.

⁹⁰ See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff’d, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int’l Trade 1988), aff’d, 859 F.2d 915 (Fed. Cir. 1988).

⁹¹ See e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

⁹² See Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”); United States Steel Group v. United States, 873 F. Supp. 673, 685-86 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

⁹³ CR at II-8 and II-9; PR at II-4 and II-5.

and dimensions. The specifications stipulate chemical, dimensional, mechanical, and corrosion properties of the product. Stainless steel plate from different origins is therefore interchangeable if the requirements are properly met. Meeting ASTM requirements is the most common type of qualification. U.S. producers and importers responding to Commission questionnaires indicated that they were able to qualify their products in essentially all instances. While fungibility may be limited between certain imports from Italy (floor plate) and both domestic like product and other imports, the record indicates that there are other Italian imports of subject merchandise that are fungible.^{94 95} Fungibility also may be limited between certain imports from Belgium (coiled plate in wide widths and cold-rolled plate) and both domestic like product and other imports. The record, however, reveals that there are sufficient other imports from Belgium of subject merchandise that are fungible.^{96 97}

The parties agree that their products generally are marketed and sold nationwide.⁹⁸ Questionnaire responses confirm that domestic producers sell their product throughout the entire United States.⁹⁹ Importers of subject product from *** also reported that they market their product throughout the entire United States.¹⁰⁰ There is some evidence that *** produced stainless steel plate are primarily, but not exclusively, marketed on different coasts (East Coast and West Coast, respectively).¹⁰¹ Overall, the record shows the presence of sales or offers to sell in the same geographical markets of imports from the subject countries and the domestic like product.

The channels of distribution for stainless steel plate sold both by U.S. producers and importers

⁹⁴ Imports from Italy of floor plate were ***. CR at I-14, n.35; PR at I-8, n.35. Italian imports of floor plate accounted for ***. Calculated from Id. and Table IV-1.

⁹⁵ See Respondent's (Belgium) Postconference Brief at 6-10; Respondent's (Italy) Postconference Brief at 10-11. Belgian and Italian Respondents argued that certain niche products, such as extra-wide hot-rolled plate, cold-rolled/reduced plate, and floor plate, do not compete with the subject product made by U.S. producers.

⁹⁶ Respondent's (Belgium) Postconference Brief at Appendix A. Imports from Belgium of cold-rolled plate were *** of Belgian imports in 1997. U.S. producers produced *** of total production; however, most, if not all, of this had just the light skin pass process. Imports from Belgium of extra-wide (greater than 60 inches) plate were *** of Belgian imports in 1997. Id. and CR at I-12, I-13, and Tables III-1 and IV-1; PR at I-7 and Tables III-1 and IV-1.

⁹⁷ Commissioner Crawford concurs that, overall, subject imports are good substitutes for each other and for the domestic product. The only asserted limitations on substitutability are those relating to imports from Belgium and Italy discussed above. Commissioner Crawford concurs that the imports from Belgium of extra-wide plate do not substantially reduce substitutability. While such imports accounted for *** percent, of Belgian imports, the domestic industry produced *** short tons in 1997, and thus the two compete directly with each other. Therefore, the fact that subject imports of extra-wide plate are a large percent of Belgian imports does not reduce the substitutability significantly. Consequently, subject imports from Belgium are good substitutes for the domestic product. A similar issue arises with respect to imports of floor plate from Italy. Only one domestic producer makes a floor plate product, essentially on a custom basis, but not in coiled form. Thus, substitutability between Italian floor plate and the domestic floor plate is reduced, and thus so is the substitutability of total subject imports from Italy and the domestic like product. However, the floor plate accounted for only *** percent of the subject imports from Italy in 1997, so nearly *** percent of Italian imports competed directly with the domestic product. Therefore, the substitutability between these two sources is reduced only somewhat. Consequently, subject imports from Italy and the domestic product are at least fairly good substitutes for each other. For these reasons, Commissioner Crawford finds that subject imports from Italy are fairly good substitutes for the domestic product and the other subject imports, and that subject imports from the other five countries are good substitutes for each other and for the domestic product.

⁹⁸ Conf. Tr. at 125. (Representatives for producers or importers of product from Belgium, Canada, Italy, Korea, and S. Africa reported their products were marketed nationwide.)

⁹⁹ CR at II-2; PR at II-1.

¹⁰⁰ CR at II-2; PR at II-1.

¹⁰¹ CR at II-2; PR at II-1.

from all subject countries except *** are primarily, but not exclusively, service centers/distributors.¹⁰² Some domestic product and reportedly *** imports are sold to end users, such as pipe and tube producers.¹⁰³ There is an overlap in the channels of distribution between the domestic product and imports from all subject countries. While there may be a question of whether the channels of distribution for imports from *** overlap with imports from any of the other subject countries, we note that the reporting rate for imports from *** is low, ***, and possibly not representative regarding this issue. In any final investigations, we intend to obtain more complete data for imports *** and will reconsider how the channels of distribution of these imports overlap with those of other subject countries.

Import statistics and questionnaire responses confirm that imports of certain stainless steel plate in coils from each of the subject countries and from domestic producers were simultaneously present in the market throughout the period of investigation.¹⁰⁴ No parties disagreed.

Based on the evidence in the record of the general fungibility among the subject imports and the domestic like product, nationwide sales, similar channels of distribution, and the simultaneous presence of all the subject imports in the U.S. market, we find a reasonable overlap of competition among imports from Belgium, Canada, Italy, Korea, South Africa, and Taiwan and the domestic like product for purposes of these preliminary determinations. Therefore, we find that subject imports compete with each other and with the domestic like product in the U.S. market. Consequently, we cumulate subject imports from all six subject countries for purposes of analyzing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports.

IV. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS

In preliminary antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication an industry in the United States is materially injured by reason of the imports under investigation.^{105 106} The statute defines “material injury” as “harm which is not

¹⁰² CR at II-2 and Table II-1; PR at II-1 and Table II-1.

¹⁰³ CR/PR at Table II-1. In 1997, 29.5 percent of domestic producers' shipments were made to end users.

¹⁰⁴ CR/PR at Table IV-3.

¹⁰⁵ 19 U.S.C. §§ 1671b(a) and 1673b(a).

¹⁰⁶ Commissioner Crawford notes that the statute requires that the Commission determine whether a domestic industry is “materially injured by reason of” the LTFV imports. She finds that the clear meaning of the statute is to require a determination of whether the domestic industry is materially injured by reason of LTFV imports, not by reason of the LTFV imports among other things. Many, if not most, domestic industries are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently are causing material injury to the domestic industry. It is assumed in the legislative history that the “ITC will consider information which indicates that harm is caused by factors other than less-than-fair-value imports.” S. Rep. No. 249, 96th Cong., 1st Sess. 75 (1979). However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. Id. at 74; H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979). The Commission is not to determine if the LTFV imports are “the principal, a substantial or a significant cause of material injury.” S. Rep. No. 96-249 at 74 (1979). Rather, it is to determine whether any injury “by reason of” the LTFV imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. “When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry.” S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987) (emphasis added); Gerald Metals v. United States, 132 F.3d 716 (Fed. Cir. 1997) (rehearing denied).

For a detailed description and application of Commissioner Crawford’s analytical framework, see Certain Steel Wire Rod from Canada, Germany, Trinidad & Tobago, and Venezuela, Inv. Nos. 731-TA-763-766 (Final),

inconsequential, immaterial or unimportant.”¹⁰⁷ In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.¹⁰⁸

In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.¹⁰⁹ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”^{110 111}

For the reasons discussed below, we determine that there is a reasonable indication that the domestic industry producing certain stainless steel plate in coils is materially injured by reason of subject imports from Belgium, Canada, Italy, Korea, South Africa, and Taiwan.

USITC Pub. 3087 at 29 (March 1998) and Steel Concrete Reinforcing Bars from Turkey, Inv. No. 731-TA-745 (Final), USITC Pub. 3034 at 35 (April 1997). Both the Court of International Trade and the United States Court of Appeals for the Federal Circuit have held that the “statutory language fits very well” with Commissioner Crawford’s mode of analysis, expressly holding that her mode of analysis comports with the statutory requirements for reaching a determination of material injury by reason of the subject imports. United States Steel Group v. United States, 96 F.3d 1352, 1361 (Fed. Cir. 1996), *aff’d* 873 F. Supp. 673, 694-95 (Ct. Int’l Trade 1994).

¹⁰⁷ 19 U.S.C. § 1677(7)(A).

¹⁰⁸ 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each [such] factor . . . and explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B). *See also* Angus Chemical Co. v. United States, ___ F.3d ___, Slip Op. 97-1166 (Fed. Cir. Apr. 9, 1998).

¹⁰⁹ 19 U.S.C. § 1677(7)(C)(iii).

¹¹⁰ 19 U.S.C. § 1677(7)(C)(iii).

¹¹¹ We have not considered the captive production provision, 19 U.S.C. § 1677(7)(C)(iv), in these investigations because there does not appear to be any internal transfers of the domestic like product for further processing into a downstream article.

A. Conditions of Competition¹¹²

One condition of competition that underscores many of the arguments of the respondents in these investigations is the technological advances that have occurred, and that are continuing to occur, in the production of stainless steel plate.¹¹³ These advances have resulted in the ability to make plate in coil and to increasingly make such coiled plate in wider and thicker dimensions. In distinguishing plate from sheet and strip in the 1983 Stainless Steel Plate investigation, the Commission found that “[p]late is generally rolled piece by piece on reversing mills, while sheet and strip are rolled in coils by a continuous rolling process.”¹¹⁴ As discussed above, stainless steel plate today can be produced in coil form in thicknesses up to 0.5 inch and in widths up to 96 inches on the same type of, and on common, continuous hot-strip mills as sheet and strip. Thus, many producers have the ability to produce, or are presently producing, coiled plate and other hot-rolled products such as sheet and strip on the same hot strip mills. Moreover, during the period of investigation, continuing advances in production technology have resulted in domestic production of plate in coil in widths up to 96 inches from the previous width limit of 60 inches for coiled plate.

The demand for stainless steel plate in coils is derived from the demand for the final products, such as pipes and tubes, and tanks and process vessels, for which plate is an intermediate product.¹¹⁵ Thus, demand is affected by investment or capital spending to expand or replace plant and equipment in such industries as pulp and paper, food and beverage, chemical and petrochemical, construction, textile, pharmaceutical, and automotive, and could be subject to business cycles in these downstream sectors.¹¹⁶ While U.S. apparent consumption for stainless steel plate in coils by quantity fell by 2.2 percent from 1995 to 1996, it increased by 23 percent from 1996 to 1997, for an increase over the period of investigation of 20.3 percent.¹¹⁷ Consumption by value was lower in 1997 than it was in 1995.¹¹⁸ Finally, we note that there has been a limited and declining presence of U.S. shipments of non-subject imports of stainless steel coiled plate during the period of investigation.¹¹⁹

¹¹² According to the official import statistics and Commission questionnaire responses, subject imports from Belgium, Canada, Italy, Korea, South Africa, and Taiwan accounted individually for *** respectively, of the total volume of all U.S. imports of subject merchandise in 1997. CR/PR at Table IV-1. Consequently, we find that imports from none of the subject countries should be deemed negligible.

Contrary to the allegations by Canadian and Korean respondents, their subject imports would not be negligible if the domestic like product was defined to include “black plate.” Respondent’s (Korea) Postconference Brief at 10 and 11; Respondent’s (Canada) Postconference Brief at 2-8. The volume of subject imports would not change to include imports of non-subject black plate, even if the Commission had defined the like product to include black plate because the Commission can not expand the scope. See Torrington, 747 F. Supp. at 748 (Ct. Int’l Trade 1990)(the Commission “does not have the authority to modify’s the ITA’s finding of class or kind, it has the right to make its own determination as to what should be considered a like product.”), aff’d, 938 F.2d 1278 (Fed. Cir. 1991); see also, Makita Corp. v. United States, 974 F. Supp 770, 783-4 (Ct. Int’l Trade 1997).

¹¹³ The parties did not explicitly raise any arguments with respect to the business cycle and the conditions of competition in the market for stainless steel plate in coils.

¹¹⁴ USITC Pub. 1391 at 5 (June 1983).

¹¹⁵ CR at II-6; PR at II-3.

¹¹⁶ CR at II-6; PR at II-3.

¹¹⁷ CR/PR at Table C-1. U.S. apparent consumption by quantity was 130.3 million short tons in 1995, 127.4 million short tons in 1996, and 156.8 million short tons in 1997. Id.

¹¹⁸ CR/PR at Table C-1. U.S. apparent consumption by value was \$306.8 million in 1995, \$253.4 million in 1996, and \$274.2 million in 1997. Id.

¹¹⁹ CR/PR at Tables IV-2 and IV-3.

B. Volume of the Subject Imports

The quantity of subject imports more than doubled during the period of investigation, which encompassed 1995 through 1997, with a lesser rate of increase in the value of subject imports over the same period.¹²⁰ By quantity, U.S. shipments of cumulated subject imports increased from 12,752 short tons in 1995 to 22,735 short tons in 1996, and to 27,973 short tons in 1997.¹²¹ Measured by value, the U.S. shipments of cumulated subject imports rose from \$29.67 million in 1995 to \$46.38 million in 1996, and increased to \$49.98 million in 1997.¹²² The volume of subject imports increased at a substantially faster rate than did apparent consumption during the period of investigation.¹²³ Consequently, the market share of the cumulated subject imports rose over the period of investigation. The market share held by cumulated subject imports by quantity was 9.8 percent in 1995, and 17.8 percent in both 1996 and 1997.¹²⁴ Despite the growth in U.S. apparent consumption, the market share held by the domestic industry fluctuated between years but remained flat overall. The domestic industry's market share by quantity was 79.4 percent in 1995, 74.1 percent in 1996, and 80.3 percent in 1997.^{125 126}

Based on the foregoing, we find that the increase in the volume and market share of the cumulated subject imports over the period of investigation are significant.¹²⁷

C. Price Effects of the Subject Imports

The record reveals that differences other than price are not significant for similar grades and dimensions of stainless steel plate in coils, as producers and customers expect the products to have similar quality.¹²⁸ As stated above, stainless steel plate is a commodity product and is produced to standard industry specifications and dimensions.¹²⁹ U.S. producers and importers reported in questionnaire responses that they met industry specifications for their products in essentially all instances.¹³⁰ Thus, the record establishes that similar grades and dimensions are substitutable regardless of origin. The domestic industry and all importers responding to the Commission questionnaires offered stainless steel plate in

¹²⁰ The increase in U.S. shipments of cumulated subject imports was 119.4 by quantity and 68.5 percent by value from 1995 to 1997. CR/PR at Table C-1.

¹²¹ CR/PR at Table IV-2.

¹²² CR/PR at Table IV-2.

¹²³ The volume of U.S. shipments of subject imports increased each year during the period of investigation and was 119.4 percent higher in 1997 than in 1995. U.S. apparent consumption, however, declined by 2.2 percent from 1995 to 1996, but increased by 23 percent from 1996 to 1997, and was 20.3 percent higher in 1997 than in 1995. CR/PR at Table C-1.

¹²⁴ CR/PR at Table IV-3. The market share by value for cumulated subject imports was 9.7 percent in 1995, 18.3 percent in 1996, and 18.2 percent in 1997. *Id.*

¹²⁵ CR/PR at Table IV-3. The domestic industry's market share by value was 80.4 percent in 1995, 73.5 percent in 1996, and 80 percent in 1997. *Id.*

¹²⁶ Meanwhile, the market share of imports from non-subject countries was 10.8 percent by quantity in 1995, 8.1 percent in 1996, and 1.9 percent in 1997. CR/PR at Table IV-3.

¹²⁷ Commissioner Crawford joins only in the factual, numerical discussion of the volume of imports here. She does not rely on any analysis of trends in the market share of subject imports or other factors in her determination of material injury by reason of the LTFV imports. She makes her finding of the significance of volume in the context of the price effects and impact of these imports. For the reasons discussed below, she finds that the volume of subject imports is significant in light of its price and volume effects.

¹²⁸ CR at II-8, PR at II-4.

¹²⁹ CR at II-8, PR at II-4.

¹³⁰ CR at II-8, PR at II-4.

coils in the primary grades of 304, 304L and 316L, with the domestic industry producing virtually all, and more, grades than those that were imported.¹³¹ Respondents argued that some subject merchandise (*i.e.*, cold-rolled plate, coiled plate in widths of 62 inches or greater, and floor plate) may have limited substitutability with the domestic product.¹³² However, the record reveals that the domestic industry now produces coiled plate in widths of up to 96 inches, which is comparable to the imported extra-wide product.¹³³ Moreover, imports of cold-rolled plate in coils and floor plate account for a small percentage of cumulated imports of subject merchandise.^{134 135}

Prices generally were lower for both the domestic like product and the subject imports at the end of the period of investigation than at its beginning.¹³⁶ Specifically, the pricing data generally show increases for the first two to three quarters in 1995 followed by steady declines during the remaining portion of the period of investigation.¹³⁷

¹³¹ CR at II-9, PR at II-5.

¹³² CR at II-9, PR at II-4 and II-5. This subject merchandise is imported from Belgium (*i.e.*, cold-rolled plate and coiled plate in widths of 62 inches or greater) and from Italy (*i.e.*, floor plate).

¹³³ CR at I-3, PR at I-2.

¹³⁴ Imports of subject cold-rolled plate from Belgium accounted for only *** of Belgian imports and *** of total cumulated subject imports in 1997. CR/PR at Table IV-1 and Respondent's (Belgium) Postconference Brief at Appendix A. Imports of subject floor plate from Italy accounted for *** of Italian imports and *** of total cumulated subject imports in 1997. CR/PR at Table IV-1 and at I-14, n. 35.

¹³⁵ As noted previously, Commissioner Crawford finds that subject imports from Italy are fairly good substitutes for the domestic product and the other subject imports, and that subject imports from the other five countries are good substitutes for each other and for the domestic product. *See* note 97 *supra*.

¹³⁶ CR/PR at Tables V-2 - V-5 and Figure V-7. We note that overall raw material costs for certain stainless steel plate in coils fluctuated between years but remained flat from 1995 to 1997, although costs for one of the raw material inputs, nickel, declined over the same period. *Id.* at VI-7 - VI-9.

¹³⁷ Commissioner Crawford does not find that the subject imports are having significant effects on domestic prices, and thus does not join the remainder of this discussion. To evaluate the effects of subsidies and dumping on domestic prices, Commissioner Crawford compares domestic prices that existed when the imports were subsidized and dumped with what domestic prices would have been if the imports had been fairly traded. In most cases, if the subject imports had not been traded unfairly, their prices in the U.S. market would have increased. In these investigations, no subsidy margins have been calculated, and the dumping margins vary by country. Thus, prices for the subject imports from the different countries likely would have risen by different amounts if they had been priced fairly. Nevertheless, subject imports would have become more expensive relative to the domestic product and other alternative sources for the product (e.g., nonsubject imports). In such a case, if the products are substitutable, demand would have shifted away from subject imports and towards the relatively less-expensive products. As noted above, Commissioner Crawford finds that subject imports from Italy are fairly good substitutes for the domestic product and the other subject imports, and that subject imports from the other five countries are good substitutes for each other and for the domestic product. Nonsubject imports are a very small factor in the domestic market, accounting for only a *** percent market share in 1997, and thus most, if not all, of any shift in demand away from subject imports would have been captured by the domestic industry. The shift in demand to the domestic product would have been significant, as follows. Taiwan accounts for the largest single market share, *** percent, but has the lowest dumping margins, ranging from 0.29% to 8.02%. Thus, at fairly traded prices, a significant portion of Taiwanese subject imports likely would have continued to be sold in the U.S. market. Therefore, it is likely that only a small portion of the demand for Taiwanese imports would have shifted to the domestic industry. The dumping margins for Belgium (9.33% - 16%), Canada (6.85% - 15.35%), and South Africa (14.09% - 19.46%) are not extremely high, and thus these subject imports would not have been priced out of the market at fairly traded prices. Rather, only some of their combined market share of *** percent likely would have shifted to the domestic industry. Italy and Korea held a combined market share of *** percent, but have the largest dumping margins, 11.36% - 59.02% and 4.20% - 35.78%, respectively. Even considering the slightly reduced substitutability of Italian imports,

We note that in considering price trends and price comparisons in these preliminary investigations, we have viewed the price data for subject imports with caution since they are sparse for imports from Korea and Taiwan¹³⁸ and not fully comparable for imports from Belgium and Italy.¹³⁹ In any final investigations, we will seek more complete pricing data from importers of Korean and Taiwanese plate and more comparable pricing data from importers of Belgian and Italian plate. Thus, our comparisons are based on the limited comparable pricing data for subject imports.¹⁴⁰

The limited comparable pricing data reveals a mixed pattern of over- and underselling by the subject imports with underselling occurring in about 70 percent of comparisons.¹⁴¹ Moreover, there are *** that have been confirmed and *** that have been confirmed.¹⁴²

In light of the evidence of the substitutability of subject imports with the domestic like product, declines in prices for both the domestic like product and subject imports during a period of growing demand, the substantial number of confirmed lost sales and lost revenue due to competition with subject imports, and mixed underselling, for purposes of our preliminary determinations, we find that the imports from Belgium, Canada, Italy, Korea, South Africa, and Taiwan have depressed prices for the domestic like product to a significant degree and that the underselling by the subject imports has been significant.

it is likely that most of the combined *** percent market share would have shifted to the domestic product. The combination of the small shift in demand from Taiwanese imports, the moderate shift in demand from Belgian, Canadian, and South African imports, and the larger shift in demand from Italian and Korean imports likely would have been significant. However, the significant shift in demand would not have allowed the domestic industry to raise its prices. The domestic industry has a large amount of unused capacity and substantial inventories that would have been available to satisfy the increase in demand. There are six domestic producers that compete among themselves. Thus, the available capacity and inventories and competition within the domestic industry would have enforced price discipline in the market. Consequently, Commissioner Crawford finds that subject imports are not having significant effects on domestic prices for stainless steel coiled plate.

¹³⁸ Pricing data reported in Commission questionnaire responses accounted for *** of Korean imports and *** of Taiwanese imports during the period of investigation. CR/PR at Table V-1.

¹³⁹ Pricing data on all reported price products imported from Belgium included cold-rolled and cold-reduced products mixed with hot-rolled products on an approximately 50-50 basis. Since cold-rolled products are priced higher than hot-rolled products, the prices reported for Belgian product are not comparable to the prices reported for other subject countries' products. While prices for imports of Italian floor plate were excluded from the pricing data, all other reported price data for Italian imports were for slit-edge plate. Slit-edge plate is believed to have a higher value than ordinary mill-edge material, which is a possible reason for higher Italian prices; thus, we have viewed comparisons of domestic product prices with those of Italian imports with caution. CR at V-10 and V-11, PR at V-7 and V-8.

¹⁴⁰ Our price comparisons primarily are limited to comparing prices of domestic product which represents a significant portion of domestic production and prices of imports from Canada and South Africa which represent a substantial portion of these individual countries' imports. These imports combined, however, accounted for less than *** of cumulated subject imports in 1997.

¹⁴¹ In 62 of the possible 90 price comparisons of prices for domestic product and prices of Canadian and South Africa imports, domestic product was undersold by these subject imports. If the prices of imports from Italy are included in the price comparisons, the domestic product is undersold by subject imports in 66 of the 116 possible price comparisons. CR/PR at Tables V-6 - V-9.

¹⁴² CR/PR at Tables V-10 and V-11.

D. Impact of the Subject Imports on the Domestic Industry^{143 144 145}

The increased volume, market share, and declining prices of subject imports have adversely affected the domestic industry during the period of investigation. As prices for domestic product have followed declines in prices for subject imports, domestic profitability has fallen. The adverse impact of increases in the volumes and declines in the prices of the subject imports is also reflected in the number of confirmed instances of sales and revenues lost to those imports.¹⁴⁶

As the volume of cumulated subject imports increased and subject import prices declined through the period of investigation, the domestic industry's net sales were lower in 1997 than in 1995 despite an

¹⁴³ As part of its consideration of the impact of imports, the statute as amended by the Uruguay Round Agreements Act ("URAA") specifies that the Commission is to consider "the magnitude of the margin of dumping" in an antidumping proceeding. 19 U.S.C. § 1677(7)(C)(iii)(V). The SAA indicates that the amendment "does not alter the requirement in current law that none of the factors which the Commission considers is necessarily dispositive in the Commission's material injury analysis." SAA at 850. The statute, 19 U.S.C. § 1677(35)(C)(i), defines the "magnitude of the margin of dumping" to be used by the Commission in a preliminary determination as "the dumping margin or margins published by the administering authority [Commerce] in its notice of initiation of the investigation." In its notice of initiation, Commerce identified estimated dumping margins for Belgium ranging from 9.33 to 16 percent; estimated dumping margins for Canada ranging from 6.85 to 15.35 percent; estimated dumping margins for Italy ranging from 11.36 to 59.02 percent; estimated dumping margins for Korea ranging from 4.2 to 35.78 percent; estimated dumping margins for South Africa ranging from 14.09 to 19.46 percent; and estimated dumping margins for Taiwan ranging from 0.29 to 8.02 percent. 63 Fed. Reg. 20580, 20582 - 84 (April 27, 1998).

¹⁴⁴ Vice Chairman Bragg notes that she does not ordinarily consider the margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

¹⁴⁵ Commissioner Crawford finds that the subject imports are having a significant impact on the domestic industry. In her analysis of material injury by reason of subsidized and dumped imports, Commissioner Crawford evaluates the impact on the domestic industry by comparing the state of the industry when the imports were subsidized and dumped with what the state of the industry would have been had the imports been fairly traded. In assessing the impact of the subject imports on the domestic industry, she considers, among other relevant factors, output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development and other relevant factors as required by 19 U.S.C. § 1677(7)(C)(iii). These factors together either encompass or reflect the volume and price effects of the dumped imports, and so she gauges the impact of the dumping through those effects. In this regard, the impact on the domestic industry's prices, sales and overall revenues is critical, because the impact on the other industry indicators (e.g., employment, wages, etc.) is derived from this impact. As she noted earlier, Commissioner Crawford finds that the domestic industry would not have been able to increase its prices had subject imports been priced fairly. Therefore, any impact of the allegedly dumped and subsidized imports on the domestic industry would have been on the domestic industry's output and sales. Competition from nonsubject imports is not significant, and thus, had the subject imports not been unfairly traded, most, if not all, of the demand satisfied by the subject imports would have shifted to the domestic product. The increase in demand for the domestic product likely would have been significant, and the domestic industry could have increased its production and sales to satisfy the increased demand. The domestic industry likely would have captured enough of the demand for subject imports that its output and sales, and therefore its revenues, would have increased significantly had the subject imports not been dumped and subsidized. Therefore, the domestic industry likely would have been materially better off if the subject imports had been fairly traded. Consequently, Commissioner Crawford determines that there is a reasonable indication that the domestic industry is materially injured by reason of allegedly subsidized and LTFV imports of stainless steel coiled plate from Belgium, Canada, Italy, Korea, South Africa, and Taiwan.

¹⁴⁶ CR/PR at Tables V-10 and V-11.

increase in its net sales quantities for the same period.¹⁴⁷ Consequently, the domestic industry's unit sales values declined from 1995 to 1997.¹⁴⁸ Of particular note is the period from 1996 to 1997, when the domestic industry's net sales quantities increased by 34.6 percent, yet its unit sales values declined faster than decreases in its unit costs,¹⁴⁹ resulting in falling profitability for the domestic industry. The domestic industry's operating income as a share of net sales declined from 19.9 percent in 1995 to 0.9 percent in 1996, and to an operating loss of 2.3 percent in 1997.¹⁵⁰ This declining profitability, in turn, has had an adverse effect on employment.¹⁵¹ Finally, the domestic industry's year-end inventory has steadily increased.¹⁵²

Thus, the increased volumes of low-priced subject imports, that are good substitutes for the domestic like product, have resulted in declining prices, revenues, and weak financial performance for the domestic industry. Accordingly, we find that the subject imports have had a significant adverse impact on the domestic industry producing certain stainless steel plates in coils.

CONCLUSION

¹⁴⁷ The value of the domestic industry's net sales fell from \$249.2 million in 1995 to \$226.2 million in 1997, or by 9.2 percent. In contrast, the domestic industry's net sales quantities increased from 104,656 short tons in 1995 to 129,813 short tons in 1997, or by 24 percent. The domestic industry's net sales by quantity and value declined from 1995 to 1996, but increased from 1996 to 1997. CR/PR at Tables VI-1 and C-1.

¹⁴⁸ The domestic industry's unit sales values for stainless steel plate declined each year during the period of investigation from \$2,381 per short ton in 1995 to \$1,971 per short ton in 1996, and declined again to \$1,743 per short ton in 1997. CR/PR at Table VI-1.

¹⁴⁹ The domestic industry's unit sales values declined by 11.6 percent from \$1,971 per short ton in 1996 to \$1,743 per short ton in 1997, while its cost of goods sold per short ton declined from \$1,859 per short ton in 1996 to \$1,701 per short ton in 1997 and its SG&A expenses per short ton declined from \$95 in 1996 to \$81 in 1997. The domestic industry's cost of goods sold as a share of net sales was 76.9 percent in 1995, 94.3 percent in 1996, and 97.6 percent in 1997. The industry's SG&A expenses as a share of net sales were 3.2 percent in 1995, 4.8 percent in 1996, and 4.7 percent in 1997. CR/PR at Table VI-1.

¹⁵⁰ Industry profitability declined steadily from 1995 to 1997. CR/PR at Table VI-1. Gross profits for the domestic industry fell from \$57.5 million in 1995 to \$10.8 million in 1996, and declined again to \$5.4 million in 1997. Gross profit as a share of net sales was 23.1 percent in 1995, 5.7 percent in 1996, and 2.4 percent in 1997. Similarly, operating income fell from \$49.6 million in 1995 to \$1.7 million in 1996, and was reported as an operating loss of \$5.1 million in 1997.

¹⁵¹ While production increased, the number of production and related workers in the industry fluctuated between years but remained flat from 258 workers in 1995 to 256 workers in 1997. Hourly wages have also decreased from \$25.53 in 1995 to \$23.01 in 1997. CR/PR at Table III-4.

¹⁵² CR/PR at Tables III-1 - III-4, and VI-1. Year-end inventory for the domestic industry increased from 25,813 short tons in 1995 to 34,424 short tons in 1996, or by 33.4 percent, increased further to 38,754 short tons in 1997, or by 12.6 percent, and was 50.1 percent higher in 1997 than in 1995. *Id.* at Tables III-4 and C-1. The increase in the domestic industry's inventory from 1996 to 1997 is noteworthy because it occurred at the same time that U.S. apparent consumption increased by 23 percent, after a slight decline for the 1995-1996 period. For the most part, the domestic industry's U.S. shipments of stainless steel plate in coils has followed the trend, at a similar rate of increase by quantity and decline by value, of U.S. apparent consumption. *Id.* at Table C-1. Thus, while the domestic industry's U.S. shipments by quantity increased from 103,494 short tons in 1995 to 125,834 short tons in 1997, these shipments by value declined from \$246.5 million in 1995 to \$219.4 million in 1997. *Id.* at Table III-2. Domestic production declined from 107,888 short tons in 1995 to 99,420 short tons in 1996, but increased to 134,143 short tons in 1997. *Id.* at Table III-1. Capacity utilization rates for the domestic industry improved from 40.9 percent in 1995 to 53.5 percent in 1997 in part due to a decline in production capacity from 263,600 short tons in 1995 to 250,700 short tons in 1997. *Id.*

For the foregoing reasons, we determine that there is a reasonable indication that the domestic industry producing certain stainless steel plate in coils is materially injured by reason of allegedly subsidized and LTFV imports from Belgium, Canada, Italy, Korea, South Africa, and Taiwan.