

UNITED STATES INTERNATIONAL TRADE COMMISSION

Certain Pipe and Tube From Argentina, Brazil, Canada, India, Korea, Mexico, Singapore,
Taiwan, Thailand, Turkey, and Venezuela

Investigations Nos. 701-TA-253 (Review) and 731-TA-132, 252, 271, 273, 276, 277, 296, 409,
410, 532–534, 536, and 537 (Review)

DETERMINATION AND VIEWS OF THE COMMISSION
(USITC Publication No. 3316, July 2000)

IEWS OF THE COMMISSION

Based on the record in these five-year reviews,¹ we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the countervailing duty order on circular, welded, non-alloy steel pipes and tubes (“CWP”) from Turkey and the antidumping duty orders on CWP from Brazil, India,² Korea, Mexico,³ Taiwan, Thailand, and Turkey⁴ would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time; and that revocation of the antidumping duty order on CWP from Venezuela would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁵

Based on the record in these five-year reviews, we also determine under section 751(c) of the Act that revocation of the antidumping duty orders on light-walled rectangular pipe and tube (“LWR”) from Argentina and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time;⁶ and that revocation of the antidumping duty order on LWR from Singapore would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁷

Based on the record in these five-year reviews, we further determine under section 751(c) of the Act that revocation of the antidumping duty orders on oil country tubular goods (“OCTG”) other than drill pipe from Canada and Taiwan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time;⁸ and that revocation of the antidumping duty orders on drill pipe from Canada⁹ and Taiwan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

¹ For purposes of these determinations we are disregarding the following new factual information, not included in the factual record which closed on May 30, 2000, which was submitted in various parties’ final comments of June 1, 2000: (1) Exhibit 1 to the Comments on New Information by Domestic Interested Parties (World Trade Atlas statistics) and explanatory text; and (2) Attachment 1 to the Final Comments of Atlas Tube and Prudential Steel (JP Morgan Global Equity Weekly, Company Update on U.S. Steel Group). *See* 19 U.S.C. § 1677m(g); 19 C.F.R. § 207.68(b).

² Commissioner Askey dissenting.

³ Vice Chairman Okun and Commissioners Hillman and Askey dissenting.

⁴ Commissioner Askey dissenting.

⁵ Commissioner Bragg dissenting.

⁶ Commissioner Askey dissenting.

⁷ Commissioner Bragg dissenting.

⁸ Commissioner Bragg dissenting.

⁹ Commissioner Bragg dissenting.

On April 17, 1984, the Commission determined that an industry in the United States was materially injured by reason of imports of certain small diameter circular welded carbon steel pipes and tubes from Taiwan that were being sold in the United States at less than fair value (“LTFV”).¹⁰ Commerce imposed an antidumping duty order on imports of certain small diameter circular welded carbon steel pipes and tubes from Taiwan on May 7, 1984.¹¹ On February 12, 1986, the Commission determined that an industry in the United States was materially injured or threatened with material injury by reason of subsidized imports from Turkey and LTFV imports from Thailand of welded carbon steel standard pipes and tubes.¹² Commerce imposed antidumping and countervailing duty orders on these products on March 7 and March 11, 1986.¹³ On April 21, 1986, the Commission determined that an industry in the United States was materially injured or threatened with material injury by reason of LTFV imports of standard pipes and tubes from India and Turkey.¹⁴ Commerce imposed antidumping duty orders on these products on May 12 and May 15, 1986, respectively.¹⁵ On October 20, 1992, the Commission determined that an industry in the United States was materially injured by reason of LTFV imports of standard and structural pipes and tubes from Brazil, Korea, Mexico, Taiwan, and Venezuela.¹⁶ On November 2, 1992, Commerce imposed antidumping duty orders on these products.¹⁷

On October 20, 1986, the Commission determined that an industry in the United States was threatened with material injury by reason of LTFV imports of LWR from Singapore.¹⁸ Commerce imposed an antidumping duty order on this product on November 13, 1986.¹⁹ On March 15, 1989, the Commission determined that an industry in the United States was materially

¹⁰ Certain Welded Carbon Steel Pipes and Tubes from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-131, 132, and 138 (Final), USITC Pub. 1519 (Apr. 1984).

¹¹ 49 Fed. Reg. 19369 (May 7, 1984).

¹² Certain Welded Carbon Steel Pipes and Tubes from Turkey and Thailand, Inv. Nos. 701-TA-253 and 731-TA-252 (Final), USITC Pub. 1810 (Feb. 1986).

¹³ 51 Fed. Reg. 8341 (Mar. 11, 1986) (Thailand); 51 Fed. Reg. 7984 (Mar. 7, 1986) (Turkey).

¹⁴ Certain Welded Carbon Steel Pipes and Tubes from India, Taiwan, and Turkey, Inv. Nos. 731-TA-271–273 (Final), USITC Pub. 1839 (Apr. 1986).

¹⁵ 51 Fed. Reg. 17784 (May 15, 1986) (Turkey); 51 Fed. Reg. 17384 (May 12, 1986) (India).

¹⁶ Certain Circular, Welded, Non-Alloy Steel Pipes and Tubes from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela, Inv. Nos. 731-TA-532–537 (Final), USITC Pub. 2564 (Oct. 1992).

¹⁷ 57 Fed. Reg. 49453 (Nov. 2, 1992) (Brazil, Korea, Mexico, and Venezuela), 57 Fed. Reg. 49454 (Nov. 2, 1992) (Taiwan).

¹⁸ Certain Welded Carbon Steel Pipes and Tubes from the Philippines and Singapore, Inv. Nos. 731-TA-293, 294, and 296 (Final), USITC Pub. 1907 (Nov. 1986).

¹⁹ 51 Fed. Reg. 41142 (Nov. 13, 1986).

injured or threatened with material injury by reason of LTFV imports of LWR from Taiwan.²⁰ Commerce imposed an antidumping duty order on this product on March 27, 1989.²¹ On May 9, 1989, the Commission determined that an industry in the United States was materially injured or threatened with material injury by reason of LTFV imports of LWR from Argentina.²² Commerce imposed an antidumping duty order on this product on May 26, 1989.²³

On May 27, 1986, the Commission determined that an industry in the United States was materially injured by reason of LTFV imports of OCTG from Canada and Taiwan.²⁴ Commerce imposed antidumping duty orders on these products on June 16 and June 18, 1986, respectively.²⁵

On May 3, 1999, the Commission instituted reviews pursuant to section 751(c) of the Act to determine whether revocation of the antidumping and/or countervailing duty orders on certain pipe and tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey, and Venezuela would likely lead to the continuation or recurrence of material injury.²⁶

In five-year reviews, the Commission initially determines whether to conduct a full review (which generally would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review, as follows. First, the Commission determines whether individual responses to the notice of institution are adequate. Second, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties— domestic interested parties (producers, unions, trade associations, or worker groups) and respondent interested parties (importers, exporters, foreign producers, trade associations, or subject country governments)—demonstrate a sufficient willingness among each group to participate and provide information requested in a full review.²⁷ If the Commission finds the responses from both groups of interested parties to be adequate, or if

²⁰ Certain Light-Walled Rectangular Pipes and Tubes from Taiwan, Inv. No. 731-TA-410 (Final), USITC Pub. 2169 (Mar. 1989).

²¹ 54 Fed. Reg. 12467 (Mar. 27, 1989).

²² Certain Light-Walled Rectangular Pipes and Tubes from Argentina, Inv. No. 731-TA-409 (Final), USITC Pub. 2187 (May 1989).

²³ 54 Fed. Reg. 22794 (May 26, 1989).

²⁴ Oil Country Tubular Goods from Canada and Taiwan, Inv. Nos. 701-TA-255 and 731-TA-276–277 (Final), USITC Pub. 1865 (June 1986).

²⁵ 51 Fed. Reg. 21782 (June 16, 1986) (Canada), *corrected* 51 Fed. Reg. 29579 (Aug. 19, 1986); 51 Fed. Reg. 22098 (June 18, 1986) (Taiwan). A contemporaneous CVD order on OCTG from Canada was revoked by Commerce in 1991. 56 Fed. Reg. 31389 (July 10, 1991). The Commission's notice of institution in these reviews also covered countervailing and antidumping duty orders on OCTG from Israel. 64 Fed. Reg. 23679 (May 3, 1999). On July 21, 1999, however, Commerce published notice of revocation of the orders on OCTG from Israel effective January 1, 2000, based on non-participation in the reviews by any domestic interested party. 64 Fed. Reg. 40548 (July 27, 1999). The Commission terminated its reviews of OCTG from Israel effective July 27, 1999. 64 Fed. Reg. 42416 (Aug. 4, 1999).

²⁶ 64 Fed. Reg. 23679 (May 3, 1999).

²⁷ See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602–05 (June 5, 1998).

other circumstances warrant, it will determine to conduct a full review.

With respect to CWP, the Commission received responses to the notice of institution on behalf of nine domestic producers accounting for a majority of domestic production; one Turkish producer that accounts for a substantial share of Turkish production of the subject merchandise; eight Korean producers that account for a majority of Korean production of the subject merchandise; two Mexican producers that account for a majority of Mexican production of the subject merchandise; and two Venezuelan producers that account for a majority of Venezuelan production of the subject merchandise. Accordingly, on August 5, 1999, the Commission determined that the domestic interested party group response and the respondent interested party group responses with respect to these orders were adequate and that it should proceed to full reviews. The Commission received no responses from producers or importers of the subject merchandise from Brazil, India, Taiwan (two orders), or Thailand and therefore found the respondent interested party group responses to be inadequate with respect to those orders. The Commission nevertheless determined to conduct full reviews of those orders in order to promote administrative efficiency.²⁸

With respect to LWR, the Commission received responses to the notice of institution on behalf of seven domestic producers that account for a significant percentage of domestic production and determined that the domestic interested party group response was adequate.²⁹ The Commission received no responses from any respondent interested parties in these reviews and, therefore, determined that the respondent interested party group responses in each of the three reviews was inadequate. The Commission nevertheless voted to conduct full reviews in order to promote administrative efficiency in light of its decision to conduct full reviews of other orders in these grouped reviews.³⁰

In the original investigations of OCTG from Canada and Taiwan, the Commission found OCTG other than drill pipe and drill pipe to be separate like products. With respect to OCTG other than drill pipe, the Commission received responses to the notice of institution on behalf of domestic producers³¹ that account for a majority of domestic production and four Canadian producers accounting for a majority of Canadian production. With respect to the order on OCTG other than drill pipe from Canada, the Commission found both the domestic interested party and respondent interested party group responses to be adequate and determined to conduct a full review. The Commission received no responses from respondent interested parties in the review of the order on OCTG other than drill pipe from Taiwan and no responses from any interested parties with respect to the reviews of the orders on drill pipe from either country. It nevertheless

²⁸ See Vote Sheets in Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey and Venezuela, Inv. Nos. 701-TA-253 (Review) and 731-TA-132, 252, 271, 273, 276–277, 296, 409–410, 532–534, and 536–537 (Review); Notice of Commission Determination to Conduct Full Five-Year Reviews, 64 Fed. Reg. 45276 (Aug. 19, 1999); Explanation of Commission Determination on Adequacy (Aug. 1999).

²⁹ Commissioner Crawford dissenting.

³⁰ Explanation of Commission Determination on Adequacy (Aug. 1999). Chairman Bragg and Commissioner Crawford dissenting.

³¹ Five domestic producers responded with respect to Canada and three with respect to Taiwan.

determined to conduct full reviews because of significant domestic like product issues and in order to promote administrative efficiency in light of the decision to conduct a full review with respect to OCTG other than drill pipe from Canada.³²

³² Explanation of Commission Determination on Adequacy (Aug. 1999). Commissioner Crawford dissenting.

On March 9, 2000, the Commission held a hearing in these reviews, at which representatives of the following parties appeared: the domestic producers of CWP,³³ LWR,³⁴ and OCTG;³⁵ Venezuelan CWP producer C.A. Conduven (“Conduven”); the Korea Iron and Steel Association and Korean CWP producers SeAH Corporation, Shinho Steel Co., Hyundai Pipe Co., and Korea Iron & Steel Co. (collectively “Korean CWP producers”); Turkish CWP producer the Borusan Group (“Borusan”); Mexican CWP producer Hylsa S.A. de C.V. (“Hylsa”); and Canadian OCTG producers Atlas Tube, Inc. (“Atlas”) and Stelco, Inc. (“Stelco”). In addition, a representative appeared at the hearing on behalf of non-party Siderca S.A.I.C. (“Siderca”). The domestic producers filed briefs supporting continuation of the orders, and the foreign producers filed briefs supporting revocation of the orders.

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

1. General Considerations

In making its determination under section 751(c), the Commission defines “the domestic like product” and the “industry.”³⁶ The Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”³⁷ In a section 751(c) review, the Commission must also take into account “its prior injury determinations.”³⁸

³³ The domestic producers of CWP who appeared as parties in these reviews in support of continuation of the orders on CWP (“domestic CWP producers”) include Allied Tube & Conduit Corporation, Century Tube Corporation, IPSCO Tubular, Inc., LTV Steel Tubular Products Company, Maverick Tube Corporation, Sawhill Tubular Division—Armco, Inc., Sharon Tube Company, Western Tube & Conduit Corporation, and Wheatland Tube Company.

³⁴ The domestic producers of LWR who appeared as parties in these reviews in support of continuation of the orders on LWR (“domestic LWR producers”) include California Steel and Tube, Hannibal Industries, Inc., Maruichi American Corporation, Searing Industries, Leavitt Tube, Vest, Inc., and Western Tube and Conduit.

³⁵ The domestic producers of OCTG who appeared as parties in these reviews in support of continuation of the orders on OCTG (“domestic OCTG producers”) include Lone Star Steel Company and Maverick Tube Corporation (collectively “Lone Star”) and U.S. Steel Group and Lorain Tubular LLC (collectively “USX”).

³⁶ 19 U.S.C. § 1677(4)(A).

³⁷ 19 U.S.C. § 1677(10). See *NEC Corp. v. Department of Commerce*, Slip Op. 98-164 at 8 (Ct. Int’l Trade, Dec. 15, 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Torrington Co. v. United States*, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90–91 (1979).

³⁸ 19 U.S.C. § 1675a(a)(1)(a).

2. Circular Welded Pipe and Tube

a. Background

i. Product Descriptions

In its final determinations, Commerce has defined the subject merchandise in these five-year reviews as follows:

Small Diameter Circular Welded Carbon Steel Pipes and Tubes from Taiwan (Inv. No. 731-TA-132):

welded carbon steel pipes and tubes of circular cross section, from Taiwan (“steel pipes”), with walls not thinner than 0.065 inch and outside diameter 0.375 inch or more but not over 4½ inches. These products are commonly referred to in the industry as standard pipe and are produced to various American Society of Testing Materials specifications, most notably A-53, A-120, or A-135.³⁹

Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand (Inv. No. 731-TA-252):

certain circular welded carbon steel pipes and tubes, commonly referred to in the industry as ‘standard pipe’ or ‘structural tubing,’ with walls not thinner than 0.065 inches, and 0.375 inches or more, but not over 16 inches in outside diameter.⁴⁰

Certain Circular Welded Carbon Steel Pipes and Tubes from Turkey (Inv. No. 701-TA-253):

welded carbon steel pipes and tubes, having an outside diameter of 0.375 inch or more, but not more than 16 inches, of any wall thickness. These products, commonly referred to in the industry as standard pipe and tube or structural tubing, are produced in accordance with various American Society Testing and Materials (ASTM) specifications, most notably A-53, A-120, A-500, or A-501.⁴¹

Certain Circular Welded Carbon Steel Pipes and Tubes from India (Inv. No. 731-TA-271):

circular welded non-alloy steel pipes and tubes, of circular cross-section, with an outside diameter of 0.372 inches or more, but not more than 16 inches in outside

³⁹ 64 Fed. Reg. 67873, 67874 (Dec. 3, 1999).

⁴⁰ 64 Fed. Reg. 67852 (Dec. 3, 1999).

⁴¹ 65 Fed. Reg. 17486, 17487 (Apr. 3, 2000).

diameter, regardless of wall thickness, surface finish (black, galvanized, or painted) or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low-pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air-conditioner units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protections of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing or those types {of} mechanical and structural pipe that are used in standard pipe applications. All carbon-steel pipes and tubes within the physical description outline above are included in the scope of this order, except for line pipe, oil-country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit.⁴²

Certain Circular Welded Carbon Steel Pipes and Tubes from Turkey (Inv. No. 731-TA-273):

circular welded non-alloy steel pipes and tubes, of circular cross-section, with an outside diameter of 0.372 inches or more, but not more than 16 inches in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted) or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low-pressure conveyance of water{, } steam, natural gas, air and other liquids and gases in plumbing and heating systems, air-conditioner units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protections of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing or those types {of} mechanical and structural pipe that are used in standard pipe applications. All carbon-steel pipes and tubes within the physical description outline above are included in the scope of this order, except line pipe, oil-country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit.⁴³

Certain Circular Welded Carbon Steel Pipes and Tubes from Brazil, Korea, Mexico, Taiwan, and Venezuela (Inv. Nos. 731-TA-532-534, 536, and 537):

⁴² 64 Fed. Reg. 67879 (Dec. 3, 1999).

⁴³ 64 Fed. Reg. 67876, 67877 (Dec. 3, 1999).

circular welded non-alloy steel pipe and tube . . . of circular cross-section, not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low-pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air-conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and as support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and other related industries. Unfinished conduit pipe is also included in this order. All carbon-steel pipes and tubes within the physical description outlined above are included within the scope of this investigation, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil and gas pipelines is also not included in this investigation.⁴⁴

The CWP described in these various scopes includes primarily standard pipe, which is used for the low-pressure conveyance of air, steam, water, gas, oil, or other liquids or gases. The scopes also include some CWP used for above-ground structural purposes, such as fence posts and framing and support members (structural tubing). CWP products are generally produced to ASTM specifications and are available either black or galvanized (zinc-coated) and with either plain ends or threaded ends.⁴⁵ CWP is made from hot-rolled coiled steel sheet by either of two processes: continuous welding (CW) or electric resistance welding (ERW).⁴⁶

⁴⁴ 64 Fed. Reg. 67854, 67855 (Dec. 3, 1999). The scope description in Commerce’s notice refers only to Brazil, Korea, Mexico, and Venezuela. Commerce has indicated that the omission of Taiwan from this scope description was an oversight. Confidential Report (“CR”) at CIRC-I-16 n.9, Public Report (“PR”) at CIRC-I-14 n.9. Commerce’s failure to mention Taiwan in the scope description creates an ambiguity. In the original investigations, the scope for the investigation of CWP from Taiwan was different from that for CWP from the other four countries in that it excluded: (1) CWP subject to the pre-existing order on certain small diameter CWP from Taiwan; and (2) CWP with a wall thickness less than 0.065 inch (1.65 mm) and an outside diameter of exactly 16 inches. USITC Pub. 2564 at 7 n.8. Because Commerce’s final determination in these reviews did not specify whether it now considers the scope of the Taiwan order to be the same as that of the other four or whether the different scope definition continues to be valid, the Commission has no definitive guidance from Commerce on the scope of this order. The most recent written pronouncement by Commerce on the scope of the Taiwan review is the Sunset Review Update web page, included in the record at the adequacy stage of these reviews, which reflects the scope from the original investigation. In our view, the better interpretation of the present situation is that the original scope is still valid. The alternate interpretation would create an overlap in the scopes of the two orders on CWP from Taiwan.

⁴⁵ CR at CIRC-I-20–CIRC-I-21, PR at CIRC-I-18.

⁴⁶ CR at CIRC-I-21, PR at CIRC-I-18.

ii. Like Product Determinations in the Original Investigations

The starting point of the Commission's like product analysis in a five-year review is the like product definition in the Commission's original determination.⁴⁷ In the original CWP investigations, the Commission defined the domestic like product as follows:

Small Diameter Circular Welded Carbon Steel Pipes and Tubes from Taiwan (Inv. No. 731-TA-132): small diameter circular pipes and tubes (*i.e.*, with an outside diameter of at least 0.375 inch but not more than 4.5 inches).⁴⁸

Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand and Turkey (Inv. Nos. 731-TA-252 and 701-TA-253): standard pipe up to and including 16 inches outside diameter.⁴⁹

Certain Circular Welded Carbon Steel Pipes and Tubes from India and Turkey (Inv. Nos. 731-TA-271 and 731-TA-273): standard pipe of not more than 16 inches outside diameter.⁵⁰

Certain Circular Welded Carbon Steel Pipes and Tubes from Brazil, Korea, Mexico, Taiwan, and Venezuela (Inv. Nos. 731-TA-532-534, 536, and 537): circular, welded, non-alloy steel pipes and tubes of not more than 16 inches in outside diameter, except (a) finished conduit other than finished rigid conduit and (b) mechanical tubing that is not cold-drawn or cold-rolled.⁵¹

b. Analysis and Finding

In the original investigations, the Commission generally defined each domestic like

⁴⁷ In the like product analysis for an original investigation, the Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) common manufacturing facilities, production processes and production employees; (5) customer and producer perceptions; and, where appropriate, (6) price. *See Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996). No single factor is dispositive, and the Commission may consider other factors relevant to a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. *See, e.g.*, S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979); *Torrington*, 747 F. Supp. at 748-49.

⁴⁸ USITC Pub. 1519 at 5-6.

⁴⁹ USITC Pub. 1810 at 6-7.

⁵⁰ USITC Pub. 1839 at 6-7.

⁵¹ USITC Pub. 2564 at 7-17.

product as coextensive with the relevant scope.⁵² The scopes of the CWP orders subject to these reviews, as defined by Commerce in its final determinations, are not entirely the same.⁵³ Thus, to the extent that the scopes of the orders are different, the domestic like products found in the original investigations are also different. In these reviews, all parties expressing a view on this issue urged us to reconsider our original like product determinations in order to find a single domestic like product in all the CWP reviews consisting of all circular, welded non-alloy steel pipes and tubes not more than 16 inches in outside diameter.⁵⁴

We find that application of the six traditional like product factors supports treating all CWP not more than 16 inches in outside diameter as a single domestic like product. All CWP is round, welded pipe made of non-alloy steel, is produced to ASTM or similar specifications, and is used in standard pipe and structural pipe applications. While CWP up to 4.5 inches in diameter can be produced using either the CW or ERW process, CWP over 4.5 inches in diameter can only be produced using the ERW process. However, most domestic producers make CWP with diameters both above and below 4.5 inches.⁵⁵ Because purchasers generally seek CWP that meets a particular ASTM or proprietary specification, pipes with different diameters, wall thicknesses, or end finishes generally will not be substitutable for each other in particular end uses.⁵⁶ All CWP

⁵² There are two exceptions: (1) the later of the two investigations of CWP from Taiwan, which defined a single domestic like product for all countries under investigation despite the narrower scope of the Taiwan investigation and the existing order on certain small diameter CWP from Taiwan; and (2) the investigations of CWP from Brazil, Korea, Mexico, Taiwan, and Venezuela, which defined two products within the scope (finished conduit and mechanical tubing) as separate like products.

⁵³ We have noted the following differences: (1) the order on certain small diameter CWP from Taiwan includes only pipe with an outside diameter up to and including 4.5 inches, while all the other orders include pipe up to and including 16 inches in outside diameter; (2) the two earliest orders (small diameter from Taiwan, Thailand) limit the scope to pipe with walls not thinner than 0.065 inches, while the other orders apply to pipe of any wall thickness; (3) the order on CWP from India specifies a minimum outside diameter of 0.372 inches, while the other orders apply to pipe with a minimum outside diameter of 0.375 inches; (4) the orders on CWP from Thailand and Turkey (CVD) have no express exclusions for products excluded from the scopes in all later cases, including line pipe, OCTG, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit; (5) the five most recent orders (Brazil, Korea, Mexico, Taiwan, and Venezuela) expand the exclusions above to *all* mechanical tubing and *all* finished conduit, and are also the only ones that expressly exclude dual-stenciled and triple-stenciled pipe that enters the United States as line pipe; and (6) the scope of the more recent of the two orders concerning CWP from Taiwan presumably excludes the products covered by the scope of the earlier (small diameter) order, but also excludes CWP from Taiwan with a wall thickness less than 0.065 inch (1.65 mm) and an outside diameter of precisely 16 inches, which is covered by all the other orders except the one on Thailand.

⁵⁴ Domestic CWP Producers' Posthearing Brief at A-5-A-6; Korean CWP Producers' Posthearing Brief, Exhibit 1 at 9; Hylsa Posthearing Brief at 1.10.

⁵⁵ Domestic CWP Producers' Posthearing Brief at A-5; Transcript of Commission Hearing (Mar. 9, 2000) ("Hearing Tr.") at 73-75.

⁵⁶ CR at CIRC-I-23, PR at CIRC-I-19.

is sold through the same channels of distribution, generally through distributors.⁵⁷ Prices for CWP vary based on diameter, end finish, and other features.⁵⁸ Overall, the record indicates that CWP consists of a continuum of products with no clear dividing lines between them based on diameter, wall thickness, or other features. Based on the foregoing, we find a single domestic like product in the CWP reviews consisting of CWP up to and including 16 inches in outside diameter, regardless of wall thickness.⁵⁹

⁵⁷ CR at CIRC-I-23, PR at CIRC-I-19.

⁵⁸ Domestic CWP Producers' Posthearing Brief at A-5.

⁵⁹ As noted above, some of the earlier CWP orders do not expressly exclude from their scopes other pipe and tube products, such as line pipe and OCTG, that may be produced in similar diameters and wall thicknesses. In light of the record, we limit the domestic like product in these reviews to CWP.

3. Light-Walled Rectangular Pipe and Tube

a. Background

i. Product Descriptions

In its final determinations, Commerce defined the merchandise subject to these five-year reviews as follows:

LWR from Singapore (Inv. No. 731-TA-296):

light-walled rectangular pipes and tubes (“rectangular pipes”) . . . , which are mechanical pipes and tubes or welded carbon steel pipes and tubes of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch.⁶⁰

LWR from Argentina (Inv. No. 731-TA-409):

light-walled welded carbon steel tubing of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch,⁶¹

LWR from Taiwan (Inv. No. 731-TA-410):

light-walled welded carbon steel pipes and tubes of rectangular (including square) cross-section, having a wall thickness of less than 0.156 inch.⁶²

LWR is rectangular (including square) tubing used in structural and mechanical applications such as wrought iron fencing, display racks, patio furniture, and exercise equipment. Like CWP, it is produced using the ERW process.⁶³

ii. Like Product Determinations in the Original Investigations

In the original investigations, the Commission defined the following domestic like products:

LWR from Singapore (Inv. No. 731-TA-296): light-walled rectangular pipes and tubes (*i.e.*, mechanical pipes and tubes or welded carbon steel pipes and tubes of rectangular (including

⁶⁰ 64 Fed. Reg. 67868 (Dec. 3, 1999).

⁶¹ 64 Fed. Reg. 67870 (Dec. 3, 1999).

⁶² 64 Fed. Reg. 67871, 67872 (Dec. 3, 1999), *as corrected by* 65 Fed. Reg. 11763 (Mar. 6, 2000).

⁶³ Hearing Tr. at 39–40; CR at LWR-I-12–LWR-I-13, PR at LWR-I-10–LWR-I-11.

square) cross -section having a wall thickness of less than 0.156 inch).⁶⁴

LWR from Argentina and Taiwan (Inv. Nos. 731-TA-409-410): light-walled rectangular pipe and tube.⁶⁵

b. Analysis and Finding

In these reviews, no party has argued for any change in the domestic like product definition.⁶⁶ Nothing in the current record indicates any significant changes that would warrant a different analysis.⁶⁷ Accordingly, we define the domestic like product in the instant LWR five-year reviews to be light-walled rectangular pipes and tubes.⁶⁸

4. OCTG Other Than Drill Pipe and Drill Pipe

a. Background

i. Product Descriptions

In its final determinations, Commerce defined the merchandise subject to these five-year reviews as follows:

American Petroleum Institute (“API”) specification OCTG and all other pipe with the following characteristics except entries which the Department {of Commerce} determined through its end use certification procedure were not used in OCTG applications: length of at least 16 feet; outside diameter of standard sizes published in the API or proprietary specifications for OCTG with tolerances of plus 1/8 inch for diameters less than or equal to 8 5/8 inches and plus 1/4 inch for diameters greater than 8 5/8 inches, minimum wall thickness as identified for a

⁶⁴ USITC Pub. 1907 at 4–6.

⁶⁵ USITC Pub. 2187 at 5 and 15–16 (Argentina); USITC Pub. 2169 at 3–6 and 51 (Taiwan).

⁶⁶ Domestic LWR Producers’ Posthearing Brief at A-8–A-9. In response to questioning, the domestic LWR producers argued that LWR and CWP are distinct domestic like products.

⁶⁷ In particular, the limited information of record supports treating LWR and CWP as distinct domestic like products based on differences in physical characteristics, end uses, production processes, producer and customer perceptions, and prices, and limited interchangeability. *See* Hearing Tr. at 39–40, 101, 120; Domestic Producers’ Posthearing Brief at A-8.

⁶⁸ Commissioner Askey notes that the starting point for her like product analysis is the like product definition contained in the original determination. Because the purpose of a sunset review is, literally, to review an existing order, the like product definition analysis in a review is different from that in an original investigation, where the Commission begins with a fresh record. She is, therefore, inclined to retain the original like product definition unless the existing definition(s) present a substantial impediment to arriving at an injury determination. She does not see the record in these reviews as indicating that the original like product definition should be changed.

given outer diameter as published in the API or proprietary specifications for OCTG; a minimum of 40,000 PSI yield strength and a minimum 60,000 PSI tensile strength; and if with seams, must be electric resistance welded. Furthermore, imports covered by these reviews include OCTG with non-standard size wall thickness greater than the minimum identified for a given outer diameter as published in the API or proprietary specifications for OCTG, with surface scabs or slivers, irregularly cut ends, ID or OD has not been mechanically tested or has failed those tests.\1\ . . .

The order on OCTG from Canada covers all manufacturers and exporters of Canadian OCTG, excluding Welded Tube of Canada, Ltd. (“Welded Tube”) and Ipsco, Inc. (“Ipsco”).\2\ The order on OCTG from Taiwan covers all manufacturers and exporters of {Taiwan} OCTG.

\1\ The Department determined, on April 30, 1991, that seamless mechanical tubing/certain coupling stock meeting criteria are excluded from the scope of the order (see Notice of Scope Rulings, 56 FR 19833 (April 30, 1991)).

\2\ Welded Tube was excluded from the Department's less than fair value determination (*see* Antidumping; Oil Country Tubular Goods From Canada; Final Determination of Sales at Less Than Fair Value, 51 FR 15029 (April 22, 1986)). In addition, the Department revoked this order with respect to Ipsco (*see* Oil Country Tubular Goods From Canada; Final Results of Antidumping Duty Administrative Review and Revocation in Part of the Antidumping Duty Order, 61 FR 49733 (September 23, 1996)).⁶⁹

OCTG are pipes used inside oil and gas wells, and include casing, tubing, and drill pipe. Casing is the structural retainer for the walls of oil or gas wells. Tubing is used within the casing of the oil or gas wells to convey oil or gas to ground level. Drill pipe is used to transmit power to

⁶⁹ 64 Fed. Reg. 67248, 67249 (Dec. 1, 1999). Commerce's final scope definition does not specify whether finished drill pipe (*i.e.*, drill pipe with the tool joint attached) is included within the scope. The original antidumping duty orders issued by Commerce on OCTG from Canada and Taiwan both expressly included “OCTG that are in both finished and unfinished condition.” 51 Fed. Reg. 21782 (June 16, 1986) (Canada); 51 Fed. Reg. 22098 (June 18, 1986) (Taiwan). However, Commerce has advised us that it did not intend to alter the scope of the orders in its changed definition, and that the “drill pipe” and “finished or unfinished” concepts present in the 1986 order should be considered to be contained within the scope language in these reviews. Conversation with ***, U.S. Department of Commerce, March 7, 2000. Subsequently, Commerce indicated its opinion that, although “finished drill pipe” as considered in the original investigations may not have included drill pipe with tool joints attached, finished drill pipe in these reviews does include drill pipe with tool joints attached. Telephone conversations with ***, U.S. Department of Commerce, April 26-28, 2000. *See* CR at OCTG-I-9 n.4, PR at OCTG-I-9 n.4.

a rotary drilling tool below ground level.⁷⁰ OCTG is normally produced to API specifications.⁷¹ OCTG other than drill pipe (casing and tubing) consists of both welded and seamless tubular products. Drill pipe that meets API specifications is a seamless tubular product.⁷²

⁷⁰ CR at OCTG-I-12 and OCTG-I-16, PR at OCTG-I-11 and OCTG-I-13.

⁷¹ CR at OCTG-I-11 and OCTG-I-16, PR at OCTG-I-10 and OCTG-I-13.

⁷² CR at OCTG-I-12, PR at OCTG-I-11.

ii. Like Product Determinations in the Original Investigations

In the original investigations, the Commission defined two separate domestic like products: (1) OCTG other than drill pipe (seamless and welded casing and tubing, finished and unfinished, including green tubes), and (2) drill pipe.⁷³

b. Analysis and Findings

In these reviews, no party has urged any change in the domestic like product definition from that in the original OCTG investigations. Nothing in the current record indicates any significant changes that would warrant a different analysis.⁷⁴ Accordingly, we define the domestic like product in the instant reviews to be (1) OCTG other than drill pipe; and (2) drill pipe.⁷⁵

B. Domestic Industries

Section 771(4)(A) of the Act defines the relevant industry as the “domestic producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁷⁶ In accordance with our domestic like product determinations in the instant five-year reviews, we determine that there are four domestic industries composed of the domestic producers of each of the four like products: CWP, LWR, OCTG other than drill pipe, and drill pipe.

One issue arises in defining the domestic industries producing OCTG other than drill pipe and drill pipe in these investigations: whether either processors or threaders of unfinished pipe and tube products should be included in the relevant domestic industry in addition to pipe manufacturers. In each instance, the question before us is whether the operation in question involves sufficient U.S. production-related activity to constitute domestic production of the like product.⁷⁷

⁷³ Drill pipe accounted for such a small percentage of U.S. production (less than one-half of one percent of U.S. producers’ domestic shipments in 1985), however, that the producers were unable to provide segregated data for that product. Therefore, the Commission assessed injury by examining data for all OCTG, the narrowest product group that included drill pipe for which data were available, under the product line provision. USITC Pub. 1519 at 3–5.

⁷⁴ In particular, the record supports treating OCTG other than drill pipe and drill pipe as separate domestic like products based on differences in physical characteristics, end uses, and producer and customer perceptions. CR at OCTG-I-10–OCTG-I-16, PR at OCTG-I-9–OCTG-I-13.

⁷⁵ For Commissioner Askey’s approach to analyzing the like product in a five-year review, see note 68, *supra*.

⁷⁶ 19 U.S.C. § 1677(4)(A).

⁷⁷ In assessing the nature and extent of production-related activities in the United States associated with a particular operation, the Commission generally considers six factors: (1) source and extent of the firm’s capital investment; (2) technical expertise involved in U.S. production activities; (3) value added to the product in the

(continued...)

1. OCTG Other Than Drill Pipe

In the original investigations, the Commission did not address the issue of whether processors or threaders of OCTG other than drill pipe should be included in the domestic industry.⁷⁸ Processors of OCTG other than drill pipe operate facilities that are capable of heat-treating OCTG and upsetting ends.⁷⁹ Threaders are capable of threading and coupling, hydrostatic testing, and measuring the length of OCTG products. Most processors of OCTG other than drill pipe producers are also threaders, but there are many threaders that are not processors.⁸⁰ We determine that processors of OCTG other than drill pipe, whose operations include heat-treating and upsetting pipe ends, are included in the domestic industry because their operations involve sufficient U.S. production-related activity to constitute domestic production of the like product. The record demonstrates that operations performed by threaders are less complex than those conducted by processors.⁸¹ We therefore determine that threaders are not included in the domestic industry producing OCTG other than drill pipe because the level of value added and technical expertise required to perform threading and coupling operations is considerably less than that of either mills or processors.

2. Drill Pipe

Drill pipe processors perform heat-treating operations, upset pipe ends, and weld tool joints onto unfinished drill pipe.⁸² As drill pipe processing requires significant levels of capital investment, technical expertise, and added value, we conclude that this operation involves sufficient U.S. production related activity to constitute domestic production. Therefore, we find that drill pipe processors are included in the domestic industry.

C. Related Parties

⁷⁷ (...continued)

United States; (4) employment levels; (5) quantity and type of parts sourced in the United States; and (6) any other costs and activities in the United States directly leading to production of the like product. No single factor is determinative and the Commission may consider any other factors it deems relevant in light of the specific facts of any investigation. *See, e.g., Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Czech Republic, Japan, Mexico, Romania, and South Africa*, Inv. Nos. 731-TA-846-850 (Preliminary), USITC Pub. 3221 at 12 n.49 (Aug. 1999).

⁷⁸ We note, however, that in its most recent investigations of OCTG other than drill pipe, the Commission determined that processors should be included in the domestic industry, but that threaders should not be included. *See Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Mexico, and Spain*, Inv. Nos. 701-TA-363 and 364 and 731-TA-711-717 (Final), USITC Pub. 2911 at I-12 (Aug. 1995).

⁷⁹ CR at OCTG-I-14, PR at OCTG-I-12.

⁸⁰ CR at OCTG-I-14, PR at OCTG-I-12.

⁸¹ CR at OCTG-I-14, PR at OCTG-I-12.

⁸² CR at OCTG-I-14, PR at OCTG-I-12.

We must further decide whether any producer of any of the four domestic like products should be excluded from the relevant domestic industry pursuant to section 771(4)(B), which allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise, or that are themselves importers. Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.⁸³ In these reviews, related parties issues arise with respect to each industry except the industry producing LWR.

1. Circular Welded Pipe and Tube

***, a U.S. CWP producer, is a related party, because it is under common ownership and control with ***, a *** CWP producer.⁸⁴ The domestic CWP producers argue that appropriate circumstances exist to exclude *** from the domestic industry, because its interests are aligned with those of the *** industry.⁸⁵ None of the subject producers took a position on these issues.⁸⁶

⁸³ See Sandvik AB v. United States, 721 F. Supp. 1322, 1331–32 (CIT 1989), *aff'd without opinion*, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude such parties include:

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

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. *See, e.g., Sebacic Acid from the People's Republic of China*, Inv. No. 731-TA-653 (Final), USITC Pub. 2793 at I-7–I-8 (July 1994).

⁸⁴ CR at CIRC-I-24 and CIRC-I-26, PR at CIRC-I-20. The domestic CWP producers argued that domestic CWP producer *** is also a related party, but that appropriate circumstances do not exist to exclude it from the industry. Domestic CWP Producers' Posthearing Brief at A-7. It does not appear, however, that *** is a related party, even though it shares common ownership with ***. The record indicates that *** is *** percent owned by two Japanese companies, one of which ***. CR at CIRC-I-26, PR at CIRC-I-20. In our view, this does not constitute sufficient evidence of common control to make *** a related party. The record also indicates that domestic producer *** purchased *** short tons of Korean CWP from an importer in 1998. Producer Questionnaire of *** at 9; CR at CIRC-I-26, PR at CIRC-I-20. These purchases were very small relative to its total domestic production, however, and there is no evidence that *** has any contractual or other relationship evidencing control of the importer. We therefore address the question of appropriate circumstances only with respect to ***.

⁸⁵ Domestic CWP Producers' Posthearing Brief at A-6-A-7.

⁸⁶ Korean CWP Producers' Posthearing Brief at 11; Hylsa Posthearing Brief at 1.11.

In 1998, *** accounted for *** percent of domestic CWP production.⁸⁷ It did not import CWP from *** or any other subject country, and the written comments in its questionnaire response on the likely effect of revocation of the orders generally track those of other domestic CWP producers.⁸⁸ These facts weigh against finding appropriate circumstances to exclude ***, because its interests seem to be generally aligned with those of the domestic industry. On the other hand, although it opposes revocation of all other orders subject to these reviews, *** supports revocation of the order on CWP from ***, suggesting an alignment of its interests with those of its corporate parent and related subject producer.⁸⁹ Moreover, *** financial performance was *** the industry average in 1998 and interim (Jan.–Sept.) 1999.⁹⁰ There is no information of record, however, indicating that the related foreign producer directs any exports it may make to the United States in such a manner as to avoid competing directly with ***. Overall, based on its ***, its ***, and on the absence of any evidence that its *** is in any way the result of its relationship with a subject producer, we determine that appropriate circumstances do not exist to exclude *** from the domestic CWP industry.⁹¹

2. OCTG Other Than Drill Pipe

Grant Prideco, a U.S. processor of OCTG other than drill pipe is a related party by virtue of its ownership of a Canadian OCTG processing facility. Grant Prideco is *** domestic processor of OCTG other than drill pipe, with *** facilities (***) in the United States.⁹² By contrast, Grant Prideco has *** processor/threader facility in Canada.⁹³ Although Grant Prideco is the only known processor of OCTG other than drill pipe in Canada, the total Canadian market for OCTG other than drill pipe is much smaller than the U.S. market for that product.⁹⁴ Grant Prideco *** OCTG other than drill pipe from Canada or Taiwan into the United States,⁹⁵ and, given the relative size of its U.S. and Canadian operations and its secure market in Canada, we

⁸⁷ Table CIRC-I-4, CR at CIRC-I-25, PR at CIRC-I-21.

⁸⁸ *See generally* CR and PR at Appendix E.

⁸⁹ CR at CIRC-I-23–CIRC-I-24, PR at CIRC-I-20.

⁹⁰ Table CIRC-III-7, CR at CIRC-III-17, PR at CIRC-III-7 (showing that *** operating income margin ***).

⁹¹ Given the company's small size, Chairman Koplan and Commissioners Miller and Hillman do not find that inclusion of *** in the domestic industry would affect their assessment of the industry's vulnerability. They also do not find that *** is likely to benefit substantially from subject imports or from its affiliation with its related foreign producer such that ***'s inclusion in the domestic industry would affect their assessment of the likelihood of material injury if the order is revoked.

⁹² Grant Prideco Producer Questionnaire, Questions I-2 and I-8.

⁹³ Grant Prideco Producer Questionnaire, Question I-8.

⁹⁴ *Compare* Table OCTG-I-1, CR at OCTG-I-3, PR at OCTG-I-3 (U.S. apparent consumption of OCTG other than drill pipe in 1998 was 1,649,796 short tons) *with* Stelco Prehearing Brief at 14 and Exhibit 3 (citing Statistics Canada data showing Canadian consumption of OCTG other than drill pipe in 1998 was 525,076 short tons).

⁹⁵ CR at OCTG-IV-1, PR at OCTG-IV-1.

conclude that is not likely to do so in any significant quantity in the reasonably foreseeable future. Moreover, the written comments in its questionnaire response on the likely effect of revocation of the order generally track those of other domestic producers of OCTG other than drill pipe.⁹⁶ For all these reasons,⁹⁷ we find that appropriate circumstances do not exist to exclude Grant Prideco from the domestic industry producing OCTG other than drill pipe.

Maverick Tubular Company, a domestic producer of OCTG other than drill pipe, has recently purchased Prudential Steel Ltd. of Canada, a producer of subject OCTG other than drill pipe. Prudential Steel Ltd. owns a facility that produces OCTG other than drill pipe in the State of Washington. Thus, both Prudential (U.S.) and Maverick are related parties on the basis of their relationships with a Canadian producer/exporter of the subject merchandise.⁹⁸ No party has suggested that appropriate circumstances exist to exclude either Maverick or Prudential from the domestic industry. We observe that Prudential (U.S.) is a *** U.S. producer, which began production operations in 1999.⁹⁹ There is no evidence of record that it imports significant volumes from Canada or is likely to do so if the order is revoked. Furthermore, the evidence which has been collected indicates that Maverick's primary interest will continue to be in domestic production (as opposed to importing from Prudential Canada).¹⁰⁰ We therefore determine that appropriate circumstances do not exist to exclude either Maverick or Prudential from the domestic industry.¹⁰¹

3. Drill Pipe

Grant Prideco, a U.S. processor of drill pipe, is a related party by virtue of its ownership of a Canadian drill pipe processing facility. For the same reasons discussed above in connection with Grant Prideco's processing operations for OCTG other than drill pipe, we find that appropriate circumstances do not exist to exclude Grant Prideco from the domestic industry

⁹⁶ See generally CR and PR at Appendix E.

⁹⁷ We cannot measure Grant Prideco's financial performance against the industry average due to Grant Prideco's ***. Thus, our trade and financial data ***. See Table OCTG-III-11, CR at OCTG-III-13, PR at OCTG-III-8.

⁹⁸ CR at OCTG-I-19, PR at OCTG-I-14; Joint Press Release of Maverick Tube Corporation and Prudential Steel Ltd. (June 11, 2000), Attachment 2 to Stelco Submission of June 14, 2000.

⁹⁹ Table OCTG-I-5 and n.1, CR at OCTG-I-18, PR at OCTG-I-15.

¹⁰⁰ See Maverick Tube Corporation-Prudential Steel Ltd. Joint Press Release, June 11, 2000 (noting "only limited geographical overlap between the two companies' operations"); June 14, 2000 Submission of Lone Star Steel and Maverick Tube Corporation at 3 ("it is clear that Maverick intends for Prudential to continue to concentrate its sales in the Canadian market . . .").

¹⁰¹ IPSCO Tubulars, another domestic producer of OCTG other than drill pipe, is owned by Canadian producer IPSCO. However, because IPSCO Tubulars' Canadian parent company has been excluded from the antidumping duty order on OCTG from Canada since 1996 and therefore is not a subject producer, IPSCO Tubulars is not a related party.

producing drill pipe.¹⁰²

¹⁰² Although we do not have data on annual Canadian consumption of drill pipe, we infer that the relative sizes of the U.S. and Canadian markets for drill pipe should be similar to the relative (but not the absolute) sizes of the U.S. and Canadian markets for OCTG other than drill pipe and for all OCTG (including drill pipe).

III. LEGAL STANDARDS¹⁰³

The legal standards discussed below apply to our determinations with respect to each of the four domestic industries: the CWP industry; the LWR industry; the OCTG other than drill pipe industry; and the drill pipe industry. Our determinations for each industry are found in Sections IV through VII.¹⁰⁴

A. Cumulation

Section 752(a) of the Act provides that:

the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.¹⁰⁵

Thus, cumulation is discretionary in five-year reviews. However, the Commission may exercise its discretion to cumulate only if the reviews are initiated on the same day and the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market. The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.¹⁰⁶ We note that neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.¹⁰⁷ With respect to this provision, the Commission generally considers the likely volume of the subject imports and the likely

¹⁰³ Commissioner Bragg joins only in Section III.B of this section. For a complete statement of Commissioner Bragg’s analytical framework regarding cumulation in sunset reviews, *see* Separate Views of Chairman Lynn M. Bragg Regarding Cumulation in Sunset Reviews, found in Potassium Permanganate from China and Spain, Inv. Nos. 731-TA-125–126 (Review), USITC Pub. 3245 (Oct. 1999); *see also* Separate Views of Chairman Lynn M. Bragg Regarding Cumulation, found in Brass Sheet and Strip From Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, Inv. Nos. 701-TA-269 & 270 (Review) and 731-TA-311-317 and 379–380 (Review), USITC Pub. 3290 (Apr. 2000).

¹⁰⁴ Commissioner Bragg does not join sections VI and VII. *See* Separate and Dissenting Views of Commissioner Lynn M. Bragg.

¹⁰⁵ 19 U.S.C. § 1675a(a)(7).

¹⁰⁶ 19 U.S.C. § 1675a(a)(7).

¹⁰⁷ SAA, H.R. Rep. No. 103-316, vol. I (1994).

impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.^{108 109}

The Commission has generally considered four factors intended to provide a framework for determining whether the imports compete with each other and with the domestic like product.¹¹⁰ Only a “reasonable overlap” of competition is required.¹¹¹ In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists. Moreover, because of the prospective nature of five-year reviews, we have examined not only the Commission’s traditional competition factors, but also other significant conditions of competition that are likely to prevail if the orders under review are revoked. The Commission has considered factors in addition to its traditional competition factors in other contexts where cumulation is discretionary.¹¹²

¹⁰⁸ For a discussion of the analytical framework of Chairman Koplan and Commissioners Miller and Hillman regarding the application of the “no discernible adverse impact” provision, see Malleable Cast Iron Pipe Fittings From Brazil, Japan, Korea, Taiwan, and Thailand, Inv. Nos. 731-TA-278–280 (Review) and 731-TA-347–348 (Review), USITC Pub. 3274 (Feb. 2000). For a further discussion of Chairman Koplan’s analytical framework, see Iron Metal Construction Castings from India; Heavy Iron Construction Castings from Brazil; and Iron Construction Castings from Brazil, Canada, and China, Inv. Nos. 303-TA-13 (Review), 701-TA-249 (Review), and 731-TA-262, 263, and 265 (Review), USITC Pub. 3247 (Oct. 1999) (Views of Commissioner Stephen Koplan Regarding Cumulation).

¹⁰⁹ Commissioner Askey notes that the Act clearly states that the Commission is precluded from exercising its discretion to cumulate if the imports from a country subject to review are likely to have “no discernible adverse impact on the domestic industry” upon revocation of the order. 19 U.S.C. § 1675a(a)(7). Thus, the Commission must focus on whether the imports will impact the condition of the industry discernibly as a result of revocation, and not solely on whether there will be a small volume of imports after revocation, *i.e.*, by assessing their negligibility after revocation of the order. For a full discussion of her views on this issue, see Additional Views of Commissioner Thelma J. Askey in Potassium Permanganate from China and Spain, Inv. Nos. 731-TA-125–126 (Review), USITC Pub. 3245 (Oct. 1999).

¹¹⁰ The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are: (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; (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. See, *e.g.*, Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int’l Trade 1989).

¹¹¹ See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int’l Trade 1996); 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 (Ct. Int’l Trade 1994), *aff’d*, 96 F.3d 1352 (Fed. Cir. 1996).

¹¹² See, *e.g.*, Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission’s determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741–42 (Ct. Int’l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (Ct. Int’l Trade 1988).

B. Likelihood of Continuation or Recurrence of Material Injury Within A Reasonably Foreseeable Time if the Orders Are Revoked

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke a countervailing or antidumping duty order unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of an order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”¹¹³ The SAA states that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation {of the order} . . . and the elimination of its restraining effects on volumes and prices of imports.”¹¹⁴ Thus, the likelihood standard is prospective in nature.¹¹⁵ The statute states that “the Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of time.”¹¹⁶ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ time frame applicable in a threat of injury analysis {in antidumping and countervailing duty investigations}.”^{117 118}

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely

¹¹³ 19 U.S.C. § 1675a(a).

¹¹⁴ SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that “{t}he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry).” SAA at 883.

¹¹⁵ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

¹¹⁶ 19 U.S.C. § 1675a(a)(5).

¹¹⁷ SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” *Id.*

¹¹⁸ In analyzing what constitutes a reasonably foreseeable time, Chairman Koplán examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked.”¹¹⁹ It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order under review, and whether the industry is vulnerable to material injury if the order is revoked.¹²⁰

We note that the statute authorizes the Commission to take adverse inferences in five-year reviews, but such authorization does not relieve the Commission of its obligation to consider the record evidence as a whole in making its determination. We generally give credence to the facts supplied by the participating parties and certified by them as true, but base our decision on the evidence as a whole, and do not automatically accept the participating parties’ suggested interpretation of the record evidence. Regardless of the level of participation and the interpretations urged by participating parties, the Commission is obligated to consider all evidence relating to each of the statutory factors and may not draw adverse inferences that render such analysis superfluous. “In general, the Commission makes determinations by weighing all of the available evidence regarding a multiplicity of factors relating to the domestic industry as a whole and by drawing reasonable inferences from the evidence it finds most persuasive.”¹²¹ In this case, a number of respondent interested parties did not provide questionnaire responses and/or participate in these reviews. Accordingly, we have relied on the facts available in these reviews, which consist primarily of the evidence in the record from the Commission’s original investigations, the information collected by the Commission since the institution of these reviews, and information submitted by the domestic producers and other parties in these reviews.

In evaluating the likely volume of imports of subject merchandise if the orders under review are revoked, the Commission is directed to consider whether the likely volume of subject imports would be significant either in absolute terms or relative to production or consumption in the United States.^{122 123} In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product-shifting if production facilities in the foreign country, which can be used to

¹¹⁹ 19 U.S.C. § 1675a(a)(1).

¹²⁰ 19 U.S.C. § 1675a(a)(1). The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

¹²¹ SAA at 869.

¹²² 19 U.S.C. §1675a(a)(2).

¹²³ Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings “the findings of the administrative authority regarding duty absorption.” 19 U.S.C. § 1675a(a)(1)(D). The assertion by counsel for the domestic CWP producers (Domestic CWP Producers’ Posthearing Brief at 3) that Korean, Mexican, and Thai producers have absorbed antidumping duties is not supported by the record. Commerce has issued no duty absorption findings, so duty absorption is not an issue in these reviews.

produce the subject merchandise, are currently being used to produce other products.¹²⁴

¹²⁴ 19 U.S.C. § 1675(a)(2)(A)–(D).

In evaluating the likely price effects of subject imports if the orders are revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared with domestic like products and whether the subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the price of domestic like products.¹²⁵

In evaluating the likely impact of imports of subject merchandise if the order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.¹²⁶ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.¹²⁷ As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping duty orders at issue and whether the industry is vulnerable to material injury if the order is revoked.¹²⁸

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

¹²⁶ 19 U.S.C. § 1675a(a)(4).

¹²⁷ 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping” in making its determination in a five-year review investigation. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year review investigations as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). *See also* SAA at 887. Although the statute does not expressly define the “magnitude of the net countervailable subsidy” to be used by the Commission in a five-year review, it states that “[t]he administering authority shall provide to the Commission the net countervailable subsidy that is likely to prevail if the order is revoked” 19 U.S.C. § 1675(a)(b)(3). The final dumping and net subsidy margins published by Commerce in its final five-year review determinations are summarized at Table CIRC-I-2, CR at CIRC-I-12, PR at CIRC-I-11; Table LWR-I-2, CR at LWR-I-8, PR at LWR-I-7; Table OCTG-I-3, CR at OCTG-I-7, PR at OCTG-I-7; and CR at CIRC-I-11, PR at CIRC-I-10 (Turkey CVD). Accordingly, because the statute directs us to use the projected margins determined by Commerce in its final five-year reviews as those likely to prevail if the orders are revoked, we reject the domestic CWP producers’ suggestion that we find that dumping would be likely to continue or recur at higher margins found in recent Commerce annual reviews of particular producers. *See Domestic CWP Producers’ Prehearing Brief* at 64–65.

In addition, the statute provides that the Commission “shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement.” 19 U.S.C. § 1675a(6). In its final determination in the review of the CVD order on CWP from Turkey, Commerce found that two of the four subsidy programs that have not been eliminated by the Government of Turkey (Deduction from Taxable Income for Export Revenues and Pre-Shipment Export Credit) are subsidies within the meaning of Article 3.1(a) of the Subsidies Agreement. 65 Fed. Reg. 17486, 17487 (Apr. 3, 2000).

¹²⁸ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is

(continued...)

IV. CIRCULAR WELDED PIPE AND TUBE

A. Cumulation

In these reviews, the statutory requirement that all of the CWP reviews be initiated on the same day is satisfied. For the reasons discussed below, we find that subject imports from Venezuela are likely to have no discernible adverse impact on the domestic industry if the relevant order is revoked and therefore do not cumulate imports from Venezuela with other subject imports.¹²⁹ We further find that subject imports from all other subject countries should be cumulated in these reviews.^{130 131}

1. No Discernible Adverse Impact

During the original investigation, the market share of subject imports from Venezuela never exceeded 0.9 percent on an annual basis and their share of total imports never exceeded 2.4 percent.¹³² The domestic CWP producers concede that, for purposes of our assessment of no discernible adverse impact, this volume of imports could be considered “negligible.”¹³³ In fact, the volume of imports of CWP from Venezuela had already declined considerably between the early 1980s and the original period of investigation (covering 1989–interim 1992).¹³⁴ After imposition of the antidumping duty order, the volume of imports declined further, although there have been

¹²⁸ (...continued)

revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

¹²⁹ Commissioner Bragg finds that revocation of the order on Venezuela would be likely to have a discernible adverse impact on the domestic industry. *See* note 140, *infra*.

¹³⁰ Vice Chairman Okun and Commissioners Hillman and Askey do not cumulate subject imports from Mexico. *See* Dissenting Views of Vice Chairman Okun and Commissioners Hillman and Askey. Commissioner Askey also does not cumulate subject imports from India and Turkey.

¹³¹ Commissioner Bragg cumulates imports from all eight subject countries for purposes of her review of the orders on CWP.

¹³² The market share of subject imports from Venezuela was 0.4 percent in 1989, 0.9 percent in 1990, 0.9 percent in 1991, and 0.1 percent in interim 1992, compared with 2.0 percent in interim 1991. Confidential Report in Inv. Nos. 731-TA-532–537 (Final) (Oct. 8, 1992) at C-5, Table C-2. The share of total U.S. imports of CWP held by imports from Venezuela was 1.0 percent in 1989, 2.4 percent in 1990, 2.3 percent in 1991, 4.7 percent in interim 1991, and 0.4 percent in interim 1992. *Id.* at I-69, Table 22.

¹³³ Hearing Tr. at 84.

¹³⁴ Table D-1, CR and PR at Appendix D.

some minimal imports from Venezuela in some years since 1992.¹³⁵

We find that the volume of imports from Venezuela is unlikely to exceed its extremely low pre-order levels if the order is revoked. Total Venezuelan capacity to produce CWP is relatively modest. Conduven, the largest Venezuelan producer and the largest exporter during the original period of investigation, presently accounts for about *** percent of Venezuelan CWP production, and estimates that total Venezuelan capacity to produce CWP was about *** short tons in 1998 (which represents approximately *** percent of U.S. apparent consumption in 1998).¹³⁶ Since the original investigation, the percentage of Conduven's shipments that were sold in its home market has increased considerably, from between *** and *** percent during the period from 1989 through 1991 to *** percent in 1997 and 1998 and *** percent in interim 1999, despite the Venezuelan economic downturn of 1998-99.¹³⁷ Conduven has established third country markets for its exports, principally in neighboring Latin American and Caribbean countries, and benefits from preferential trade agreements in some of these countries. Moreover, at the end of 1995, the European Union revoked an antidumping duty order on CWP from Venezuela. Conduven also uses its CWP production facilities to make other products, including OCTG for the Venezuelan oil industry, and high worldwide oil prices make it unlikely that Conduven will engage in product-shifting toward greater production of CWP in the foreseeable future.¹³⁸ Finally, we note that the total volume of CWP exports to all countries from Venezuela in recent years has not exceeded 0.6 percent of U.S. apparent consumption.¹³⁹ For all these reasons, we find that subject imports from Venezuela would be likely to have no discernible adverse impact on the domestic industry producing CWP if the order on such imports were revoked.¹⁴⁰

¹³⁵ Table D-1, CR and PR at Appendix D.

¹³⁶ CR at CIRC-IV-16, PR at CIRC-IV-7; Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5. The domestic CWP producers did not provide any alternate estimate. Thus, the only other information of record is public data concerning the Venezuelan industry's total theoretical capacity to produce all welded pipe and tube products within the appropriate size range. *See* Table G-10, CR and PR at Appendix G. According to Conduven, only three of the Venezuelan companies listed in Table G-10 (Conduven, Univensa, and Armco Venezuela) are able to produce subject CWP. Both of the other producers are much smaller than Conduven. *Id.* at n.2; Conduven Posthearing Brief at 9.

¹³⁷ *Compare* Confidential Report, Inv. Nos. 731-TA-532-537 (Final) (Oct. 8, 1992) at I-63, *with* Table CIRC-IV-7, CR at CIRC-IV-17, PR at CIRC-IV-8. Moreover, Conduven reported operating at very high levels of capacity utilization in all periods except interim 1999, and indicated that its capacity utilization level has recovered since that time. Table CIRC-IV-7, CR at CIRC-IV-17, PR at CIRC-IV-8; Conduven Prehearing Brief at 15.

¹³⁸ Conduven Prehearing Brief at 4-9.

¹³⁹ Based on UN data, total Venezuelan exports of CWP to all countries were 16,361 short tons in 1997, or 0.6 percent of U.S. apparent consumption in that year. Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5; Table H-1, CR and PR at Appendix H. Based on Conduven's data, Venezuelan exports of CWP to all countries were *** short tons in 1998, or *** percent of U.S. apparent consumption in that year. Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5; Table CIRC-IV-7, CR at CIRC-IV-17, PR at CIRC-IV-8.

¹⁴⁰ Commissioner Bragg does not join the foregoing analysis with regard to Venezuela. Commissioner Bragg notes that record data indicate that total production capacity in Venezuela for welded carbon pipe and tube 16 inches and less in outside diameter was *** short tons in 1997. Table G-10, CR and PR at Appendix G. Given
(continued...)

Although we note that several subject producers urged us to find that imports from Korea, Mexico, and Turkey would also be likely to have no discernible adverse impact on the domestic industry if the relevant antidumping and countervailing duty orders were revoked,¹⁴¹ we find that the no

¹⁴⁰ (...continued)

this *** production capacity, and the relative ease with which producers can switch production among various CWP products, Commissioner Bragg determines that revocation of the order on Venezuela would be likely to result in a discernible adverse impact on the domestic industry.

¹⁴¹ Korean CWP Producers' Prehearing Brief at 33–34; Korean CWP Producers' Posthearing Brief, Exhibit 1 at 2–3; Hylsa Prehearing Brief at 8 n.13; Hylsa Posthearing Brief at 2–9 and 1.3–1.4; Borusan Prehearing Brief at 1–11; Hearing Tr. at 210–214; Borusan Posthearing Brief at 2–6, 10–11.

discernible adverse impact standard is not satisfied with respect to subject imports from any of these countries.¹⁴²

In the case of Korea, we note the Korean CWP producers' argument that, until safeguard duties on line pipe went into effect on March 1, 2000, they enjoyed unlimited access to the U.S. CWP market by exporting dual-stenciled line pipe—*i.e.*, pipe that meets both line pipe and CWP specifications but enters as line pipe for customs purposes. They contend that, if the antidumping duty order on CWP from Korea is revoked, they will simply replace the volume of dual-stenciled line pipe currently being sold in the United States for standard pipe applications with single-stenciled standard pipe, resulting in no net change in the volume of imports of CWP from Korea.¹⁴³ We find that, despite declines in both Korean CWP production capacity and the volume of imports of CWP from Korea since imposition of the order, Korea has maintained a significant U.S. market presence, remains the largest exporter to the U.S. market, and held a U.S. market share of 5.9 percent in interim 1999.¹⁴⁴ The responding Korean producers alone reported excess CWP production capacity of over *** short tons in full-year 1998 and nearly *** short tons in interim 1999.¹⁴⁵ Given this excess capacity and the Korean producers' demonstrated interest and established position in the U.S. market, we do not find that subject imports of CWP from Korea are likely to have no discernible adverse impact in the event of revocation.¹⁴⁶

¹⁴² Commissioner Askey dissents with respect to subject imports from India and Turkey, finding that imports from those countries are likely to have no discernible adverse impact on the domestic industry.

With respect to subject imports from India, Indian import volumes were small during the original investigation, ranging from virtually nonexistent in 1983 to representing a mere 0.7 percent of domestic consumption in 1985, and they represented only 0.4 percent of consumption in 1997 and 1998. Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5. These recent figures are overstated because they include nonsubject imports. *See* Table CIRC-I-1 at n.3, CR at CIRC-I-5, PR at CIRC-I-5; 51 Fed. Reg. 17384 (May 12, 1986) (antidumping duty order on CWP from India excludes Indian producers Gujarat Steel Tubes Ltd. and Zenith Steel Tubes & Indus. Ltd.); Importer Questionnaires of *** and *** at 7 (reporting imports from nonsubject Indian producers). The one Indian company that provided information reported *** exports to the United States in 1997–interim 1999 and *** exports to third country markets, indicating that *** of its production is sold only in the Indian domestic market. Available U.N. export data also shows that Indian producers have exported very little CWP to anywhere else in the world in recent years. Table H-1, CR and PR at Appendix H. While the different data sources are somewhat in conflict, they all indicate that Indian production, while large, is almost entirely focused on its domestic market. Accordingly, based upon available information from the original investigation and the review period, it is unlikely that Indian imports would have a discernible adverse impact on the domestic industry in the foreseeable future.

For her analysis regarding Turkey, see note 147, *infra*.

¹⁴³ Korean CWP Producers' Posthearing Brief at 14–15 and Exhibit 1 at 14; Hearing Tr. at 207.

¹⁴⁴ Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5.

¹⁴⁵ Table CIRC-IV-4, CR at CIRC-IV-11, PR at CIRC-IV-6.

¹⁴⁶ Even at current import levels, Chairman Koplan and Commissioners Miller and Hillman find that imports from Korea exceed levels that would satisfy the “no discernible adverse impact” provision, and, they find that these import levels are not likely to decrease if the order is revoked.

In the case of Turkey,¹⁴⁷ we note that the market share of CWP imports from Turkey rose in interim 1999, indicating continued interest in the U.S. market on the part of Turkish producers.¹⁴⁸ Borusan, the largest Turkish manufacturer of CWP, reported excess capacity of more than *** short tons in interim 1999, and is an export-oriented operation, exporting between *** and *** percent of total shipments during the period 1997–interim 1999.¹⁴⁹ Borusan estimates that other Turkish producers account for an additional *** short tons of capacity.¹⁵⁰ Although we note Borusan’s argument that it has developed alternate export markets since imposition of the antidumping and countervailing duty orders,¹⁵¹ it is apparent that the Turkish producers continue to have excess CWP production capacity despite the existence of third country export markets. Given the high substitutability between the Turkish and domestic products and the inelasticity of demand for CWP,¹⁵² we cannot conclude that subject imports from Turkey would be likely to have no discernible adverse impact on the domestic industry if the antidumping and countervailing duty orders on CWP from Turkey were revoked.

Mexican producer Hylsa, like the Korean CWP producers, argued that its volume of exports to the United States has not been limited by the antidumping duty order, because it is able to sell unlimited amounts of dual-stenciled line pipe into the U.S. CWP market.¹⁵³ Hylsa concedes, however, that the order has limited its access to the portion of the U.S. market that demands galvanized CWP, because galvanized CWP cannot be dual-stenciled as line pipe.¹⁵⁴

¹⁴⁷ Commissioner Askey does not join this paragraph; she determines that subject imports from Turkey are not likely to have a discernible adverse impact on the domestic industry. Turkish imports held 0.02, 0.1 and 1.5 percent of domestic apparent consumption in each of the three years of the original investigation and 0.1 percent in 1997, 0.2 percent in 1998, and 0.6 percent in interim 1999. Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5. Accordingly, Turkish import volumes were quite small during the original investigation and have been very low in the past three years. Moreover, current and projected margins are low. Current LTFV rates are 0.02–7.54 percent and CVD rates are 0.84–3.73 percent. The projected LTFV margin for the largest Turkish producer is only 1.26 percent. CR at CIRC-I-11, PR at CIRC-I-10; Table CIRC-I-2, CR at CIRC-I-12, PR at CIRC-I-11; CR and PR at Appendix F, F-3 and F-7. Turkey is also a member of a customs union with the EU and roughly half of its exports in 1996-98 have been to EU countries, providing a strong incentive to continue focusing on EU customers for its exports. Table CIRC-IV-6, CR at CIRC-IV-15, PR at CIRC-IV-7; Borusan Prehearing Brief at 10; Table H-1, CR and PR at Appendix H. In sum, given the low prior and current import volumes from Turkey, low LTFV and CVD rates, and the strong incentive of Turkish producers to continue focusing their exports on EU countries, it is unlikely that Turkish imports would have a discernible adverse impact on the domestic industry in the foreseeable future.

¹⁴⁸ Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5.

¹⁴⁹ Table CIRC-IV-6, CR at CIRC-IV-15, PR at CIRC-IV-7.

¹⁵⁰ CR at CIRC-IV-14, PR at CIRC-IV-7.

¹⁵¹ Borusan Prehearing Brief at 9-10.

¹⁵² See section IV.B, *infra*.

¹⁵³ Hylsa Prehearing Brief at 8; Hylsa Posthearing Brief at 2–6, 8–9.

¹⁵⁴ Hylsa Posthearing Brief at 4. Galvanized pipe accounts for approximately one-quarter of U.S. CWP consumption. Hearing Tr. at 12, 78–79; Circular Welded Nonalloy Steel Pipe from Romania and South Africa, (continued...)

Moreover, the Mexican industry has maintained a U.S. market presence despite the existence of the order and the two reporting Mexican producers reported excess capacity of over *** short tons in interim 1999.¹⁵⁵ Given the high substitutability between the Mexican and domestic products,¹⁵⁶ the relative ease with which producers can switch production among various welded pipe products, the existence of some excess capacity in Mexico, the Mexican producers' demonstrated interest in and commitment to the U.S. market, and the opportunity to expand sales of galvanized CWP, we cannot conclude that subject imports from Mexico would be likely to have no discernible adverse impact on the domestic industry if the order were revoked.¹⁵⁷

2. Reasonable Overlap of Competition¹⁵⁸

In those original investigations that involved more than one country, the Commission found that subject imports from the relevant countries competed with each other and with the

¹⁵⁴ (...continued)

Inv. Nos. 731-TA-732-733 (Final), USITC pub. 2973 at IV-4 (July 1996) (in 1995, galvanized pipe accounted for 25.8 percent of U.S. shipments).

¹⁵⁵ Chairman Koplán and Commissioners Bragg and Miller note that unused production capacity in Mexico in interim 1999 was equivalent to *** percent of apparent U.S. consumption, as well as *** percent of the domestic industry's shipments in interim 1999. Compare Table CIRC-III-2, CR at CIRC-III-2, PR at CIRC-III-2, with Table CIRC-IV-5, CR at CIRC-IV-13, PR at CIRC-IV-7. They note that although the two responding producers reported production capacity of *** short tons in 1998, these two companies are estimated to account for approximately *** percent of Mexican production. While specific information regarding the remaining Mexican producers is not available, public and questionnaire data on the record indicate that total production capacity for welded carbon pipe and tube 16 inches and less in outside diameter was *** short tons in 1997. Moreover, producers may readily switch production among various welded carbon pipe products.

Chairman Koplán and Commissioners Bragg and Miller also note that while Hylsa states that its capacity utilization in the first two months of 2000 was over *** percent, the record does not contain information for the other Mexican producers in this time period, which limits their ability to assess the capacity utilization of all subject producers in Mexico. Further, this capacity utilization data covers all tubular products, a category which includes subject and nonsubject products. Hylsa Posthearing Brief at 1.15. They note in this regard that this data indicates that Hylsa's production of standard pipe declined substantially from 1997 to 1999, while its production of other tubular products increased. This fact indicates that Hylsa is readily able to resume much greater production and shipments of standard pipe. Similarly, Hylsa and the other Mexican producers can significantly increase production by adding or lengthening shifts under favorable market conditions. Compare Table CIRC-IV-5, CR at CIRC-IV-13, PR at CIRC-IV-7, with Table G-5, CR and PR at Appendix G.

¹⁵⁶ See section IV.B., *infra*.

¹⁵⁷ Based upon all the foregoing, and in particular given the relative ease with which producers can switch production among various welded pipe products coupled with substantial production capacity in Mexico, Commissioner Bragg determines that revocation of the order on Mexico would be likely to have a discernible adverse impact on the domestic industry.

¹⁵⁸ Commissioner Askey joins this discussion only with respect to imports from Brazil, Korea, Thailand, and Taiwan.

domestic like product.¹⁵⁹ With respect to fungibility, the record continues to indicate that CWP is a commodity product made to ASTM or similar specifications.¹⁶⁰ Almost all the responding domestic and foreign producers indicated that subject and domestic CWP are interchangeable.¹⁶¹ With respect to geographic overlap, among responding domestic producers, about half indicated that they operate throughout the contiguous 48 states (and some in Alaska), while the rest indicated that their marketing areas were concentrated on either the East or West Coasts.¹⁶² Responding importers were located throughout the United States, principally in California and New York/New Jersey, but also in Texas and the Great Lakes region.¹⁶³ Thirteen out of 21 responding importers reported at least 90 percent of sales within 100 miles of the warehouse or port of entry.¹⁶⁴ CWP is sold through the same channels of distribution, that is, overwhelmingly through distributors, and the one distributor that testified at the hearing indicated that he purchases CWP from multiple domestic and imported sources.¹⁶⁵ With respect to simultaneous presence, the pricing information of record indicates that, in addition to sales of the domestic product, in most calendar quarters from 1997–interim 1999, there were U.S. sales of CWP products 1, 2, 3, and 4 from India, Korea, Taiwan, Thailand, and Turkey; CWP product 5 from India, Korea, and Turkey; and CWP product 6 from India, Korea, Mexico, Taiwan, and Turkey.¹⁶⁶ Although no importers reported prices on sales of products 1–6 from Brazil, there were imports of subject merchandise from Brazil in 1997, 1998, and interim 1999.¹⁶⁷

Based upon the foregoing, we find that there is likely to be a reasonable overlap of competition among the subject imports from Brazil, India, Korea, Mexico, Thailand, Taiwan, and Turkey and between the subject imports and the domestic like product if the orders are revoked.¹⁶⁸

¹⁵⁹ *See, e.g.*, USITC Pub. 2564 at 24–27 (Brazil, Korea, Mexico, Taiwan, and Venezuela).

¹⁶⁰ CR at CIRC-I-21, PR at CIRC-I-18.

¹⁶¹ Table CIRC-II-6, CR at CIRC-II-22, PR at CIRC-II-14 (indicating that all domestic producers and most importers reported that CWP produced by domestic producers is interchangeable with that produced in subject and nonsubject countries); Table CIRC-II-7, CR at CIRC-II-23, PR at CIRC-II-15 (majority of producers reported no non-price differences between domestic and imported product).

¹⁶² CR at CIRC-II-2, PR at CIRC-II-1.

¹⁶³ CR at CIRC-IV-4, PR at CIRC-IV-4.

¹⁶⁴ CR at CIRC-II-2, PR at CIRC-II-1.

¹⁶⁵ CR at CIRC-II-2, PR at CIRC-II-1; Hearing Tr. at 203–204. Similarly, ***, one of the three largest importers, reported importing from both subject (***) and nonsubject (***) countries. CR at CIRC-IV-4, PR at CIRC-IV-4.

¹⁶⁶ Tables CIRC-V-1–CIRC-V-6, CR at CIRC-V-7–CIRC-V-12, PR at CIRC-V-5–CIRC-V-6.

¹⁶⁷ Table CIRC-IV-1, CR at CIRC-IV-1, PR at CIRC-IV-1.

¹⁶⁸ Commissioner Bragg finds that there is likely to be a reasonable overlap of competition among imports from all eight subject countries, and between subject imports and the domestic like product, in the event of revocation.

3. Other Considerations¹⁶⁹

We have considered whether other conditions of competition posited by various foreign producers, including differences in dumping margins, differences in economic conditions in the various subject countries, or differences in export marketing patterns since imposition of the orders, should lead us to decline to exercise our discretion to cumulate in these reviews.¹⁷⁰ We conclude, however, that the existence of such differences is outweighed by considerations supporting cumulation, including the commodity nature of the product, the high degree of substitutability among the subject imports and the domestic like product, and the existence of excess capacity in all the subject countries.^{171 172}

4. Cumulation Summary

For the reasons discussed above, we cumulate imports from Brazil, India, Korea,¹⁷³ Mexico,¹⁷⁴ Taiwan, Thailand, and Turkey for purposes of these reviews.^{175 176}

B. Conditions of Competition

¹⁶⁹ Commissioner Bragg does not join section IV.A.3 of these Views.

¹⁷⁰ See Korean CWP Producers' Posthearing Brief, Exhibit 1 at 3-9; Hearing Tr. at 259-264; Hylsa Prehearing Brief at 7-9; Hylsa Posthearing Brief at 10-11 and 1.5-1.7; Borusan Prehearing Brief at 11-14; Borusan Posthearing Brief at 7-9.

¹⁷¹ In particular, Chairman Koplán and Commissioner Miller do not accept Hylsa's argument that the President's exclusion of Mexico from the recently imposed safeguard duties on imports of line pipe would create significantly different incentives for Mexican CWP producers than for other subject CWP producers with respect to the U.S. market if the orders were revoked. As discussed above, they find that the order has limited the Mexican industry's access to the significant portion of the U.S. market that demands galvanized CWP. They also note that Hylsa's argument is premised on the assumption that foreign producers from countries other than Mexico will significantly reduce their line pipe exports to the United States and thus have a strong incentive to shift production and exports to CWP. Because the safeguard duties on line pipe took effect only recently (March 1, 2000), Chairman Koplán and Commissioner Miller conclude that any assessment of the likely effect of the line pipe safeguard remedy on exports to the United States of CWP from subject countries other than Mexico is premature and speculative.

¹⁷² Vice Chairman Okun and Commissioners Hillman and Askey do not cumulate subject imports from Mexico. For the reasons supporting this decision, see Dissenting Views of Vice Chairman Okun and Commissioners Hillman and Askey.

¹⁷³ Commissioner Hillman did not cumulate imports from Korea with imports from the other subject countries. See Additional Views of Commissioner Jennifer A. Hillman.

¹⁷⁴ Vice Chairman Okun and Commissioners Hillman and Askey dissenting. See their Dissenting Views.

¹⁷⁵ Commissioner Bragg cumulates imports from all eight subject countries for purposes of her review of the orders on CWP.

¹⁷⁶ Commissioner Askey dissenting with respect to India and Turkey.

Domestic demand for CWP is generally dependent on the overall level of construction, and, in particular, the level of spending on non-residential construction.¹⁷⁷ Domestic apparent consumption of CWP in 1998 reached almost 3 million short tons, an increase of more than 23 percent from the level of apparent consumption in 1985 and an increase of more than 56 percent from the level in 1991.¹⁷⁸ Much of this increase is likely due to the recent boom in construction activity.¹⁷⁹ There is some evidence of record that the rate of growth in construction may now be slowing, but construction spending is predicted to continue growing overall in 2000.¹⁸⁰

As discussed above, CWP is a commodity product made to common industry standards.¹⁸¹ Because CWP accounts for a small share of the cost of downstream construction projects in which it is often used, demand for CWP in construction applications is generally price inelastic.¹⁸²

The principal input in the production of CWP is hot-rolled steel. While prices for hot-rolled steel were relatively low during most of the period for which we collected data in these reviews, the record indicates that hot-rolled prices have been rising since mid- to late-1999.¹⁸³ The record also indicates that increases in CWP prices tend to lag behind increases in prices for hot-rolled coil.¹⁸⁴

Another important condition of competition in this industry is the ability of domestic producers that use the ERW production process to shift capacity on the same mill between multiple welded tubular products. Thus, although some producers specialize in production of CWP, others are able to alter their product mix between CWP and LWR, OCTG, line pipe, mechanical tubing, conduit, and other products depending on market conditions.¹⁸⁵ From a technical standpoint, there is no optimum allocation of capacity among the various products that can be produced on the same ERW mill.¹⁸⁶

¹⁷⁷ CR at CIRC-II-15, PR at CIRC-II-9; Hearing Tr. at 59, 206.

¹⁷⁸ Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5.

¹⁷⁹ See Tables K-1 and K-2, CR and PR at Appendix K.

¹⁸⁰ CWP Domestic Producers' Prehearing Brief at 47–49; Hearing Tr. at 87–89; Korean Producers' Prehearing Brief at 6–9; 27–32; Korean Producers' Posthearing Brief at 8–10.

¹⁸¹ CR at CIRC-I-21, PR at CIRC-I-18.

¹⁸² CR at CIRC-II-14 and CIRC-II-27, PR at CIRC-II-8–CIRC-II-9 and CIRC-II-17.

¹⁸³ CR at CIRC-II-1, PR at CIRC-II-1; Hearing Tr. at 40–41, 205–206.

¹⁸⁴ CWP Domestic Producers' Prehearing Brief at 15–16; Hearing Tr. at 40–41, 120.

¹⁸⁵ CR at CIRC-II-3, PR at CIRC-II-2; Hearing Tr. at 53–54, 57, 75. Producers using the CW process, which accounts for about one third of domestic CWP shipments, are more limited in their ability to produce alternate products. Domestic CWP Producers' Posthearing Brief at A-21; CR at CIRC-II-3, PR at CIRC-II-2.

¹⁸⁶ CR at CIRC-I-22, PR at CIRC-I-19; Hearing Tr. at 33–34, 53–54, 57, 58–59. In this regard, we note the President's decision on February 18, 2000, to impose safeguard duties on imports of line pipe. See Proclamation 7274 of February 18, 2000, to Facilitate Positive Adjustment to Competition from Imports of Certain Circular Welded Carbon Quality Line Pipe, 65 Fed. Reg. 9193 (Feb. 23, 2000). The safeguard relief ordered by the President imposes additional duties of 19 percent in the first year, 15 percent in the second year, and 11 percent in
(continued...)

We find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation within the reasonably foreseeable future.

C. Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey^{187 188 189}

For the reasons stated below, we determine that revocation of the orders on CWP from Brazil, India,¹⁹⁰ Korea, Mexico,¹⁹¹ Taiwan, Thailand, and Turkey¹⁹² would be likely to lead to continuation or recurrence of material injury to the domestic injury within a reasonably foreseeable time.¹⁹³

1. Likely Volume of Subject Imports

The Commission's volume analysis in the original investigations focused on the subject

¹⁸⁶ (...continued)

the third year on all imports of line pipe from a particular country totaling more than 9,000 tons annually. The duties apply to line pipe from all countries except Mexico and Canada.

¹⁸⁷ Vice Chairman Okun joins this section with respect to imports of the subject merchandise from Brazil, India, Korea, Taiwan, Thailand, and Turkey, but not Mexico. With respect to imports of the subject merchandise from Mexico, *see* the Dissenting Views of Vice Chairman Okun and Commissioners Hillman and Askey.

¹⁸⁸ Commissioner Hillman does not join this section. *See* Separate Views of Commissioner Jennifer A. Hillman with respect to Circular Welded Pipe and Tube from Brazil, India, Korea, Taiwan, Thailand, and Turkey.

¹⁸⁹ Commissioner Askey joins this section only with respect to imports from Brazil, Korea, Taiwan and Thailand. As discussed above, Commissioner Askey found that the subject imports of CWP from India and Turkey are not likely to have a discernible adverse impact on the domestic industry if the antidumping and countervailing duty orders covering these imports are revoked. Accordingly, she has not cumulated those subject imports with the other subject imports for purposes of her sunset analysis. In addition, for the reasons she outlined previously, she finds that the subject imports from India and Turkey are not likely to have significant adverse volume or price effects on the domestic industry after revocation of the orders. Accordingly, she finds that revocation of the orders on the subject imports from India and Turkey would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See* notes 142 and 147, *supra*. With respect to Mexico, *see* the Dissenting Views of Vice Chairman Okun and Commissioners Hillman and Askey.

¹⁹⁰ Commissioner Askey dissenting.

¹⁹¹ Vice Chairman Okun and Commissioners Hillman and Askey dissenting. *See* Dissenting Views of Vice Chairman Okun and Commissioners Hillman and Askey.

¹⁹² Commissioner Askey dissenting.

¹⁹³ Commissioner Bragg finds that the following discussion of likely volume and price effects, as well as the likely impact if the orders on CWP from Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey are revoked, is only strengthened when likely imports from Venezuela are included in the analysis. Accordingly, based upon a cumulative analysis and for the reasons stated below, Commissioner Bragg finds that revocation of the orders on CWP from all eight subject countries would be likely to lead to continuation or recurrence of material injury to the domestic CWP industry within a reasonably foreseeable time.

imports' ability to increase their U.S. market presence rapidly in terms of both volume and market share.¹⁹⁴ The orders have clearly had a restraining effect on subject import volumes: the total volume of imports from all countries subject to these reviews (excluding Venezuela) was 803,877 short tons in 1985, 481,482 short tons in 1991, and 279,847 short tons in 1998.¹⁹⁵ Although we do not have comprehensive data on the market share of cumulated imports from all the subject countries in either 1985 or 1991, the record shows that the market share of cumulated imports from Brazil, Korea, Mexico, and Taiwan alone (excluding certain small diameter CWP subject to an earlier order) was 24.2 percent in 1991, while the market share for all cumulated subject imports in 1998 was 9.4 percent.¹⁹⁶ Meanwhile, the domestic industry's U.S. market share has increased from 41.1 percent in 1985 to 63.1 percent in 1991 and 73.0 percent in 1998.¹⁹⁷

In these reviews, several factors have prevented us from assembling a single consistent and comprehensive set of capacity data for subject producers of CWP. These factors include: (1) the lack of participation by some subject CWP producers, including the entire industries of Brazil, Taiwan, and Thailand; (2) the need for producers to allocate capacity among multiple welded tubular products produced on the same mill and the lack of any single generally accepted methodology for doing so in the face of changing product mixes over time; and (3) differences between theoretical and practical capacity depending on the lengths and number of shifts, scheduled and unscheduled down time, and other factors. Nevertheless, although we thus cannot simply aggregate capacity figures for all subject producers, the available capacity data lead us to conclude that subject producers have the capability to increase substantially their shipments to the United States over current levels if the orders are revoked.

With respect to participating subject producers in India, Korea, Mexico, and Turkey, reported cumulated capacity to produce CWP in 1998 was *** short tons, of which *** short tons was excess capacity. In interim 1999, the same producers reported total capacity of *** short tons, of which *** short tons—the equivalent of *** percent of U.S. apparent consumption—was excess capacity.¹⁹⁸ In addition, participating producers from *** and *** stated that nonparticipating producers in their countries accounted for additional capacity of at

¹⁹⁴ USITC Pub. 1519 at 14; Confidential Report, Inv. Nos. 701-TA-253 and 731-TA-252 (Final) (Feb. 5, 1986) at I-19 and I-22; USITC Pub. 1839 at 12–13; USITC Pub. 2564 at 34–35.

¹⁹⁵ Table D-1, CR and PR at Appendix D. We note that imports from the countries subject to these reviews were not all “subject” imports in each of the prior periods of investigation. Accordingly, we have relied on official statistics rather than the data in Table CIRC-I-1 for this comparison. We also note that, contrary to the Korean CWP producers' argument, the relatively low dumping margins applicable to some Korean producers have not resulted in a continuation of pre-order import levels. *Compare* Korean CWP Producers' Prehearing Brief at 13, *with* Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5.

¹⁹⁶ Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5. Data have been adjusted to exclude Venezuela.

¹⁹⁷ Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5.

¹⁹⁸ Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5; Tables CIRC-IV-3, CIRC-IV-4, CIRC-IV-5, and CIRC-IV-6, CR at CIRC-IV-9–CIRC-IV-15, PR at CIRC-IV-6–CIRC-IV-7.

least *** short tons in 1998.¹⁹⁹ Given the ability of many producers to shift capacity between multiple pipe products on the same mill depending on market conditions, we also take note of the fact that, in addition to capacity allocated to the production of CWP, responding producers reported an additional *** short tons of production using capacity allocated to nonsubject welded tubular products 16 inches and under in diameter in 1998, and *** short tons of such production in interim 1999.²⁰⁰

With respect to CWP producers in Brazil, Taiwan, and Thailand, none of which participated in these reviews, public data indicate that their aggregate theoretical capacity to produce products within the size range of CWP is approximately 2,920,000 short tons.²⁰¹ ²⁰² Although we recognize that these data are not directly comparable to those for participating producers, they nevertheless demonstrate the existence of substantial pipe and tube production capacity in these countries. Moreover, record information indicates that overcapacity is a significant problem for Taiwan's pipe and tube industry²⁰³ and that Thailand is a large exporter of welded pipe products.²⁰⁴

Overall, we conclude that the likely volume of subject imports would be significant both in absolute terms and relative to consumption in the United States if the orders are revoked. We base this conclusion on a number of factors, including: the demonstrated ability of producers in all the subject countries (excluding Venezuela) to increase their U.S. market penetration rapidly; the existence of very large capacity allocated to the production of CWP, including significant excess capacity, in the subject countries; the existence of additional subject capacity allocated to production of nonsubject welded tubular products which could be reallocated to CWP production; the demonstrated export-orientation of a number of the subject industries; the restraining effect that these orders have had on subject import volumes; and the attractiveness of the large and growing U.S. CWP market as an outlet for excess production.²⁰⁵

¹⁹⁹ CR at CIRC-IV-12, PR at CIRC-IV-6–CIRC-IV-7; Table CIRC-IV-5, CR at CIRC-IV-13, PR at CIRC-IV-7; CR at CIRC-IV-14, PR at CIRC-IV-7; Table CIRC-IV-6, CR at CIRC-IV-15, PR at CIRC-IV-7.

²⁰⁰ Tables J-1, J-2, J-3, and J-4, CR and PR at Appendix J.

²⁰¹ Tables G-2, G-7, and G-8, CR and PR at Appendix G.

²⁰² Based upon this public data, Commissioner Bragg infers that subject producers in Brazil, Taiwan, and Thailand have substantial capacity with which to direct significant volumes of CWP exports to the U.S. market in the event of revocation.

²⁰³ CR at CIRC-IV-7, PR at CIRC-IV-5.

²⁰⁴ Table H-1, CR and PR at Appendix H (showing the United States as Thailand's largest export market in 1996 and 1997).

²⁰⁵ In this regard, we take particular notice of the fact that, although recent information of record suggests that demand for CWP in Korea is recovering from very low levels in 1998 and early 1999, Korean home market demand does not appear to have recovered to its 1997 (pre-crisis) level. *See* Table CIRC-IV-4, CR at CIRC-IV-11, PR at CIRC-IV-6 (showing home market shipments for the first 9 months of 1999 were *** the level for full-year 1997); Domestic CWP Producers' Posthearing Brief at 11; Hearing Tr. at 106–107; *compare* Confidential Report, Inv. Nos. 731-TA-532–537 (Final) (Oct. 8, 1992) at I-59, Table 15 (Korean home market shipments were ***

(continued...)

2. Likely Price Effects of Subject Imports

In the original investigations, the Commission found that subject imports from Brazil, India, Korea, Mexico, Taiwan, Thailand and Turkey generally undersold the domestic like product and that,

²⁰⁵ (...continued)

short tons in 1991), *with* Table CIRC-IV-4, CR at CIRC-IV-11, PR at CIRC-IV-6 (Korean home market shipments were *** short tons in 1997 and *** short tons in 1998). We also are not persuaded by the Korean CWP producers' argument that China is likely to provide a large and profitable export market for Korean CWP in the reasonably foreseeable future and that Korean exports to the United States are therefore not likely to be significant. The only evidence Korean producers were able to provide in support of this assertion was generalized statements that China will decrease its overall tariff level (not its tariff on CWP specifically) when it joins the WTO and that China is engaged in substantial infrastructure development. Korean CWP Producers' Prehearing Brief at 16; Korean CWP Producers' Posthearing Brief at 14. By contrast, the record shows that China itself is already a significant exporter of CWP and that Korean CWP exports to China in 1998 were less than 19,000 short tons, compared with exports to the United States of *** short tons. Table H-1, CR and PR at Appendix H; Table CIRC-IV-4, CR at CIRC-IV-11, PR at CIRC-IV-6; Table CIRC-IV-1 at note 4, CR at CIRC-IV-3, PR at CIRC-IV-3.

because of the price-sensitive nature of the U.S. CWP market, underselling by subject imports resulted in both significant price depression and lost market share for the domestic industry.²⁰⁶

The domestic market for CWP remains as price sensitive today as the Commission found it to be in the original investigations. As discussed above, CWP is a commodity product produced to standard specifications.²⁰⁷ Almost all the responding domestic and foreign producers indicated that subject and domestic CWP are interchangeable.²⁰⁸ Purchasers reported that both quality and price are important to their purchasing decisions, and uniformly responded that subject imports are lower priced than domestic CWP.²⁰⁹ In addition, the majority of responding domestic producers and virtually all importers reported that CWP is sold on a spot basis, rather than under contract.²¹⁰ Finally, as discussed above, demand for CWP is price inelastic.²¹¹ Based on these market characteristics, we conclude that sustained underselling by even a relatively small volume of imports in this market is likely to have a significant suppressing or depressing effect on domestic prices in the event of revocation.

During the period examined in these reviews, U.S. prices for both the subject imports and the domestic like product generally declined. Pricing data show that, even with the orders in place, subject imports undersold the domestic like product in the majority of comparisons during the period 1997– interim 1999, confirming purchasers’ impression that subject imports tend to be lower priced than the domestic like product. Instances of underselling were particularly prevalent with respect to products 1, 2, and 6, which reflected the highest volumes of subject imports.²¹² Based on the pervasive underselling by subject imports during the original investigations and even during the period examined in these reviews, we conclude that there would likely be significant price underselling by imports of the subject merchandise if the orders were revoked. Moreover, in light of the price-sensitive nature of the market and the inelasticity of demand for CWP, we conclude that subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the prices of the domestic like product if the orders were revoked.

3. Likely Impact of Subject Imports

In the original investigations of CWP from Taiwan (certain small diameter), India,

²⁰⁶ USITC Pub. 1519 at 15–16; Inv. Nos. 701-TA-253 and 731-TA-252 (Final), Confidential Report (Feb. 5, 1986) at I-23–I-29; USITC Pub. 1839 at 13–14; USITC Pub. 2564 at 35–36.

²⁰⁷ CR at CIRC-I-23, PR at CIRC-I-19.

²⁰⁸ Table CIRC-II-6, CR at CIRC-II-22, PR at CIRC-II-14; Table CIRC-II-7, CR at CIRC-II-23, PR at CIRC-II-15.

²⁰⁹ Table CIRC-II-3, CR at CIRC-II-16, PR at CIRC-II-10; Table CIRC-II-5, CR at CIRC-II-20, PR at CIRC-II-12.

²¹⁰ CR at CIRC-V-4, PR at CIRC-V-3.

²¹¹ CR at CIRC-II-26–CIRC-II-27, PR at CIRC-II-17.

²¹² Tables CIRC-V-1–CIRC-V-6, CR at CIRC-V-7–CIRC-V-12, PR at CIRC-V-5–CIRC-V-6.

Thailand, and Turkey, the Commission found that, due to falling prices and declining market share, the domestic industry was unable to operate profitably despite rising apparent consumption, capacity, capacity utilization, production, and shipments.²¹³ In the original investigations of CWP from Brazil, Korea, Mexico, Taiwan (other than certain small diameter), and Venezuela, the Commission found that both production and employment-related trends and the industry's operating income margin declined irregularly over the period of investigation, although the industry continued to experience positive operating income margins.²¹⁴ The Commission found that falling prices in the U.S. market contributed to the domestic industry's worsening financial performance without preventing its losses in market share.²¹⁵

The industry's condition has improved markedly since the original investigations. The domestic industry has increased its U.S. market share from 41.1 percent in 1985 and 63.1 percent in 1991 to 73.0 percent in 1998 and 73.8 percent in interim 1999. Production capacity has risen from 1,824,000 short tons in 1985 and 1,886,781 short tons in 1991 to 3,039,075 short tons in 1998. At the same time, capacity utilization has risen from 55.0 percent in 1985 and 63.7 percent in 1991 to 73.2 percent in 1998. The industry's operating income margin, although declining between 1997 and interim 1999, has remained consistently higher than during any of the previous periods of investigation.²¹⁶ Domestic producers uniformly testified that, since imposition of the orders, they have been able to expand and modernize capacity.²¹⁷ We find that this improvement in the state of the industry is due both to the existence of the orders and to the recent surge in demand for construction materials. We further find that, given its present condition, the domestic CWP industry is not vulnerable to material injury if the orders are revoked.

Nevertheless, given the generally substitutable nature of the subject and domestic product and the inelasticity of demand for CWP, we find that the significant volume of low-priced subject

²¹³ USITC Pub. 1519 at 7–9; USITC Pub. 1810 at 7–9; USITC Pub. 1839 at 7–9, 14–15.

²¹⁴ USITC Pub. 2564 at 18–20.

²¹⁵ USITC Pub. 2564 at 36.

²¹⁶ Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5. The industry's operating income margin was 1.1 percent in 1985, 5.7 percent in 1991, 9.8 percent in 1997, 9.0 percent in 1998, and 8.5 percent in interim 1999, compared with 9.2 percent in interim 1998.

²¹⁷ Hearing Tr. at 27–29, 30–31, 35–36. The record does not bear out the Korean CWP producers' claim that there has been a significant shift in the structure of the industry from integrated to non-integrated producers during the 1990s. Korean CWP Producers' Prehearing Brief at 9–10 (defining an integrated producer as one that melts its own steel). The Korean CWP producers' estimates of the share of domestic net sales value attributable to integrated producers in 1998 is not based on the same definition of an integrated producer used in the 1991-1992 investigations. See Confidential Report, Inv. Nos. 731-TA-532–537 (Final) (Oct. 8, 1992) at I-45 (defining an integrated producer as a producer that obtains *any* of the hot-rolled *sheet* it uses to make CWP from an affiliated hot-rolling mill). Using the same definition, assuming that producers that were considered integrated in the original investigations are still integrated absent contrary information on the record in these reviews, and excluding *** from the 1989–1992 data, as urged by the domestic CWP producers (Domestic CWP Producers' Posthearing Brief at A-26), the current integrated producers are California Steel, IPSCO, Laclede, Lone Star, LTV, Maruichi, Newport, and USX. Integrated producers accounted for *** percent of domestic net sales value in 1991, compared with *** percent in 1998. Compare Confidential Report, Inv. Nos. 731-TA-532–537 (Final) (Oct. 8, 1992) at I-48, Table 10, with Table CIRC-III-7, CR at CIRC-III-9, PR at CIRC-III-7.

imports, when combined with the expected adverse price effects of those imports, would have a significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry. This reduction in the industry's production, sales, and revenue levels would have a direct adverse impact on the industry's profitability and employment levels, as well as its ability to raise capital and make and maintain necessary capital investments. Accordingly, we conclude that, if the antidumping and countervailing duty orders are revoked, the subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

D. Venezuela ²¹⁸

As discussed above, we find that imports from Venezuela are likely to have no discernible adverse impact on the domestic industry if the order is revoked. Accordingly, we do not cumulate any likely imports from Venezuela with those from the other subject countries.

We find that the volume of imports of CWP from Venezuela is not likely to change to a significant degree as a result of revocation of the antidumping duty order. As discussed above, the U.S. market share of imports from Venezuela never exceeded 0.9 percent in any of the full years during the original period of investigation. Venezuelan CWP production capacity is relatively modest and, in contrast to the original period of investigation, is now largely committed to home and established third-country markets.²¹⁹ The 1995 revocation of an EU antidumping duty order on imports of CWP from Venezuela reopened an alternate market to the United States for excess production, and the Venezuelan industry already has customers in Spain. In light of rising world oil prices, we also find that product shifting in favor of greater CWP production is not likely in the reasonably foreseeable future, in view of the ability of Conduven, the major Venezuelan producer, to use the same production facilities to make OCTG for the Venezuelan oil industry.²²⁰

Nor do we find that subject imports from Venezuela are likely to have any adverse effects on domestic prices. Due to the extremely low level of subject imports from Venezuela during the period examined in these reviews, no pricing data were reported for sales of Venezuelan CWP.²²¹ During the original investigation, Venezuelan CWP undersold the domestic like product in the majority of comparisons.²²² Nevertheless, we find that the likely volume of subject imports of CWP from Venezuela would be too small to have any adverse effect on domestic CWP prices, even if the imports from Venezuela were to undersell the domestic like product.

As discussed above, we find that the domestic industry is not presently vulnerable to material injury. Because we have concluded that no significant adverse volume or price effects

²¹⁸ Commissioner Bragg does not join section IV.D of these Views. *See* note 140, *supra*.

²¹⁹ CR at CIRC-IV-16, PR at CIRC-IV-7; *compare* Confidential Report, Inv. Nos. 731-TA-532-537 (Final) (Oct. 8, 1992) at I-63, *with* Table CIRC-IV-7, CR at CIRC-IV-17, PR at CIRC-IV-8.

²²⁰ Conduven Prehearing Brief at 4-9; Table H-1, CR and PR at Appendix H.

²²¹ CR at CIRC-V-6, PR at CIRC-V-4.

²²² Confidential Report, Inv. Nos. 731-TA-532-537 (Final) (Oct. 8, 1992) at I-97-I-101, Tables 29-32.

are likely to occur if the order were revoked, we likewise find it unlikely that subject imports from Venezuela would have an adverse impact on the domestic industry. We therefore determine that revocation of the antidumping duty order on CWP from Venezuela is not likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

V. LIGHT-WALLED RECTANGULAR PIPE AND TUBE²²³

A. Cumulation

In these reviews, the statutory requirement that all of the LWR reviews be initiated on the same day is satisfied. For the reasons discussed below, we find that subject imports from Singapore are likely to have no discernible adverse impact on the domestic industry if the relevant order is revoked and therefore do not cumulate subject imports from Singapore with those from Argentina and Taiwan.²²⁴ We further find that there is likely to be a reasonable overlap of competition between subject imports from Argentina and Taiwan if the orders are revoked and that other considerations warrant the exercise of our discretion to cumulate such imports.²²⁵

1. No Discernible Adverse Impact²²⁶

In the original investigation, the only pipe producer in Singapore known to have exported LWR to the United States was Steel Tubes of Singapore (STS).²²⁷ The record indicates that STS has since been liquidated.²²⁸ There have been no imports of LWR from Singapore since 1991.²²⁹ The limited public information available indicates that the remaining firms in Singapore even capable of producing LWR are small, with a total theoretical capacity in 1997 of only 68,000 short tons.²³⁰ There is no evidence that these remaining producers have ever exported LWR to the United States. For all these reasons, we find that subject imports from Singapore are likely to have no discernible adverse impact on the domestic industry if the order is revoked.

²²³ Commissioner Askey joins subsections A, B, and D of this section. For her views regarding the likelihood of continuation or recurrence of material injury to the domestic industry with respect to the orders on LWR from Argentina and Taiwan, see her Dissenting Views.

²²⁴ Commissioner Bragg finds that revocation of the order on Singapore would be likely to have a discernible adverse impact on the domestic LWR industry. Commissioner Bragg notes that record evidence indicates there is roughly *** short tons of production capacity for welded carbon steel pipes and tubes in Singapore, which includes production capacity for LWR; this amount is equivalent to roughly *** percent of the domestic industry's U.S. shipments in 1998. Table C-3, CR and PR at Appendix C; Table G-6, CR and PR at Appendix G. Based upon the foregoing, Commissioner Bragg determines that revocation of the order on Singapore would be likely to result in a discernible adverse impact on the domestic industry.

²²⁵ Commissioner Bragg cumulates imports from all three subject countries for purposes of her review of the orders on LWR.

²²⁶ Commissioner Bragg does not join section V.A.1 of these Views.

²²⁷ Confidential Report in Inv. No. 731-TA-296 (Final) (Oct. 14, 1986) at a-9.

²²⁸ CR at LWR-IV-5, PR at LWR-IV-3.

²²⁹ Table D-3, CR and PR at Appendix D.

²³⁰ Table G-6, CR and PR at Appendix G. Comparing the 1997 public information with the record in the original investigation indicates that the number of LWR producers in Singapore has declined since the original investigation. See Confidential Report in Inv. No. 731-TA-296 (Final) at a-11.

2. Reasonable Overlap of Competition

In the original investigations of LWR from Argentina and Taiwan, the two Commissioners finding present material injury found that the requirements for cumulation were satisfied. Specifically, they found that domestic and subject LWR were fungible; imports from Argentina and Taiwan frequently entered the United States through the same ports and were sold in the same markets; a substantial portion of the subject imports were sold to end-users through steel service centers; and subject imports from both countries were present in increasing numbers throughout the period of investigation. They also noted that neither of the respondents disputed the propriety of cumulation.²³¹

With respect to fungibility, the record continues to indicate that LWR is a commodity product made to ASTM or similar specifications.²³² Although little subject product has been available in the U.S. market in recent years, all responding domestic producers and importers indicated that the subject imports and the domestic product are interchangeable and that there are no non-price differences between them.²³³ With respect to geographic overlap, the record indicates that domestic production and consumption is concentrated on the West Coast and in the Southwest, with only one U.S. producer reporting that it serves the entire U.S. market.²³⁴ Imports (mainly nonsubject) were also entered principally in this region (especially Texas).²³⁵ Most LWR is sold through the same channels of distribution, principally distributors, with some sales to end users.²³⁶ Because there were virtually no subject imports during the period examined, it cannot be said that imports were simultaneously present in the U.S. market during that period. As noted above, however, the relevant inquiry is whether such imports would be likely to be simultaneously present if the orders are revoked, as the Commission found imports from Argentina and Taiwan to be in the original investigations.

Based on their fungibility, geographic overlap, and common channels of distribution, we find that there is likely to be a reasonable overlap of competition between the domestic like product and the subject imports from Argentina and Taiwan if the orders are revoked.²³⁷

²³¹ USITC Pub. 2169 at 7–9 (Taiwan) (Views of Commissioners Brunsdale and Cass); USITC Pub. 2187 at 6–8 (Argentina) (Views of Commissioners Brunsdale and Cass). Two additional Commissioners made affirmative threat determinations.

²³² CR at LWR-I-12, PR at LWR-I-10.

²³³ Tables LWR-II-4 and LWR-II-5, CR at LWR-II-7, PR at LWR-II-5.

²³⁴ CR at LWR-II-1, PR at LWR-II-1; Hearing Tr. at 39–40, 80–81.

²³⁵ CR at LWR-IV-1, PR at LWR-IV-1.

²³⁶ CR at LWR-II-1, PR at LWR-II-1.

²³⁷ Commissioner Bragg finds that there is likely to be a reasonable overlap of competition among imports from all three subject countries, and between subject imports and the domestic like product, in the event of revocation.

3. Other Considerations²³⁸

No party posited any other considerations that would warrant not exercising our discretion to cumulate subject imports from Argentina and Taiwan in these reviews. Consistent with the commodity nature of the product, the limited information of record does not reveal any significant differences in the conditions of competition under which subject imports from Argentina and Taiwan would be likely to compete in the U.S. market if the orders were revoked. For all these reasons, we cumulate subject imports from Argentina and Taiwan for purposes of these reviews.

B. Conditions of Competition

As in the case of CWP, domestic demand for LWR is generally related to construction, although demand for LWR may be more closely related to residential construction demand than is the case for CWP.²³⁹ Apparent U.S. consumption of LWR has nearly doubled since the original investigations, rising from 288,446 short tons in 1987 to 564,898 short tons in 1998.²⁴⁰ Much of this increase is likely due to the recent boom in construction activity.²⁴¹ Record evidence suggests that the rate of growth in construction demand may be beginning to slow.²⁴²

As discussed above, LWR is a commodity product produced to standard specifications.²⁴³ Because LWR accounts for a small share of the cost of downstream construction projects in which it is often used, demand for LWR in construction applications is generally price inelastic.²⁴⁴

As is the case with CWP, the principal input in the production of LWR is hot-rolled steel. While prices for hot-rolled steel were relatively low during most of the period for which we collected data in these reviews, the record indicates that hot-rolled prices have been rising since mid- to late-1999.²⁴⁵

During the periods for which data were collected in the original investigations, the U.S. market share held by nonsubject imports declined from 32 percent to 18 percent. By 1998, the market share held by nonsubject imports had risen to more than 28 percent, with their market share rising to 33.1 percent in interim (Jan.–Sept.) 1999. The principal sources of nonsubject

²³⁸ Commissioner Bragg does not join section V.A.3 of these Views.

²³⁹ CR at LWR-II-4, PR at LWR-II-3; Domestic LWR Producers' Prehearing Brief at 1, 10–11; Hearing Tr. at 39–41, 80–81, 120; Domestic LWR Producers' Posthearing Brief at A-20.

²⁴⁰ Table LWR-I-1, CR at LWR-I-5, PR at LWR-I-4.

²⁴¹ See Tables K-1 and K-2, CR and PR at Appendix K.

²⁴² Domestic LWR Producers' Prehearing Brief at 1, 10–11; Hearing Tr. at 39–41, 80–81, 120; Domestic LWR Producers' Posthearing Brief at A-20.

²⁴³ CR at LWR-I-12, PR at LWR-I-10.

²⁴⁴ Domestic LWR Producers' Prehearing Brief at 6.

²⁴⁵ CR at LWR-II-1, PR at LWR-II-1; Hearing Tr. at 40–41.

imports in 1998 and interim 1999 were Mexico and Canada.^{246 247}

²⁴⁶ Table LWR-I-1, CR at LWR-I-5, PR at LWR-I-4.

²⁴⁷ Commissioner Askey also notes that the industry is divided regionally, with production concentrated on the West Coast. Six of 10 responding domestic producers that provided data on market areas reported that they primarily served the West Coast and only one domestic producer reported that it serves the entire U.S. market. CR at LWR-II-1, PR at LWR-II-1. Accordingly, inter-company competition is somewhat limited, providing some insulation from competition among domestic producers. Moreover, she notes that domestic production of LWR is highly concentrated; of the 13 firms reporting production of LWR, the largest accounted for *** percent of reported production in 1998 and the three largest accounted for 53 percent. CR at LWR-II-2, PR at LWR-II-2.

We find that the foregoing conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation within the reasonably foreseeable future.

C. Argentina and Taiwan^{248 249}

1. Likely Volume of Subject Imports

In the original investigations, the two Commissioners who found present material injury cumulated imports of LWR from Argentina and Taiwan and concluded that the effect of cumulated subject imports had been to reduce sales of domestic LWR in the United States significantly.²⁵⁰ The volume of cumulated subject imports from Argentina and Taiwan rose rapidly from 527 short tons in 1985 to 11,821 short tons in 1986 and 29,514 short tons in 1987, and was 41,371 short tons in interim (Jan.–Sept.) 1988, compared with 14,861 short tons in interim 1987.²⁵¹ The cumulated market share of imports from Argentina and Taiwan surged from 0.2 percent in 1985 to 16.7 percent in interim 1988.²⁵²

The antidumping duty orders have clearly had a restraining effect on the volume of subject imports from Argentina and Taiwan. Following imposition of the orders, imports of LWR from Argentina fell to zero in 1989 and have been zero ever since.²⁵³ Imports of LWR from Taiwan fell to 5,375 short tons in 1989, then rose again to 14,188 short tons in 1990. After Commerce revised the dumping margin for the principal Taiwan exporter significantly upward in an annual review, subject imports from Taiwan fell from 8,519 short tons in 1991 to 2,620 short tons in 1992 and have been minimal or zero thereafter.²⁵⁴

We conclude that subject producers have the capability and incentive to increase substantially their LWR shipments to the United States if the orders are revoked. In 1988, the combined reported LWR production capacity of the participating Argentine and Taiwan

²⁴⁸ Commissioner Bragg finds that the following discussion of likely volume and price effects, as well as the likely impact if the orders on LWR from Argentina and Taiwan are revoked, is only strengthened when likely imports from Singapore are included in the analysis. Accordingly, based upon a cumulative analysis and for the reasons stated below, Commissioner Bragg finds that revocation of the orders on LWR from all three subject countries would be likely to lead to continuation or recurrence of material injury to the domestic LWR industry within a reasonably foreseeable time.

²⁴⁹ Commissioner Askey does not join this section. See her Dissenting Views.

²⁵⁰ USITC Pub. 2187 at 9, 11.

²⁵¹ Confidential Report in Inv. No. 731-TA-410 (Final) (Mar. 6, 1989), Table 14 at A-39.

²⁵² USITC Pub. 2169 at 25; Table LWR-I-1, CR at LWR-I-5, PR at LWR-I-4.

²⁵³ Table D-3, CR and PR at Appendix D.

²⁵⁴ Table D-3, CR and PR at Appendix D; CR and PR, Appendix F at F-9.

producers was 276,472 short tons.²⁵⁵ The limited public data available in these reviews indicate that the Argentine industry's capacity to produce noncircular welded pipes and tubes, including LWR, was 356,000 short tons in 1998, and that the combined theoretical capacity of the Argentine and Taiwan pipe industries to produce welded carbon steel pipe in the size range applicable to LWR exceeded 1.5 million short tons in 1997.²⁵⁶ Furthermore, the limited record information available to us suggests that there is excess production capacity for welded carbon steel pipe and tube products in both countries, including over 90,000 short tons of excess capacity for noncircular welded pipes and tubes in Argentina in 1998.^{257 258}

In light of the previous demonstrated interest of Argentine and Taiwan LWR producers in the U.S. market, their demonstrated ability to increase exports to the United States rapidly, the restraining effect of the orders on the volume of cumulated subject imports, and the existence of significant excess capacity in both countries, we conclude that the volume of cumulated subject imports from Argentina and Taiwan is likely to reach significant levels within a reasonably foreseeable time if the antidumping duty orders are revoked.

2. Likely Price Effects of Subject Imports

In the original investigations, cumulated subject imports undersold the domestic like product in all possible comparisons.²⁵⁹ The two Commissioners who reached affirmative present injury determinations found that subject imports had suppressed prices for the domestic like product.²⁶⁰

Due to the absence of current LWR imports from Argentina and Taiwan, as well as the lack of participation in these reviews by subject producers, we were unable to obtain meaningful current pricing or average unit value information on such imports. Nevertheless, in light of the commodity nature of the product, the inelasticity of domestic demand for LWR, and the demonstrated willingness of subject producers to undersell the domestic like product in order to gain market share during the original investigations, we conclude that, if the orders are revoked, there is likely to be significant underselling by the subject imports and that LWR from Argentina and Taiwan is likely to enter the United States at prices that would have a significant depressing or suppressing effect on prices for the domestic like product.

²⁵⁵ Confidential Report in Inv. No. 731-TA-410 (Final) (Mar. 6, 1989), at A-31 and A-37, Tables 11 and 12.

²⁵⁶ CR at LWR-IV-4, PR at LWR-IV-3; Tables G-1 and G-7, CR and PR at Appendix G.

²⁵⁷ CR at LWR-IV-4 (U.S. Embassy reports that Argentine noncircular welded pipes and tubes industry operated at 74 percent capacity utilization in 1998), PR at LWR-IV-3; CR at LWR-IV-5 (American Institute in Taiwan reports that overcapacity is a major problem in the Taiwan steel pipe and tube industry), PR at LWR-IV-4.

²⁵⁸ Based upon the data available on the record, including the record in the original investigations, Commissioner Bragg infers that substantial production capacity in Argentina, Singapore, and Taiwan would be used to direct significant volumes of LWR exports to the U.S. market in the event of revocation.

²⁵⁹ Original Report in Inv. No. 731-TA-410 (Final) (Mar. 6, 1989) at A-47–A-48, Tables 17 and 18.

²⁶⁰ USITC Pub. 2169 at 30–31, 35–42; USITC Pub. 2187 at 11.

3. Likely Impact of Subject Imports

In the original investigations, the Commission found that a number of industry performance indicators improved between 1985 and 1987, but then declined in interim 1988. The two Commissioners making present material injury determinations found that the industry's health was not so strong as to

preclude an affirmative determination, while the two Commissioners making threat determinations found that the industry was in a vulnerable condition.²⁶¹

The condition of the domestic LWR industry has improved significantly since the imposition of the orders, both as a result of the orders themselves and as a result of growing demand in the U.S. construction sector. The domestic industry's production capacity has increased from 320,361 short tons in 1987 to 599,170 short tons in 1998, with production and shipments exhibiting similar rising trends. Employment has increased from 426 production and related workers ("PRWs") in 1987 to 549 PRWs in 1998. While the domestic industry's operating income margin ranged from 2.6 percent to 4.6 percent during the complete years in the period examined in the original investigation, the industry's operating income margin was 9.4 percent in 1997 and 1998 and rose to 10.6 percent in interim 1999.²⁶² Based on these facts, we find that the domestic LWR industry is not currently vulnerable to material injury if the antidumping duty orders are revoked.

Nevertheless, given the generally substitutable nature of the subject and domestic product and the inelasticity of demand for LWR, we find that the significant volume of low-priced subject imports, when combined with the adverse price effects of those imports, would likely have a significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry. This reduction in the industry's production, sales, and revenue levels would have a direct adverse impact on the industry's profitability and employment levels, as well as its ability to raise capital and make and maintain necessary capital investments. Accordingly, we conclude that, if the antidumping duty orders are revoked, the subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

D. Singapore²⁶³

As discussed above, we find that subject imports from Singapore are likely to have no discernible adverse impact on the domestic industry if the order is revoked and therefore do not cumulate such imports with those from Argentina and Taiwan.

In the original investigation, the Commission found that the volume of imports of LWR from Singapore producer STS rose rapidly between 1984 and interim (Jan.–June) 1986, with market share increasing from zero in 1983 to 0.2 percent in 1984, 1.0 percent in 1985, and 3.7 percent in interim 1986.²⁶⁴ Following imposition of the order, imports of LWR from Singapore fell from a high of 5,408 short tons in 1986 to 811 short tons in 1987, 247 short tons in 1988, small amounts in 1989–1991, and zero in every year starting in 1992.²⁶⁵

We find that the volume of imports from Singapore is not likely to change to any significant degree if the order is revoked. As noted above, STS, the only pipe producer in

²⁶¹ USITC Pub. 2187 at 13, 17–19.

²⁶² Table LWR-I-1, CR at LWR-I-7, PR at LWR-I-6.

²⁶³ Commissioner Bragg does not join section V.D of these Views. *See* note 224, *supra*.

²⁶⁴ USITC Pub. 1907 at 17.

²⁶⁵ Table D-3, CR and PR at Appendix D.

Singapore known to have exported LWR to the United States during the original period of investigation, has since been liquidated. The limited public information available indicates that the remaining firms in Singapore even capable of

producing LWR are small, with a total theoretical capacity in 1997 of only 68,000 short tons.²⁶⁶ Even assuming any of these remaining producers actually produces LWR, there is no evidence that any of them has ever exported LWR to the United States or would have reason to do so if the order is revoked. Accordingly, we find it unlikely that additional subject exports to the United States would result if the order is revoked. We find, moreover, that subject imports, if any, would be too small in absolute terms to have any adverse effects on domestic LWR prices, or any adverse impact on the domestic LWR industry, particularly in light of the industry's currently strong condition. Thus, we determine that revocation of the antidumping duty order on LWR from Singapore would not be likely to result in continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

VI. OCTG OTHER THAN DRILL PIPE²⁶⁷

A. Cumulation²⁶⁸

In these reviews, the statutory requirement that all of the OCTG other than drill pipe reviews be initiated on the same day is satisfied. We note that Canadian producers have argued that subject imports from Canada are likely to have no discernible adverse impact on the domestic industry if the orders are revoked.²⁶⁹ No party has argued that subject imports from Taiwan are likely to have no discernible adverse impact. We do not reach this issue, however, as we have determined not to cumulate subject imports of OCTG other than drill pipe from Canada and Taiwan due to the significant differences in the conditions of competition under which subject

²⁶⁶ Table G-6, CR and PR at Appendix G. Comparing the 1997 public information with the record in the original investigation indicates that the number of LWR producers in Singapore has declined since the original investigation. See Confidential Report in Inv. No. 731-TA-296 (Final) at a-11.

²⁶⁷ Commissioner Bragg does not join section VI of these Views. See Separate and Dissenting Views of Commissioner Lynn M. Bragg.

²⁶⁸ Commissioner Askey does not join this subsection. She finds that imports of OCTG other than drill pipe from Taiwan are likely to have no discernible adverse impact on the domestic industry and, therefore, she is precluded from cumulating imports from Taiwan with those from Canada. During the original investigation, Taiwan's production and exports to the United States were extremely small; in some years, imports from Taiwan represented less than 0.05 percent of domestic consumption. Table OCTG-I-1, CR at OCTG-I-3, PR at OCTG-I-3. Moreover, worldwide exports from Taiwan have been zero or negligible for most of the past 9 years; in 1999, such imports were 2,756 tons. CR at OCTG-IV-8, PR at OCTG-IV-6. However, even if all Taiwan's 1999 worldwide exports had been redirected to the United States, they would have represented less than 2 percent of domestic consumption in 1998 (full-year 1999 data are not available). Table OCTG-I-1, CR at OCTG-I-3, PR at OCTG-I-3. Taiwan producers did not participate, and most available data are aggregate pipe and tube data (*i.e.*, OCTG is not broken out), so there is limited data on the record. The available evidence suggests that there is a sizeable pipe and tube industry in Taiwan that may be suffering from overcapacity problems. CR at OCTG-IV-9, PR at OCTG-IV-6. However, based upon its prior and current exports to the United States, the evidence strongly suggests that the OCTG segment of Taiwan's pipe and tube industry was and remains a small industry and that subject imports from Taiwan are not likely to have a discernible adverse impact on the domestic industry.

²⁶⁹ Stelco Posthearing Brief at 3-4.

imports from the two countries compete in the U.S. market.

In the original investigations, the Commission found that subject imports from the relevant countries competed with each other and with the domestic like product.²⁷⁰ With respect to fungibility, the record continues to indicate that almost all OCTG other than drill pipe is produced to common American Petroleum Institute (“API”) standards,²⁷¹ but, as discussed further below, there is currently no API-certified producer of OCTG other than drill pipe in Taiwan. Thus, although almost all the responding domestic and foreign producers indicated that Canadian and domestic OCTG other than drill pipe are interchangeable, and most purchasers indicated that the U.S. and Canadian product were comparable in most respects, subject imports from Taiwan are too minimal for them to have significant recent experience with the product.²⁷² The record includes information suggesting that Canadian producers are likely to make sales in the northeastern United States, as well as the Gulf Coast and other regions served by the domestic industry.²⁷³ Given the small volume of imports from Taiwan, there is no information in the record on the geographic markets served. Domestic producers and importers of OCTG other than drill pipe reported that the majority of shipments were made to distributors, indicating that sales are made through the same channels of distribution.²⁷⁴ Based on the extremely minimal volume of imports of OCTG other than drill pipe from Taiwan during the period examined, it is difficult to assess whether such imports would be simultaneously present in the U.S. market if the order were revoked. Thus, the record in these reviews raises serious questions as to whether a reasonable overlap of competition would exist if the orders were revoked.

We need not resolve this issue, however, because other considerations lead us to decline to exercise our discretion to cumulate subject imports from Canada and Taiwan in these reviews. First, there are several facilities in Canada which are capable of producing OCTG other than drill pipe and which have current API certification for such products. By contrast, there are currently no API-certified producers of OCTG other than drill pipe in Taiwan.²⁷⁵ Second, while there is a production facility in Canada capable of producing seamless OCTG other than drill pipe, there is no such facility in Taiwan.²⁷⁶ Third, there is a large and growing home market for OCTG other than drill pipe in Canada, while Taiwan has little or no home market.²⁷⁷ Fourth, there is evidence

²⁷⁰ USITC Pub. 1865 at 8–9.

²⁷¹ CR at OCTG-I-16, PR at OCTG-I-13.

²⁷² *See generally* Tables OCTG-II-2–OCTG-II-5, CR at OCTG-II-7–OCTG-II-10, PR at OCTG-II-5–OCTG-II-7.

²⁷³ Lone Star Posthearing Brief, Responses to Questions at A-18; *** Importer Questionnaire responses.

²⁷⁴ CR at OCTG-II-1, PR at OCTG-II-1.

²⁷⁵ CR at OCTG-II-3, PR at OCTG-II-2; Stelco Posthearing Brief, Exhibit 10, API Handbook (Vol. 7, No. 4), “Manufacturers Authorized to Use the API Monogram on API Specification 5 CT Products.”

²⁷⁶ Hearing Tr. at 295–297; Domestic OCTG Producers’ Posthearing Brief at Exhibit 6, Pipe and Tube Mills of the World (1997) at 581–587.

²⁷⁷ Hearing Tr. at 144; Table OCTG-IV-3, CR at OCTG-IV-7, PR at OCTG-IV-5; CR at OCTG-IV-8; PR at OCTG-IV-6; Algoma Posthearing Submission (Mar. 20, 2000); Stelco Submission of May 16, 2000 at Exhibit 4

(continued...)

of substantial and increasing integration between U.S. and Canadian producers of OCTG other than drill pipe, as illustrated in the recent merger of Maverick Tube Corporation of the United States (“Maverick”) and Prudential Steel Ltd. of Canada (“Prudential”).²⁷⁸ By contrast, there is no integration between U.S. and Taiwan producers. All of these factors demonstrate that subject imports from Canada and Taiwan would compete in the U.S. market for OCTG other than drill pipe under significantly different conditions of competition. Accordingly we do not exercise our discretion to cumulate such imports.

B. Conditions of Competition

Demand for OCTG other than drill pipe is directly related to the price of oil and gas, making the market for OCTG other than drill pipe a volatile and cyclical one.²⁷⁹ The parties agree that the price of oil and gas affects how many drilling rigs are in operation, and that number, in turn, determines the demand for both OCTG other than drill pipe and drill pipe.²⁸⁰ Low oil prices beginning in 1998 caused a steep drop in drilling activity. This drop in demand was reflected in a 33-percent drop in U.S. apparent consumption of OCTG other than drill pipe from 1997 to 1998 (2.5 million short tons in 1997 to 1.6 million short tons in 1998) and in the oil and gas rig count, which reached its lowest level since the early 1950s in January 1999 (562 active rigs).²⁸¹ Oil and gas prices have significantly recovered since interim 1999, however, resulting in a significant surge in demand for OCTG other than drill pipe.²⁸² The rig count reached 798 in December 1999 and was 830 for the week ending May 12, 2000.²⁸³

The OCTG other than drill pipe industry consists of producers of welded tubes and producers of seamless tubes. Seamless OCTG other than drill pipe is generally used in more severe applications, including both deeper wells and “sour gas” wells.²⁸⁴ The record indicates that there is significant demand for both seamless and welded OCTG other than drill pipe in both the

²⁷⁷ (...continued)

(articles reporting rising drilling activity in Nova Scotia, Newfoundland, and western Canada, and rise in Canadian rig count from 217 in March 1999 to 600 in March 2000).

²⁷⁸ See Joint Press Release of Maverick Tube Corporation and Prudential Steel Ltd. (June 11, 2000), Attachment 2 to Stelco Submission of June 14, 2000; Atlas Submission of June 14, 2000 (articles concerning the Maverick-Prudential merger).

²⁷⁹ Hearing Tr. at 144.

²⁸⁰ CR at OCTG-II-1, PR at OCTG-II-1.

²⁸¹ Lone Star Prehearing Brief at 10.

²⁸² CR at OCTG-II-4–OCTG-II-5, PR at OCTG-II-3; Stelco Submission of May 26, 2000 (American Metals Market of May 15, 2000).

²⁸³ CR at OCTG-II-4–OCTG-II-5, PR at OCTG-II-3; Table K-3, CR and PR at Appendix K; Stelco Prehearing Brief, Exhibits 4-7.

²⁸⁴ See, e.g., Hearing Tr. at 167, 296–298.

United States and Canada.²⁸⁵

OCTG other than drill pipe is normally produced to API specifications.²⁸⁶ API licenses firms worldwide to use its certification mark, and most users of OCTG other than drill pipe require that the product be marked with the API certification mark.²⁸⁷ In order to obtain an API license, a manufacturer must have a manufacturing quality-control program approved via an on-site audit.²⁸⁸

²⁸⁵ Hearing Tr. at 167, 296–298, 299–300.

²⁸⁶ CR at OCTG-I-11; PR at OCTG-I-10.

²⁸⁷ CR at OCTG-I-15–OCTG-I-16; PR at OCTG-I-13.

²⁸⁸ CR at OCTG-I-15; PR at OCTG-I-13.

There have been significant changes to the North American market for this product since the mid-1980s. IPSCO, Inc., which accounted for *** of reported Canadian capacity in the original investigation, was excluded from the order in 1996 and is no longer a subject producer.²⁸⁹ Algoma Steel Inc. (“Algoma”), which accounted for *** of the remaining Canadian production reported in the original investigation, ceased production of tubular products in 1999, depriving the Canadian market of its only domestic source of seamless OCTG other than drill pipe.²⁹⁰ Argentine producer Siderca S.A.I.C. (“Siderca”) has recently signed an agreement to lease the Algoma facility, but will not begin producing seamless tubing in Canada until late 2000 or 2001.²⁹¹ In addition, Maverick, a U.S. producer of OCTG other than drill pipe, has recently purchased Prudential, which is currently the largest subject Canadian producer of welded OCTG other than drill pipe.²⁹²

C. Canada

1. Likely Volume of Subject Imports

In the original investigations, imports from Canada increased from *** in 1983 to *** in 1984, and increased to in 1985. Subject imports from Canada as a share of U.S. consumption grew from *** percent in 1983, to *** percent in 1984 and *** percent in 1985.²⁹³ Although the Commission analyzed the volume of imports on a cumulated basis, imports from Canada accounted for the vast majority of cumulated subject imports from Canada and Taiwan.²⁹⁴

Subject imports of OCTG other than drill pipe from Canada have fallen from *** tons in 1985, the year prior to the Commission’s affirmative final determination, to *** tons in 1998.²⁹⁵

²⁸⁹ Table OCTG-I-3, CR at OCTG-I-7, PR at OCTG-I-7; Confidential Report, Inv. Nos. 731-TA-275–277 (Final) (May 20, 1986) at A-142–A-143, Table G. In addition, IPSCO’s U.S. subsidiary is now an active U.S. producer of OCTG other than drill pipe. Table OCTG-I-5, CR at OCTG-I-18, PR at OCTG-I-15.

²⁹⁰ CR at OCTG-IV-6, PR at OCTG-IV-5; Confidential Report, Inv. Nos. 731-TA-275–277 (Final) (May 20, 1986) at A-142–A-143, Table G.

²⁹¹ See “Tube Mill Deal a Boost for City - Mayor,” Sault Star (June 7, 2000), Attachment to USX Submission of June 14, 2000 (tentative mill start-up date September 2000 dependent on several contingencies); Collective Agreement between Algoma Seamless Tubular Inc. and the United Steelworkers of America at 32 (June 2, 2000), Attachment 1 to Siderca Submission of June 14, 2000 (initial start-up period for mill to last nine months).

²⁹² See Foreign Producer Questionnaires of *** at Question II-18; Joint Press Release of Maverick Tube Corporation and Prudential Steel Ltd. (June 11, 2000), Attachment 2 to Stelco Submissions of June 14, 2000.

²⁹³ Table OCTG-I-1, CR at OCTG-I-3, PR at OCTG-I-3; Confidential Report, Inv. Nos. 731-TA-275–277 (Final) (May 20, 1986) at A-51, Table 17, and A-55, Table 18. We note that the volume of imports of OCTG other than drill pipe and drill pipe were combined in the original investigations pursuant to the product line provision of the statute.

²⁹⁴ Table OCTG-I-1, CR at OCTG-I-3, PR at OCTG-I-3; USITC Pub. 1865 at 12; Confidential Report, Inv. Nos. 731-TA-275–277 (Final) (May 20, 1986) at A-55, Table 18.

²⁹⁵ USX Prehearing Brief at 6 and 8; Table OCTG-I-6, CR at OCTG-I-21, PR at OCTG-I-17. Canadian
(continued...)

As a share of

²⁹⁵ (...continued)

imports of subject OCTG other than drill pipe were *** tons in interim 1999. Table OCTG-I-6, CR at OCTG-I-21, PR at OCTG-I-17.

U.S. consumption, subject imports from Canada were *** percent in 1997, *** percent in 1998, and *** percent in interim 1999.²⁹⁶

The evidence of record does not demonstrate that there would likely be a significant increase in the volume of subject imports from Canada if the order is revoked. In the reasonably foreseeable future, there will likely be four producers of subject Canadian OCTG other than drill pipe: Prudential, Atlas, Stelco, and Siderca (operating the former Algoma facility).²⁹⁷ Each of these subject producers has a limited ability or incentive to increase imports to the United States significantly, and together they are not likely to export significant quantities of the subject product to the United States in the reasonably foreseeable future.

Prudential, the largest subject producer of Canadian welded OCTG other than drill pipe, has recently been purchased by Maverick, a U.S. company with substantial production facilities.²⁹⁸ It is not likely that the new Canadian affiliate of Maverick (Prudential (Canada)) will export OCTG other than drill pipe to the United States in competition with Maverick's U.S. product. Indeed, the record evidence indicates that the former Prudential facility will continue to primarily serve the Canadian market.²⁹⁹

Although Atlas is not an insignificant producer of subject merchandise, it is not API-certified and has indicated that it has no intention of becoming API-certified.³⁰⁰ Non-API-certified products account for a very minor share of the U.S. market for OCTG other than drill pipe.³⁰¹ Accordingly, we find that the likely volume of subject imports from Atlas if the antidumping duty order was revoked would not be significant.

Stelco is a very small producer of OCTG other than drill pipe and has recently shut down one of its large-diameter production facilities.³⁰² Furthermore, Stelco's recent imports have been

²⁹⁶ Table OCTG-I-8, CR at OCTG-I-23, PR at OCTG-I-19.

²⁹⁷ As discussed above, IPSCO is a large Canadian producer of welded OCTG other than drill pipe. Because Commerce excluded IPSCO from the antidumping duty order in 1996, however, it is not a subject producer in this review. Table OCTG-I-1 n.1, CR at OCTG-I-3, PR at OCTG-I-3. Sonco, another subject producer at the time of the original investigation, was acquired by U.S. producer LTV-Copperweld Inc., which ***. Stelco Prehearing Brief at 9.

²⁹⁸ See Foreign Producer Questionnaires of *** at Question II-18; Joint Press Release of Maverick Tube Corporation and Prudential Steel Ltd. (June 11, 2000), Attachment 2 to Stelco Submissions of June 14, 2000.

²⁹⁹ See Joint Press Release of Maverick Tube Corporation and Prudential Steel Ltd. (June 11, 2000), Attachment 2 to Stelco Submission of June 14, 2000 (noting "only limited geographical overlap between the two companies' operations"); Lone Star Submission of June 14, 2000 at 3 ("it is clear that Maverick intends for Prudential to continue to concentrate its sales in the Canadian market . . .").

³⁰⁰ Hearing Tr. at 284.

³⁰¹ Atlas Prehearing Brief at 1 (stating that Atlas' sales of non-API OCTG can be used in an extremely narrow niche that represents *** percent of the U.S. market). Moreover, it appears that the domestic industry is only willing to serve this market niche with seconds which fail to meet API specifications, and has never been a reliable source of OCTG other than drill pipe deliberately produced to non-API specifications for customers desiring this product. Hearing Tr. at 284; Atlas Posthearing Brief at 3-4.

³⁰² Stelco Prehearing Brief at 11. Stelco reported an annual production capacity of *** short tons.

of a product for which U.S. producers reported no pricing data (product 3).³⁰³ Consequently, it is not likely that imports from Stelco will be significant if the antidumping duty order is revoked.

Algoma, which accounted for *** of exports reported by Canadian producers who became subject to the antidumping duty order as a result of the original investigations, ceased producing OCTG other than drill pipe in 1999.³⁰⁴ As discussed above, Argentine producer Siderca has reached a tentative agreement to lease the shuttered Algoma production plant. The record indicates, however, that only a fraction of the previous work force will be rehired.³⁰⁵ This suggests that the volume of its production in the reasonably foreseeable period will likely be limited. Moreover, we find it likely that production at the Algoma plant will be directed primarily to the large and growing Canadian market for seamless pipe. In 1998, when the Algoma plant was still operating, Algoma sold all of its production (approximately *** short tons) in Canada.³⁰⁶ In addition, in 1998 Canada imported significant quantities of seamless OCTG other than drill pipe, including 50,000 tons from the United States and 32,000 tons produced by Siderca-owned plants in Argentina and Mexico.³⁰⁷ Canadian demand for OCTG is strong, with rig counts up substantially in 2000.³⁰⁸ Recent Canadian offshore oil and gas discoveries indicate the likelihood of even greater demand, especially for the seamless product.³⁰⁹ Thus, while we have considered the arguments of the domestic OCTG producers that the U.S. Gulf States market, with deeper wells, is a more suitable market for Canadian seamless OCTG than either western or eastern Canada, we find that there is significant Canadian demand for the seamless product.³¹⁰

Finally, the record indicates that the Canadian industry is not export-oriented. In 1997 and 1998, *** Canadian production was consumed within Canada. In interim 1999, when

³⁰³ CR at OCTG-V-3–OCTG-V-4, PR at OCTG-V-2–OCTG-V-3.

³⁰⁴ CR at OCTG-IV-6 and n.3; PR at OCTG-IV-5 and n.3.

³⁰⁵ See “Tentative Pact Struck to Resurrect the Mill,” Sault Star (June 3, 2000) at A1-A2, Attachment to USX Submission of June 14, 2000 (Siderca to rehire 100 workers); “Algoma Steel Inks Deal to Lease Tube Mill,” Sault Star (Dec. 10, 1999), Attachment 4 to Siderca Submission of June 14, 2000 (mill previously employed 400–500 at full capacity).

³⁰⁶ Algoma Producer Questionnaire Response; Algoma Response to Commission Questions (Mar. 20, 2000) at 1.

³⁰⁷ Stelco Posthearing Brief at Exhibit 3.

³⁰⁸ Stelco Submission of May 16, 2000, at Exhibit 4 (articles concerning rising rig count and drilling activity in Canada; Canadian rig count up from 217 in March 1999 to 600 in March 2000).

³⁰⁹ Stelco Posthearing Brief at Exhibit 3; Stelco Submission of May 16, 2000, at Exhibit 4. Contrary to the arguments of the domestic OCTG producers, the record also indicates that there is demand for seamless OCTG in Western Canada for use in “sour gas” wells. Hearing Tr. at 296–298.

³¹⁰ We also note Siderca’s sworn testimony that exports to the United States are not part of its business plan for the Algoma facility. Hearing Tr. at 281. Moreover, the record indicates that freight costs from Ontario, the location of the Algoma facility, to western Canada are lower than freight costs to the U.S. Gulf Coast area, location of the principal U.S. market for this product. This reduces the incentive for Siderca to ship seamless OCTG other than drill pipe produced in the Algoma facility to the United States instead of selling it in western Canada. Hearing Tr. at 295–297; Stelco Posthearing Brief at 7–8.

Canadian consumption was significantly reduced, approximately *** percent of Canadian production was consumed

domestically, with exports totaling only *** short tons.³¹¹ By contrast, Canada's imports of OCTG (including both OCTG other than drill pipe and drill pipe) were 174,222 short tons in full-year 1999.³¹²

Based on the foregoing, we conclude that, while there may be some increase in the volume of subject imports of OCTG other than drill pipe from Canada if the antidumping duty order is revoked, the likely volume would not be significant.

2. Likely Price Effects of Subject Imports

The Commission found in the original investigation that comparisons of relative prices for domestic OCTG and cumulated imports of OCTG from Canada and Taiwan showed a pattern of mixed underselling and overselling and that depression of domestic prices and profitability resulted in part from the presence of subject imports.³¹³

Current pricing information cannot be used to determine whether underselling exists since there was no overlap in the products for which domestic producers and importers of the Canadian product provided data. Prices for domestic OCTG other than drill pipe generally fell sharply from early 1998 to early 1999, as oil and gas exploration declined significantly in the face of depressed oil and gas prices.³¹⁴ However, with the turnaround in oil and gas prices, recent industry press reports indicate that OCTG prices are increasing substantially.³¹⁵ Recent indicators demonstrate that demand is growing for OCTG other than drill pipe in both the United States and Canada, and this demand is likely to lead to further strengthening of prices.³¹⁶

In light of our finding above that it is not likely that revocation of the order will lead to a significant volume of subject imports, the mixed record of underselling in the original investigation, and in the context of strengthening domestic and Canadian demand and prices, we find it unlikely that subject imports from Canada would result in significant adverse price effects in the U.S. market within a reasonably foreseeable time if the order is revoked.

3. Likely Impact of Subject Imports

In the original determination, the Commission found that the increasing volume and market penetration of the subject imports from Canada, combined with negative price effects for the domestic

³¹¹ Table OCTG-IV-3, CR at OCTG-IV-7, PR at OCTG-IV-5.

³¹² Stelco Posthearing Brief at Exhibit 3 (Statistics Canada data) (converted to short tons). Of those imports, 89,035 short tons were imported from the United States.

³¹³ USITC Pub. 1865 at 11.

³¹⁴ Figures N-9–N-10, CR and PR at Appendix N.

³¹⁵ CR at OCTG-II-5 and n. 9, PR at OCTG-II-3 and n. 9; Stelco Submission of May 16, 2000, at Exhibit 1 (articles reporting OCTG price increases by USX, Maverick, and other U.S. producers).

³¹⁶ CR at OCTG-II-4–OCTG-II-5, PR at OCTG-II-3; Figures K-1 and K-2, CR and PR at Appendix K; Stelco Prehearing Brief at 17, 22–26 and Exhibits 4–8A.

product, demonstrated that the domestic OCTG other than drill pipe industry was materially injured by reason of the LTFV imports.³¹⁷

The condition of the domestic industry has improved in several ways since the imposition of the antidumping duty order. The domestic industry's market share increased from 48.7 percent in 1985 to 79.4 percent in 1998 and 87.5 percent in interim 1999, as a result of a significant decrease in the volume of subject and nonsubject imports.³¹⁸ For most of the recent period examined, the domestic industry experienced positive operating results, in contrast to the significant operating losses that occurred in each year of the period considered in the original investigations. As apparent U.S. consumption fell in 1998 and again in interim 1999 (as compared with interim 1998), the financial condition of the industry worsened such that in interim 1999 the industry posted a substantial operating loss.³¹⁹ Record information indicates, however, that since interim 1999, as oil and gas prices have risen, demand has strengthened, and the financial performance of certain large producers has been positive.³²⁰ We therefore find that any lingering vulnerability is likely to be relatively short in duration.

We found above that significant volume changes or price effects are unlikely in the event of revocation of the order. In the absence of such volume or price effects, we conclude that it is not likely that revocation of the order will result in a significant adverse impact on the domestic industry. We therefore determine that revocation of the antidumping duty order on OCTG other than drill pipe from Canada is not likely to lead to the continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

³¹⁷ USITC Pub. 1865 at 3.

³¹⁸ Table OCTG-I-1, CR at OCTG-I-3, PR at OCTG-I-3.

³¹⁹ Table OCTG-I-1, CR at OCTG-I-3, PR at OCTG-I-3.

³²⁰ CR at OCTG-II-5 and n. 9, PR at OCTG-II-3 and n. 9; Stelco Submission of May 16, 2000, at Exhibit 1 (articles on rising U.S. OCTG prices in 2000) and Exhibit 2 (articles on improving financial condition of U.S. producers Lone Star and IPSCO); Stelco Submission of May 26, 2000, Attachments 2–4.

D. Taiwan³²¹

1. Likely Volume of Subject Imports

In the original investigations, the Commission did not collect separate data for U.S. imports of OCTG other than drill pipe and drill pipe from Taiwan.³²² Combined imports of OCTG other than drill pipe and drill pipe from Taiwan were *** tons in 1983, *** tons in 1984, and *** tons in 1985.³²³ Subject imports from Taiwan as a share of U.S. OCTG consumption were *** percent in 1983, *** percent in 1984, and *** percent in 1985.³²⁴

Subject imports from Taiwan as a share of U.S. consumption were less than 0.05 percent from 1997 through interim 1999.³²⁵ Furthermore, there is no seamless or API-certified ERW production of OCTG other than drill pipe in Taiwan. As discussed above, API-certified OCTG comprises almost all of the demand in the U.S. market for the product. Absent evidence that any Taiwan producer stands ready to obtain API 5 CT certification and resume substantial shipments of OCTG other than drill pipe, we find that a significant increase in volume of subject imports is unlikely if the order is revoked. Given that the volume of subject imports was extremely low at the time of the original investigation and is currently minimal, and that Taiwan lacks seamless and ERW production facilities certified to API 5 CT, we conclude that the likely volume of subject imports of OCTG other than drill pipe from Taiwan would not be significant if the antidumping duty order is revoked.

2. Likely Price Effects of Subject Imports

In the original investigation, there were only two price comparisons possible between

³²¹ As discussed above, Commissioner Askey found that the subject imports of OCTG other than drill pipe from Taiwan are not likely to have a discernible adverse impact on the domestic industry if the antidumping duty order covering these imports were revoked. Accordingly, she has not cumulated those subject imports with the other subject imports for purposes of her sunset analysis. In addition, for the reasons she outlined previously, she finds that the subject imports from Taiwan are not likely to have significant adverse volume effects on the domestic industry after revocation of the order. Because subject import volumes have been and are likely to continue to be extremely low or nonexistent, they are not likely to have any significant price effects. Accordingly, she finds that revocation of the order on the subject imports from Taiwan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See* note 268, *supra*.

³²² CR at OCTG-I-2; PR at OCTG-I-2 (stating that separate data were not collected in the original investigations thus making it impossible to present comparable data series for the two separate products for both the period examined in the original investigations and the period examined in the reviews).

³²³ Table OCTG-I-1, CR at OCTG-I-3, PR at OCTG-I-3.

³²⁴ Table OCTG-I-1, CR at OCTG-I-3, PR at OCTG-I-3.

³²⁵ Table OCTG-I-8, CR at OCTG-I-23, PR at OCTG-I-19.

Taiwan and domestic OCTG, given the very small volume of subject imports from Taiwan.³²⁶ For cumulated

³²⁶ Confidential Report, Inv. Nos. 731-TA-275–277 (Final) (May 20, 1986) at A-61. One comparison showed overselling and the other showed underselling.

imports from Canada and Taiwan, the Commission stated that price comparisons showed mixed overselling and underselling.³²⁷

As stated above, subject imports from Taiwan as a share of U.S. consumption were less than 0.05 percent in the period examined in these reviews.³²⁸ There is no evidence of current significant price underselling by the subject merchandise, or of other price depressing or suppressing effects due to the very limited amount of subject imports during the period examined in this review. In view of our findings that the likely volume of Taiwan imports upon revocation will not be significant, it is unlikely that such imports would result in significant adverse price effects in the U.S. market.

3. Likely Impact of Subject Imports

In the original determination, the Commission found that the increasing volume and market penetration of the subject imports, combined with negative price effects for the domestic product, demonstrated that the domestic OCTG other than drill pipe industry was materially injured by reason of the LTFV imports.³²⁹ As discussed above, we find that the condition of the domestic industry has improved in several ways since the imposition of the orders, and is rapidly recovering from the severe slump in 1999. Thus, any lingering vulnerability is likely to be relatively short in duration.

We found above that significant volume changes or price effects are unlikely in the event of revocation of the order. In the absence of such volume or price effects, we conclude that it is not likely that revocation of the order will result in a significant adverse impact on the domestic industry. We therefore determine that revocation of the antidumping duty order on OCTG other than drill pipe from Taiwan is not likely to lead to the continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

VII. DRILL PIPE³³⁰

A. Cumulation

In these reviews, the statutory requirement that both of the drill pipe reviews be initiated on the same day is satisfied. We find that revocation of the order with respect to drill pipe from Taiwan would be likely to have no discernible adverse impact on the domestic industry, and

³²⁷ USITC Pub. 1865 at 13. We note that separate pricing data for OCTG other than drill pipe and drill pipe were not collected in the original investigations, making it impossible to present comparable data series for the two separate products for both the period examined in the original investigations and the period examined in these reviews.

³²⁸ Table OCTG-I-8, CR at OCTG-I-23, PR at OCTG-I-19.

³²⁹ USITC Pub. 1865 at 3.

³³⁰ Commissioner Bragg does not join section VII of these Views. *See* Separate and Dissenting Views of Commissioner Lynn M. Bragg.

therefore, do not cumulate these imports with subject imports from Canada.³³¹

In the original investigation, the Commission did not collect separate data for U.S. imports of OCTG other than drill pipe and drill pipe from Taiwan.³³² Subject imports of all OCTG from Taiwan peaked at 6,000 short tons, *** percent of the U.S. market, during the original investigation.³³³ Current imports of drill pipe from Taiwan are extremely small. Subject imports of drill pipe from Taiwan as a share of U.S. consumption were *** percent in 1997, accounted for less than *** percent in 1998, and were *** percent in interim 1999.³³⁴ However, even these volumes may be overstated. As discussed above, drill pipe can only be made with seamless pipe. The record in these reviews indicates that there is no seamless pipe production and no seamless pipe production facility in Taiwan, nor is there any evidence in the record of current or planned construction of a seamless pipe production facility in Taiwan.³³⁵ Given the minuscule share of U.S. consumption currently accounted for by subject drill pipe from Taiwan, and the lack of evidence of current or planned construction of seamless pipe production facilities in Taiwan, we find that such subject imports are likely to have no discernible adverse impact on the domestic industry. Accordingly, we do not cumulate subject imports from Taiwan with subject imports from Canada.³³⁶

B. Conditions of Competition

³³¹ Commissioner Askey also determines that subject imports of drill pipe from Canada would be likely to have no discernible adverse impact on the domestic industry. The only foreign producer questionnaire that the Commission received from a Canadian company capable of producing drill pipe indicated that ***. *See* Algoma Foreign Producer Questionnaire at 2. Customs data show Canadian drill pipe imports as having been between 96 and 1,786 short tons during that same period. Table OCTG-I-2, CR at OCTG-I-5, PR at OCTG-I-5. Although the Customs data ***, it appears likely that the Customs data may represent classification errors given the small volumes involved, the small number of Canadian drill pipe producers (i.e., one), and the response from that one producer. Accordingly, it appears that there have been little or no imports of Canadian drill pipe during the past three years. Moreover, as discussed in this section, it is unlikely that either of the two Canadian companies that might be capable of producing drill pipe would export sufficient quantities to the United States so as to have a discernible adverse impact on the domestic industry.

³³² CR at OCTG-I-2; PR at OCTG-I-2 (stating that separate data were not collected in the original investigations thus making it impossible to present comparable data series for the two separate products for both the period examined in the original investigations and the period examined in the reviews).

³³³ Table OCTG-I-2, CR at OCTG-I-5, PR at OCTG-I-5. The original staff report notes that there were only two U.S. importers of OCTG from Taiwan, and that only two quarterly price comparisons were possible. Confidential Report, Inv. Nos. 731-TA-275–277 (Final) (May 20, 1986) at A-19 and A-61.

³³⁴ Table OCTG-I-9, CR at OCTG-I-24, PR at OCTG-I-20.

³³⁵ Lone Star Posthearing Brief at Exhibit 6 (Pipe and Tube Mills of the World (1997) at 581–587) (identifying no seamless pipe mills in Taiwan). Moreover, no mill in Taiwan is licensed to manufacture or to process tubular products in accordance with API specification 5D, the specification for drill pipe. *See* Stelco Posthearing Brief at Exhibit 8, API Handbook (Vol. 8, No. 1), “Manufacturers Authorized to Use the API Monogram on API Specification 5D Products.”

³³⁶ 19 U.S.C. § 1675a(a)(7).

The conditions of competition concerning the drill pipe industry are generally similar to those which are applicable to the OCTG other than drill pipe industry, discussed above.

Two conditions of competition are distinctive to the drill pipe industry. First, OCTG other than drill pipe may be either welded or seamless, but drill pipe that meets API specifications is always produced from seamless tubing, due to the high levels of stress that drill pipe must withstand.³³⁷ Second, the U.S. drill pipe industry is much more concentrated than is the U.S. OCTG other than drill pipe industry, with only three manufacturers and one processor reporting production of the domestic like product.³³⁸

C. Canada³³⁹

1. Likely Volume of Subject Imports

In the original investigations, the volume of subject drill pipe from Canada was combined with OCTG other than drill pipe, with OCTG other than drill pipe accounting for the majority of imports. Accordingly, the volume of subject imports from the original investigation is of limited probative value in these reviews. Subject imports of drill pipe from Canada as a share of U.S. apparent consumption were *** percent in 1997, *** percent in 1998, and *** percent in interim 1999.³⁴⁰

There are only two Canadian companies that may be able to produce subject drill pipe in the reasonably foreseeable future: Siderca (operating the former Algoma facility) and Grant Prideco. Because the Algoma plant is a seamless pipe facility, it is theoretically possible that the plant could produce drill pipe when it is reopened by Siderca. When being operated by Algoma, however, the facility ***.³⁴¹ Moreover, there is no evidence that Siderca intends to use the leased facility to produce subject drill pipe within a reasonably foreseeable time.³⁴²

³³⁷ CR at OCTG-I-12, PR at OCTG-I-11.

³³⁸ Table OCTG-I-5, CR at OCTG-I-18, PR at OCTG-I-15.

³³⁹ As noted above, Commissioner Askey also found that the subject imports of drill pipe from Canada are not likely to have a discernible adverse impact on the domestic industry if the antidumping duty order covering these imports were revoked. Accordingly, she has not cumulated those subject imports with the other subject imports for purposes of her sunset analysis. In addition, for the reasons she outlined previously, she finds that the subject imports from Canada are not likely to have significant adverse volume effects on the domestic industry after revocation of the order. Because Canadian subject import volumes have been and are likely to continue to be extremely low or nonexistent, they are not likely to have any significant price effects. Accordingly, she finds that revocation of the order on the subject imports from Canada would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See* note 331, *supra*.

³⁴⁰ Table OCTG-I-2, CR at OCTG-I-5, PR at OCTG-I-5.

³⁴¹ Algoma Foreign Producer Questionnaire at 2.

³⁴² *See* Siderca's Information Update (May 30, 2000). We note Siderca's statement that production of drill pipe is not part of its business plan for the Algoma facility. Siderca Posthearing Submission (Mar. 20, 2000),
(continued...)

Grant Prideco, a processor rather than a manufacturer of drill pipe, does maintain a drill pipe processing facility in Canada. The record evidence does not demonstrate that it currently exports subject

³⁴² (...continued)
Responses to Questions at 1.

product into the United States, and there is no evidence that it intends to do so.³⁴³ Moreover, as the majority of Grant Prideco's facilities are located in the United States, it is unlikely that it would export drill pipe from its sole Canadian plant in volumes or at prices that would undermine its more extensive operations in the United States.

In addition, the strong demand in the Canadian home market indicates that it is not likely that there would be a significant increase in subject exports to the United States in the reasonably foreseeable future if the order were revoked.³⁴⁴

Based on the foregoing, we conclude that the likely volume of subject imports of drill pipe from Canada would not be significant if the antidumping duty order is revoked.

2. Likely Price Effects of Subject Imports

In the original investigation, the Commission did not address separately the price effects of imports of subject drill pipe as distinct from OCTG other than drill pipe.³⁴⁵ The Commission found in the original investigations that comparisons of relative prices for domestic and imported drill pipe and OCTG other than drill pipe from the subject countries showed mixed underselling and overselling.³⁴⁶

As described above, we find that it is not likely that there will be a significantly increased volume of subject imports. There is no evidence in the record of current underselling of the domestic like product by the subject Canadian drill pipe.³⁴⁷ Recent indicators demonstrate that U.S. drill pipe market conditions are improving rapidly and strong demand is likely to lead to the strengthening of U.S. prices.³⁴⁸

In light of the foregoing, we find that revocation of the antidumping duty order would not be likely to lead to significant underselling, or to significant price depression or suppression, within a reasonably foreseeable time.

3. Likely Impact of Subject Imports

In the original determination, the Commission found that the increasing volume and market penetration of the subject imports, combined with negative price effects for the domestic

³⁴³ Stelco Posthearing Brief, Responses to Questions from Commissioners and staff at 5–6. Grant Prideco (U.S.) imported both OCTG other than drill pipe and drill pipe from nonsubject countries during the period of review, but there is no indication in the record that the Canadian operation exported subject merchandise into the United States.

³⁴⁴ Hearing Tr. at 144; Table OCTG-IV-3, CR at OCTG-IV-7, PR at OCTG-IV-5; Algoma Posthearing Submission (Mar. 20, 2000); Stelco Submission of May 16, 2000 at Exhibit 4.

³⁴⁵ USITC Pub. 1865 at 13.

³⁴⁶ USITC Pub. 1865 at 13.

³⁴⁷ CR at OCTG-V-4, PR at OCTG-V-3

³⁴⁸ CR at OCTG-II-4-OCTG-II-5, PR at OCTG-II-3; Figures K-1 and K-2, CR and PR at Appendix K; Stelco Prehearing Brief at 17, 22–26 and Exhibits 4–8A.

product, demonstrated that the domestic drill pipe industry was materially injured by reason of the subject

imports. In the absence of separate data for drill pipe and OCTG other than drill pipe, the Commission conducted a product line analysis and considered data for both products combined.³⁴⁹

The condition of the domestic industry has improved somewhat since the imposition of the antidumping duty order. The domestic industry's market share increased from 48.7 percent in 1985 to *** percent in 1998, as a result of a significant decrease in the volume of subject and nonsubject imports.³⁵⁰ As in the period examined in the original investigation, however, the domestic industry experienced negative operating results. As apparent U.S. consumption fell in 1998 and again in interim 1999 (as compared with interim 1998), the financial condition of the industry worsened.³⁵¹ Record information indicates, however, that since interim 1999, as oil and gas prices have risen, demand has strengthened, and the financial performance of producers serving this market has been positive.³⁵² Thus, any lingering vulnerability is likely to be relatively short in duration.

We found above that significant volume changes or price effects are unlikely in the event of revocation of the order. In the absence of such volume or price effects, we conclude that it is not likely that revocation of the order will result in a significant adverse impact on the domestic industry. We therefore determine that revocation of the antidumping duty order on drill pipe from Canada is not likely to lead to the continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

D. Taiwan

As discussed above, we find that imports of drill pipe from Taiwan are likely to have no discernible adverse impact on the domestic industry if the antidumping duty order is revoked and thus do not cumulate imports from Taiwan with those from Canada.

We find that the minimal current volume of the subject drill pipe from Taiwan is not likely to change to a significant degree as a result of revocation of the antidumping duty order. As discussed above, U.S. imports of drill pipe from Taiwan are extremely limited. Subject imports of drill pipe from Taiwan as a share of U.S. consumption were *** percent in 1997, accounted for less than *** percent in 1998, and were *** percent in interim 1999.³⁵³ Moreover, as discussed above, there is no seamless pipe production and no seamless pipe production facility in Taiwan, nor is there any evidence in the record of current or planned construction of a seamless pipe production facility in Taiwan. As drill pipe is a form of seamless pipe, it is unlikely that significant additional exports to the United States would result if the order were revoked. Given the

³⁴⁹ USITC Pub. 1865 at 3.

³⁵⁰ Table OCTG-I-2, CR at OCTG-I-5, PR at OCTG-I-5. As previously noted, the data in the original investigation included all OCTG.

³⁵¹ Table OCTG-I-2, CR at OCTG-I-5, PR at OCTG-I-5.

³⁵² CR at OCTG-II-5 and n. 9, PR at OCTG-II-3 and n. 9; Stelco Submission of May 16, 2000, at Exhibit 1 (articles on rising U.S. OCTG prices in 2000) and Exhibit 2 (articles on improving financial condition of U.S. producers Lone Star and IPSCO); Stelco Submission of May 26, 2000, Attachments 2-4.

³⁵³ Table OCTG-I-9, CR at OCTG-I-24, PR at OCTG-I-20.

minuscule share of U.S. consumption currently accounted for by subject drill pipe from Taiwan, and the lack of evidence of current seamless pipe production facilities in Taiwan, we further find that such subject imports are likely to have minimal price effects or other impact on the domestic industry.

Thus, we determine that revocation of the antidumping duty order on drill pipe from Taiwan would not be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we conclude that revocation of the antidumping duty orders covering CWP from Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey, the countervailing duty order covering CWP from Turkey, and the antidumping duty orders covering LWR from Argentina and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.³⁵⁴ We further conclude that revocation of the antidumping duty orders covering CWP from Venezuela, LWR from Singapore, and OCTG other than drill pipe and drill pipe from Canada and Taiwan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.³⁵⁵

³⁵⁴ Vice Chairman Okun and Commissioners Hillman and Askey dissenting with respect to CWP from Mexico. Commissioner Askey dissenting with respect to CWP from India and Turkey and with respect to LWR from Argentina and Taiwan.

³⁵⁵ Commissioner Bragg dissenting with respect to CWP from Venezuela, LWR from Singapore, OCTG other than drill pipe from Canada and Taiwan, and drill pipe from Canada.

**SEPARATE VIEWS OF COMMISSIONER JENNIFER A. HILLMAN
WITH RESPECT TO CIRCULAR WELDED PIPE AND TUBE FROM
BRAZIL, INDIA, KOREA, TAIWAN, THAILAND, AND TURKEY**

I. Introduction

I exercise my discretion to cumulate subject circular welded pipe and tube (CWP) from Brazil, India, Taiwan, Thailand, and Turkey. I join the Commission's analysis of conditions of competition relevant to the cumulation question, set out in section IV.A.3 of the Commission's Views, insofar as it pertains to these countries.

However, I find that subject imports from Korea will compete in the U.S. market under conditions of competition that are significantly different than those applicable to imports from these other subject countries. Accordingly, I do not exercise my discretion to cumulate imports from Korea with other subject imports.

As explained below, like the Commission majority, I render affirmative determinations with respect to each of these subject countries. In view of my decision not to cumulate Korea with the other countries, I based my affirmative determinations on separate analyses of subject imports from Korea alone and cumulated subject imports from Brazil, India, Taiwan, Thailand, and Turkey.

II. Cumulation

I find two main differences in conditions of competition concerning Korea. The first is that, of all subject countries, Korea is likely to be the most adversely affected by the recently imposed safeguard relief on imports of line pipe. As discussed below, the safeguard relief will likely increase the incentive of Korean producers to make and sell more CWP, which can be made on the same production lines as line pipe.

On February 18, 2000, the President issued a proclamation that established a tariff with limited quantitative exemptions on imports of line pipe applicable to all countries except Canada and Mexico. The tariff applies additional duties of 19 percent in the first year, 15 percent in the second year, and 11 percent in the third year, on imports of line pipe from a particular country that exceed 9,000 tons in a given year.

Korea was by far the largest shipper of line pipe to the United States prior to imposition of the safeguard relief. Imports of line pipe from Korea in 1998 were approximately 158,000 tons.¹ Under the safeguard action, only 9,000 tons of this quantity could be entered duty-free in a given year, whereas the remaining 149,000 tons would be subject to the additional duties. This quantity is equal to 85 percent of the approximately 175,000 tons of 1998 imports of CWP from Korea. Although it is difficult to predict with certainty the effect of the safeguard duties on imports, I find it likely that a significant amount of the "over-quota" quantity of 149,000 tons of line pipe will not be sold in the United States in the face of the additional duties. In contrast to Korea, none of the

¹ Circular Welded Carbon Quality Line Pipe, Inv. No. TA-201-70, USITC Pub. 3261 (Dec. 1999) at II-15, Table 3.

other subject countries that is covered by the safeguard action shipped significant quantities of line pipe above the quantitative exemption (9,000 tons).

This restriction on Korea's line pipe exports to the United States affects conditions of competition in the CWP market because many producers, including all but one of the responding Korean producers, produce line pipe and CWP (and other products) on the same production lines.² This means that the producers choose how much of the available time on their production lines to dedicate to making each product. The restriction on Korea's line pipe exports will likely increase significantly the incentive of Korean producers to dedicate more of their productive capacity to the production of CWP rather than line pipe. Greater production of CWP, in turn, will increase the likely volume of exports of CWP to the United States in the event of revocation of the antidumping order.³

The second difference in competitive conditions is the disparity in the size of the market presence of subject imports from Korea as compared to the other subject countries, both in the original investigations and in the current review period. Korea's market share has been more than three times greater than that of any other subject country in each year of the current review period. Its U.S. market share during the original investigations was between 14 and 17 percent. By contrast, no other subject country exceeded 3.2 percent in U.S. market share in any of the original investigations. These disparities suggest that the prior, current, and in my opinion, future competitive challenge posed by Korea to the domestic industry is of a materially different order of magnitude than that presented by any of the other subject countries. While this factor, standing alone, would likely not be a sufficient basis for me to decline to exercise my discretion to cumulate imports from Korea with the other subject imports, I find that this factor reinforces and is consistent with the effect on likely CWP imports from Korea of the safeguard remedy on line pipe.

Based on the above, I choose not to exercise my discretion to cumulate CWP imports from Korea with CWP imports from Brazil, India, Taiwan, Thailand, and Turkey.

III. Likelihood of material injury

A. Brazil, India, Taiwan, Thailand, and Turkey

For the reasons stated below, I determine that revocation of the orders on CWP from Brazil, India, Taiwan, Thailand, and Turkey would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

² CR at CIRC-II-6, PR at CIRC-II-4.

³ I do not agree with the argument of the Korean respondents that the only effect of the line pipe safeguard action is a "statistical change" in which formerly dual-stenciled line pipe will now be classified for Customs purposes as standard pipe. *See* Korea Respondents Posthearing Brief at 14. In the safeguard investigation, the Commission stated that it was not persuaded that most exports of Korean line pipe to the West Coast were in fact used for standard pipe applications. *See* Line Pipe, USITC Pub. 3261 at I-26. In any event, any dual-stenciling option available to Korean producers was effectively ended by the safeguard relief for all but 9,000 tons per year. Thus Korean exports used for CWP pipe purposes must now generally enter under the antidumping order, making the discipline of that order particularly important.

1. Likely Volume of Subject Imports

The Commission's volume analysis in the original investigations focused on the subject imports' ability to increase their U.S. market presence rapidly in terms of both volume and market share.⁴ The orders have clearly had a restraining effect on subject import volumes: the total volume of imports from Brazil, India, Taiwan, Thailand, and Turkey was 198,460 short tons in 1985, 108,537 short tons in 1991, and 88,634 short tons in 1998.⁵ Meanwhile, the domestic industry's U.S. market share has increased from 41.1 percent in 1985 to 63.1 percent in 1991 and 73.0 percent in 1998.⁶

In these reviews, several factors have prevented the Commission from assembling a single consistent and comprehensive set of capacity data for subject producers of CWP. These factors include: (1) the lack of participation by some subject CWP producers, including the entire industries of Brazil, Taiwan, and Thailand; (2) the need for producers to allocate capacity among multiple welded tubular products produced on the same mill and the lack of any single generally accepted methodology for doing so in the face of changing product mixes over time; and (3) differences between theoretical and practical capacity depending on the lengths and number of shifts, scheduled and unscheduled down time, and other factors. Nevertheless, although the Commission thus cannot simply aggregate capacity figures for all subject producers, the available capacity data lead me to conclude that subject producers have the capability to increase substantially their shipments to the United States over current levels if the orders are revoked.

With respect to participating subject producers in India and Turkey, reported cumulated capacity to produce CWP in 1998 was *** short tons, of which *** short tons was excess capacity. In interim 1999, the same producers reported total CWP capacity of *** short tons, of which *** short tons was excess capacity.⁷ Given the ability of many producers to shift capacity between multiple pipe products on the same mill depending on market conditions, I also take note of the fact that, in addition to capacity allocated to the production of CWP, responding producers reported an additional *** short tons of production using capacity allocated to nonsubject welded tubular products 16 inches and under in diameter in 1998, and *** short tons of such production in interim 1999.⁸

In addition, Tata, the participating producer from India, indicated that total annual capacity to produce CWP in India is approximately *** tons (an amount equal to *** U.S. CWP

⁴ USITC Pub. 1519 at 14; Confidential Report, Inv. Nos. 701-TA-253 and 731-TA-252 (Final) (Feb. 5, 1986) at I-19 and I-22; USITC Pub. 1839 at 12-13; USITC Pub. 2564 at 34-35.

⁵ Table D-1, CR and PR at Appendix D. I note that imports from the countries subject to these reviews were not all "subject" imports in each of the prior periods of investigation. Accordingly, I have relied on official statistics rather than the data in Table CIRC-I-1 for this comparison.

⁶ Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5.

⁷ Tables CIRC-IV-3 and CIRC-IV-6, CR at CIRC-IV-9 and CIRC-IV-15, PR at CIRC-IV-6 and CIRC-IV-7.

⁸ Tables J-1 and J-4, CR and PR at Appendix J.

market in 1998), and that total annual CWP production in India is *** tons.⁹ The Borusan Group, participating producers from Turkey, stated that nonparticipating producers in Turkey accounted for additional capacity of at least *** short tons in 1998.¹⁰

With respect to CWP producers in Brazil, Taiwan, and Thailand, none of which participated in these reviews, public data indicates that the aggregate theoretical capacity to produce products within the size range of CWP is approximately 2,920,000 short tons.¹¹ Although I recognize that these data are not directly comparable to those for participating producers, they nevertheless demonstrate the existence of substantial pipe and tube production capacity in these countries. Moreover, record information indicates that overcapacity is a significant problem for Taiwan's pipe and tube industry,¹² and that Thailand is a large exporter of welded pipe products.¹³

Overall, I conclude that the likely volume of subject imports would be significant both in absolute terms and relative to consumption in the United States if the orders are revoked. I base this conclusion on a number of factors, including: the demonstrated ability of producers in Brazil, India, Taiwan, Thailand, and Turkey to increase their U.S. market penetration rapidly; the existence of very large capacity allocated to the production of CWP, including significant excess capacity, in the cumulated countries; the existence of additional subject capacity allocated to production of nonsubject welded tubular products which could be reallocated to CWP production; the demonstrated export-orientation of a number of the industries; the restraining effect that these orders have had on subject import volumes; and the attractiveness of the large and growing U.S. CWP market as an outlet for excess production.

2. Likely Price Effects of Subject Imports

In the original investigations, the Commission found that subject imports from Brazil, India, Taiwan, Thailand and Turkey generally undersold the domestic like product and that, because of the price-sensitive nature of the U.S. CWP market, underselling by subject imports resulted in both significant price depression and lost market share for the domestic industry.¹⁴

The domestic market for CWP remains as price sensitive today as the Commission found it to be in the original investigations. As discussed above, CWP is a commodity product

⁹ CR at CIRC-II-5, PR at CIRC-II-3.

¹⁰ CR at CIRC-IV-14, PR at CIRC-IV-7; Table CIRC-IV-6, CR at CIRC-IV-15, PR at CIRC-IV-7.

¹¹ Tables G-2, G-7, and G-8, CR and PR at Appendix G.

¹² CR at CIRC-IV-7, PR at CIRC-IV-5.

¹³ Table H-1, CR and PR at Appendix H (showing the United States as Thailand's largest export market in 1996 and 1997).

¹⁴ USITC Pub. 1519 at 15-16; Inv. Nos. 701-TA-253 and 731-TA-252 (Final), Confidential Report (Feb. 5, 1986) at I-23-I-29; USITC Pub. 1839 at 13-14; USITC Pub. 2564 at 35-36.

produced to standard specifications.¹⁵ Almost all the responding domestic and foreign producers indicated that subject and

¹⁵ CR at CIRC-I-23, PR at CIRC-I-19.

domestic CWP are interchangeable.¹⁶ Purchasers reported that both quality and price are important to their purchasing decisions, and uniformly responded that subject imports are lower priced than domestic CWP.¹⁷ In addition, the majority of responding domestic producers and virtually all importers reported that CWP is sold on a spot basis, rather than under contract.¹⁸ Finally, as discussed above, demand for CWP is price inelastic.¹⁹ Based on these market characteristics, I conclude that sustained underselling in this market is likely to have a significant suppressing or depressing effect on domestic prices.

During the period examined in these reviews, U.S. prices for both the subject imports and the domestic like product generally declined. Pricing data show that, even with the orders in place, subject imports undersold the domestic like product in the majority of comparisons during the period 1997-interim 1999, confirming purchasers' impression that subject imports tend to be lower priced than the domestic like product. Instances of underselling were particularly prevalent with respect to products 1, 2, and 6, which reflected the highest volumes of the subject cumulated imports.²⁰ Based on the pervasive underselling by subject imports during the original investigations and even during the period examined in these reviews, I conclude that there would likely be significant price underselling by imports of the subject merchandise if the orders were revoked. Moreover, in light of the price sensitive nature of the market and the inelasticity of demand for CWP, I conclude that subject imports are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the prices of the domestic like product if the orders were revoked.

3. Likely Impact of Subject Imports

In the original investigations of CWP from Taiwan (certain small diameter), India, Thailand, and Turkey, the Commission found that, due to falling prices and declining market share, the domestic industry was unable to operate profitably despite rising apparent consumption, capacity, capacity utilization, production, and shipments.²¹ In the original investigations of CWP from Brazil, Korea, Mexico, Taiwan (other than certain small diameter), and Venezuela, the Commission found that both production and employment-related trends and the industry's operating income margin declined irregularly over the period of investigation, although the

¹⁶ Table CIRC-II-6, CR at CIRC-II-22, PR at CIRC-II-14; Table CIRC-II-7, CR at CIRC-II-23, PR at CIRC-II-15.

¹⁷ Table CIRC-II-3, CR at CIRC-II-16, PR at CIRC-II-10; Table CIRC-II-5, CR at CIRC-II-20, PR at CIRC-II-12.

¹⁸ CR at CIRC-V-4, PR at CIRC-V-4.

¹⁹ CR at CIRC-II-26-CIRC-II-27, PR at CIRC-II-17.

²⁰ Tables CIRC-V-1-CIRC-V-6, CR at CIRC-V-7-CIRC-V-12, PR at CIRC-V-5-CIRC-V-6.

²¹ USITC Pub. 1519 at 7-9; USITC Pub. 1810 at 7-9; USITC Pub. 1839 at 7-9, 14-15.

industry continued to experience positive operating income margins.²² The Commission found that falling prices in the U.S. market contributed to the domestic industry's worsening financial performance without preventing its losses in market share.²³

The industry's condition has improved markedly since the original investigations. The domestic industry has increased its U.S. market share from 41.1 percent in 1985 and 63.1 percent in 1991 to 73.0 percent in 1998 and 73.8 percent in interim 1999. Production capacity has risen from 1,824,000 short tons in 1985 and 1,886,781 short tons in 1991 to 3,039,075 short tons in 1998. At the same time, capacity utilization has risen from 55.0 percent in 1985 and 63.7 percent in 1991 to 73.3 percent in 1998. The industry's operating income margin, although declining between 1997 and interim 1999, has remained consistently higher than during any of the previous periods of investigation.²⁴ Domestic producers uniformly testified that, since imposition of the orders, they have been able to expand and modernize capacity. I find that this improvement in the state of the industry is due both to the existence of the orders and to the recent surge in demand for construction materials. I further find that, given its present condition, the domestic CWP industry is not vulnerable to material injury if the orders are revoked.

Nevertheless, given the generally substitutable nature of the subject and domestic product and the inelasticity of demand for CWP, I find that the significant volume of low-priced subject imports, when combined with the expected adverse price effects of those imports, would have a significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry. This reduction in the industry's production, sales, and revenue levels would have a direct adverse impact on the industry's profitability and employment levels, as well as its ability to raise capital and make and maintain necessary capital investments. Accordingly, I conclude that, if the antidumping and countervailing duty orders are revoked, the subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

B. Korea

For the reasons stated below, I determine that revocation of the antidumping duty order on CWP from Korea, would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

1. Likely Volume of Subject Imports

In the original investigations involving Korea, the Commission found that cumulated imports from Brazil, Korea, Mexico, Taiwan, and Venezuela increased in volume and market share from 1989 to 1991. Imports from Korea alone increased from 295,643 short tons in 1989

²² USITC Pub. 2564 at 18-20.

²³ USITC Pub. 2564 at 36.

²⁴ Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5. The industry's operating income margin was 1.1 percent in 1985, 5.7 percent in 1991, 9.8 percent in 1997, 9.0 percent in 1998, and 8.5 percent in interim 1999, compared with 9.2 percent in interim 1998.

to 324,704 short tons in 1991, and increased in market share from 14.7 percent in 1989 to 16.9 percent in 1991.²⁵

The order has had a restraining effect on subject import volumes, as imports from Korea dropped from 324,704 short tons in 1991 to 174,929 short tons in 1998.²⁶ Meanwhile, the domestic industry's U.S. market share has increased from 63.1 percent in 1991 to 73.0 percent in 1998.²⁷

The available capacity data lead me to conclude that subject Korean producers have the capability to increase substantially their shipments to the United States over current levels if the orders are revoked. Nine Korean producers reported an aggregate capacity to produce CWP in 1998 of *** short tons, of which *** short tons was excess capacity. In interim 1999, the same producers reported total capacity of *** short tons, of which *** short tons -- the equivalent of *** percent of U.S. apparent consumption -- was excess capacity.²⁸

In addition, the Korean producers reported an aggregate capacity to produce subject and nonsubject welded tubular products 16 inches and under in diameter of 1,948,700 short tons, and an excess capacity of 584,714 short tons, in 1998. In interim 1999, Korean producers reported total 16-inch-and-under welded capacity of 1,396,747, short tons, and excess capacity of 382,535 short tons. The excess capacity in interim 1999 of 382,535 short tons is equivalent to 17.5 percent of U.S. apparent consumption of CWP during that period.²⁹ I find these figures on capacity and excess capacity with respect to all 16-inch-and-under welded tubular products to be particularly significant in the case of Korea because, as described above, I find that Korean producers will have a strong incentive to devote more of their available welded tubular capacity to the production of CWP in light of the recently imposed safeguard relief on line pipe.

I conclude that the likely volume of subject imports would be significant both in absolute terms and relative to consumption in the United States if the orders are revoked. I base this conclusion on a number of factors, including: the demonstrated ability of Korean producers to increase their U.S. market penetration rapidly; the existence of very large capacity allocated to the production of CWP, including significant excess capacity, in Korea; the existence of substantial additional subject capacity allocated to production of nonsubject welded tubular products which

²⁵ Table CIRC-I-1, CR at CIRC-I-5-6, PR at CIRC-I-5-6.

²⁶ Table CIRC-I-1, CR at CIRC-I-6, PR at CIRC-I-6. I note that, contrary to the Korean CWP producers' argument, the relatively low dumping margins applicable to some Korean producers have not resulted in a continuation of pre-order import levels. *Compare* Korean CWP Producers' Prehearing Brief at 13, *with* Table CIRC-I-1, CR at CIRC-I-5-6, PR at CIRC-I-5-6.

²⁷ Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5.

²⁸ Table CIRC-I-1, CR at CIRC-I-5, PR at CIRC-I-5; Table CIRC-IV-4, CR at CIRC-IV-10-11, PR at CIRC-IV-6.

²⁹ Table J-2, CR and PR at Appendix J. I also take note of the fact that, in addition to capacity allocated to the production of CWP, responding Korean producers reported an additional 501,588 short tons of production using capacity allocated to nonsubject welded tubular products 16 inches and under in diameter in 1998, and 351,858 short tons of such production in interim 1999. Production of single- or dual-stenciled line pipe was 266,634 short tons in 1998 and 175,874 short tons in interim 1999. *Id.*

could be reallocated to CWP production; the restraining effect that these orders have had on subject import volumes; and the attractiveness of the large and growing U.S. CWP market as an outlet for excess production.³⁰

2. Likely Price Effects of Subject Imports

In the original investigations, the Commission found that subject imports from Korea generally undersold the domestic like product and that, because of the price-sensitive nature of the U.S. CWP market, underselling by subject imports from Korea (cumulated with subject imports from Brazil, India, Mexico, Taiwan, and Venezuela) resulted in both significant price depression and lost market share for the domestic industry.³¹

The domestic market for CWP remains as price sensitive today as the Commission found it to be in the original investigations. CWP is a commodity product produced to standard specifications.³² Almost all the responding domestic and foreign producers indicated that subject and domestic CWP are interchangeable.³³ Purchasers reported that both quality and price are important to their purchasing decisions, and uniformly responded that subject imports are lower priced than domestic CWP.³⁴ In addition, the majority of responding domestic producers and

³⁰ In this regard, I take particular notice of the fact that, although recent information of record suggests that demand for CWP in Korea is recovering from very low levels in 1998 and early 1999, Korean home market demand does not appear to have recovered to its 1997 (pre-crisis) level. See Table CIRC-IV-4, CR at CIRC-IV-11, PR at CIRC-IV-6 (showing home market shipments for the first 9 months of 1999 were *** the level for full-year 1997); Domestic CWP Producers' Posthearing Brief at 11; Hearing Tr. at 106-107; compare Confidential Report, Inv. Nos. 731-TA-532-537 (Final) (Oct. 8, 1992) at I-59, Table 15 (Korean home market shipments were *** short tons in 1991), with Table CIRC-IV-4, CR at CIRC-IV-11, PR at CIRC-IV-6 (Korean home market shipments were *** short tons in 1997 and *** short tons in 1998). I also am not persuaded by the Korean CWP producers' argument that China is likely to provide a large and profitable export market for Korean CWP in the reasonably foreseeable future and that Korean exports to the United States are therefore not likely to be significant. The only evidence Korean producers were able to provide in support of this assertion was generalized statements that China will decrease its overall tariff level (not its tariff on CWP specifically) when it joins the WTO and that China is engaged in substantial infrastructure development. Korean CWP Producers' Prehearing Brief at 16; Korean CWP Producers' Posthearing Brief at 14. By contrast, the record shows that China itself is already a significant exporter of CWP and that Korean CWP exports to China in 1998 were less than 19,000 short tons, compared with exports to the United States of *** short tons. Table H-1, CR and PR at Appendix H; Table CIRC-IV-4, CR at CIRC-IV-11, PR at CIRC-IV-6; Table CIRC-IV-1 at note 4, CR at CIRC-IV-2-3, PR at CIRC-IV-2-3.

³¹ USITC Pub. 2564 at 35-36.

³² CR at CIRC-I-23, PR at CIRC-I-19.

³³ Table CIRC-II-6, CR at CIRC-II-22, PR at CIRC-II-14; Table CIRC-II-7, CR at CIRC-II-23, PR at CIRC-II-15.

³⁴ Table CIRC-II-3, CR at CIRC-II-16, PR at CIRC-II-10; Table CIRC-II-5, CR at CIRC-II-20, PR at CIRC-II-12.

virtually all importers reported that CWP is sold on a spot basis, rather than under contract.³⁵ Finally, as discussed above, demand for CWP is price inelastic.³⁶ Based on these market characteristics, I conclude that sustained underselling in this market would have a significant suppressing or depressing effect on domestic prices.

During the period examined in these reviews, U.S. prices for both the subject imports from Korea and the domestic like product generally declined. Pricing data show that, even with the orders in place, subject imports undersold the domestic like product in the majority of comparisons during the period 1997-interim 1999, confirming purchasers' impression that subject imports tend to be lower priced than the domestic like product. Instances of underselling were particularly prevalent with respect to products 1, 2, and 6, which reflected the highest volumes of subject imports.³⁷ Based on the pervasive underselling by subject imports during the original investigations and even during the period examined in these reviews, I conclude that there would likely be significant price underselling by imports of the subject merchandise from Korea if the orders were revoked. Moreover, in light of the price sensitive nature of the market and the inelasticity of demand for CWP, I conclude that subject imports from Korea are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the prices of the domestic like product if the orders were revoked.

3. Likely Impact of Subject Imports

In the original investigations of CWP from Brazil, Korea, Mexico, Taiwan (other than certain small diameter), and Venezuela, the Commission found that both production and employment-related trends and the industry's operating income margin declined irregularly over the period of investigation, although the industry continued to experience positive operating income margins.³⁸ The Commission found that falling prices in the U.S. market contributed to the domestic industry's worsening financial performance without preventing its losses in market share.³⁹

As described above, the industry's condition has improved markedly since the original investigations. I find that this improvement in the state of the industry is due both to the existence of the orders and to the recent surge in demand for construction materials. I further find that, given its present condition, the domestic CWP industry is not vulnerable to material injury if the orders are revoked.

Nevertheless, given the generally substitutable nature of the subject and domestic product and the inelasticity of demand for CWP, I find that the significant volume of low-priced subject imports, when combined with the expected adverse price effects of those imports, would have a

³⁵ CR at CIRC-V-4, PR at CIRC-V-3.

³⁶ CR at CIRC-II-26-CIRC-II-27, PR at CIRC-II-17.

³⁷ Tables CIRC-V-1-CIRC-V-6, CR at CIRC-V-7-CIRC-V-12, PR at CIRC-V-5-CIRC-V-6.

³⁸ USITC Pub. 2564 at 18-20.

³⁹ USITC Pub. 2564 at 36.

significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry. This reduction in the industry's production, sales, and revenue levels would have a direct adverse impact on the industry's profitability and employment levels, as well as its ability to raise capital and make and maintain necessary capital investments. Accordingly, I conclude that, if the antidumping order on CWP imports from Korea were revoked, the subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

IV. Conclusion

For the foregoing reasons, I determine that revocation of the orders on CWP from Brazil, India, Korea, Taiwan, Thailand, and Turkey is likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

DISSENTING VIEWS OF VICE CHAIRMAN OKUN AND COMMISSIONERS HILLMAN AND ASKEY WITH RESPECT TO MEXICO

I. Introduction

Based on the record in these five-year reviews, we do not exercise our discretion to cumulate subject circular welded pipe and tube (CWP) from Mexico with CWP from other subject countries. Moreover, we determine that revocation of the antidumping order on CWP from Mexico would not be likely to lead to the continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

II. Cumulation

We concur with the Commission's findings that: (1) it is not likely that CWP imports from Mexico will have no discernible adverse impact on the domestic industry; and (2) there is a reasonable overlap of competition between CWP imports from Mexico, CWP from other subject countries, and the domestic like product.

However, we find that subject imports from Mexico will compete in the U.S. market under conditions of competition that are significantly different from those applicable to imports from other subject countries. Accordingly, we do not exercise our discretion to cumulate imports from Mexico with other subject imports.

The primary difference in conditions of competition is that Mexico was exempted from the recently imposed safeguard relief on imports of line pipe. On February 18, 2000, the President issued a proclamation that established a tariff with limited quantitative exemptions on imports of line pipe applicable to all countries except Canada and Mexico. The tariff applies additional duties of 19 percent in the first year, 15 percent in the second year, and 11 percent in the third year, on imports of line pipe from a particular country that exceed 9,000 short tons in a given year.

Mexico's exclusion from the safeguard action likely will affect the incentives of Mexican producers with respect to CWP and line pipe in two ways, both of which make it less likely that revocation of the antidumping duty order on CWP will result in injury to the domestic industry.

The first arises because many producers, including both of the primary CWP manufacturers in Mexico, Hylsa and Tuberia Nacional (TUNA), produce CWP and line pipe (as well as other products) on the same production lines. Accordingly, these producers can allocate the time available on their production lines to manufacture each product. Unlike other subject countries, Mexico will have a strong incentive to dedicate more of its productive capacity to the production of line pipe for sale into the U.S. market.

Mexico's incentive to produce and sell more line pipe arises because the safeguard action is likely to restrict to some extent the supply of line pipe imported into the United States from all other sources. Total 1998 U.S. imports of line pipe that exceeded the TRQ quantity (9,000 short

tons) from particular countries other than Mexico was approximately 206,000 short tons.¹ This figure for “over-quota” imports is well over *** of Mexico’s annual CWP pipe capacity, which is estimated at approximately *** short tons.² This figure is also well in excess of the *** short tons of excess capacity reported collectively by Hylsa and TUNA in 1998.³

Although it is difficult to predict with certainty the effect of the safeguard action on imports, we find it likely that a significant amount of the “over-quota” quantity of 206,000 short tons will not be sold in the United States in the face of the additional duties. If so, this would create a significant market opening that likely would be attractive to Mexican producers. Mexico was one of the largest exporters of line pipe to the U.S. market during the period reviewed in the Commission’s safeguard investigation. With more available Mexican capacity dedicated to line pipe, there would be less available to increase exports of CWP to the United States.⁴

Second, Mexico’s exclusion from the safeguard action means that, unlike other subject countries, Mexico will be able to continue to make use of the exclusion from the antidumping order for dual-stenciled pipe – *i.e.*, pipe that meets both line pipe and CWP specifications but enters as line pipe for customs purposes. Dual-stenciled pipe can be used for most types of CWP without being subject to the antidumping duty order.⁵ The largest Mexican producer, Hylsa, asserts that its cost of making dual-stenciled line pipe is only marginally above its cost of making CWP.⁶ The benefit of the exclusion for dual-stenciled pipe will be significantly reduced for other subject countries, whose line pipe imports -- including dual-stenciled line pipe -- are now subject to the safeguard action. Thus, the difference in the volume and price effects of imports with the order in place, versus without the order, is likely to be less significant for Mexico than for the other subject countries, because in either scenario Mexico can continue to export CWP to the United States as dual-stenciled pipe.

¹ Circular Welded Carbon Quality Line Pipe, Inv. No. TA-201-70, USITC Pub. 3261 (Dec. 1999) at II-15, Table 3.

² CR at CIRC-IV-12, PR at CIRC-IV-6.

³ Table CIRC-IV-5, CR at CIRC-IV-13, PR at CIRC-IV-7. Hylsa indicates that it is currently operating at full capacity to serve the booming Mexican market. Hylsa Posthearing Brief at 6.

⁴ We recognize that, under section 312(c) of the NAFTA Implementation Act, the President may include a previously-excluded NAFTA country within a safeguard action if he determines that “a surge in imports from that country . . . is undermining the effectiveness of the action.” In our view, this test still leaves room for a material increase in the volume of imports of line pipe from Mexico.

⁵ The primary type of welded pipe that may not be entered as dual-stenciled line pipe is galvanized CWP, which appears to account for approximately one-quarter of the domestic CWP market. *See Circular Welded Nonalloy Steel Pipe from Romania and South Africa*, Invs. Nos. 731-TA-732-733 (Final), USITC Pub. 2973 at IV-4 (July 1996) (in 1995, galvanized pipe accounted for 25.8 percent of U.S. shipments). Although certain threaded and coupled welded pipe may also be ineligible to enter as line pipe, this limitation appears to be relatively insignificant because: (1) threading and coupling is a minor operation that may be performed in the United States after the product is exported from Mexico; and (2) at least some CWP U.S. customers are willing to purchase welded pipe with threading and coupling that is typically associated with line pipe. *See Hylsa Posthearing Brief* at 4-5.

⁶ Hylsa Posthearing Brief at 1.20-1.22.

Based on the foregoing, we decline to exercise our discretion to cumulate subject CWP imports from Mexico with CWP imports from the other subject countries.

III. Revocation of the Antidumping Duty Order on CWP from Mexico Is Not Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

A. Conditions of Competition

We concur with the discussion of certain important conditions of competition presented in the views of the Commission majority. As discussed above, a significant additional condition of competition affecting imports of CWP from Mexico is Mexico's exclusion from the safeguard action on line pipe. We find that these conditions of competition are likely to prevail for the reasonably foreseeable future and thus provide an adequate basis by which to assess the likely effects of revocation within the reasonably foreseeable future.

B. Likely Volume, Price Effects, and Impact of Subject Imports

1. Likely Volume of Subject Imports

The Commission noted in its original determinations that the volume of cumulated subject imports of CWP from Brazil, Korea, Mexico, Taiwan, and Venezuela increased between 1989 and 1991, rising from 440,171 short tons in 1989 to 496,028 short tons in 1990, then declining to 483,319 short tons in 1991. It noted that the overall increase in cumulated subject import volume occurred in spite of a decline in apparent U.S. consumption between 1990 and 1991, and that cumulated subject imports increased their share of apparent U.S. consumption from 21.9 percent in 1989 to 23.2 percent in 1990 and to 25.1 percent in 1991, while the share of apparent U.S. consumption accounted for by U.S. producers' shipments of the domestic like product increased from 60.8 percent to 63.1 percent.⁷

The volume of imports of the subject merchandise from Mexico, as distinct from the cumulated volume of subject imports, was 65,294 short tons in 1989 and 68,828 short tons in 1990; it then dropped to 48,240 short tons in 1991, a decrease of 26.1 percent between 1989 and 1991. In terms of market share, the volume of imports of the subject merchandise from Mexico fell from 3.2 percent in 1989 and 1990 to 2.5 percent in 1991. Of all the imports subject to those investigations, only those from Mexico declined as a share of the U.S. market between 1989 and 1991.⁸

The issuance of the antidumping duty order on CWP from Mexico caused the volume of Mexican imports subject to the antidumping duty order to decline significantly, such that even during the period examined in these reviews, imports of the subject merchandise from Mexico were only 3,407 short tons in 1997; 16,282 short tons in 1998; and 19,875 short tons in January-

⁷ USITC Pub. 2564 (Oct. 1992) at 34-35. The Commission considered whether imports from Mexico were negligible. In light of market shares ranging from 2.5 percent in 1991 to 3.2 percent in 1989 and record evidence of substitutability for the domestic like product, the Commission ultimately found subject imports from Mexico not to be negligible. *Id.* at 29.

⁸ Table CIRC-I-1, CR at CIRC-I-5-CIRC-I-8, PR at CIRC-I-5-CIRC-I-8.

September 1999. Imports of the subject merchandise from Mexico accounted 0.1 percent for the U.S. market in 1997, 0.5 percent in 1998, and 0.9 percent in January-September 1999.⁹

As noted above, the scope of the antidumping duty order on CWP from Mexico specifically excluded dual-stenciled pipe. As a result, Mexican manufacturers of welded pipe have taken advantage

⁹ Table CIRC-I-1, CR at CIRC-I-5-CIRC-I-8, PR at CIRC-I-5-CIRC-I-8.

of this “loophole” to enter multiple-stenciled pipe into the United States as line pipe.¹⁰ The data collected by the Commission indicate that a significant portion of current imports of CWP from Mexico is galvanized CWP, a product that is unlikely to enter the United States as line pipe.¹¹

The major manufacturers of CWP in Mexico reported no increase in capacity during the period examined in these reviews. Indeed, reported capacity actually declined from *** short tons in 1997 to *** short tons in 1998, and from *** short tons in January-September 1998 to *** short tons in January-September 1999. Capacity utilization declined somewhat, but was comparable to the levels reported by the U.S. CWP industry: *** percent in 1997, *** percent in 1998, and *** percent in January-September 1999.¹² Excess capacity in 1998 was equivalent to only approximately *** percent of U.S. apparent consumption.¹³ Accordingly, we find that there is limited unused production capacity in Mexico. Further, in light of Mexico’s favorable position in the U.S. line pipe market, we find it unlikely that the Mexican industry will increase significantly its capacity to produce CWP.

The inventory levels reported by the major CWP manufacturers in Mexico *** during the period examined in these reviews, rising from *** short tons in December 1997 to *** short tons in December 1998, then declining to *** short tons in September 1999. Mexican CWP inventories were equivalent to *** percent of total Mexican CWP shipments in 1997, *** percent in 1998, and *** percent in January-September 1999. Likewise, there was *** inventory of Mexican CWP held in the United States in December 1997. Inventory levels of Mexican CWP held in the United States were *** short tons in December 1998 and *** short tons in September 1999.¹⁴ Accordingly we do not find existing inventories of the subject merchandise, or likely increases in inventories, to be significant.

The record contains no indications that there are any barriers to the importation of the subject merchandise from Mexico into countries other than the United States.¹⁵ Further, as discussed above, we have also examined the potential for product-shifting, since the production facilities in Mexico that can be used to produce the subject merchandise are currently also being used to produce other welded pipe products, particularly line pipe. We do not find product-

¹⁰ We note that Hylsa is purportedly the largest producer of line pipe in Mexico. Line Pipe, USITC Pub. 3261 at II-36. During 1997, 1998, 1999, and in the first two months of 2000, all of Hylsa’s exports of line pipe have consisted of pipe that was certified to meet both ASTM specifications for standard pipe and API specifications for line pipe. Hylsa’s Posthearing Brief at 1.17

¹¹ For example, no importers reported pricing data for five common plain end CWP products from Mexico, while they did report noticeable volumes of a common galvanized CWP product from Mexico. Tables CIRC V-1-6, CR at CIRC-V-7-CIRC-V-12, PR at CIRC-V-5-CIRC-V-6.

¹² Table CIRC-IV-5, CR at CIRC-IV-13, PR at CIRC-IV-7. We also note that Hylsa, the largest CWP manufacturer in Mexico, reported that it was operating at full capacity as recently as January and February 2000. Hylsa’s Posthearing Brief at 1.15.

¹³ Table CIRC-I-1, CR at CIRC-I-5-CIRC-I-8, PR at CIRC-I-5-CIRC-I-8; Table CIRC-IV-5, CR at CIRC-IV-13, PR at CIRC-IV-7.

¹⁴ Tables CIRC-IV-2 and CIRC-IV-5, CR at CIRC-IV-5 and CIRC-IV-13, PR at CIRC-IV-4 and CIRC-IV-7.

¹⁵ Hylsa Foreign Producer Questionnaire at 6; TUNA Foreign Producer Questionnaire at 6.

shifting in favor of greater production of CWP to be likely, in light of the general priority that pipe producers place on the production of higher-value pipe products (including line pipe) and the particular opportunities for Mexican producers to expand production and sales of line pipe to the United States for the duration of the safeguard remedy on line pipe.

Based on the foregoing, we do not find it likely that Mexican manufactures and exporters, upon revocation of the order, would increase exports to the U.S. market significantly, or that the import volume would rise significantly if the antidumping duty order was removed.¹⁶ Consequently, based on the record in these reviews, we conclude that the likely volume of imports of the subject merchandise would not be significant if the antidumping duty order is revoked, either in absolute terms or relative to production or consumption in the United States.

2. Likely Price Effects of Subject Imports

During the original investigations, the Commission concluded that cumulated imports of the subject merchandise and the domestic like product conformed to relevant ASTM standards and were generally substitutable. It noted the declining average unit values of the domestic like product and the falling prices of the subject imports. It further noted the importance of price in purchasing decisions, and the extent to which the subject imports undersold the domestic like product (133 of 183 comparisons).¹⁷

As we have discussed in the conditions of competition, CWP is viewed as a commodity product that must meet common standards (typically ASTM A-53) as to dimensions, materials, and specifications.¹⁸ This characterization is supported by the high degree of consensus between producers and importers regarding the interchangeability of the domestic like product and the subject imports generally, as well as the relative lack of important differences other than price.¹⁹ In addition, U.S. purchasers ranked quality and price nearly even as a factor of importance in purchasing decisions.²⁰ Further, virtually all existing imports of standard pipe are sold to distributors, as are more than two-thirds of the domestic like product. Most standard pipe is sold on a spot basis, rather than pursuant to contracts.²¹

Over the period examined in these reviews, domestic prices for CWP declined for all of the items for which the Commission collected pricing data. This is not surprising, given the decline in prices of carbon steel sheet (the primary raw material input) over the period examined.

¹⁶ See SAA at 890.

¹⁷ USITC Pub. 2564 (Oct. 1992) at 35-36. Imports from Mexico undersold the domestic like product in 33 of 43 comparisons. *Id.* at I-64.

¹⁸ CR at CIRC-I-23, PR at CIRC-I-19.

¹⁹ Tables CIRC-II-6 and CIRC-II-7, CR at CIRC-II-22-CIRC-II-23, PR at CIRC-II-14-CIRC-II-15.

²⁰ Table CIRC-II-3, CR at CIRC-II-16, PR at CIRC-II-10.

²¹ CR at CIRC-II-2 (channel structure) and CIRC-V-4 (pricing practices), PR at CIRC-II-1-2 and CIRC-V-3.

Producers and importers agree that the price of standard pipe is largely dependent on the cost of input steel.²²

As noted previously, there were no Mexican prices reported for any of the non-galvanized pricing items. Prices of domestically produced galvanized CWP fence tubing were the least volatile of all the products tracked by the Commission in these reviews, declining between the first and second quarter of 1997 and fluctuating slightly in 1998, but otherwise remaining very stable at approximately *** per foot. Mexican galvanized CWP fence tubing was priced lower than U.S.-produced galvanized CWP fence tubing by *** percent during 1998 and 1999, but was comparable in price to *** galvanized CWP fence tubing and markedly higher in price than galvanized CWP fence tubing from the other subject suppliers of this product.²³

We have considered the likely degree of underselling by CWP from Mexico and whether imports of CWP from Mexico are likely to enter the United States at prices that would have a significant depressing or suppressing effect on the price of the domestic like product. Without an incentive to concentrate production in CWP product lines and expand U.S. market share significantly, we do not find that the record supports such a finding. Moreover, as discussed earlier, the likely volume of subject imports from Mexico would not be significant if the antidumping duty order were to be revoked. Accordingly, we do not find it likely that underselling by Mexican CWP would be significant.

Consequently, on the basis of the record in this review, we find that revocation of the antidumping duty order on imports of CWP from Mexico would not be likely to lead to significant underselling by the subject imports of the domestic like product, or to significant price depression and suppression, within a reasonably foreseeable time.

3. Likely Impact of Subject Imports

In the original investigations, the Commission found that the large and increasing volume and market share of cumulated subject imports, a strong pattern of underselling, the deterioration of the domestic industry's performance, and the lower level of domestic sales and lower prices due to dumped imports demonstrated the impact of the subject imports upon the domestic industry.²⁴ We note again that the volume and market share of subject imports from Mexico alone actually decreased between 1989 and 1991.

The industry's condition has improved markedly since the original investigations. The domestic industry has increased its U.S. market share from 41.1 percent in 1985 and 63.1 percent in 1991 to 73.0 percent in 1998 and 73.8 percent in interim 1999. Production capacity has risen from 1,824,000 short tons in 1985 and 1,886,781 short tons in 1991 to 3,039,075 short tons in 1998. At the same time, capacity utilization has risen from 55.0 percent in 1985 and 63.7 percent in 1991 to 73.3 percent in 1998. The industry's operating income margin, although declining

²² CR at CIRC-V-3, PR at CIRC-V-3. Raw material costs appear at Table CIRC-III-6, CR at CIRC-III-8, PR at CIRC-III-6.

²³ Table CIRC-V-6, CR at CIRC-V-12, PR at CIRC-V-6.

²⁴ USITC Publication 2564 (Oct. 1992) at 36-37.

between 1997 and interim 1999, has remained consistently higher than during any of the previous periods of investigation.²⁵ Domestic producers testified that, since imposition of the orders, they have been able to expand and modernize capacity.²⁶ We find that this improvement in the state of the industry is due both to the existence of the orders and to the recent surge in demand for construction materials. We further find that, given its present condition, the domestic CWP industry is not vulnerable to material injury if the order on CWP from Mexico were revoked.

As discussed above, we conclude that revocation of the antidumping duty order on CWP from Mexico would not likely lead to a significant increase in the volume of subject imports that would undersell significantly the domestic like product and significantly suppress or depress U.S. prices. We also find that any volume and price effects of the subject imports from Mexico would not likely have a significant adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry.²⁷ Any minimal effect on the industry's production, shipments, sales, market share, and revenues would not adversely impact the industry's profitability and ability to raise capital and maintain necessary capital investments.

Accordingly, based on the record in this review, we conclude that, if the antidumping duty order were revoked, subject imports from Mexico would not be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

IV. Conclusion

For the foregoing reasons, we determine that revocation of the antidumping order covering CWP from Mexico is not likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

²⁵ Table CIRC-I-1, CR at CIRC-I-5-CIRC-I-8, PR at CIRC-I-5-CIRC-I-8. The industry's operating income margin was 1.1 percent in 1985, 5.7 percent in 1991, 9.8 percent in 1997, 9.0 percent in 1998, and 8.5 percent in interim 1999, compared with 9.2 percent in interim 1998. *Id.*

²⁶ *See, e.g.*, Hearing Transcript at 28 (testimony of Mr. Feeney); Hearing Transcript at 31 (testimony of Mr. Bussiere).

²⁷ 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review investigation. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year review investigations as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. Commerce found the likely margin of dumping for all producers in Mexico to be 32.62 percent. CR at CIRC-I-12, PR at CIRC-I-11.

SEPARATE AND DISSENTING VIEWS OF COMMISSIONER LYNN M. BRAGG

Because I render affirmative determinations with respect to the orders covering: (1) oil country tubular goods (“OCTG”) other than drill pipe from Canada and Taiwan; as well as (2) the order covering drill pipe from Canada, I provide my separate and dissenting views regarding these two product groups below.

I. OCTG OTHER THAN DRILL PIPE

Cumulation:

I have previously described the analytical framework that I employ to assess cumulation in the context of grouped sunset reviews.¹ The sequence of my analysis differs from that of my colleagues in that I first assess whether there is likely to be a reasonable overlap of competition in the event of revocation, before addressing whether revocation of any of the orders would be likely to have no discernible adverse impact on the domestic industry.

Likelihood of a Reasonable Overlap of Competition—

I note that the Commission cumulated subject imports from Canada and Taiwan in its original determinations, after finding a reasonable overlap of competition. Upon review of the record in these reviews, I am satisfied that there is again likely to be a reasonable overlap of competition among subject imports and between subject imports and the domestic like product if the orders under review are revoked.

In particular, with respect to fungibility, the record indicates that almost all subject merchandise and domestic like product are produced to common standards regarding materials, dimensions, and testing, as established by consensus organizations; indeed, virtually all responding foreign and domestic producers indicated that the subject and domestic drill pipe are interchangeable.² Although there were minimal imports of subject merchandise from Canada and Taiwan during the period of review, the relevant inquiry is whether there is likely to be a reasonable overlap of competition in the event of revocation, even if currently there are no or minimal imports from a country subject to review. I find that, if the orders under review are revoked, imports from Canada and Taiwan are likely to again enjoy a simultaneous presence in the same channels of distribution and the same geographic markets with respect to each other and the domestic like product.

¹ See Potassium Permanganate from China and Spain, *Separate and Dissenting Views of Chairman Lynn M. Bragg Regarding Cumulation in Sunset Reviews*, Inv. Nos. 731-TA-125-126 (Review), USITC Pub. 3245, at 27-30 (October 1999); see also Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, *Separate Views of Chairman Lynn M. Bragg Regarding Cumulation*, Inv. Nos. 701-TA-269 & 270 (Review) and 731-TA-311-317 and 379-380 (Review), USITC Pub. 3290, at 27-32 (April 2000).

² Confidential Report (“CR”) at OCTG-I-12-OCTG-I-16, Public Report (“PR”) at OCTG-I-11-OCTG-I-13.

No Discernible Adverse Impact—

1. Canada

I note that subject imports from Canada have been minimal during the period of review, and that four major Canadian exporters examined by the Commission during the original investigations have ceased exporting subject merchandise to the U.S. market.

However, the record also demonstrates that an Argentine producer of OCTG (“Siderca”), recently agreed to reopen and operate the Canadian production facility formerly operated by Algoma.³ As a result, Siderca will be able to rationalize its global production with the benefit of this Canadian facility. Because Siderca currently is subject to antidumping duty orders on both OCTG other than drill pipe, and drill pipe, from Argentina, revocation of the order on Canada will allow Siderca to supply the U.S. market from Canada and thereby avoid confronting antidumping duties on imports from Argentina. The Algoma facility is capable of producing large volumes of both OCTG other than drill pipe, and drill pipe, and although the Algoma facility is not currently certified to American Petroleum Institute (“API”) standards, such certification could be obtained within 12 to 18 months at most; indeed, according to Siderca ***.⁴ Based on the foregoing, I find that revocation of the order on OCTG other than drill pipe from Canada is likely to result in a discernible adverse impact on the domestic industry within a reasonably foreseeable time.

2. Taiwan

Record information concerning the industry in Taiwan is somewhat sparse, as a result of the failure of any subject producer in Taiwan to participate in these reviews. The limited data indicate that there is a substantial amount of pipe and tube production capacity in Taiwan (which includes line pipe and other welded circular and noncircular pipe and tube products).⁵ Although there are no OCTG producers in Taiwan currently certified by API, the record from the original investigation demonstrates that at least one such producer can produce to API specification.⁶ Coupled with the fact that home-market consumption of OCTG in Taiwan appears relatively small compared with total available capacity, I find that revocation of the order on OCTG other than drill pipe from Taiwan is likely to result in a discernible adverse impact on the domestic industry within a reasonably foreseeable time.

Conclusion—

³ CR at OCTG-IV-6 n. 3, PR at OCTG-IV-5 n.3; *see also* Karl Sebkowski, “Union Deal with Buyer Helps Reopen Sault Steel-tube Mill,” *Toronto Star*, June 6, 2000; Steven Gallagher, “Tube Mill Deal a Boost for City-Mayor,” *Sault Star*, June 7, 2000, at A1.

⁴ Hearing Transcript (“Hearing Tr.”) at 285-87; Siderca Statement of Information at 3-5.

⁵ *See* Lone Star Posthearing Brief at Exhibit 6 (Pipe and Tube Mills of the World (1997), at 581-587).

⁶ *See* Stelco Posthearing Brief at Exhibit 10 (OCTG other than drill pipe) and Exhibit 8 (drill pipe).

In light of my foregoing determinations, I have cumulatively analyzed the likely effects of revocation of the orders on OCTG other than drill pipe from Canada and Taiwan.

Conditions of Competition:

In assessing the likelihood of continuation or recurrence of material injury if the orders under review are revoked, I have considered the following conditions of competition which are applicable to OCTG generally, including both OCTG other than drill pipe as well as drill pipe.⁷

OCTG other than drill pipe is normally produced to API specifications as either a seamless or welded product, and is used in the exploration and extraction of oil and gas reserves; as a result, demand for OCTG is derived from the level of oil and gas drilling activity, which in turn is impacted by prevailing price levels for oil and gas.

During the period of review, apparent U.S. consumption of OCTG other than drill pipe declined dramatically, coinciding with a collapse in oil prices and a sharp decline in the number of U.S. oil and gas rotary rigs from 1997 to 1998 and the first half of 1999. Beginning in the latter half of 1999, however, the prices of oil and gas rebounded and the rig count began increasing; these increases have continued into 2000 in both the United States and Canada.

Domestic capacity to produce OCTG other than drill pipe decreased from 1997 to 1998 and was lower in interim 1999 than in interim 1998. Capacity utilization among domestic producers also declined during this period, and the ratio of reported domestic inventories to both shipments and production increased.

Once quality assurances are attained for a product (in the form of requisite certifications such as API certification), competition occurs mainly on the basis of price and reliability of delivery.

As noted, the OCTG production facility in Canada which was closed by Algoma in 1999 will be reopened and operated by Siderca, a well-established Argentine producer of OCTG. Siderca is part of a corporate family of OCTG producers (“Group DST”), including Dalmine (located in Italy), and TAMSA (located in Mexico).⁸ The United States imposed antidumping duties on OCTG other than drill pipe from Argentina, Italy, Japan, Korea, and Mexico, following affirmative final determinations by the Commission in 1995.⁹ With regard to the industry in Taiwan, any OCTG other than drill pipe produced in Taiwan is likely destined for export, as there appears to be minimal home market consumption of this product.

Likelihood of Continuation or Recurrence of Material Injury:

As noted above, I have engaged in a cumulative analysis with regard to revocation of the orders on OCTG other than drill pipe from Canada and Taiwan.

⁷ See CR at OCTG-I-11-OCTG-I-12 and OCTG-II-1-OCTG-II-10, PR at OCTG-I-10-OCTG-I-11 and OCTG-II-1-OCTG-II-8.

⁸ See, e.g., Hearing Tr. at 138-39.

⁹ See Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain, Inv. Nos. 701-TA-363-364 (Final) and 731-TA-711-717 (Final), USITC Pub. 2911 (August 1995).

Likely Volume–

First, I note that the production capacity of Algoma’s facility in Canada appears to be at least *** short tons per annum, which is equivalent to *** percent of apparent U.S. consumption of OCTG other than drill pipe in 1998, and *** percent of U.S. production that year.¹⁰ Second, I note the incentive for the established and experienced OCTG producer Siderca to serve a rebounding U.S. market for OCTG other than drill pipe from the Algoma facility rather than from Argentina (due to the outstanding order on OCTG other than drill pipe from Argentina). Third, as noted previously, the Algoma facility will likely meet API standards by ***. Fourth, I note that the limited record information concerning producers in Taiwan indicates the availability of substantial welded pipe production capacity, although no Taiwan producer currently is certified by API to produce OCTG other than drill pipe. I note, however, that during the original investigation at least one producer in Taiwan produced and exported API specification OCTG other than drill pipe to the U.S. market. In light of the foregoing, I find that revocation of the orders on OCTG other than drill pipe from Canada and Taiwan would be likely to result in significant volumes of imports from these two countries within a reasonably foreseeable time.

Likely Price Effects–

Pricing data were collected for ten types of OCTG other than drill pipe, accounting for 4.9 percent of U.S. OCTG shipments and *** percent of Canadian imports.¹¹ No pricing data was collected with regard to subject imports from Taiwan, due to the fact that there were virtually no such imports during the period of review.

No direct pricing comparisons are possible on the record, a result of the fact that current import volumes from Canada are minimal and are comprised *** of non-API certified imports. Consequently, I do not consider a comparison of average unit value data for Canadian and domestic product to be probative of likely price effects in the event of revocation. I note that the Commission based its original affirmative determinations of material injury in part on the adverse effect of subject imports from Canada and Taiwan on domestic price levels.

With regard to Canada, I note that I have determined that revocation of the order will likely result in a significant influx of imports into the U.S. market. As for Taiwan, I infer that the industry producing OCTG other than drill pipe will revert to aggressive pricing practices with respect to its exports to the U.S. market, as evidenced in the Commission’s original investigation. Based upon the foregoing, I find that if the orders are revoked, significant volumes of imports are likely to have significant negative price effects within a reasonably foreseeable time.

Likely Impact–

¹⁰ See CR at OCTG-IV-6 n. 3 & Table C-4, PR at OCTG-IV-5 n. 3 & Table C-4. Even if the Algoma facility is not considered, the record evidences substantial unused capacity in Canada which is available to direct significant volumes of subject merchandise to the U.S. market. See CR and PR Table OCTG-IV-3.

¹¹ CR at OCTG-V-3-OCTG-V-6, PR at OCTG-V-2-OCTG-V-3.

First, I note that the number of U.S. producers of OCTG other than drill pipe posting operating losses increased from *** in 1997 to *** in interim 1999;¹² in addition, the operating income of the domestic industry declined from roughly \$127 million in 1997 to negative \$86 million in interim 1999.¹³ I further note that capacity utilization among domestic producers declined from 89.3 percent in 1997 to 36.6 percent in interim 1999, during which time the average capacity of the domestic industry declined slightly.¹⁴ This dramatic deterioration in the fortunes of the domestic industry over the period of review demonstrates that the domestic industry producing OCTG other than drill pipe currently is in a vulnerable condition. In my view, it is therefore critical to the continuing health of the domestic industry that U.S. producers be able to take advantage of the more recent upturn in the prospects for this industry. Indeed, notwithstanding this most recent upturn, the industry is far from returning to the levels of performance evidenced prior to the collapse in apparent U.S. consumption.

In light of the foregoing, I find that with respect to revocation of the orders on OCTG other than drill pipe from Canada and Taiwan, the likely influx of significant import volumes, at prices that would likely cause significant negative price effects in the U.S. market, would have a significant adverse impact on the domestic industry's production, shipments, sales, market share, and revenues. These reductions in production, shipments, sales, market share, and revenues, would further result in a significant decline in the domestic industry's profitability and ability to raise capital and maintain necessary capital investments.

Conclusion:

I determine that revocation of the orders on OCTG other than drill pipe from Canada and Taiwan would be likely to result in continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

II. DRILL PIPE

Cumulation:

Likelihood of a Reasonable Overlap of Competition—

Because drill pipe is used to transmit torques from the drilling motor to the rotary drill, it is subject to stress caused by shear, vibration, and consequently fatigue; as a result, drill pipe must be manufactured by the seamless production process and is subject to specific heat treatment processes to optimize its strength and to meet API specifications.¹⁵ In contrast, OCTG other than drill pipe may be manufactured as either a seamless or a welded product. The record in these

¹² CR and PR Table OCTG-III-9.

¹³ CR and PR Table C-4.

¹⁴ CR and PR Table C-4.

¹⁵ CR at OCTG-I-12, PR at OCTG-I-11.

reviews indicates that there is neither any current nor any planned seamless pipe production capacity in Taiwan. As a result, there will continue to be no imports of drill pipe from Taiwan, regardless of whether the order on drill pipe from Taiwan is revoked. It follows then that there cannot be any overlap of competition among imports of drill pipe from Canada and Taiwan if the orders under review are revoked. Consequently, I do not engage in a cumulative analysis with respect to revocation of the orders on drill pipe.

Conditions of Competition:

The conditions of competition in the drill pipe industry mirror those of the industry producing OCTG other than drill pipe to a large extent, with apparent U.S. consumption collapsing by *** percent between interim 1998 and interim 1999, before beginning to recover in late 1999 and into 2000.¹⁶ As noted under the foregoing discussion of cumulation, however, in order to meet the physical demands of the application, drill pipe is necessarily a seamless pipe product and there is no seamless pipe production capacity in Taiwan, nor is there any record evidence of plans to construct such capacity in the future.¹⁷ With regard to Canada, I note that Algoma is the sole responding Canadian producer of seamless OCTG.¹⁸ Finally, I note that the United States imposed antidumping duties on drill pipe from Argentina, Japan, and Mexico, following affirmative final determinations by the Commission in 1995.¹⁹

Likelihood of Continuation or Recurrence of Material Injury:

1. Taiwan

By virtue of the fact that there is no current or planned production capacity for drill pipe in Taiwan, revocation of the order on drill pipe from Taiwan necessarily will not result in any volume or price effects, or any adverse impact on the domestic industry. Accordingly, I render a negative determination with regard to the order on drill pipe from Taiwan.

2. Canada

With regard to Canada, I note that in its original determination the Commission did not possess data specific to the drill pipe industry and therefore relied upon aggregate data for OCTG

¹⁶ CR and PR Table OCTG-I-9.

¹⁷ See Stelco Posthearing Brief at Exhibit 8, API Handbook (Vol. 8, No. 1), "Manufacturers Authorized to Use the API Monogram on API Specification 5D Products." I note that API specification 5D is the specification for drill pipe, and no mill in Taiwan is authorized to manufacture to the API 5D specification. Moreover, there are no seamless pipe mills identified as being located in Taiwan. See Lone Star Posthearing Brief at Exhibit 6 (Pipe and Tube Mills of the World (1997), at 581-587).

¹⁸ CR at OCTG-II-3, PR at OCTG-II-2.

¹⁹ See Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain, Inv. Nos. 701-TA-363-364 (Final) and 731-TA-711-717 (Final), USITC Pub. 2911 (August 1995).

generally. Similarly, there is limited data in the record of these reviews specific to the Canadian drill pipe industry.

Likely Volume—

I again note that the production capacity of Algoma's facility in Canada appears to be at least *** short tons per annum, which is equivalent to more than *** the apparent U.S. consumption of drill pipe in 1998.²⁰ Second, I note the incentive for the established and experienced OCTG producer Siderca to serve a rebounding U.S. market for drill pipe from the Algoma facility rather than from Argentina (due to the outstanding order on drill pipe from Argentina). Third, as noted previously, the Algoma facility will likely meet API standards by ***.

²⁰ See CR at OCTG-IV-6 n. 3 & Table C-5, PR at OCTG- IV-5 n. 3 & Table C-5.

I also note that a second drill pipe production facility in Canada is owned by a U.S. processor (“Grant Prideco”). I acknowledge that Grant Prideco is unlikely to import drill pipe from its Canadian affiliate to the detriment of its domestic production operations; in my view, however, such rationalization of production within a family of affiliated companies, in and of itself, says nothing about the likely volume or pricing of imports from Grant Prideco’s affiliate in the event of revocation, nor does it provide an indication of the likely impact of such imports on the remaining unaffiliated producers within the domestic industry.

Based upon the foregoing, I find that revocation of the order on drill pipe from Canada would be likely to result in significant volumes of imports within a reasonably foreseeable time.

Likely Price Effects–

The Commission attempted to collect pricing data for 3 types of drill pipe but there were no reported sales, either from domestic producers or importers. I note that the average unit values of subject imports *** exceed the average unit values of domestic shipments during the period of review; however, given that current import volumes of drill pipe from Canada are relatively minimal, I do not consider a comparison of average unit value data for Canadian and domestic product to be probative of likely price effects in the event of revocation. In addition, as noted, the Commission did not examine pricing data specific to the drill pipe industry in its original determination.

Based upon my determination that revocation of the order on drill pipe is likely to result in significant import volumes from Canada, I further determine that such an influx of imports will likely result in significant price suppression or depression within a reasonably foreseeable time.

Likely Impact–

First, I note that the number of U.S. producers of drill pipe posting operating losses was *** in 1997 and *** in interim 1999;²¹ in addition, the operating income of the domestic industry declined from *** in 1997 to *** in interim 1999.²² I further note that capacity utilization among domestic producers declined from *** percent in 1997 to *** percent in interim 1999; although the average capacity of the domestic industry increased *** percent between 1997 and 1998, it then declined *** percent between interim 1998 and interim 1999.²³ This dramatic deterioration in the fortunes of the domestic industry over the period of review demonstrates that the domestic industry producing drill pipe currently is in a vulnerable condition. In my view, it is therefore critical to the continuing health of the domestic industry that U.S. producers be able to take advantage of the more recent upturn in the prospects for this industry. Indeed, notwithstanding this most recent upturn, the industry is far from returning to the levels of performance evidenced prior to the collapse in apparent U.S. consumption.

²¹ CR and PR Table OCTG-III-12.

²² CR and PR Table C-5.

²³ CR and PR Table C-5.

In light of the foregoing, I find that with respect to revocation of the order on drill pipe from Canada, the likely influx of significant import volumes would likely cause significant negative price effects in the U.S. market, thereby causing a significant adverse impact on the domestic industry's production, shipments, sales, market share, and revenues. These reductions in production, shipments, sales, market share, and revenues, would further result in a significant decline in the domestic industry's profitability and ability to raise capital and maintain necessary capital investments.

Conclusion:

I determine that revocation of the order on drill pipe from Canada would be likely to result in continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time, and that revocation of the order on drill pipe from Taiwan would not be likely to result in continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

III. SUMMARY OF DETERMINATIONS

As noted in the views of the majority, I determine that revocation of the orders on CWP from Brazil, India, Korea, Mexico, Taiwan, Thailand, Turkey, and Venezuela, would be likely to result in continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time. Similarly, I determine that revocation of the orders on LWR from Argentina, Singapore, and Taiwan, would be likely to result in continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time.

In addition, for the reasons set forth above, I determine that revocation of the orders on OCTG other than drill pipe from Canada and Taiwan would be likely to result in continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time. I also determine that revocation of the order on drill pipe from Canada would be likely to result in continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time. Finally, I determine that revocation of the order on drill pipe from Taiwan would not be likely to result in continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time.

**DISSENTING VIEWS OF COMMISSIONER THELMA J.
ASKEY CONCERNING LIGHT-WALLED RECTANGULAR PIPES
AND TUBES FROM ARGENTINA AND TAIWAN**

Section 751(d) of the Tariff Act of 1930, as amended, requires the Department of Commerce to revoke an antidumping duty or countervailing duty order in a five-year (“sunset”) review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the Commission determines that material injury would be likely to continue or recur within a reasonably foreseeable time.¹

Based on the record in these five-year reviews, I determine that revocation of the antidumping duty orders on light-walled rectangular pipes and tubes (“LWR”) from Argentina, Singapore, and Taiwan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. I write separately to explain my determinations with respect to these orders. I concur with my colleagues with respect to their findings concerning the domestic like product, the domestic industry and related parties, cumulation, no discernible adverse impact, conditions of competition, and the legal standard governing the Commission’s causation analysis in sunset reviews. Accordingly, I join the Commission’s joint views discussing these issues unless otherwise noted.

As a preliminary matter, I note that domestic producers accounting for the significant majority of production of the domestic like product chose to participate in these reviews but that no producers or importers of subject product from Argentina, Singapore, or Taiwan chose to participate. Given the level of responses in these reviews, the Commission has a somewhat limited record to consider in determining whether revocation of the orders will likely lead to continuation or recurrence of material injury in the reasonably foreseeable future. In a case such as this, where the domestic interested parties (and no respondent producers, exporters or importers) fully participated in certain reviews, the participating parties have an advantage in terms of being able to present information to the Commission without rebuttal from the other side. Nonetheless, irrespective of the source of information on the record, the statute obligates the Commission both to investigate the matters at issue and to evaluate the information and evidence before it in terms of the statutory criteria.² The Commission cannot properly accept participating parties’ information and characterizations thereof without question and without evaluating other available information and evidence.³

**III. REVOCATION OF THE ANTIDUMPING DUTY ORDERS COVERING
IMPORTS OF LIGHT-WALLED RECTANGULAR PIPES AND TUBES FROM
ARGENTINA AND TAIWAN IS NOT LIKELY TO LEAD TO CONTINUATION**

¹ 19 U.S.C. §§ 1675(d)(2) and 1675a(a)(1).

² 19 U.S.C. § 1675a(a).

³ See, e.g., *Alberta Pork Producers’ Mktg. Bd. v. United States*, 669 F. Supp. 445, 459 (Ct. Int’l Trade 1987) (“Commission properly exercised its discretion in electing not to draw an adverse inference from the low response rate to questionnaires by the domestic swine growers since the fundamental purpose of the rule to ensure production of relevant information is satisfied by the existence of the reliable secondary data.”).

**OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY
FORESEEABLE TIME**

A. *Likely Volume of the Cumulated Imports from Argentina and Taiwan*

In evaluating the likely volume of imports of subject merchandise if an antidumping order is revoked, the statute directs the Commission to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.⁴ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁵

In its original 1989 determinations concerning LWR from Argentina and Taiwan the Commission found that the volume of the cumulated imports had been increasing.⁶ Cumulated imports from Argentina and Taiwan had increased their domestic market share from 0.2 percent in 1985 to 4.5 percent in 1986 and to 10.2 percent in 1987.⁷ Imports from Taiwan continued at low levels for three years after the orders went into place in 1989 and have been at zero or *de minimis* since that time.⁸ Imports from Argentina have been zero since the order went into place.⁹ Accordingly, there have been essentially no imports since 1988 from Argentina and from Taiwan since 1992. Moreover, nonsubject import volumes in the past five years have been three to five times the volume of subject imports at their peak.¹⁰

The current record contains limited data regarding the industries in Argentina and Taiwan and does not contain data on the LWR industries in each of those countries. Rather we have aggregate data showing total capacity for all producers capable of producing welded carbon steel pipes and tubes in the size range of subject LWR.¹¹ Combined capacity for those producers is listed as 1.5 million short tons per year.¹² While we do not have breakdowns for LWR production capacity, comparison with the U.S. industry and available Argentinian export data suggests that the proportion of that 1.5 million short ton capacity devoted to LWR is likely to be relatively small.

The estimate of 1.5 million short tons of capacity is derived from combining the capacities of the various plants in the two countries that are capable of producing welded pipes in the size

⁴ 19 U.S.C. § 1675a(a)(2).

⁵ 19 U.S.C. § 1675a(a)(2)(A)–(D).

⁶ Certain Light-Walled Rectangular Pipes and Tubes from Taiwan, Inv. No. 731-TA-410 (Final), USITC Pub. 2169 (Mar. 1989), pp. 24–25, 33–34 and 56–67; Certain Light-Walled Rectangular Pipes and Tubes from Argentina, Inv. No. 731-TA-409 (Final), USITC Pub. 2187 (May 1989), pp. 8, 23.

⁷ CR and PR at Table LWR-I-1.

⁸ CR and PR at Table D-3.

⁹ *Id.*

¹⁰ *See id.*

¹¹ CR at LWR-II-3, PR at LWR-II-2.

¹² Rated capacity for producers in Argentina is 848,000 short tons and annually and 697,000 short tons annually for those in Taiwan. CR at LWR-II-3, PR at LWR-II-2.

range of LWR.¹³ By way of comparison, a birds-eye view of the U.S. industry, based upon the same superficial knowledge of capacity figures and production capabilities as we have for the subject country industries

¹³ Tables G-1 and G-7, CR and PR at Appendix G.

shows a potential domestic LWR capacity of at least 3.6 million short tons in 1998.¹⁴ Actual domestic LWR capacity in 1998 was 599,170 short tons, so roughly only 16 percent of that total capacity was allocated to LWR production. For purposes of comparison, 16 percent of the combined potential production capacity in Argentina and Taiwan would be 255,000 short tons, as compared with U.S. domestic LWR consumption of 565,000 short tons in 1998¹⁵ and combined CWP and LWR consumption of 3.6 million short tons.¹⁶

No export data are available for Taiwan, but public data indicates that pipe and tube exports (i.e., pipe and tube that could include subject LWR) from Argentina were small in recent years: In 1998, such exports were only 9,910 short tons and were sent to neighboring South American countries. Accordingly, total Argentine exports of pipe and tube that could include LWR in 1998 represented only 1.2 percent of total pipe and tube production capacity.¹⁷

Finally, with respect to the other statutory factors, I note that the record does not contain any data regarding subject import inventories and that there do not appear to be any substantial barriers to the subject imports entering other markets. With respect to product shifting, most foreign and domestic producers have the ability to shift their production among a variety of different pipe and tube products, including LWR, but given the relatively small size of the domestic LWR market, and that the CWP market is much larger and of higher value,¹⁸ it is unlikely that subject country producers would shift production from other products to LWR in significant quantities.

In sum, this evidence suggests to me that it is unlikely that subject producers are producing or are likely to produce and export to the United States significant volumes of subject LWR. LWR makes up a relatively small proportion of the domestic overall pipe and tube industry generally, and the limited available data shows Argentina's pipe and tube exports—of which some portion may be of subject LWR—to be very small and focused on neighboring markets. Moreover, the subject producers have been absent from the domestic market for 8–10 years, making it more difficult for them to be able to quickly reestablish a presence in a market containing strong competition between domestic and nonsubject imports. Accordingly, I find that the volume of the cumulated subject imports from Argentina and Taiwan are not likely to be significant upon revocation of the orders.

B. Likely Price Effects of the Cumulated Imports from Argentina and Taiwan

In evaluating the likely price effects of subject imports if the antidumping duty order is revoked, the Commission is directed to consider whether there is likely to be significant

¹⁴ This consists of 599,170 reported short tons for LWR producers and 3,039,075 reported short tons for CWP producers. See Tables CIRC-I-1 and LWR-I-1, CR at CIRC-I-8 and LWR-I-7, PR at CIRC-I-8 and LWR-I-6.

¹⁵ CR and PR at Table LWR-I-1.

¹⁶ See *id.* and Table CIRC-I-1.

¹⁷ Total capacity for welded carbon steel pipes and tubes, which could include LWR, is reported as 848,000 short tons in 1998, as compared with exports of 9,910 short tons. CR at LWR-IV-4, PR at LWR-IV-3.

¹⁸ In interim 1999, available data shows LWR at \$498 per short ton in contrast to CWP at \$545 per short ton, and in 1998, LWR at \$539 per short ton and CWP at \$576 per short ton. See CR and PR at Tables LWR-I-4 and CIRC-I-6.

underselling by the subject imports as compared with the domestic like product, and whether the subject imports are likely to

enter the United States at prices that would have a significant depressing or suppressing effect on the prices of the domestic like product.¹⁹

In its 1989 determinations involving LWR from Argentina and Taiwan, the record indicated that subject imports had undersold the domestic like product in 67 of 69 possible comparisons, by margins of between 5.0 percent and 30.1 percent.²⁰ Of the four commissioners making affirmative determinations, two found that subject imports had suppressed prices for the domestic like product²¹ and two merely noted that the subject imports had undersold the domestic like product.²² There have been no recent LWR imports from Argentina and Taiwan²³ so current price comparisons are not possible.

I find that the cumulated subject imports from Argentina and Taiwan are not likely to have significant adverse effects on domestic prices if the orders are revoked. The earlier record indicates that the subject merchandise and domestic like product were substitutable and that there was pervasive underselling on the part of the subject imports during that time, thus making it theoretically possible that they would do so today should subject imports reenter the domestic market. Nonetheless, as I discussed above, the record indicates that it is unlikely that there will be a significant increase in the volumes of the cumulated subject imports upon revocation of the orders, making significant adverse price effects unlikely.

Accordingly, I find that the cumulated subject imports from Argentina and Taiwan are not likely to have significant adverse effects on domestic prices upon revocation of the orders.

C. Likely Impact of the Cumulated Imports from Argentina and Taiwan

In evaluating the likely impact of imports of subject merchandise if the antidumping duty order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.²⁴ All relevant economic factors

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

²⁰ Original Confidential Report in Inv. No. 731-TA-410 (Final) (Mar. 6, 1989) at A-47–A-48, Tables 17 and 18.

²¹ USITC Pub. 2169 at 30–31, 35–42; USITC Pub. 2187 at 11.

²² USITC Pub. 2169 at 56; USITC Pub. 2187 at 23.

²³ Table LWR-I-1, CR at LWR-I-5 and LWR-I-6, PR at LWR-I-4 and LWR-I-5. *See also* Table D-3, CR and PR at Appendix D.

²⁴ 19 U.S.C. § 1675a(a)(4).

are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.²⁵

In the original investigations, the Commission found that a number of industry performance indicators improved between 1985 and 1987, but then declined in interim 1988. The two Commissioners making present material injury determinations found that the industry's health was not so strong as to preclude an affirmative determination, while the two Commissioners making threat determinations found that the industry was in a vulnerable condition.²⁶

Domestic consumption of LWR has doubled since 1987, increasing from 288,446 short tons in 1987 to 564,898 short tons in 1998.²⁷ Domestic producer shipments have likewise doubled, increasing from 207,888 short tons in 1987 to 404,970 short tons in 1998.²⁸ The domestic industry has in the past three years retained roughly the same market shares it held during the original investigation; shares of 68–73 percent during the original investigation and of 67–72 percent in the past three years.²⁹ While subject import market share has declined to zero or near zero in recent years, nonsubject imports have increased. Accordingly, the domestic industry has retained a stable share of a market that has grown substantially, even as the industry has competed with a substantial volume of nonsubject imports. Moreover, the industry's gross profits, operating income and operating ratios have all been healthy and steady over the past three years, with operating ratios of 9–10 percent in each year.³⁰ I find that the U.S. industry is not currently in a vulnerable state and that the industry is in a strong position to continue to compete successfully with imports were the subject imports to increase in the event of revocation.

As I discussed above, the record of these reviews indicates that the subject imports from Argentina and Taiwan are not likely to have significant adverse volume and price effects on the domestic industry within the reasonably foreseeable future if the orders were revoked. Accordingly, I also find that the cumulated subject imports would not be likely to have a significant impact on the domestic industry's cash flow, inventories, employment, wages, growth, ability to raise capital, investment or development efforts within a reasonably foreseeable time if the orders were revoked. Further, I find that revocation of the orders would not be likely to lead to a significant reduction in U.S. producers' output, sales, market share, profits, productivity, ability to raise capital, or return on investments within a reasonably foreseeable time.

Accordingly, I find that revocation of the antidumping orders covering LWR from Argentina and Taiwan is not likely to have a significant impact on the domestic industry. I therefore determine that revocation of the antidumping duty orders covering these imports would

²⁵ *Id.*

²⁶ USITC Pub. 2187 at 13, 17–19.

²⁷ CR and PR at Table LWR-I-1.

²⁸ *Id.*

²⁹ *Id.*

³⁰ CR and PR at Table C-3. The industry had healthy and stable gross profits of \$19.1 million and \$18.1 million in 1997 and 1998, respectively, and operating income of \$10.9 million and \$10.5 million in those same years. Hours worked, wages paid and productivity all increased and the cost of goods sold declined in those years and into interim 1999. *Id.* By contrast, during the original investigations the industry's operating margins were between 2.6 percent and 4.6 percent. CR and PR at LWR-I-1.

not be likely lead to continuation or recurrence of material injury within a reasonably foreseeable time.