

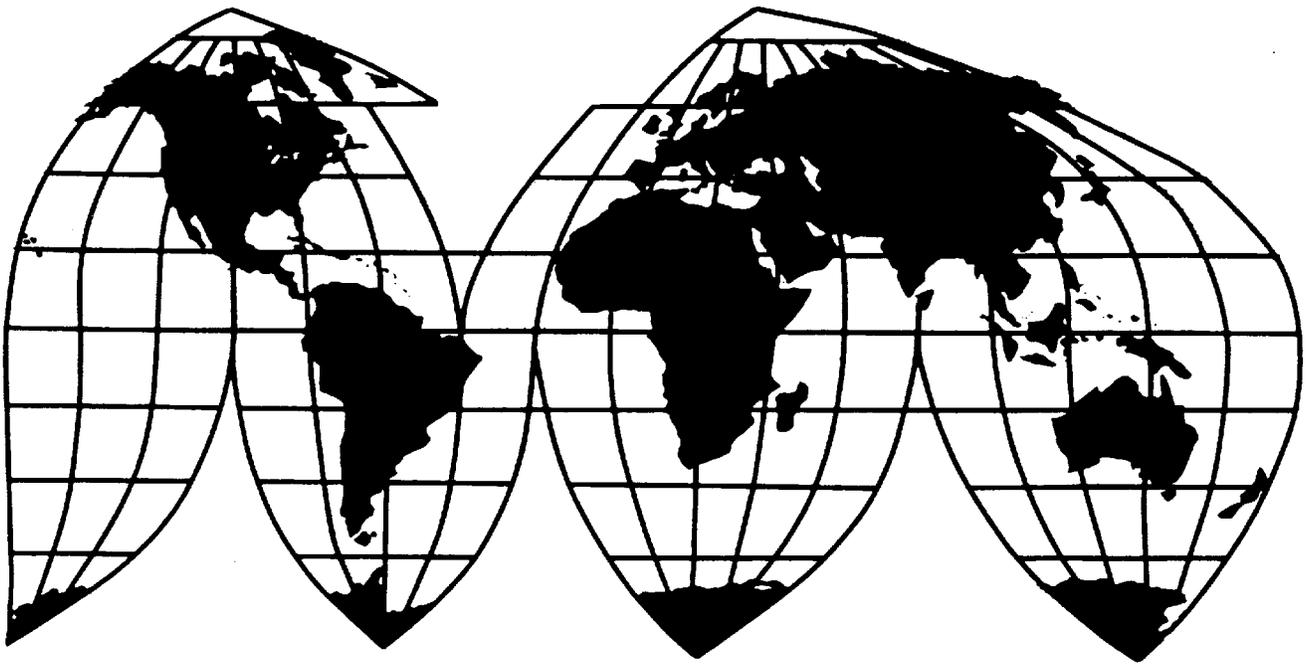
Gray Portland Cement and Cement Clinker From Japan

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

Publication 3856

May 2006

U.S. International Trade Commission



U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual firms may not be published and, therefore, has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

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

GRAY PORTLAND CEMENT AND CEMENT CLINKER FROM JAPAN

DETERMINATION

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

BACKGROUND

The Commission instituted this review on October 3, 2005 (70 F.R. 57617) and determined on January 6, 2006 that it would conduct an expedited review (71 F.R. 5069, January 31, 2006).

The Commission transmitted its determination in this review to the Secretary of Commerce on May 31, 2006. The views of the Commission are contained in USITC Publication 3856 (May 2006), entitled *Gray Portland Cement and Cement Clinker from Japan: Investigation No. 731-TA-461 (Second Review)*.

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

VIEWS OF THE COMMISSION

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

I. BACKGROUND

In 1990, over a period of several months, the Commission instituted four separate investigations pertaining to imports of gray portland cement and clinker from Japan, Mexico and Venezuela. On April 29, 1991, the Commission determined that an industry in the United States was being materially injured by reason of imports of gray portland cement and cement clinker from Japan that were being sold at less than fair value.¹ In making its determination, the Commission concluded that appropriate circumstances existed for a regional industry analysis with the region consisting of the U.S. producers in the “Southern California Region.”² In reaching its material injury finding, the Commission cumulated subject imports from Japan and Mexico.³ On May 10, 1991, the Department of Commerce (“Commerce”) issued an antidumping duty order on imports of gray portland cement and cement clinker from Japan.⁴ The respondents subsequently appealed the Commission’s final original determination to the U.S. Court of International Trade (“CIT”).

In April 1993, the CIT affirmed in part, and remanded in part, the Commission’s final affirmative determination.⁵ The CIT reversed the Commission’s determination to cumulate imports of cement from Japan and Mexico on the basis that there was no evidence that imports from Mexico already subject to an antidumping duty order caused present material injury. In addition, the CIT remanded the Commission majority’s present material injury determination, and affirmed in whole one Commissioner’s affirmative threat determination.⁶ In its June 1993 remand determination, the Commission majority reached an

¹ Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Final) USITC Pub. 2376 (April 1991) (“Original Determination”). In the 3-1 affirmative determination, Commissioners Lodwick and Newquist found material injury to the Southern California regional industry by reason of cumulated LTFV imports from Japan and Mexico and Commissioner Rohr found a threat of material injury to the same regional industry by reason of LTFV imports from Japan.

² While Commissioners Lodwick, Newquist and Rohr found that the Southern California Region was appropriate, in reaching a negative determination, Acting Chairman Brunsdale found the State of California Region appropriate for her analysis. Original Determination.

³ In the pre-URAA statute, there was no requirement that investigations be instituted on the same day in order to cumulate.

⁴ 56 Fed. Reg. 21658 (May 10, 1991).

⁵ Mitsubishi Materials Corp. v. United States, 820 F. Supp. 608, 628-29 (CIT 1993).

⁶ The reversal on cumulation arose out of the “recent order” exception to the pre-1994 statute’s requirement for cumulation that imports be “subject to investigation” as of “vote day.” See Mitsubishi Materials, 820 F. Supp. at 619-622 (CIT 1993).

affirmative determination on the basis of threat of material injury by reason of LTFV imports from Japan.⁷ On February 29, 1996, the CIT affirmed the Commission's remand determination.⁸

In 2000, the Commission instituted its first five-year reviews of the orders on subject imports from Japan, Mexico and Venezuela. All three reviews were full reviews, with the consequent gathering of data and arguments, including through questionnaires, briefs, and a hearing. The Commission reached affirmative determinations with respect to subject imports from Japan and Mexico, but reached a negative determination with respect to subject imports from Venezuela.⁹ In its affirmative determinations, the Commission declined to cumulate subject imports for purposes of its analysis. In its review with respect to subject imports from Japan, the Commission found that appropriate circumstances existed for a regional industry defined as the State of California.

The Commission instituted the second review of the orders on subject imports from Japan and Mexico on October 3, 2005. In its second review of the order on subject imports from Japan, the Commission received a joint response to the notice of institution from the Committee for Fairly Traded Japanese Cement ("Japanese Cement Committee"), an *ad hoc* association of California producers of cement and various unions representing cement workers in that state but received no responses from Japanese respondent interested parties.¹⁰ In its review of the order on subject imports from Mexico, the Commission received a response from the Committee for Fairly Traded Mexican Cement, ("Mexican Cement Committee") an *ad hoc* association of producers in the Southern Tier region,¹¹ and a joint response from GCC Cemento GCC Rio Grande, Inc. a U.S. producer of the domestic like product and U.S. importer of the subject merchandise from Mexico and GCC Cemento, S.A. de C.V., a Mexican producer and exporter of the subject merchandise.

On January 6, 2006, the Commission determined that it would conduct a full review with respect to the subject imports from Mexico and an expedited review with respect to subject imports from Japan, given the absence of an adequate respondent interested group response for Japan. The

⁷ Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Remand), USITC Pub. 2657 (June 1993). By a vote of 4-1, the Commission made an affirmative determination on remand. Three of the four Commissioners made their affirmative determination on the basis of threat of material injury; the three Commissioners making a threat determination included the one Commissioner (Newquist) making the original determination on the basis of threat and two new Commissioners (Watson and Nuzum).

⁸ Mitsubishi Materials Corp. v. United States, 918 F. Supp. 422 (CIT 1996).

⁹ In the first five-year review regarding subject imports from Venezuela, the Commission found that a regional industry existed for the "State of Florida" region. However, the Commission majority found that the imports from Venezuela would not be likely to be sufficiently concentrated, if the suspended investigations were terminated, to satisfy the import concentration requirements for a regional industry analysis. Therefore, the Commission determined that it could not proceed to the analysis of likely continuation or recurrence of material injury and found that the suspended investigations on subject imports from Venezuela should be terminated. The Commission's determinations regarding subject imports from Venezuela were affirmed on appeal to the CIT and subsequently were upheld by the U.S. Court of Appeals for the Federal Circuit. Committee for Fairly Traded Venezuelan Cement v. United States, 279 F. Supp.2d 1314, 1323 (CIT 2003), *aff'd*, 372 F.3d 1284 (Fed. Cir. 2004).

¹⁰ The unions representing cement production workers in California include the International Brotherhood of Boilermakers; Iron Ship Builders, Blacksmiths, Forgers, and Helpers; the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy; Allied Industrial and Service Workers; International Union of Operating Engineers; and Local Lodge 93 of International Association of Machinists and Aerospace Workers. See The Domestic Industry's Response to the Notice of Institution ("Domestic Industry Response").

¹¹ The Mexican Committee's response was filed jointly with the Domestic Response. The Southern Tier region consists of the states of California, Arizona, New Mexico, Texas, Louisiana, Mississippi, Alabama, and Florida. See Gray Portland Cement and Cement Clinker from Japan, Mexico, and Venezuela, Inv. Nos. 303-TA-21 and 731-TA-451, 461, and 519 (Review) USITC Pub. 3361 (Oct. 2000) ("First Five-Year Review Determination") at 8.

Commission also found that administrative efficiency would not be achieved by grouping the review with respect to Japan with its full review of subject imports from Mexico, as each review involved different regional industries.¹²

Accordingly, where appropriate, we have relied on the facts available in this review, which consist primarily of the evidence in the record from the Commission's original investigations and the first five-year reviews, the information collected by the Commission prior to the close of the record, and the limited information submitted by parties in this review.

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the "domestic like product" and the "industry."¹³ The Act defines the "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."¹⁴ The Commission's practice in five-year reviews is to look to the like product definition from the original determination and any previous reviews and consider whether the record indicates any reason to revisit that definition.¹⁵

In its final first five-year review determination, Commerce described the scope of the subject merchandise covered by the order as:

cement and cement clinker Cement is a hydraulic cement and the primary component of concrete. Cement clinker, an intermediate material produced when manufacturing cement, has no other use than grinding into finished cement. Microfine cement was specifically excluded from the antidumping duty order. Cement is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2523.29, and cement clinker is currently classifiable under HTS item number 2523.10. Cement has also been entered under HTS item 2523.90 as "other hydraulic cements." The Department has made two scope rulings regarding subject merchandise.¹⁶

¹² Commission's Statement on Adequacy at Confidential Staff Report ("CR") and Public Staff Report ("PR") at Appendix B.

¹³ 19 U.S.C. § 1677(4)(A).

¹⁴ 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

¹⁵ See Stainless Steel Sheet and Strip from France, Germany, Italy, Japan, Korea, Mexico, Taiwan, and the United Kingdom, Inv. No. 701-TA-380-382 and 731-TA-797-804 (Review), USITC Pub. 3788 (July 2005) at 6; Crawfish Tail Meat from China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 (July 2003) at 4; Steel Concrete Reinforcing Bar from Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 (Feb. 2003) at 4.

¹⁶ Commerce elaborated on the two scope rulings as follows:

See Scope Rulings, 57 FR 19602 (May 7, 1992), classes G and H of oil well cement are within the scope of the order; and Scope Ruling, 58 FR 27542 (May 10, 1993), nittetsu super fine cements is not within the scope of the order. Id.

Commerce has not made any other scope rulings since the first review. Commerce's final determination in the second review had not issued by the time the record had closed in this second review.

Gray portland cement is a hydraulic cement, a type of industrial binding agent used predominantly in the production of concrete. Concrete in turn is used almost wholly by the construction industry. Portland cement chiefly is used in highway construction and building construction, concrete blocks, and in precast concrete units. All cement generally conforms to the standards established by the American Society for Testing and Materials (“ASTM”). Cement clinker is the intermediate product in the manufacture of cement. In the processing of cement, certain raw materials containing calcium carbonate, silica alumina, and iron oxide are ground, blended, and sintered in a kiln to produce cement clinker. Cement clinker, which is in the form of small grayish-black pellets, is ground with gypsum to produce finished cement, which is in the form of a grayish powder. Cement clinker has no use other than being ground into finished cement.¹⁷

In the original investigation and first five-year review, the Commission defined a single domestic like product consisting of gray portland cement and clinker coextensive with the scope.¹⁸ In this second review, the domestic interested parties agree with the Commission’s domestic like product definition. There was no new information obtained during this second review that would warrant revisiting the definition of the domestic like product in the original investigation and first five-year review. Accordingly, we define the domestic like product in the instant five-year review to be gray portland cement and cement clinker (“cement”), coextensive with Commerce’s definition of the subject merchandise.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant domestic industry as the “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.”¹⁹ Consistent with our domestic like product determination, as discussed below, we find one domestic industry consisting of all domestic producers of cement within the defined region, the State of California.

Below, we consider two domestic industry issues: (1) whether appropriate circumstances exist to conduct a regional industry analysis; and (2) whether appropriate circumstances exist to exclude any related party.

III. REGIONAL INDUSTRY ANALYSIS

A. General Considerations

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

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

¹⁷ CR at I-11/PR at I-9.

¹⁸ Original Determination at 13; First Five-Year Determination, at 8.

¹⁹ 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

the criteria established in section 1677(4)(c) of this title are likely to be satisfied if the order is revoked or the suspended investigation is terminated.²⁰

The Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) clarifies that “the Commission is not bound by any determination it may have made in the original investigation regarding the existence of a regional industry.”²¹ However, the SAA also states that the Commission needs “sufficient evidence” to warrant revisiting its original regional industry determination.²²

The Commission takes into account any effect that the order or suspension agreement may have had on the marketing and distribution patterns for the subject product in analyzing whether the market isolation and import concentration criteria are likely to be satisfied in the event of revocation or termination.²³ The Commission also takes into account any prior regional industry definition, any product characteristics that lend themselves to a regional market, and whether any changes in the isolation of the region or import concentration are related to the imposition of the order or acceptance of the suspension agreement.²⁴

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

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

²⁰ 19 U.S.C. § 1675a(a)(8).

²¹ SAA, H.R. Rep. No. 103-316, vol. I at 887 (1994).

²² SAA at 887. Specifically, the SAA states:

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

Id. at 887-888.

²³ SAA at 888. The SAA specifically states:

Given the predictive nature of a likelihood of injury analysis, the Commission’s analysis in regional industry investigations will be subject to no greater degree of certainty than in a review involving a national industry. Because the issuance of an order or the acceptance of a suspension agreement may have affected the marketing and distribution patterns of the product in question, the Commission’s analysis of a regional industry should take into account whether the market isolation and import concentration criteria in section 771(4)(C) are likely to be satisfied in the event of revocation or termination. Neither the Commission nor interested parties will be required to demonstrate that the regional industry criteria currently are satisfied.

Id.

²⁴ SAA at 888. Specifically, the SAA states:

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

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

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

In such appropriate circumstances, material injury, the threat of material injury, or material retardation of the establishment of an industry may be found to exist with respect to an industry even if the domestic industry as a whole, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of that product, is not injured, if there is a concentration of dumped imports or imports of merchandise benefitting from a countervailable subsidy into such an isolated market and if the producers of all, or almost all, of the production within that market are being materially injured or threatened by material injury, or if the establishment of an industry is being materially retarded, by reason of the dumped imports or imports of merchandise benefitting from a countervailable subsidy. The term “regional industry” means the domestic producers within a region who are treated as a separate industry under this subparagraph.^{25 26}

B. Background

In both the original investigation and the first five-year review, the Commission found that appropriate circumstances existed to conduct a regional industry analysis. In the original investigation, the Commission considered whether the Southern California region, as proposed by the petitioners, or a larger region, the State of California, was the appropriate region. The Commission determined that both regions satisfied the market isolation criteria but found the more appropriate region for its analysis was

²⁵ 19 U.S.C. § 1677(4)(C). The URAA changes to the regional industry provisions were not intended to affect substantive Commission practice. The definition of “regional industry” in the last sentence was added and technical language changes were made by the URAA. The URAA also amended the statute to require that Commerce “to the maximum extent possible, direct that duties be assessed only on the subject merchandise of the specific exporters or producers that exported the subject merchandise for sale in the region concerned during the period of investigation.” 19 U.S.C. § 1673e(d). Therefore, Commerce will “exclude from the [antidumping duty] order, to the ‘maximum extent possible,’ those exporters or producers that did not export for sale in the region during the period of investigation.” SAA at 859 and 860.

²⁶ The Court of International Trade has described the steps taken by the Commission in a regional industry analysis as follows:

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

Texas Crushed Stone Co. v. United States, 822 F. Supp. 773, 777 (CIT 1993), aff’d, 35 F.3d 1535 (Fed. Cir. 1994) (“the ITC’s case-by-case approach represents a ‘legitimate policy choice made by the agency in interpreting and applying the statute.’” Id. at 1542), aff’g Crushed Limestone from Mexico, Inv. No. 731-TA-562 (Preliminary), USITC Pub. 2533 (July 1992)(“Limestone”)

Southern California.²⁷ In the first five-year review, the Commission revisited its regional industry definition, and found that there had been integration of the Northern and Southern regions of California. As such, having found that the market isolation criteria were satisfied, the Commission defined the region as the State of California.²⁸

In this second review, the domestic interested parties advocate that the regional industry analysis continues to be appropriate and that the Commission again define the region as the State of California.²⁹

C. Analysis

For the reasons discussed below, we determine that the record in this review supports a finding of a regional industry corresponding to the region of the State of California.

In five-year reviews involving regional industries, according to the SAA, the Commission should take into account any prior regional industry definition and whether the subject product has characteristics that naturally lead to the formation of regional markets (e.g., whether the product has a low value-to-weight ratio and is fungible).³⁰ According to the record in this review, cement is a low value-to-weight product and a fungible product, as the domestically produced product and subject imports are highly interchangeable.³¹ The relatively low value-to-weight ratio of cement and relatively high transportation costs appear to limit the distances to which cement is shipped.³² In this second period of review, as during the periods examined in the original investigation and first five-year review, the majority of producer shipments within the region were shipped to customers within 200 miles of the manufacturing plant and the majority of importer shipments within the region were shipped to customers within 200 miles from the port of entry.³³ Moreover, the practice of “freight equalization” or “freight absorption” is still performed in the industry, making transportation costs an important component of cement sales.³⁴

²⁷ Original Determination, at 13, 17-20, and 47-50.

²⁸ First Five-Year Determination, at 14, 17-18.

²⁹ Domestic Industry Comments on the Merits (“Domestic Industry Comments”) at 6.

³⁰ SAA at 888. The Commission has found, in the past, that “appropriate circumstances” exist for the Commission to engage in a regional industry analysis for products with low value-to-weight ratios and where high transportation costs make the areas in which the product is produced necessarily isolated and insular. See, e.g., Gray Portland Cement and Cement Clinker From Japan, Mexico, and Venezuela, Invs. Nos. 303-TA-21 (Review) and 731-TA-451, 461, and 519 (Review) USITC Pub. 3361 (October 2000) at 12; See also Limestone, USITC Pub. 2533; Nepheline Syenite from Canada, Inv. No. 731-TA-525 (Final) USITC Pub. 2502 (April 1992)(“Nepheline Syenite”); Gray Portland Cement and Cement Clinker from Venezuela, Inv. No. 731-TA-519 (Preliminary) USITC Pub. 2400 (July 1991)(“Venezuela Cement”); Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 USITC Pub. 2376 (April 1991)(“Japan Cement,”); Gray Portland Cement and Cement Clinker from Mexico, Inv. No. 731-TA-451 (Final) USITC Pub. 2305 (August 1990)(“Mexico Cement”).

³¹ CR at V-1, I-11/ PR at V-1, I-9.

³² CR/PR at V-1.

³³ CR/PR at V-1.

³⁴ CR/PR at V-3.

1. Market Isolation Criteria

a. Sales Of "All or Almost All" of Production Within The Region

In the period examined in the original investigation, producers in California shipped between 92.1 and 93.7 percent of their U.S. shipments within the region.³⁵ In the period examined in the first review, producers in the State of California region shipped between 80 and 85 percent of their U.S. shipments of cement within the region.³⁶ There is no information in the record in this second review to suggest that these percentages have changed since the first five-year review period. We find that these percentages indicate that the statutory market isolation criterion that “producers within such market sell all or almost all of their production of the domestic like product in question in that market” is likely to be satisfied if the order is revoked.³⁷

b. Demand In Region Supplied By U.S. Producers Outside The Region

In the period examined in the original investigation, domestic producers outside the State of California region supplied less than 3.5 percent of California regional consumption.³⁸ During 1997 to 1999, the period examined in the first review, none of the State of California’s regional consumption was supplied by producers outside the region.³⁹ There is no information in the record that would indicate that this pattern would change within the reasonably foreseeable future. Thus, we find that the statutory criterion that “demand in that market is not supplied to any substantial degree, by producers of the product in question located elsewhere in the United States,” is likely to be satisfied if the order is revoked.⁴⁰

³⁵ Original Staff Report at Table 4. In the original determination, although the Commission determined that the appropriate region was Southern California, it found that the percentages of shipments by producers within the State of California met the “all or almost all” statutory criteria. Original Determination, at 18.

³⁶ Calculated from CR/PR Table I-4B. State of California regional producers’ shipments within the region were 79.9 percent in 1997, 84.2 percent in 1998, and 85.8 percent in 1999. CR/PR Table I-4B.

³⁷ See Gray Portland Cement and Clinker From Japan, Mexico, and Venezuela, Invs. Nos. 303-TA-21 (Review) and 731-TA-45, 461, and 519 (Review) USITC Pub. 3361 (Oct. 2000) at 12-14 (finding percentages of 80-85 percent to be sufficient in Japanese and Mexican Reviews); Texas Crushed Stone, 822 F. Supp. 773, aff’d, 35 F.3d 1535 (Fed. Cir. 1994); Cemex, S.A. v. United States, 790 F. Supp. at 292-294, aff’d, 989 F.2d 1202 (Fed. Cir. 1993)(In reviewing the regional industry analysis, the CIT held that “there is nothing in the statute, case law, or administrative practice to indicate Congressional intent to bind the ITC to a precise numerical percentage.” However, the Court added that “the analysis required by the regional market provision is more readily quantifiable than the analysis under the regional injury provision.”). See, e.g., Rebar from Turkey, USITC Pub. 3034 at 14 (April 1997)(about 90 percent found to be sufficient); Venezuela Cement, USITC Pub. 2400 at 7 and 27 (July 1991)(over 95 percent found to be sufficient); Japan Cement, USITC Pub. 2376 at 18, 44 (April 1991)(82.6 percent found to be sufficient); Operators for Jalousie and Awning Windows from El Salvador, Inv. Nos. 701-TA-272 and 731-TA-319 (Final), USITC Pub. 1934 at 9 (January 1987) (over 80 percent found to be sufficient); Round White Potatoes, Inv. No. 731-TA-124 (Final), USITC Pub. 1463 at 7 (December 1983)(84 percent found to be sufficient); Portland Hydraulic Cement from Australia and Japan, Inv. Nos. 731-TA-108 and 109 (Final), USITC Pub. 1310 at 5 (October 1983) (92 percent found to be sufficient); Frozen French Fried Potatoes, Inv. No. 731-TA-93 (Preliminary), USITC Pub. 1259 at 7 (June 1982)(66 percent found not to be sufficient).

³⁸ Original Staff Report at Table 4.

³⁹ CR/PR at Table I-4B.

⁴⁰ 19 U.S.C. § 1677(4)(C)(I). This level is within the range the Commission previously considered sufficient to satisfy this criterion. See Texas Crushed Stone, 822 F. Supp. 773, aff’d, 35 F.3d 1235 (Fed. Cir. 1994); Cemex, S.A. v. United States, 790 F. Supp. 290, 292-294 (CIT 1992), aff’d, 989 F.2d 1202 (Fed. Cir. 1993).

2. Concentration of Imports

In the second step of the regional industry analysis, we determine whether the statutory requirement of concentration of imports within the pertinent region is likely to be satisfied. The statute does not define import concentration. The legislative history to the URAA indicates that “no precise mathematical formula is reliable in determining the minimum percentage which constitutes sufficient concentration.”⁴¹ The SAA provides that concentration of imports will be found to exist “if the ratio of the subject imports to consumption is clearly higher in the regional market than in the rest of the U.S. market, and if such imports into the region account for a substantial proportion of total subject imports entering the United States.”^{42 43} The SAA cautions that there is no “benchmark” for determining what constitutes a concentration; rather it should be decided on a case-by-case basis.⁴⁴ The courts have affirmed the Commission’s case-by-case approach to applying the statute.⁴⁵

During the original investigation, the ratio of subject imports from Japan within California to total subject imports from Japan ranged between 67.5 percent and 79.2 percent.⁴⁶ The ratio of subject imports from Japan to consumption within California ranged between 3.3 percent and 13.1 percent;⁴⁷ the ratio of subject imports from Japan to consumption outside the State of California region was less than 1.0 percent in each year examined in the original investigation.⁴⁸

In the first review, with the order in place, the Commission found that subject imports from Japan would be likely be concentrated if the order was revoked. In so doing, it noted that “very small amounts of total subject imports from Japan entered the United States.”⁴⁹ It pointed out that the ratio of subject imports from Japan within the region to total subject imports from Japan was 70 percent in 1998

⁴¹ SAA at 860. The Commission historically has found concentration percentages higher than 80 percent of total imports subject to investigation to be sufficient. See, e.g., Portland Hydraulic Cement, USITC Pub. 1310 at 10; Offshore Platform Jacket, USITC Pub. 1848 at 10; Sugars and Syrups from Canada, Inv. No. 731-TA-3 (Final), USITC Pub. 1047 (Mar. 1980). While the requisite concentration has also been found at levels as low as 43 percent, the Commission has questioned whether concentration levels of 60-80 percent are sufficient. See, e.g., Round White Potatoes, USITC Pub. 1463 at 7; Certain Steel Wire Nails from the Republic of Korea, Inv. No. 731-TA-26 (Final), USITC Pub. 1088 at 11 and 12 (Aug. 1980); Japan Cement, USITC Pub. 2376 at 20 and 21, 48-50, aff’d although remanded on other grounds, Mitsubishi Materials Corp. v. United States, 820 F. Supp. 608, 615 (CIT 1993); Venezuela Cement, USITC Pub. 2400 at 10 and 11. Compare Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. No. 731-TA-349 (Final), USITC Pub. 1994 (July 1987) and Certain Welded Carbon Steel Pipes and Tubes from the Philippines and Singapore, Inv. Nos. 731-TA-293, 294, 296 (Final), USITC Pub. 1907 at 6 and 7, n.19 (Nov. 1986).

⁴² SAA at 860.

⁴³ Prior to the URAA, the Commission considered the import penetration ratio only in particular circumstances where imports outside the region were widely dispersed or the regional industry was a significant portion of the national industry. This Commission practice was affirmed by Texas Crushed Stone, 35 F.3d 1535 (Fed. Cir. 1994). See also Japan Cement, Inv. 731-TA-461 (Final), USITC Pub. 2376 (April 1991) at 21, n.47 (the Commission “would not consider it of much weight if Southern California represented but a very small share of overall U.S. consumption”).

⁴⁴ SAA at 860. See also Mitsubishi Materials, 820 F. Supp. at 614-615 (CIT 1993).

⁴⁵ Texas Crushed Stone, 35 F.3d 1535 (Fed. Cir. 1994); Cemex, 790 F. Supp. at 292-294 (CIT 1992), aff’d, 989 F.2d 1202 (Fed. Cir. 1993).

⁴⁶ Original Staff Report at Table 4.

⁴⁷ Original Staff Report at Table 4.

⁴⁸ Original Staff Report at Table 4.

⁴⁹ First Review Determination, at 17.

and 97 percent in 1999.⁵⁰ The Commission further found that the ratio of subject imports from Japan to consumption within the State of California region was 0.1 percent in 1997, 0.2 percent in 1998, and 1.1 percent in interim 2000 and that the ratio of subject imports from Japan to consumption outside the State of California region was 0.0 percent in each of these periods. Furthermore, it found that shipping patterns of subject imports from Japan during the original investigation also indicated that a concentration of subject imports in the State of California region would be likely if the order was revoked.⁵¹

During the period of the second review, with the order still in place, subject imports entering the State of California region and the United States as a whole were virtually nonexistent, peaking at only 3,000 and 4,000 tons in 2004 and 2005.⁵² The percentage of total subject imports from Japan entering the State of California was 50 percent in 2004 and 75 percent in 2005.⁵³ As the volume of subject imports was almost nonexistent during the second review period, the ratio of subject imports from Japan to consumption both within and outside the region were less than one-tenth of a percent throughout the second period of review.⁵⁴

At the time of the original investigations, the last time subject imports were not under order, subject imports from Japan were present in the U.S. market in substantial volumes. The shipping patterns during the original investigation, as well as during the first and second review periods, indicate that subject imports from Japan would likely be sufficiently concentrated in the State of California region if the order is revoked. The limited record in this second review does not indicate that producers' shipping patterns are likely to shift upon revocation to concentration levels that are not sufficient to meet this criterion. Therefore, we proceed on a regional industry basis to the issue of whether there is a likelihood of continuation or recurrence of material injury if the antidumping duty order on subject imports from Japan is revoked.

IV. RELATED PARTIES

The other issue that arises in this second review with respect to the Commission's definition of the domestic industry is whether two of the regional producers should be excluded under the related parties provision, 19 U.S.C. § 1677(4)(B). Section 771(4)(B) of the Act allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise, or which are themselves importers.⁵⁵ The Commission has also concluded that a domestic producer that does not itself import subject merchandise, or does not

⁵⁰ First Review Determination, at 17.

⁵¹ First Review Determination, at 17-18.

⁵² CR/PR at Table C-4.

⁵³ Calculated from CR/PR at Table C-4.

⁵⁴ Calculated from CR/PR at Table C-4.

⁵⁵ The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party 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-a-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., See, e.g., Allied Mineral Products v. United States, Slip Op. 04-134 (Ct. Int'l Trade Nov. 2, 2004) at 9; Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int'l Trade 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993).

share a corporate affiliation with an importer, may nonetheless be deemed a related party if it controls large volumes of imports. The Commission has found such control to exist where the domestic producer was responsible for a predominant proportion of an importer's purchases and the importer's purchases were substantial.⁵⁶

In this second review, two cement producers in the California region, Mitsubishi (which operates one plant) and California Portland (which operates two plants), fall within the definition of a related party as they did in the first review. Both are owned by Japanese subject producers Mitsubishi and Taiheiyo, respectively. During the first review period, the producers together accounted for *** percent of total imports into the region in 1998 and 1999.⁵⁷ The current record does not indicate whether these producers imported subject merchandise during the second period of review.

In the first review, the Commission considered whether appropriate circumstances existed to exclude these same producers. The Commission noted that the financial positions of two of three plants *** than other plants in the region.⁵⁸ However, the Commission found that both regional producers separately accounted for a substantial portion of regional production of cement and that both made substantial capital investments during the period of review.⁵⁹ As such, the Commission concluded that these two producers' interests lie "first and foremost" with domestic production and determined that appropriate circumstances did not exist to exclude either Mitsubishi or California Portland from the industry.

As with many of the issues raised in this second review, nearly all the evidence in the record was collected during the first review. We do note that if these producers did import subject merchandise during the second period of review, they imported far less than in the first review, given that the volume of subject imports of Japanese cement into the region was extremely low from 2000-2005.⁶⁰ Given the Commission's findings in the first review, and noting that the domestic interested parties have not advocated that either Mitsubishi or California Portland be excluded from the domestic industry, we find that appropriate circumstances do not exist to exclude either producer from the regional industry.

⁵⁶ See, e.g., Foundry Coke from China, Inv. No. 731-TA-891 (Final), USITC Pub. 3449 (September 2001) at 8-9.

⁵⁷ First Five-Year Determination (Confidential Version) at 34. Imports from Japan into the State of California region were 16,000 short tons in 1998 and 32,000 short tons in 1999. CR/PR at Table C-4.

⁵⁸ First Five-Year Determination (Confidential Version) at 35.

⁵⁹ Original Determination at 23.

⁶⁰ CR/PR at Table C-4.

V. CUMULATION

A. Overview

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.⁶¹

Thus, cumulation is discretionary in five-year reviews. 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. As noted above, 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.⁶² 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.⁶³ With respect to this provision, the Commission generally considers the likely volume of the subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.⁶⁴

The Commission generally has considered four factors intended to provide a framework for determining whether the imports compete with each other and with the domestic like product.⁶⁵ Only a “reasonable overlap” of competition is required.⁶⁶ In five-year reviews, the relevant inquiry is whether

⁶¹ 19 U.S.C. § 1675a(a)(7).

⁶² 19 U.S.C. § 1675a(a)(7).

⁶³ SAA, H.R. Rep. No. 103-316, vol. I (1994).

⁶⁴ For a discussion of the analytical framework of Chairman Koplan and Commissioner 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).

⁶⁵ 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 (CIT 1989).

⁶⁶ See Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (CIT 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 (CIT 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations where the Commission has found an insufficient overlap in competition and has declined to cumulate subject

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there likely would be competition even if none currently exists because the subject imports are absent from the U.S. market. 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 terminated. The Commission has considered factors in addition to its traditional competition factors in other contexts where cumulation is discretionary.⁶⁷

As noted earlier, we determined to proceed to an expedited review of the order on subject imports from Japan and a full review of the order on subject imports from Mexico. However, both reviews were initiated on the same day, and the statute allows the Commission to consider whether to cumulate under such circumstances.

In the original investigation, the Commission majority found that the statutory criteria for mandatory cumulation was satisfied and cumulated subject imports from Japan and Mexico entering the region of Southern California.⁶⁸ However, this determination was reversed on appeal because it was unclear whether the Mexican imports "were still subject to investigation," which was a criteria for cumulation in staggered investigations prior to the URAA.⁶⁹ In its June 1993 remand determination, the Commission majority reached an affirmative determination on the basis of threat of material injury by reason of LTFV imports from Japan alone.⁷⁰

In the first five-year review, the Commission declined to exercise its discretion to cumulate subject imports from Japan and Mexico.⁷¹ In considering whether there would likely be a reasonable overlap of competition, the Commission found that cement is a fungible product and subject imports and the domestic like product were generally interchangeable; and that subject imports from both countries and the domestic product have similar channels of distribution and were simultaneously present in the regional markets. However, the Commission determined that any geographic overlap of sales into the regions would be limited. It noted that Japanese imports would likely be limited to the State of California, which was just one subsection of the Southern Tier region. The Commission also determined that, while significant volumes of imports from Mexico continued to enter the Southern Tier region during the first review period, only small volumes of such imports entered California. Moreover, it found that although subject imports from Mexico into California would likely increase upon revocation, "the established Mexican distribution arrangements in California would likely limit the geographical overlap with imports from Japan, particularly in Northern California."⁷²

The Commission also found that subject imports from both countries would not likely compete under similar conditions of competition. First, it observed that, unlike Japanese subject producers,

⁶⁶ (...continued)

imports. See, e.g., Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 (Preliminary) and 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 15 (Feb. 1999), aff'd sub nom. Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp.2d 1353 (CIT 1999); Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-761-762 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

⁶⁷ 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); Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (CIT 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (CIT 1988).

⁶⁸ Original Determination, at 30-35 (Commissioners Lodwick and Newquist).

⁶⁹ See Mitsubishi Materials, 820 F. Supp. At 619-622 (CIT 1993).

⁷⁰ Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Remand), USITC Pub. 2657 (June 1993).

⁷¹ First Five-Year Review Determination at 27-28.

⁷² First Five-Year Review Determination at 27.

Mexican subject producers had no U.S. affiliate that produced subject merchandise in California. Second, it found that California was a natural market for Japanese cement producers, but that other parts of the Southern Tier other than California were closer to Mexican cement production facilities. Finally, the Commission found that Japanese and Mexican subject producers had “substantial differences in absolute levels and trends of production capacity, as well as in the levels of excess capacity.”⁷³

Although we note that Mexican producer Cemex now owns a cement plant in California, we find that this fact, in light of other evidence in the record in this second review, does not warrant altering the Commission’s cumulation analysis in the first review.⁷⁴ We also note that no party has argued that the subject imports from Japan and Mexico be cumulated. Thus, in light of the Commission’s findings in the first review, and the limited record in this second review, we do not exercise our discretion to cumulate subject imports from Japan and Mexico in this review.

VI. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE COUNTERVAILING AND ANTIDUMPING DUTY ORDERS ARE REVOKED

A. Legal Standard

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 or subsidization is likely to continue or recur, and (2) the Commission makes a determination that revocation of the antidumping duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”⁷⁵ 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 or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”⁷⁶ Thus, the likelihood standard is prospective in nature.⁷⁷ The U.S. Court of International Trade has found that “likely,” as used in the sunset review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.^{78 79 80}

⁷³ First Five-Year Review Determination at 27.

⁷⁴ CEMEX acquired U.S. producer Southdown, including its California operations, in 2000. Mexican Respondents’ Response to Notice of Institution at 4. However, the best available information in the record indicates that Japanese subject producers still account for a greater percentage of domestic cement production in California than Mexican subject producers. Calculated from CR/PR Table D-9.

⁷⁵ 19 U.S.C. § 1675a(a).

⁷⁶ 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). Likewise, the standard applies to suspended investigations that were never completed.” SAA at 883.

⁷⁷ 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.

⁷⁸ See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), aff’d without opinion, 05-1019 (Fed. Cir. August 3, 2005); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int’l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int’l Trade Dec. 20, 2002) (“more likely than not” standard is “consistent with the court’s opinion;” “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105

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The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”⁸¹ 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 original investigations.”^{82 83}

Although the standard in a five-year review is not the same as the standard applied in an original antidumping or countervailing duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”⁸⁴ It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are

⁷⁸ (...continued)

at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int’l Trade July 19, 2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

⁷⁹ Vice Chairman Okun notes that, consistent with her dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004) at 15-17, she does not concur with the U.S. Court of International Trade’s interpretation of “likely” to mean “probable.” See Usinor Industeel, S.A. et. al. v. United States, No. 01-00006, Slip Op. 02-39 at 13 (Ct. Int’l Trade April 29, 2002). However, she will apply the Court’s standard in this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses the issue. See also Additional Views of Vice Chairman Deanna Tanner Okun Concerning the “Likely” Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina, Brazil, Germany, and Italy, Inv. Nos. 701-TA-362 (Review) and 731-TA-707-710 (Review)(Remand), USITC Pub. 3754 (Feb. 2005).

⁸⁰ Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 (June 2004), she does not concur with the U.S. Court of International Trade’s interpretation of “likely,” but she will apply the Court’s standard in this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue.

⁸¹ 19 U.S.C. § 1675a(a)(5).

⁸² 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.

⁸³ In analyzing what constitutes a reasonably foreseeable time, Chairman Koplan 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 or termination. 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.

⁸⁴ 19 U.S.C. § 1675a(a)(1).

revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).⁸⁵

B. All or Almost All Standard in Regional Industry Injury Analysis

Under a regional industry injury analysis, producers of “all or almost all” of the production in the region must be materially injured or threatened with material injury by reason of the subject imports.⁸⁶ There is no specification in the statute or prior Commission determinations as to what percentage of domestic production constitutes “all or almost all” in the context of a regional injury analysis. The Court of International Trade has held that, for determining the “all or almost all” criterion, “a numerical analysis would not be appropriate under the regional injury provision . . . [because] numerous factors must be considered and a quantitative analysis is inappropriate.”⁸⁷ The Court of International Trade has held that the “Commission did not err in failing to apply a fixed percentage test of eighty to eighty-five percent” in determining whether a regional industry was injured.⁸⁸

Generally, after determining whether the aggregate regional data show material injury, the Commission next examines individual producer data “as appropriate to determine whether anomalies exist that an aggregate analysis would disguise.”⁸⁹ In examining individual producer data, the Commission is “not required to adopt the pure plant-by-plant inquiry” and “[u]se of either a straight aggregate or pure plant-by-plant method in determining injury in a regional analysis is not mandated by statute or case law.”⁹⁰

While neither the statute nor the legislative history provides specific guidance on how the “all or almost all” requirement should be applied to the prospective likelihood of continuation or recurrence of material injury analysis in a five-year review, the CIT has approved the Commission’s application of this standard in an affirmative threat determination.⁹¹ For purposes of our regional industry analysis in this

⁸⁵ 19 U.S.C. § 1675a(a)(1). There have been no duty absorption findings by Commerce with respect to the order under review. 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.

⁸⁶ 19 U.S.C. § 1677(4)(c).

⁸⁷ Mitsubishi Materials Corp. v. United States, 820 F. Supp. 608, 616 and 617 (CIT 1993); Cemex, S.A. v. United States, 790 F. Supp. 290, 294 (CIT 1992), aff’d, 989 F.2d 1202 (Fed. Cir. 1993).

⁸⁸ Mitsubishi Materials, 820 F. Supp. at 616 and 617 (CIT 1993); Cemex, 790 F. Supp. at 294 (CIT 1992), aff’d, 989 F.2d 1202 (Fed. Cir. 1993).

⁸⁹ Rebar from Turkey, USITC Pub. 3034 at 23 and nn.141-142. Accord Mitsubishi Materials, 820 F. Supp. at 617 and 618 (CIT 1993); compare, Mitsubishi Materials Corp. v. United States, 918 F. Supp. 422, 427 (CIT 1996) (aggregate analysis of regional producers sufficient to satisfy the “all or almost all” standard where industry conditions were common to each regional producer); Cemex, 790 F. Supp. at 294-296 (“to the extent that some safeguard is required to assure that the ‘all or almost all’ standard is met, it was satisfied by examination of data regarding individual plants.”) (CIT 1992), aff’d, 989 F.2d 1202 (Fed. Cir. 1993).

⁹⁰ Mitsubishi Materials, 820 F. Supp. at 618 (CIT 1993); Cemex, 790 F. Supp. at 294 and 296 (CIT 1992), aff’d, 989 F.2d 1202 (Fed. Cir. 1993).

⁹¹ In affirming the Commission’s affirmative threat determination on remand in original determination, the Mitsubishi Materials court stated:

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

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review, we consider the performance of individual regional producers as well as the performance of the regional industry in the aggregate, although we lack current data on individual producer performances in this expedited second review.

C. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁹² The following conditions of competition are relevant to our determination.

As at the time of the original investigation and first five-year review, cement continues to be a highly fungible, commodity product, and cement is readily interchangeable regardless of the country of origin.⁹³ Cement generally conforms to the standards established by the American Society for Testing and Materials (“ASTM”). In the first review, nearly all responding purchasers reported that U.S. produced cement and imported Japanese cement were used in the same applications.⁹⁴

Price is an important factor in purchasing decisions.⁹⁵ Due to cement’s low value-to-weight ratio, U.S. inland transportation costs account for a relatively large share of the delivered price of cement and are a limiting factor as to the distances to which cement is shipped.⁹⁶ As a result, the market for cement tends to be regional in nature.

Given that cement is used almost exclusively in concrete, the demand for cement is dependent on the demand for concrete.⁹⁷ Concrete, in turn, is essential to all types of construction, namely residential and commercial building as well as highways.⁹⁸ Because demand for cement is derived entirely from the demand for concrete and cement accounts for only a small measure of the cost of construction, demand for cement is relatively inelastic.⁹⁹ Moreover, because demand for cement is tied closely to construction activity, demand for cement tends to be cyclical in nature.¹⁰⁰ However, the overall demand for cement is somewhat less volatile than any particular construction market since cement is used in every type of construction. Demand for cement also tends to be seasonal, with peaks in consumption occurring in the summer months when the level of construction is highest.¹⁰¹

Apparent consumption in the State of California region declined from 12.2 million tons in 1990 to 10.0 million tons in 1997.¹⁰² However, from 1997 to 1999, apparent consumption increased from 10.0 million tons to 13.0 million tons,¹⁰³ near the peak level of 13.2 million tons reached in 1989.¹⁰⁴ This increase in demand in the region was attributable to changes in the California construction market. Specifically, demand for cement increased as construction activity increased as a result of the growth in

⁹¹ (...continued)

918 F. Supp. at 427 (CIT 1996).

⁹² 19 U.S.C. § 1675a(a)(4).

⁹³ CR at I-11/PR at I-10.

⁹⁴ First Review Report at I-26-I-27, I-33, and II-27-II-28.

⁹⁵ First Review Report at II-26.

⁹⁶ CR at I-24, II-1, V-1/PR at I-20, II-1, V-1.

⁹⁷ CR at II-7/PR at II-5.

⁹⁸ CR/PR at II-1.

⁹⁹ CR at II-8/PR at II-5.

¹⁰⁰ CR at II-8/PR at II-5.

¹⁰¹ CR at II-8/PR at II-5.

¹⁰² CR/PR at Table I-4B.

¹⁰³ CR/PR at Table I-4B.

¹⁰⁴ CR/PR at Table I-4B.

population and the state economy, low interest rates, and significantly improved government fiscal conditions that supported increased public works projects such as major highways.¹⁰⁵

A number of industry forecasts at the time of the first review suggested that demand for cement in the California region would likely increase at relatively modest rates from 2001 to 2003.¹⁰⁶ According to the domestic interested parties in this second review, there has been increased demand in the region “in recent years that resulted principally from record levels of new residential construction.”¹⁰⁷

From the period examined in the original investigations to the period of the first review, approximately one-half of the regional cement operations underwent a change in ownership, with the share of foreign ownership increasing substantially.¹⁰⁸ In the original investigation, approximately 50 percent of domestic cement operations were owned by foreign corporations, while in the first review period approximately 65 percent were foreign-owned.¹⁰⁹ In addition to foreign ownership, there was a significant degree of vertical integration between regional cement producers and the downstream ready-mix concrete operations.¹¹⁰

As was true at the time of the original investigation and first period of review, the cement industry is highly capital intensive.¹¹¹ Because of the industry’s high fixed costs, production facilities must operate at high capacity utilization levels in order to maximize the return on investment.¹¹² Cement facilities generally cannot be used to produce other products.¹¹³

Cement production capacity in the State of California region increased less than two percent from 1990 to 1997.¹¹⁴ This increase in capacity was far less than the increase in apparent consumption in the region for the same period. At the time of the first period of review, regional cement producers indicated that they were in the process of increasing, or had plans to increase, production capacity by some 3.5 million tons by 2004.¹¹⁵ Although regional production capacity increased slightly from 1990 to 1999, regional production increased by 16 percent.¹¹⁶ In 1999, reported regional production was 8.2 million tons.¹¹⁷ Domestic interested parties in this second review indicate that regional cement production rose to 12.8 million tons in 2003.¹¹⁸

During the first review period, the regional industry’s share of the California market decreased from 88.9 percent in 1997 to 73.9 percent in 1999.¹¹⁹ Domestic producers’ loss in market share was the result of increasing volumes of nonsubject imports as well as marginal but increasing volumes of subject imports during the first period of review. The share of the California market held by Japanese imports was 0.0 percent in 1997, 0.1 percent in 1998, and 0.2 percent in 1999, while the share of nonsubject imports was 10.9 percent in 1997, 20.6 percent in 1998, and 25.5 percent in 1999.¹²⁰ In both the original investigation and first five-year review, U.S. producers and their foreign affiliates were responsible for

¹⁰⁵ Original Staff Report at Table 7; CR at II-9/PR at II-6.

¹⁰⁶ First Review Determination at 31-32.

¹⁰⁷ Domestic Industry Response at 56-57.

¹⁰⁸ First Review Report at I-39.

¹⁰⁹ First Review Report at I-34, Table I-1A; Original Staff Report at Table 7.

¹¹⁰ First Review Report at I-II-4.

¹¹¹ Domestic Industry Response at 8-9.

¹¹² Domestic Industry Response at 8-9.

¹¹³ First Review Report at II-7.

¹¹⁴ First Review Report at Table C-6; Original Staff Report at Table 7.

¹¹⁵ CR at I-29/PR at I-23.

¹¹⁶ First Review Report at Table C-6; Original Staff Report at Table 7.

¹¹⁷ CR/PR at Table III-1B.

¹¹⁸ CR at III-2/PR at III-1.

¹¹⁹ CR/PR at Table I-4A.

¹²⁰ CR/PR at Table I-4A.

virtually all imports of nonsubject cement.¹²¹ During the second period of review, subject imports from Japan were nearly non-existent.¹²² However, the volume of nonsubject imports increased overall from 4.3 million tons in 2001 to 6.5 million tons in 2005, or by 51.2 percent.¹²³

C. Revocation of the Order on Subject Imports from Japan Is Likely to Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

1. Likely Volume of the Subject Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping and countervailing duty orders are revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.¹²⁴ 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.¹²⁵

During the period examined in the original investigation, subject imports from Japan into the California region increased from 349,000 tons in 1986 to 1.7 million tons in 1989.¹²⁶

In the first five-year review, the Commission noted that subject imports from Japan into the California region increased substantially during the original investigation. Moreover, it observed that subject imports from Japan into the region had declined substantially during the first period of review. However, it found that the volume of subject imports from Japan would likely be significant following revocation of the order, given Japanese excess production capacity and established distribution systems in the region.¹²⁷

During the period examined in this second review, subject imports from Japan into the region were virtually non-existent. Indeed, no subject imports entered the region in 2001-2003. In 2004, the volume of subject imports was less than 500 tons but increased to 3,000 tons in 2005.¹²⁸

Due to the lack of response from Japanese subject producers in this review, there is limited information regarding the cement industry in Japan. According to the information available, if the order were revoked, Japanese subject producers would be likely to have the incentive and ability to increase substantially their exports to the State of California region within a reasonably foreseeable time. Although Japanese cement production capacity decreased overall from 1990 to 1999, Japanese

¹²¹ First Review Report at I-53.

¹²² CR/PR at Table I-4A.

¹²³ CR/PR at Table C-4.

¹²⁴ 19 U.S.C. § 1675a(a)(2).

¹²⁵ 19 U.S.C. § 1675a(a)(2)(A-D).

¹²⁶ CR/PR at Table I-4B. As noted earlier, the Commission conducted its material injury analysis with respect to the region of Southern California in the original determination. However, in conducting its investigation, the Commission collected data regarding the whole state of California.

¹²⁷ First Five Year Determination, at 43-44.

¹²⁸ CR/PR at Table C-4.

production capacity remained substantial.¹²⁹ In 1999, the most recent year for which we have data, Japanese subject producers' average production capacity for gray portland cement was 90.0 million tons.¹³⁰ Moreover, in 1999, Japanese subject producers' reported capacity utilization rate for gray portland cement was 88.7 percent.¹³¹ In 1999, Japanese subject producers' unused capacity was equivalent to 75 percent of California apparent consumption,¹³² and 80 percent of regional production for the same year. Given that cement producers must maintain and maximize capacity utilization in order to be profitable, the existence of significant unused capacity gives Japanese subject producers the incentive to substantially increase their exports to the region if the order were lifted.

In addition to unused capacity, Japanese subject producers' ability to maintain fairly high capacity utilization rates is due in part to their reliance on its export markets. Although most cement shipments of Japanese producers were consumed by their home market during the first period of review, Japanese subject producers shipped between 9.2 million and 6.3 million tons of gray portland cement to third-country markets.¹³³ If the order were revoked, there is an incentive for Japanese producers to shift at least some of their exports to the U.S. regional market as the record indicates that Japanese producers are facing increasing competition from cement producers in both China and India in third-country markets.¹³⁴

We note that during both the original investigation and first period of review, Japanese subject producers owned or controlled cement production facilities in the region.¹³⁵ While this ownership/control may impact somewhat the volume of subject imports from Japan if the order is revoked, the volume of the subject imports is nevertheless likely to increase significantly. Indeed, substantial ownership of California production facilities did not prevent Japanese subject producers from exporting significant volumes of subject merchandise to the region during the original investigation. Moreover, the Japanese subsidiaries' established customer base and distribution system would enable Japanese subject producers to quickly increase sales of subject merchandise in the region if the order was lifted. Finally, at the end of first review period, Taiheiyo, a Japanese subject producer, had invested in a new permanent import terminal in California.¹³⁶

Given the subject producers' substantial production capacity and unused capacity, their continued reliance on export markets, increasing competition in third-country markets, the increase in subject exports to the United States in the original investigation, as well as such producers' need to maximize production capacity to be profitable, subject producers are likely to increase exports significantly to the region upon revocation of the antidumping duty order. Consequently, based on the record in this review, we conclude that the volume of subject imports likely would increase to a significant level and regain significant regional market share if the orders were revoked. Accordingly, we conclude that the likely volume of the subject merchandise, both in absolute terms and relative to consumption in the State of California region, would be significant, absent the restraining effect of the order.

¹²⁹ CR at IV-12/PR at IV-9-IV-10.

¹³⁰ CR/PR at Table IV-3. We note that the domestic interested parties submitted figures pertaining to Japanese production capacity and Japanese apparent consumption in 2004. Domestic Industry Response at Attachment 36. However, since there is no indication in the record as to the source of these figures or how they were calculated, we rely instead on the data collected by the Commission in the first review.

¹³¹ CR/PR at Table IV-3.

¹³² Compare CR/PR at Tables I-4A and IV-3.

¹³³ CR/PR at Table IV-3.

¹³⁴ Domestic Industry Response at 46-47.

¹³⁵ First Review Report at I-51-I-52 and IV-38-IV-40.

¹³⁶ CR at IV-13, n.25/PR at IV-10, n.25.

2. Likely Price Effects of the Subject Imports

In evaluating the likely price effects of cumulated subject imports if the antidumping and countervailing duty orders are revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.¹³⁷

In the original investigation, the record indicated that subject imports from Japan consistently undersold the domestic product in all four market areas for which price comparisons were possible.

In the first five-year review, the Commission found that subject imports from Japan would likely have significant price effects on the regional industry. In so doing, it observed that in the original investigations, Japan consistently undersold the domestic like product. Noting that the record did not contain pricing information for the first period of review, the Commission found that subject imports and the domestic product were highly substitutable and that price was an important factor in purchasing decisions. The Commission determined that, if the order were revoked, Japanese cement would likely be aggressively priced in order to gain market share. Additionally, it found that “the regional industry’s capacity expansion projects and the resultant increase in supply” would likely increase price sensitivity in the market.¹³⁸

Based on the limited facts available in this second review, we find it likely that, absent the antidumping duty order, subject imports would undersell the domestic product in the region.¹³⁹ Given Japanese subject producers’ available unused capacity, Japanese subject producers’ need to maximize capacity utilization, and the fungible nature of the product, Japanese subject producers have an incentive to lower their prices to recapture regional market share. At the same time, regional producers’ capacity expansion over the second review period is likely to increase price sensitivity in the market. Moreover, given the fungible nature of the product and the fact that a reduction in prices will not stimulate significant additional demand for cement, we find it likely that the likely underselling by subject imports would significantly depress or suppress regional prices if the order were revoked.

For the forgoing reasons, we find that revocation of the antidumping duty order would likely lead to significant underselling by subject imports from Japan of the domestic like product, as well as significant price depression and suppression, within a reasonably foreseeable time.

3. Likely Impact of the Subject Imports

In evaluating the likely impact of cumulated imports of subject merchandise if the antidumping orders are 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

¹³⁷ 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.

¹³⁸ First Five-Review Determination, at 44-45.

¹³⁹ The only pricing information available in this second review was obtained in the original investigation. In the first review, no importers of the Japanese product provided pricing data. CR at I-18/PR at I-15.

like product.¹⁴⁰ 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.¹⁴¹ 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 orders at issue and whether the industry is vulnerable to material injury if the orders are revoked.

In the first five-year review, the Commission found that the subject imports from Japan would likely have a significant adverse impact on the regional producers in California. In so doing, the Commission found that the imposition of the order appeared to have had a beneficial effect on the regional industry, noting that the regional industry's production and operating margins had improved.¹⁴² It observed that demand in California was projected to increase at a slower rate or remain flat and that California producers were undertaking capacity expansions, or had announced plans to expand capacity. Thus, given the likely significant volume and price effects if the order was revoked, the Commission found that subject imports would have a significant adverse impact on the regional industry if the order was revoked.¹⁴³

In the first five-year review, the Commission also determined that the industry had improved due to the decline in subject imports following imposition of the order and was not in a vulnerable state. In this second review, the domestic interested parties contend that, despite these improvements and the order in effect on the subject country, the regional industry is currently vulnerable as a result of capacity expansions over the second period of review.¹⁴⁴ While domestic interested parties argue that the regional industry is vulnerable, there is no information in the record of this expedited review pertaining to many of the financial and trade indicators, such as operating income, capacity, capacity utilization rates, shipments, and employment levels, that we generally consider in assessing whether the domestic industry

¹⁴⁰ 19 U.S.C. § 1675a(a)(4).

¹⁴¹ 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. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887.

Commerce's final determination in its expedited second review of the order on Japan was issued after the record closed in this review. Commerce expedited its determinations in its first five-year review of cement from Japan and found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the following margins : Onoda- 70.52 percent, Nihon -69.89 percent, and all others, 70.23 percent.

¹⁴² Specifically, the Commission found that

"[t]he condition of the regional industry has improved since imposition of the order. While production capacity in the California region increased by less than two percent from 1990 to 1999, regional production increased by almost 16 percent for the same period. Thus, the regional producers' capacity utilization has increased from 84.1 percent in 1990 to 95.5 percent in 1999. However, while regional producers' shipments in absolute terms have increased since the original investigation, the increases for these shipments during the period of review have not been at the same rate as the substantial growth in apparent consumption in the California region. Therefore, the regional industry's share of apparent consumption in the California region declined from 88.9 percent in 1997 to 73.9 percent in 1999. The regional industry's market share in 1999 was the same as its market share of 73.9 percent in 1990. The strong demand for gray portland cement during the period of review has contributed to the regional industry's positive financial performance. The regional industry's operating income margin was 18.6 percent in 1990 as compared to 23.1 percent in 1997, 26.9 percent in 1998, and 28.2 percent in 1999. Based on the industry's recent overall performance, we do not find that the regional industry is currently in a vulnerable state. See First Five-Year Determination, at 45 (cites omitted).

¹⁴³ First Five-Year Determination at 67-69.

¹⁴⁴ Domestic Industry Comments at 12.

is in a weakened state as contemplated by the statute. Therefore, given the limitations of the record, we are unable to reach a determination as to whether the regional industry is currently vulnerable.

As discussed above, revocation of the antidumping duty order would likely lead to a significant increase in the volume of subject imports into the State of California region, and these subject imports would likely undersell the domestic product and significantly depress or suppress the regional industry's prices. In addition, the volume and price effects would likely cause the regional industry to lose market share. This loss in market share and subsequent decrease in capacity utilization would be particularly harmful in this capital intensive industry, as cement producers must maintain high capacity utilization levels and operating margins to meet fixed costs and to justify capital expenditures. Moreover, given the recent capacity expansions by the regional industry over the period of review, the decline in capacity utilization and revenue would likely be accelerated. In addition, the volume and price effects of the subject imports would likely have a significant adverse impact on the domestic industry's production, shipments, sales, and revenue levels.

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

While we analyzed the statutory factors regarding the aggregate data for the regional industry, we also examined the performance of individual regional producers to look for anomalies as a safeguard "to assure that the 'all or almost all' standard [was] met."¹⁴⁵ As discussed above, a substantial percentage of California cement production is owned or controlled by Japanese subject producers. While the volume of likely imports may be limited somewhat as result of this ownership, if the order were revoked, subject imports would likely enter the California region at volumes or price levels that likely would injure regional producers including their regional subsidiaries. As discussed above, the substantial production capacity of the Japanese cement industry, with its low capacity utilization levels and need to meet high fixed costs, would provide necessary incentive for the Japanese producers to increase shipments to the California region if the order is revoked. Without the discipline of the order, the interests of the Japanese operations likely would not be secondary to those of their comparatively small California subsidiaries. Ownership of California facilities did not prevent Japanese producers from shipping significant quantities of cement at low prices to the California region in the original investigation. Moreover, even if an individual subject producer attempted to direct its imports to shield its regional affiliate's production, that regional affiliate likely would still be adversely affected by imports from other subject producers.

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

CONCLUSION

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

¹⁴⁵ Cemex, 790 F. Supp. at 296. CR/PR at Tables at D-1-D-9.

INFORMATION OBTAINED IN THE SECOND REVIEW

PART I: INTRODUCTION AND OVERVIEW

On October 3, 2005, in accordance with section 751(c) of the Tariff Act of 1930 (the Act), as amended,¹ the U.S. International Trade Commission (Commission) gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on gray portland cement and cement clinker from Japan would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.² On January 6, 2006, the Commission determined that the domestic interested party group response to its notice of institution was adequate;³ the Commission also determined that the respondent interested party group response was inadequate.⁴ The Commission found no other circumstances that would warrant conducting a full review.⁵ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.⁶ The Commission voted on this review on May 17, 2006, and notified the U.S. Department of Commerce (Commerce) of its determination on May 31, 2006. Information relating to the background of the review is presented on the following page.

¹ 19 U.S.C. 1675(c).

² 70 FR 57617, October 3, 2005. All interested parties were requested to respond to this notice by submitting the information requested by the Commission. The Commission's notice of institution is presented in app. A. Additionally, on October 3, 2005, the Commission gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on gray portland cement and cement clinker from Mexico would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time. *Ibid.*

³ The Commission received one submission in response to its notice of institution for the subject review. It was filed on behalf of the Committee for Fairly Traded Japanese Cement (Japanese Cement Committee), an *ad hoc* association of four domestic producers of gray portland cement which own and operate six cement plants in the State of California and four plants in the Southern California Region; the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, and Helpers (Boilermakers), a union representing workers engaged in the production of gray portland cement at two U.S. plants in the State of California; the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (Steelworkers), a union representing workers engaged in the production of gray portland cement at seven U.S. plants in the State of California; the International Union of Operating Engineers (Operating Engineers), a union representing workers engaged in the production of gray portland cement at two U.S. plants in the State of California; and Local Lodge 93 of the International Association of Machinists and Aerospace Workers (Machinists Local 93), a union representing workers engaged in the production of gray portland cement at one U.S. plant in the State of California. The Japanese Cement Committee is represented by the law firm of King & Spalding, LLP. In its response, the Japanese Cement Committee (including labor unions) claims to account for an estimated *** percent of the 2004 production of cement and *** percent of the production of clinker in the Southern California Region, an estimated *** and *** percent, respectively, in the State of California. Japanese Cement Committee response (Second Review), attachment 49, and Japanese Cement Committee supplemental response (Second Review), exhibits 1-5. See also, Commission's memorandum of December 27, 2005, INV-CC-221-*Recommendation on Adequacy of Responses to Notice of Institution*.

⁴ The Commission did not receive any responses to its notice of institution from respondent interested parties.

⁵ The Commission's statement on adequacy is presented in app. B. On the same date, the Commission determined that it should proceed to a full review in the five-year review concerning the antidumping duty order on subject imports from Mexico having found that both the responses of the domestic interested party and the respondent interested party group to be adequate. *Ibid.*

⁶ 19 U.S.C. § 1675(c)(3).

Effective date	Action	Federal Register citation ¹
May 10, 1991	Commerce's antidumping duty order issued	56 FR 21658
November 15, 2000	Commerce's continuation of antidumping duty order after first five-year review	65 FR 68979
October 3, 2005	Commission's institution of second five-year review	70 FR 57617
January 6, 2006	Commission's determination to conduct expedited second five-year review	71 FR 5069; January 31, 2006
February 7, 2006	Commerce's notice of final results of expedited second five-year review	71 FR 6268
May 17, 2006	Commission's vote	Not applicable
May 31, 2006	Commission's determination transmitted to Commerce	Not applicable
¹ Cited <i>Federal Register</i> notices beginning with the Commission's institution of a second five-year sunset review are presented in app. A.		

THE ORIGINAL INVESTIGATION AND THE FIRST FIVE-YEAR REVIEW

The Commission completed the original investigation⁷ in May 1991, determining that an industry in the United States was materially injured by reason of imports of gray portland cement and cement clinker from Japan that Commerce determined to be sold at less than fair value (LTFV).⁸ The Commission defined the like product as “gray portland cement and cement clinker.”⁹ The Commission also found the relevant domestic industry to consist of producers of gray portland cement and cement clinker, including “grinding only” operations.¹⁰ Additionally, the Commission concluded that “appropriate circumstances” existed for a regional analysis of the industry consisting of producers in

⁷ The original investigation resulted from a petition filed on behalf of the Ad Hoc Committee of Southern California Producers of Gray Portland Cement in May 1990. The members of the Ad Hoc Committee of Southern California Producers of Gray Portland Cement were National Cement and Southwestern Portland Cement. An amendment to the petition added the following co-petitioners: Independent Workers of North America, Locals 49, 52, 89, 192, and 471, and the International Union of Operating Engineers, Local 12.

⁸ *Gray Portland Cement and Cement Clinker from Japan (Original Report)*, Publication 2376, April 1991, p. 13.

⁹ Cement clinker is an intermediate product used only in the production of cement.

¹⁰ *Original Report*, p. 13 and *Gray Portland Cement and Cement Clinker from Japan, Mexico, and Venezuela (First Review Report)*, Publication 3361, October 2000, p. 8. In this review, the Japanese Cement Committee endorsed this definition of the domestic industry. Japanese Cement Committee response (Second Review), p. 57.

Southern California.^{11 12 13} After receipt of the Commission's determination, Commerce issued an antidumping duty order on imports of gray portland cement and cement clinker from Japan.¹⁴

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

¹¹ *Original Report*, p. 19-20. The region of "Southern California" was based on the U.S. Geological Survey (USGS) definition of Southern California for statistical and analytical purposes in considering the cement industry, defined as the counties of San Luis Obispo, Kern, Inyo, Mono, Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, San Diego, and Imperial. *Id.*, p.13, n. 25.

¹² The Commission considered whether domestic producers that either were owned by a foreign producer, imported subject product, or ground imported subject product should be excluded as related parties, and found that appropriate circumstances to do so did not exist. *Original Report*, p. 13, n. 24. This simply reaffirmed the Commission's finding in the preliminary phase of the original investigation. Producers that were importers, or were related to exporters and/or importers of Japanese cement were: Mitsubishi Cement Co., owned by Mitsubishi Mining & Cement Co., Ltd. of Japan; California Portland Cement Co., owner of a 50 percent interest in CalMat Terminals an importer of Japanese cement; Riverside Cement Co., a joint venture partner with RIC Co., an importer of Japanese cement; and, RMC Lonestar, owner of a 50 percent interest of Pacific Coast Cement Corp., an importer of Japanese cement. *Gray Portland Cement and Cement Clinker from Japan (Preliminary)*, Publication 2297, July 1990, pp. 51-52. In the original investigation and the first review, the Commission found a number of related parties, either through ownership by Japanese firms or as importers of Japanese product, but concluded that appropriate circumstances did not exist to exclude any of the producers from the domestic industry. *Original Report*, p. 13 and *First Review Report*, p. 8. With respect to this review, Mitsubishi Cement Corp. and California Portland Cement appear to be related parties. Mitsubishi Materials, a Japanese producer and exporter, directly or indirectly controls Mitsubishi Cement Corp., which operates a plant at Lucerne Valley, CA. Taiheiyo Cement Corp. (Taiheiyo), a Japanese producer and exporter, directly or indirectly controls California Portland Cement, which operates cement plants at Colton, CA, and Mojave, CA. Taiheiyo also directly or indirectly controls U.S. producers Arizona Portland Cement Co.; Taiheiyo Cement USA, Inc.; and Glacier Northwest/Taiheiyo Cement USA, Inc. Japanese Cement Committee response, p. 54.

¹³ In all but one of the 15 investigations (including the *First Review*) concerning gray portland cement, the Commission has used a regional industry analysis. In the 1986 investigation concerning imports from eight countries, petitioner, while noting that cement was sold in regional markets, argued that producers in all regional markets were being injured, and the Commission could, therefore, view injury on a national basis. The Commission made a unanimous negative determination at the preliminary stage of the investigation. *Portland Hydraulic Cement and Cement Clinker from Colombia, France, Greece, Japan, Mexico, the Republic of Korea, Spain, and Venezuela*, Investigations Nos. 731-TA-356 through 363 (Preliminary), USITC Publication 1925, December 1986.

¹⁴ 56 FR 21658, May 10, 1991 This order required the posting of cash deposits equal to the estimated weighted-average antidumping duty margins, which were: Onoda, 47.79 percent; Nihon, 84.70 percent; and "all others," 65.22 percent.

¹⁵ 64 F.R. 41958.

¹⁶ 64 FR 62689, November 17, 1999. At the same time, the Commission determined it would conduct full reviews concerning gray portland cement and cement clinker from Mexico and Japan. *Ibid.*

¹⁷ In 1998, Onoda and Nihon merged to form Taiheiyo.

¹⁸ 65 FR 11549.

industry in the United States within a reasonably foreseeable time.^{19 20 21} Subsequently, Commerce issued a continuation of the antidumping duty order.²²

COMMERCE’S FINAL ADMINISTRATIVE REVIEWS

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

Period of review	Date review results issued or amended	Margins (percent)
10/31/90-4/30/92	October 18, 1993 (58 FR 53705) and <u>Final Results of Redetermination Pursuant to Court Remand</u> , CIT, February 22, 1996	33.95-63.73
5/1/92-4/30/93	August 23, 1995 (60 FR 43761)	24.27-70.23
5/1/93-4/30/94	December 20, 1996 (61 FR 67308)	30.12-70.23

COMMERCE’S FINAL RESULTS OF EXPEDITED SUNSET REVIEW

On February 7, 2006, Commerce published in the *Federal Register* the “Final Results of Expedited Sunset Review of Antidumping Duty Order” concerning the subject gray portland cement and cement clinker.²³ Commerce determined that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the weighted-average percentage margins presented in the tabulation on the following page.²⁴

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

²⁰ Additionally, the Commission concluded that “appropriate circumstances” existed for a regional analysis of the industry consisting of producers in the State of California. Insofar as the review investigation concerning Mexico, the Commission concluded that “appropriate circumstances” existed for a regional analysis of the industry consisting of producers in the Southern tier. The Southern tier consisted of producers in the States of Florida, Alabama, Mississippi, Louisiana, Texas, New Mexico, Arizona, and California.

²¹ In its decision concerning Japan, the Commission opted not to cumulate imports into California from Japan with imports from Mexico. In this regard, the Commission noted, in part:

“ . . . we find that if the orders were revoked, subject imports from Mexico and Japan would likely have limited geographical overlap and would likely not compete under similar conditions of competition, and therefore we do not exercise our discretion to cumulate subject imports from Mexico and Japan in these reviews.

First Review Report, pp. 26-28.

²² 65 FR 68979, November 15, 2000.

²³ 71 FR 6268.

²⁴ In 1998, Onoda and Nihon merged to form Taiheiyo.

<u>Manufacturer/exporter</u>	<u>Margin</u>
Onoda	70.52
Nihon	69.89
All other	70.23

**DISTRIBUTION OF CONTINUED DUMPING AND SUBSIDY OFFSET ACT FUNDS
TO AFFECTED DOMESTIC PRODUCERS**

The Continued Dumping and Subsidy Offset Act of 2000 (“CDSOA”) (also known as the Byrd Amendment) provides that assessed duties received pursuant to antidumping or countervailing duty orders must be distributed to affected domestic producers for certain qualifying expenditures that these producers incur after the issuance of such orders.²⁵ During the period of review, qualified U.S. producers of gray portland cement and cement clinker were eligible to receive disbursements from the U.S. Customs and Border Protection (“Customs”) under CDSOA relating to the antidumping duty order on the subject product.²⁶ Table I-1 presents CDSOA disbursements and claims for Federal fiscal years (October 1-September 30) 2001-05. Inasmuch as the Japanese essentially left the U.S. market subsequent to the issuance of the initial antidumping order, little in the way of CDSOA disbursements has occurred.

²⁵ Section 754 of the Tariff Act of 1930, as amended (19 U.S.C. §1675(c)).

²⁶ 19 CFR 159.64(g).

Table I-1
Gray portland cement and cement clinker from Japan: CDSOA claims and disbursements, federal fiscal years 2001-05

Claimant	2001	2002	2003	2004	2005
<i>Dollars</i>					
Amount of claim filed:					
National Cement of California	532,975,608	593,732,463	663,852,279	(¹)	797,653,312
National Cement of Alabama	(¹)	(¹)	597,989,700	(¹)	696,350,410
Hanson Permanente	653,974,000	814,034,000	896,321,862	(¹)	1,082,374,824
Lehigh Cement ²	857,741,001	2,289,898,805	2,660,224,707	(¹)	3,568,182,061
Total	2,044,690,609	3,697,665,268	4,818,388,548	-	6,144,560,607
Amount disbursed:					
National Cement of California	0	0	64,266	-	0
National Cement of Alabama	0	0	57,854	-	0
Hanson Permanente	0	0	86,709	-	0
Lehigh Cement ²	0	0	257,372	-	0
Total	0	0	466,201	-	0
<i>Percent</i>					
Share of allocation:					
National Cement of California	26.1	16.1	13.8	-	13.0
National Cement of Alabama	-	-	12.4	-	11.3
Hanson Permanente	32.0	22.0	18.6	-	17.6
Lehigh Cement ²	41.9	61.9	55.2	-	58.1
Total	100.0	100.0	100.0	-	100.0
¹ No filings listed on Customs' website. ² Operated as Calaveras Cement in 2001. Changed name to Lehigh in 2002.					
Source: Customs' CDSOA Annual Reports at http://www.customs.treas.gov/linkhandler/cgov/import/add_cvd/cont_dump , retrieved March 3, 2006.					

THE PRODUCT

Scope

Commerce's antidumping order provided the following definition of the subject product, gray portland cement and cement clinker:

*The products covered by this order are cement and cement clinker from Japan. Cement is a hydraulic cement and the primary component of concrete. Cement clinker, an intermediate material produced when manufacturing cement, has no use other than grinding into finished cement. Microfine cement was specifically excluded from the antidumping duty order.*²⁷

Cement is classified under the Harmonized Tariff Schedule (HTS) item number 2523.29, and cement clinker is currently classifiable under HTS item number 2523.10. Cement has also been entered under HTS item number 2523.90 as "other hydraulic cements." Commerce has made two scope rulings regarding subject merchandise: (1) Classes G and H of oil well cement are within the scope of the order,²⁸ and (2), "Nittetsu Super Fine" cement is not within the scope of the order.²⁹ Subject merchandise enters under the column 1-general rate of free of duty. The HTS item numbers are provided for convenience and for Customs purposes, but Commerce's written description of the merchandise is dispositive as to the scope of the product coverage.

THE DOMESTIC LIKE PRODUCT³⁰

In its determinations in both the original investigation and the first review, the Commission defined gray portland cement and cement clinker as a single like product.³¹ During the adequacy stage of this review, no participants objected to the original like product definition.³²

Physical Characteristics and Uses³³

Gray portland cement is a fungible product, with domestically produced product and imported product, including cement from Japan, being readily interchangeable. The cement is a hydraulic (sets or hardens under water) industrial binding agent. Cement clinker is the intermediate product resulting from the sintering stage of the cement production process and is quite different in appearance and properties from the finished cement in that clinker is in the form of small, grayish-black pellets, and finished cement is in the form of grayish powder.³⁴ Clinker has no other use than for the production of cement. If protected from moisture, clinker can be stored and transported to other locations (markets) for finish grinding into cement, a process which includes the addition of 3-5 percent gypsum and other materials to

²⁷ 71FR 6268, February 7, 2006.

²⁸ See, Scope Rulings, 57 FR 19602 (May 7, 1992).

²⁹ See, Scope Rulings, 58 FR 27542 (May 10, 1993).

³⁰ Unless otherwise noted, the discussion of "domestic like product" is from the first review. *First Review Report*, pp. I-23-I-28.

³¹ *Original Report*, p. 13 and *First Review Report*, pp. 7-8.

³² Japanese Cement Committee response (Second Review), p. 57.

³³ *First Review Report*, pp. I-23-I-25.

³⁴ Almost all portland cement production is gray in color, but a white portland cement (a more expensive variety) can be manufactured by using only iron-free raw materials. See USGS, *Annual Mineral Industry Survey, Cement, 1998*, April 2000, p. 1. White portland cement was not covered in the original investigation or the first review and is not covered in this review.

retard water absorption and allow for easier handling. This grinding step and the materials added are very important in determining the specifications and type of finished cement.

Portland cement is the most important of the four major categories of hydraulic cements,³⁵ accounting for just over 95 percent of domestic production in 2003.³⁶ All cement, including imports from Japan, generally conforms to the standards established by the American Society for Testing and Materials (ASTM).³⁷ General descriptions of the five standard types of portland cement are defined by ASTM as follows:³⁸

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

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

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

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

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

In 1998 and 2003, types I and II portland cement together accounted for just over 90 and just under 83 percent, respectively, of the quantity of all shipments of portland cement from U.S. plants (table I-2).³⁹ Although specifications for type I and type II portland cement are very similar, they differ in that type I has no specifications for several items that are specified for type II. Thus, type II cement meets all the requirements of type I cement and may be used in lieu of type I. In addition to the standard portland cements, there are a number of special cement blends that contain portland cement.⁴⁰

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

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

³⁵ Portland, masonry, pozzolanic, and natural or Roman cement are the four major categories of hydraulic cements.

³⁶ USGS, *Annual Mineral Industry Survey, Cement, 2003*. In 1998, portland cement accounted for about 95 percent of domestic production. USGS, *Annual Mineral Industry Survey, Cement, 1998*.

³⁷ *First Review Report*, p. I-23 and Japanese Cement Committee response (Second Review), p. 7.

³⁸ Norman L Weiss, ed., *SME Mineral Processing Handbook* (Society of Mining Engineers, American Institute of Mining, Metallurgical, and Petroleum Engineers, Inc., New York, NY, 1985), volume II, p. 26-3.

³⁹ USGS, *Annual Mineral Industry Survey, Cement, 2003* and USGS, *Annual Mineral Industry Survey, Cement, 1998*.

⁴⁰ Blended cements are not portland cements, but are inter-ground mixtures of finished portland cement (ground clinker plus gypsum) and cementitious additives, with the proportion of additives commonly ranging between 15 and 50 percent by weight. USGS, *Annual Mineral Industry Survey, Cement, 1998*.

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

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

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

Table I-3

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

Type of customer	Percent of total	
	1998	2003
Ready-mixed concrete	74.2	74.2
Concrete product manufacturers	11.9	13.8
Road paving contractors	4.8	3.3
Building material dealers	3.8	3.8
Other contractors	3.1	3.0
Oil well drilling, mining, and waste stabilization	1.1	1.3
Federal, state, and other government agencies, and miscellaneous	1.1	0.9
Total	100.0	100.0

¹ Includes cement imported and distributed by domestic producers.
² Includes Puerto Rico.

Source: Compiled from data provided by the USGS, *Mineral Industry Survey, Cement 1998*.

Manufacturing Process⁴¹

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

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

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

The main advantage of the dry process is that it is more fuel efficient, depending on the moisture content of raw materials economically available; preheaters and precalciners further improve this

⁴¹ *First Review Report*, p. I-25-I-27.

efficiency. In general, the dry process with preheaters consumes 19 percent less fuel than the national average of fuel consumed by all kilns per short ton of clinker production, whereas the wet process consumes 12 percent more than the national average. Kiln size is also a factor in fuel efficiency, with larger kilns being more efficient than the smaller ones. However, the dry process requires more electricity per unit of output than the wet process. Although electricity is used mostly for grinding clinker and pollution control, it is also used to operate the fuel conservation equipment (i.e., preheaters and precalciners). Some in the industry have expressed concern that increasing electrical costs (which vary nationwide), compared with fuel costs, could reduce the fuel cost advantage of the dry process.⁴² In 2003, the USGS reported that the dry process production lines utilizing preheaters and/or precalciners consumed more electricity than equivalent capacity wet process lines.⁴³

In 2003, approximately 78 percent of U.S. cement clinker production facilities used the dry process;⁴⁴ many domestic producers converted their facilities to the dry process to counter higher fuel costs as a result of the energy crisis in the mid-1970s. In Japan, the dry process reportedly is used for all of the cement clinker production.⁴⁵

For both the wet and dry processes, the major sources of energy to operate the kiln include coal, fuel oil, and natural gas.⁴⁶ In the United States, the fuel predominantly used is coal; in the original investigations, the Japanese industry reported using mostly fuel oil. The choice of fuel is generally determined by the economics of fuel prices; transportation cost to the production site; efficiency cost in using one fuel over another; and, for already established facilities, the additional capital cost for handling equipment to convert from one fuel to another.⁴⁷

Channels of Distribution

As noted in table I-3, nearly three-quarters of gray portland cement is distributed to readymix concrete operations. In many instances, the readymix operations are owned by or related to U.S. producers and importers.

Customer and Producer Perceptions

As noted earlier, gray portland cement is a fungible product, with domestically produced product and imported product being readily interchangeable.⁴⁸ During this review, the Japanese Cement Committee commented on this fact.

“It {cement} is sold in the United States primarily in bulk form without distinctive packaging or labeling. Thus, domestic and imported cement are indistinguishable and are highly substitutable. There is little or no brand consciousness and little or no loyalty to any particular supplier. As a result, the prices offered by all suppliers in the competitive regional markets of the United States are dictated by competition based almost exclusively on price. Only a small price differential is usually sufficient to induce customers to shift suppliers, whether domestic or foreign. Consequently, domestic

⁴² U.S. Department of Commerce, *A Competitive Assessment of the U.S. Cement Industry*.

⁴³ USGS, *Annual Mineral Industry Survey, Cement, 2003* and USGS, *Annual Mineral Industry Survey, Cement, 1998*.

⁴⁴ USGS, *Annual Mineral Industry Survey, Cement, 2003*. In 1998, approximately 69 percent of U.S. cement clinker production facilities used the dry process. USGS, *Annual Mineral Industry Survey, Cement, 1998*. In 1988, approximately 59 percent of cement clinker was produced by the dry process. *Original Report*, p. A-9.

⁴⁵ *Cement in Japan 1999*, Japan Cement Association.

⁴⁶ In 2003, there was a “large, possibly cost-related decrease in the amount of natural gas consumed, particularly by dry process plants.” USGS, *Annual Mineral Industry Survey, Cement, 2003*.

⁴⁷ U.S. Department of Commerce, *A Competitive Assessment of the U.S. Cement Industry*, p. 150.

⁴⁸ *First Review Report*, p. I-28 and Japanese Cement Committee response (Second Review), p. 7.

producers are required to match lower prices offered by importers or lose sales on a ton-by-ton basis. Matching the lower import price, however, inevitably causes domestic producer producers to suffer price depression and suppression.”⁴⁹

Additional information with respect to customer and producer perceptions is found in Part II of this report, *Conditions of Competition in the U.S. Market*.

Price

The only pricing data available for this report are from the original investigation owing to the fact that the Japanese essentially dropped out of the Southern California and California markets after the original investigation and, in the first review, no importers of Japanese product provided price data. During the original investigation, weighted-average delivered prices for U.S.-produced gray portland cement sold in California generally declined in all market areas from January 1986 to March 1990. Trends in weighted-average delivered prices for Japanese cement were mixed, but generally also declined.⁵⁰ Additional information with respect to pricing comparisons of products from the subject countries and the United States is found in Part V of this report, *Pricing and Related Data*.

SUMMARY DATA

Tables I-4A and I-4B present a summary of data from the original investigations and from the first review for Southern California and California, respectively.⁵¹ In this report, all tables concerning “Southern California” end in the capital letter **A**, while all tables relating to “California” end in the capital letter **B**. As noted earlier, in all but one of the 15 investigations (including the *First Review*) concerning gray portland cement, the Commission has used a regional industry analysis. In the 1986 investigation concerning imports from eight countries, petitioner, while noting that cement was sold in regional markets, argued that producers in all regional markets were being injured, and the Commission could, therefore, view injury on a national basis. The Commission made a unanimous negative determination at the preliminary stage of the investigation.⁵² In the first review, the Commission presented data on a national industry. Such data are found in table C-3 of this report.⁵³

⁴⁹ Japanese Cement Committee response (Second Review), p. 7.

⁵⁰ *Original Report*, p. A-65.

⁵¹ In its response in this review, the Japanese Cement Committee provided 2004 production and shipment, but no financial data for the following firms: Southern California firms -- ***. California firms -- the aforementioned firms plus ***. Japanese Cement Committee response (Second Review), attachment 49 and Japanese Cement Committee supplemental response (Second Review), exhibits 2 and 3. .

⁵² *Portland Hydraulic Cement and Cement Clinker from Colombia, France, Greece, Japan, Mexico, the Republic of Korea, Spain, and Venezuela*, Investigations Nos. 731-TA-356 through 363 (Preliminary), USITC Publication 1925, December 1986.

⁵³ See also, table C-4, *First Review Report*.

Table I-4A

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

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

Table continued on next page.

Table I-4A--Continued

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

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

Table I-4B

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

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

Table I-4B--Continued

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

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

THE DOMESTIC MARKET⁵⁴

The cement industry is both cyclical⁵⁵ and capital intensive. Because of its value-to-weight ratio and fungible character, transportation costs are an important limiting factor on the shipment of gray portland cement. In 1999, more than 75 percent of gray portland cement shipments in Southern California and California were shipped to customers located within 200 miles of the production site. With respect to imported product, Southern California and California importers of gray portland cement shipped *** percent of their imports of gray portland cement within a 100-mile radius. Table I-5 presents the distribution of producers' and importers' shipments, by distances, for Southern California and California.

Table 1-5

Gray portland cement: Southern California and California producers' and importers' share of shipments and average transportation costs, by miles shipped, 1999

Item	Miles shipped				
	0-99 miles	100-199 miles	200-299 miles	300-499 miles	500 miles or more
Share of shipments (percent)					
Producers located in--					
Southern California	31.7	43.3	15.9	***	***
California	34.7	43.5	14.0	***	¹
Importers located in--					
Southern California	***	***	***	***	***
California	***	***	***	***	***
¹ Less than 0.05 percent.					
Source: Compiled from data in response to Commission questionnaires submitted in conjunction with the <i>First Review</i> .					

SUMMARY DATA OF STATUTORY CRITERIA FOR REGIONAL ANALYSIS

Tables I-6A and I-6B present a summary of data from the original investigations and from the first review relating to the statutory criteria for regional analysis for Southern California and California.

⁵⁴ Unless otherwise noted the discussion in this section is from the first review. *First Review Report*, pp. I-13-I-17.

⁵⁵ During the first review, in response to the Commission's producer questionnaires, producers operating 34 of the 37 plants in the Southern tier, of which Southern California and California are a part, noted the gray portland cement and cement clinker industry is cyclical in nature and generally dependent on construction activity (be it infrastructure or residential activity) in their particular region. Sixteen Southern-tier importers and 36 Southern-tier purchasers made similar observations. See also, *First Review Report*, pp. I-13, n. 16.

Table I-6A

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

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

Table I-6B

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

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

U.S. MARKET PARTICIPANTS⁵⁶

U.S. Producers

According to the USGS, in 2003, gray portland cement was produced at 114 plants in 37 States plus 2 in Puerto Rico, by 38 companies (other company totals are possible depending on ownership breakdowns).⁵⁷ This compares with 115 plants in 37 States plus 2 in Puerto Rico in 1999.⁵⁸ As of yearend 2003 nearly 81 percent of U.S. gray portland cement capacity was foreign-owned.⁵⁹ At the time of the first review, nearly 61 percent of U.S. capacity was foreign-owned, a figure that was similar to the portion of foreign ownership at the end of the original period of the Mexican investigation, 1989.⁶⁰

Nationally, U.S. producers range from companies operating a single plant with less than 0.5 percent of total U.S. capacity to the large, multiplant corporations having nearly 15 percent of total U.S. capacity. According to the USGS, the top 10 companies in 2003 were, in descending order of production, Holcim (US), CEMEX, Lafarge, RC Lonestar, Lehigh, Ash Grove, Essroc, Texas Industries (TXI), California Portland, and Centex Construction Products (Centex). These, combined, accounted for 77 percent of U.S. gray portland cement production in 2003.^{61 62 63}

A number of Southern California and California operations changed hands from the original investigation to the period of the first review with the share of foreign ownership increasing. At the time of the first review, capacity in Southern California was just over 62 percent foreign-owned, while capacity in California was just over 68 percent foreign-owned. By 2002, foreign ownership controlled nearly 94 percent of Southern California capacity and more than 95 percent of California capacity.⁶⁴

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

During the first review, a number of U.S. companies were in the process or planning stages of upgrading their production facilities to increase production efficiencies and/or overall production capacity. According to producers testifying at the Commission's hearing in the first review, expansions generally take from 3 to 5 years from planning, to permitting, to construction, to production.⁶⁵ Projects announced or completed in Southern California/California during 1999 that were to lead to a net capacity

⁵⁶ Unless otherwise noted, the discussion in this section is from the first review. *First Review Report*, pp. I-28-I-42.

⁵⁷ USGS, *Annual Mineral Industry Survey, Cement 2003*.

⁵⁸ USGS, *Monthly Mineral Industry Survey, Cement, April 2000*.

⁵⁹ "Overview of the Cement Industry," *Cement & Concrete Basics*, Portland Cement Association, found at <http://www.cement.org/basics/cementindustry.asp>, retrieved October 3, 2005.

⁶⁰ *First Review Report*, p. I-28.

⁶¹ USGS, *Annual Mineral Industry Survey, Cement 2003*. Of these companies, all except Ash Grove, Centex, and TXI were foreign-owned as of yearend 2003. *Ibid*.

⁶² CEMEX, Lehigh, TXI, and California Portland, have operations in Southern California and/or California.

⁶³ At the time of the first review, the top 10 companies in 1998 were, in descending order of production, Holnam (Holcim (US)), Southdown (purchased by CEMEX in 2000), Lafarge, Lehigh, Blue Circle, Ash Grove, Essroc, Lone Star, California Portland, and TXI. These, combined, accounted for 70 percent of U.S. gray portland cement production in 1998. At the time, California Portland, Lehigh, Southdown, and TXI had operations in Southern California and/or California.

⁶⁴ CEMEX's purchase of Southdown in 2000 accounted for most of the change in the portion of foreign-owned operations from 1999 to 2003.

⁶⁵ *First Review Report*, p. I-29, n. 45, citing to the testimony of John Brekus, TXI.

increase of more than 3.5 million short tons by 2004 are presented in table I-7.⁶⁶ During the first review, domestic producers with new plant or expansion plans generally alluded to the presence of the antidumping order(s) and/or suspension agreement as contributing to the healthy state of the industry which, in turn, was a significant factor leading to the decision to move forward with their respective plans, and indicated that revocation and/or termination might well lead to a rethinking of their plans. Representatives of three of the Southern California/California companies (Calaveras,⁶⁷ Cal Portland, and National of California) mentioned in table I-7 appeared at the Commission's hearing in the first review.

Table I-7
Gray portland cement and cement clinker: Announced plant modernizations/expansions in California

* * * * *

In its testimony at the hearing during the first review, National Cement of California testified that in 1988 it had “cancelled a multimillion modernization and expansion” of its California plant due to dumped imports.⁶⁸ With regard to its 1999 expansion plans, National Cement of California commented:

“With improved financial resources and a stable market environment, many California producers have made long overdue investments in their production facilities. At National, we decided in 1994 to undertake the plant expansion and modernization of our Lebec plant that was cancelled in 1988. This investment is in the final stages of construction and will cost over \$130,000,000 when completed.

Many other California producers have either expanded their plants or are in the process of expanding. The continuation of the orders is critically important to the industry's ongoing expansion and modernization efforts. If the orders are revoked, imports from Mexico and Japan would increase significantly at prices well below current market prices.”

During the first review, domestic interested parties argued, assuming a relative flattening of demand,^{69 70} that the additional capacity planned by Southern-tier producers would “eliminate” the need

⁶⁶ In its response in this review, the Japanese Cement Committee stated that the “positive volume and price effects” of the antidumping order have “facilitated numerous capital investments to modernize and expand domestic production capacity.” Japanese Cement Committee response (Second Review), p. 40.

⁶⁷ Calaveras now operates as Lehigh.

⁶⁸ *First Review Report*, p. I-30, n. 47, citing to the testimony of Donald Unmacht, National of California.

⁶⁹ *First Review Report*, p. I-31, n. 51, citing to the testimony of Joseph W. Dorn, King & Spalding, Counsel for domestic interested parties.

At the Commission's hearing, domestic interested parties testified:
 “The consensus view of the folks of this panel would be that there has been a softening in demand, and we have also provided some forecasts. We have provided some F.W. Dodge Construction put in place data. They are saying the peak was 1999 for construction. We have forecasts from the PCA, from Greystone and International Cement Review which show a slight downturn in 2001 and especially a flattening of demand between 1999 and 2003, in contrast to the sharp increase between '97 and '99.” Ibid.

See also domestic interested parties' *First Review* posthearing brief, responses to Commissioners' questions, attachment 3. *First Review Report*, p. I-31, n. 51

⁷⁰ In the *First Review*, in response to the Commission's producer questionnaires, producers operating 30 of the 37 plants in the Southern-tier noted what they believed was a slowing or softening of demand in their particular region. Twelve Southern-tier importers and 21 Southern-tier purchasers made similar observations. Southern

(continued...)

for imports to meet demand in the Southern-tier, Southern California, and Florida. Given relatively flat demand and all planned capacity actually coming on-stream, petitioners anticipated domestic production sufficient to satisfy demand by the year 2002.⁷¹

In 2003, overall U.S. gray portland cement production rose by 3.3 percent from 2002 to a new record of over 97 million short tons. The top five producing States in 2003 were, in descending order, California, Texas, Pennsylvania, Michigan, and Missouri. Consumption in 2003 stood at just over 119 million short tons (the second highest year on record), or 3.7 percent ahead of 2002 consumption.⁷² As noted earlier, the only ownership change in Southern California and California, subsequent to the first review, was the CEMEX purchase of Southdown in late 2000. Table I-8 details information with respect to plant locations, positions on revocation or termination (in the first review), ownership, and nationality of ownership of production facilities located in Southern California and California at the time of the original investigation, the first review, and the current review (see, figure I-2 for plant locations).

⁷⁰ (...continued)

California/California were part of the Southern-tier.

⁷¹ *First Review Report*, p. I-31, n. 53, citing to Exhibit E, petitioners' *First Review* posthearing brief.

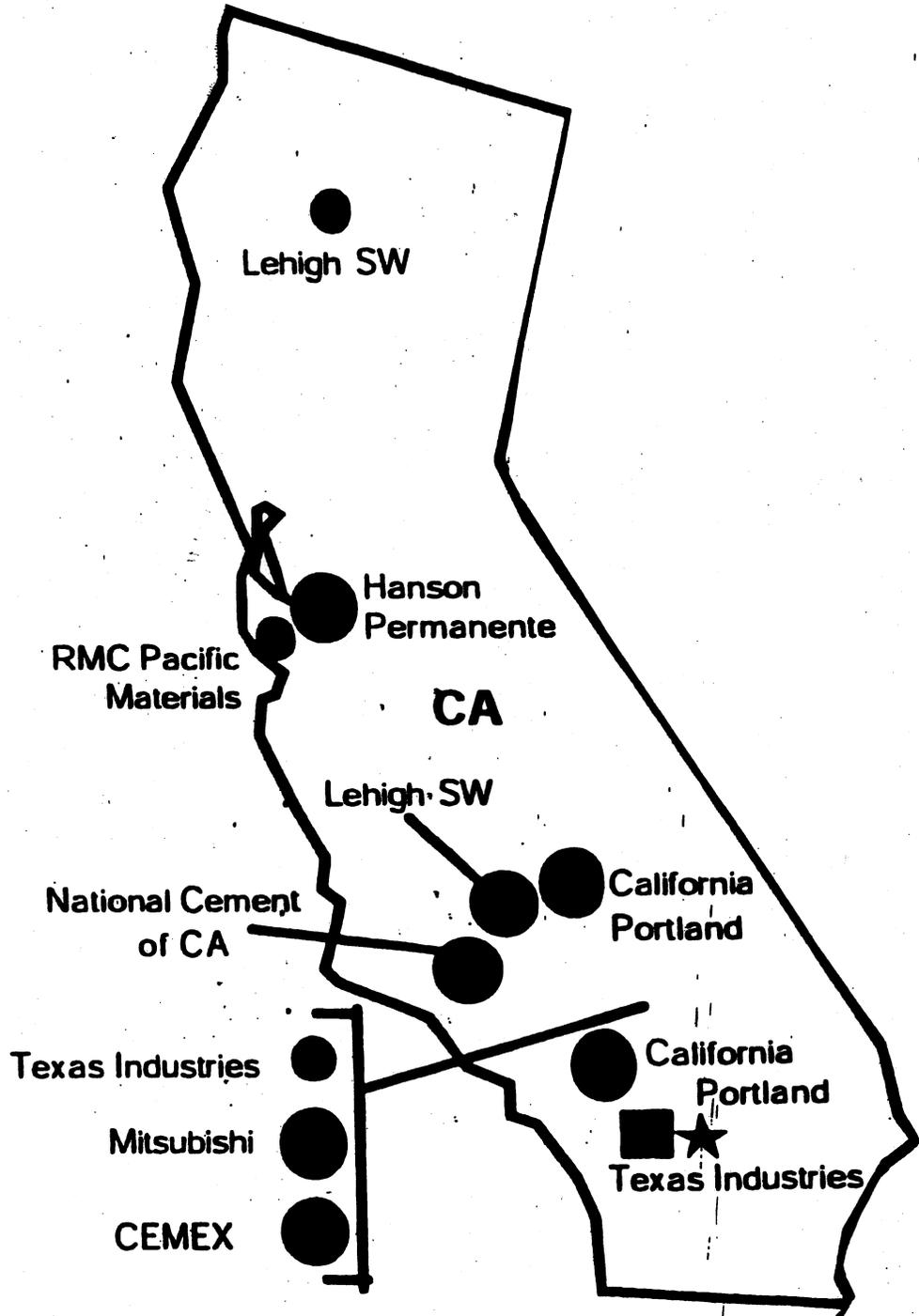
⁷² USGS, *Annual Mineral Industry Survey, Cement 2003*. In 1999, overall U.S. gray portland cement production rose by 2.5 percent from 1998 to a then record of over 89 million short tons. The top five producing States in 1999 were, in descending order, California, Texas, Pennsylvania, Michigan, and Missouri. Consumption rose 4.8 percent from the previous year to a then record level in excess of 116 million short tons. USGS *Monthly Mineral Survey, Cement, April 2000*.

Table I-8

Gray portland cement and cement clinker: Southern California/California plant locations, positions on revocation/termination in the first review,¹ ownership, and nationality of ownership, 1989, 2000, and 2005

Plant location	Position on revocation/ termination in the first review	Company/Ownership, Nationality		
		1989	2000	2005
California (Southern):				
Crestmore ²	Opposed	Riverside/Gifford-Hill, USA	Riverside/TXI, USA	Riverside/TXI, USA ³
Oro Grande	Opposed	Riverside/Gifford-Hill, USA	Riverside/TXI, USA	Riverside/TXI, USA ³
Victorville	***	Southdown	Southdown ²	CEMEX, Mexico (purchased from Southdown in 2000)
Colton	Opposed	CalMat, USA	California Portland/Taiheiyo, Japan	California Portland/Taiheiyo, Japan
Mojave	Opposed	CalMat, USA	California Portland/Taiheiyo, Japan	California Portland/Taiheiyo, Japan
Lebec	Opposed	National Cement/Vicat, France	National Cement/Vicat, France	National Cement/Vicat, France ³
Lucerne Valley	***	Mitsubishi/Mitsubishi, Japan	Mitsubishi/Mitsubishi, Japan	Mitsubishi/Mitsubishi, Japan
Monolith	Opposed	Calaveras/Cementeries, Belgium and Heidelberg, Germany	Calaveras/Cementeries, Belgium and Heidelberg, Germany	Lehigh/Cementeries, Belgium and Heidelberg, Germany ³
California (Northern):				
Redding	Opposed	Calaveras/Cementeries, Belgium and Heidelberg, Germany	Calaveras/Cementeries, Belgium and Heidelberg, Germany	Lehigh/Cementeries, Belgium and Heidelberg, Germany ³
Davenport	Opposed	RMC Lone Star/Rosebud Holdings, USA and RMC Group, UK	RMC Pacific Materials/RMC Industries, USA	CEMEX, Mexico (purchased from RMC Group, PLC, UK in 2005)
Cupertino	Opposed	Kaiser/Hanson PLC, UK	Hanson Permanente/Hanson PLC, UK	Hanson Permanente/Hanson PLC, UK ³
<p>¹ Boilermakers Union opposed revocation/termination on behalf of workers at Hanson Permanente/Cupertino, CA. PACE International opposed on behalf of workers at California Portland/Colton, CA, Southdown/Victorville, CA, Calaveras/Tehachapi, CA, National/Lebec, CA, and TXI/Oro Grande, CA. The Operating Engineers opposed on behalf of workers at California Portland/Mojave, CA and Hanson Permanente/Cupertino, CA. In the second review, the Boilermakers represent workers at Hanson Permanente/Cupertino, CA, and CEMEX (RMC Pacific Materials)/Davenport, CA; the Steelworkers represent workers at Lehigh/Redding and Tehachapi, CA, California Portland/Colton, CA, National/Lebec, CA, TXI/Oro Grande and Riverside, CA, and CEMEX/Victorville, CA; the Operating Engineers, represent workers at California Portland/Mojave, CA, and Hanson Permanente/Cupertino, CA; and Machinists Local 93 represents workers at Hanson Permanente/Cupertino, CA. Japanese Cement Committee Response (Second Review), attachment 4.</p> <p>² Grinding only.</p> <p>³ Member of the Japanese Cement Committee (Second Review), Japanese Cement Committee response, p. 3.</p> <p>Source: Original investigations, 2000 North American Cement Directory, U.S. producer questionnaires, and Japanese Cement Committee response (Second Review).</p>				

Figure I-2
California gray portland cement plants: 2002



Source: U.S. and Canadian Portland Cement Industry: Plant Information Summary, 2002.

U.S. Importers

As was the case in the original investigation and the first review, most imports of gray portland cement and cement clinker are controlled by U.S. producers. A number of these producers have an affiliation with foreign producers either through direct ownership or joint-venture operations. The three Southern California/California producers which imported subject and/or nonsubject product in the original investigation and the first review gave reasons such as supplementing their own production to meet local market demand.⁷³ Table I-9 presents Southern California/California import terminal locations, the ownership of the terminals, and the nationality of the ownership in 2000.

No importer questionnaire respondents reported imports from Japan during the period of the first review.⁷⁴ Subsequent to the order, imports from Japan dropped from just over 1.3 million short tons in 1990 to zero in 1991 as the Japanese effectively left the California market.⁷⁵ Imports from Japan stayed at essentially zero through 1997. In 1998, 1999, and 2000, Japanese imports returned to the U.S. market, but only in the very small amounts of 22,242, 31,820, and 36,482 short tons, respectively. During 2001-05, Japanese imports were less than one short ton.⁷⁶ In recent years, the primary sources of imported product into California ports have been China and Thailand.⁷⁷

Mitsubishi, a Japanese producer, which owns a U.S. production facility located in Lucerne Valley, CA,⁷⁸ was a general partner with Lucky Cement Corp. of Long Beach, CA, in the operation of an import terminal (MCC-Lucky) in Long Beach and reported ***.⁷⁹ That facility, built in 1992, has an annual throughput capacity of *** short tons.⁸⁰ Taiheiyo, also a Japanese producer, owns California Portland's production facilities located in Colton, CA, and Mojave, CA.⁸¹ Additionally at the time of the first review, through California Portland, Taiheiyo was affiliated with Allied Cement,⁸² an importing operation in Wilmington, CA. While Allied reported ***.⁸³ At the time of the first review, Taiheiyo was also in the process of building a \$35.0 million deep water terminal at Stockton, CA.⁸⁴

⁷³ For instance, California producer, ***, noted: "****." At the time, virtually all of ***. *First Review Report*, p. I-38, n. 61.

⁷⁴ In the original investigation, CPC Terminals, Mitsui, and RIC accounted for *** imports from Japan into Southern California. CPC Terminals, formerly CalMat Terminals, was formed in 1990 when Onoda of Japan purchased a ***-percent share in the venture which was owned by CalMat, a U.S. producer (now California Portland). CalMat was purchased by Onoda (now Taiheiyo) and operates as California Portland. RIC was a joint venture of RIC Corp. and Riverside Cement (now owned by TXI). Mitsui acted as the ***.

⁷⁵ One or more Japanese producers did export small amounts to "higher-priced U.S. markets (such as Alaska)" during 1991-94. Japanese Cement Committee response (Second Review), p. 39.

⁷⁶ In 2003, the U.S. Census Bureau recognized that it had erroneously reported 222,486 metric tons of Japanese origin cement. The imports were actually of Chinese origin and appropriate corrections to official statistics were made. Japanese Cement Committee response (Second Review), p. 39, n. 61.

⁷⁷ USGS, *Annual Mineral Industry Survey, Cement 2003*.

⁷⁸ *First Review Report*, p. I-41, n. 72, noting that Lucerne Valley is in the Southern California region and that Mitsubishi owned the facility at the time of the original investigation.

⁷⁹ *First Review Report*, p. I-41, n. 73, noting that in 1999, MCC-Lucky sourced its *** short tons of nonsubject imports from ***.

⁸⁰ *First Review Report*, p. I-41, n. 73, noting that the MCC-Lucky terminal was ***.

⁸¹ Colton and Mojave are located in the Southern California region.

⁸² ***.

⁸³ With regard to the prospect of revocation of the existing orders concerning Japan and Mexico, Allied commented: "****." *First Review Report*, p. I-41, n. 77.

⁸⁴ *First Review Report*, p. I-41, n. 78, citing to the testimony of Youichi Haruta, Taiheiyo. The facility was to replace Taiheiyo's "Golden Arrow" floating silo at Stockton which presently receives product from nonsubject sources. The new Stockton terminal was to have an expected annual throughput capacity of 700,000 to 800,000 short tons. *First Review Report*, p. I-41, n. 78, citing to petitioners' *First Review* prehearing brief, exhibit 97, p. 4.

Table I-9

Gray portland cement and cement clinker: Southern California/California import terminal locations, ownership, and nationality of ownership, 2000

Terminal location	Ownership: Company and Nationality, 2000
California (Southern):	
El Centro Long Beach San Diego	CEMEX USA/CEMEX, Mexico
Wilmington	Allied Cement/California Portland, USA and CBR, Belgium
California (Northern):	
Redwood City	RMC Pacific Materials/RMC Industries, USA
Richmond	CEMEX USA/CEMEX, Mexico
Stockton	Calaveras/CBR, Belgium and Heidelberg, Germany
Source: 2000 North American Cement Directory and Mexican respondents' posthearing brief in the <i>First Review</i> .	

APPARENT U.S. CONSUMPTION AND MARKET SHARES

Tables I-10A and I-10B present shipments of domestic product, imports, and apparent U.S. consumption for the first review period for Southern California and California. Tables I-11A and I-11B present Southern California and California apparent U.S. consumption and market shares for the same period.

Table I-10A
Gray portland cement: Shipments of domestic product and imports into SOUTHERN CALIFORNIA, and
apparent consumption, 1997-99

Item	1997	1998	1999
Quantity (1,000 short tons)			
Shipments by regional producers	5,010	4,715	5,099
U.S. imports into region from--			
Japan	0	16	32
Mexico	21	29	49
Venezuela	0	0	0
Subtotal	21	44	81
All other sources	1,089	2,099	2,465
Total imports	1,110	2,144	2,546
Total regional consumption supplied from--			
Producers and imports within region	6,120	6,858	7,645
Producers outside region	365	140	618
Apparent consumption	6,485	6,999	8,263
Source: Compiled from data submitted in response to Commission questionnaires submitted in conjunction with the <i>First Review</i> , official Commerce statistics, and data from the USGS.			

Table I-10B**Gray portland cement: Shipments of domestic product and imports into CALIFORNIA, and apparent consumption, 1997-99**

Item	1997	1998	1999
Quantity (1,000 short tons)			
Shipments by regional producers	8,861	9,160	9,623
U.S. imports into region from--			
Japan	0	16	32
Mexico	21	29	49
Venezuela	0	0	0
Subtotal	21	44	81
All other sources	1,089	2,099	2,465
Total imports	1,110	2,144	2,546
Total regional consumption supplied from--			
Producers and imports within region	9,971	11,591	13,025
Producers outside region	0	0	0
Apparent consumption	9,971	11,591	13,025
Source: Compiled from data submitted in response to Commission questionnaires submitted in conjunction with the <i>First Review</i> , official Commerce statistics, and data from the USGS.			

Table I-11A

Gray portland cement: SOUTHERN CALIFORNIA apparent consumption and market shares, 1997-99

Item	1997	1998	1999
Quantity (1,000 short tons)			
Apparent consumption	6,485	6,999	8,263
Share of quantity (percent)			
Shipments by regional producers	77.3	67.4	61.7
U.S. imports into region from--			
Japan	0.0	0.2	0.4
Mexico	0.3	0.4	0.6
Venezuela	0.0	0.0	0.0
Subtotal	0.3	0.6	1.0
All other sources	16.8	30.0	29.8
Total imports	17.1	30.6	30.8
Total regional consumption supplied from--			
Producers and imports within region	94.4	98.0	92.5
Producers outside region	5.6	2.0	7.5
Source: Compiled from data submitted in response to Commission questionnaires submitted in conjunction with the <i>First Review</i> , official Commerce statistics, and data from the USGS.			

Table I-11B

Gray portland cement: CALIFORNIA apparent consumption and market shares, 1997-99

Item	1997	1998	1999
Quantity (1,000 short tons)			
Apparent consumption	9,971	11,591	13,025
Share of quantity (percent)			
Shipments by regional producers	88.9	79.0	73.9
U.S. imports into region from--			
Japan	0.0	0.1	0.2
Mexico	0.2	0.2	0.4
Venezuela	0.0	0.0	0.0
Subtotal	0.2	0.4	0.6
All other sources	10.9	20.6	25.5
Total imports	11.1	21.0	26.1
Total regional consumption supplied from--			
Producers and imports within region	88.9	79.0	73.9
Producers outside region	0.0	0.0	0.0
Source: Compiled from data submitted in response to Commission questionnaires submitted in conjunction with the <i>First Review</i> , official Commerce statistics, and data from the USGS.			

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET SEGMENTS¹

Regional Markets

Gray portland cement is a primary ingredient in the production of concrete and, thus, is essential to all types of construction, particularly residential building, commercial building, and highways. Because transportation costs for gray portland cement are high, shipments are generally made within 200 miles of the plant or terminal. As a result, the market for gray portland cement tends to be regional in nature.² In this regard, the Japan Cement Committee commented:

“Because cement has a low value-to-weight ratio, transportation costs represent a significant portion of the delivered price. Due to its fungibility and expensive transport costs, it is infrequently shipped any considerable distance from the plant. As a result, cement markets are regional rather than national. In all but one of 14 investigations regarding cement, the Commission has relied on a regional analysis.

Dumped imports have effects beyond the markets in which they are sold as regional producers attempt to sell some of their production in adjacent inland markets to mitigate the volume and price effects of the imports. But transportation costs and other limitations on transportation force regional producers to continue making the bulk of their sales in direct competition with the imports and to suffer lost sales and price depression and suppression. U.S. producers generally lack the ability to sell cement outside their regional markets, especially where they lack access to rail transportation. Few have access to deepwater ports that would enable them to export overseas. Land-locked regional producers can only export to Mexico. As discussed below, however, Mexico is effectively closed to imports. Thus, the regional limitations on domestic producers’ sales make them significantly more susceptible to import-related injury than producers in other industries.

The Mexican and Japanese producers are not similarly constrained. Among other things, as history has shown, in the absence of an antidumping order, they have been able to export large volumes of cement to the United States.”³

Vertical Integration

According to ***,⁴ which was one of the largest ready-mix producers in the United States during the first review, about two-thirds of U.S. ready-mix producers are not affiliated with gray portland cement producers. Similarly, according to information provided by the National Ready Mixed Concrete Association to Don Unmacht of National Cement of California, vertically integrated cement producers

¹ Unless otherwise noted, discussion in this section is taken from the *First Review Report*, pp. II-1-II-4.

² As noted previously in this report, in all but one of the 15 investigations (including the *First Review*) concerning gray portland cement, the Commission has used a regional industry analysis. In the 1986 investigation concerning imports from eight countries, petitioner, while noting that cement was sold in regional markets, argued that producers in all regional markets were being injured, and the Commission could, therefore, view injury on a national basis. The Commission made a unanimous negative determination at the preliminary stage of the investigation.

³ Japanese Cement Committee response (Second Review), pp. 11-12. See also, *First Review Report*, p. II-2, n. 4, citing to domestic interested parties’ *First Review* prehearing brief, Economic Appendix, section I, p. 3.

⁴ Located in California.

account for approximately 33 percent of U.S. ready-mix production during the first review. The share of domestic producers' gray portland cement shipments that went to affiliated customers in 1999 was 12 percent in Southern California and 17 percent in California. The degree of vertical integration from 1989 to the period of the first review decreased in Southern California and California.⁵

In their posthearing brief during the first review, Japanese respondents cited hearing testimony by Donald Unmacht of National Cement of California, indicating that it is common for affiliated ready-mix operations "to source more solely with their affiliated cement producer."⁶ Furthermore, several purchasers in the first review reported that they only purchased gray portland cement from affiliated producers. In addition, a number of purchasers reported that their purchases of gray portland cement were controlled by their affiliated producers.

SUPPLY AND DEMAND CONSIDERATIONS⁷

U.S. Supply

Based on available information during the first review, responding U.S. producers of gray portland cement were viewed as likely to respond to changes in price with small changes in the quantity shipped to the U.S. market. Supply responsiveness was constrained by a high rate of capacity utilization, the small share of total shipments that were sold outside the Southern tier region,⁸ the relatively low levels of gray portland cement inventories, and the lack of significant production alternatives. For the Southern tier as a whole, the fact that 10 of 24 responding producers reported that they either had put customers on allocation, were unable to serve all of their customers' needs, or observed spot shortages in their market areas since 1990 provided evidence that Southern tier producers' supply was constrained by these factors.⁹

Southern California and California producers' capacity to produce gray portland cement increased marginally from 1997 to 1999, as did production. Southern California capacity utilization fell from 93.0 percent in 1997 to 91.6 percent in 1998, then increased to 93.9 percent in 1999;¹⁰ California capacity utilization fell from 94.5 percent in 1997 to 93.4 percent in 1998, then increased to 95.5 percent in 1999.¹¹ Southern California producers shipped the majority of their gray portland cement within the region and the vast majority of their out of region shipments were to northern California.¹² California producers shipped the vast majority (85 percent) of their gray portland cement within the region.¹³ Inventories in both Southern California and California were relatively low during the period examined, about 3-4 percent of production.¹⁴ Nearly all responding producers reported that they were not able to switch production between gray portland cement and other products in response to a relative change in the price of gray portland cement vis-a-vis the price of other products, using the same equipment and labor.

⁵ *First Review Report*, p. II-2, n. 7, citing to domestic interested parties' *First Review* posthearing brief, responses to questions and requests, p. 2.

⁶ *First Review Report*, p. II-2, n. 8, citing to Japanese respondents' *First Review* posthearing brief, p. 5.

⁷ Unless otherwise noted, discussion in this section is taken from the *First Review Report*, pp. II-4-II-13.

⁸ In addition to Southern California and California, the Southern tier includes the States of Florida, Alabama, Mississippi, Louisiana, Texas, New Mexico, and Arizona.

⁹ *First Review Report*, p. II-4, n. 11, noting that ***.

¹⁰ Table C-1.

¹¹ Table C-2.

¹² Table C-1.

¹³ Table C-2.

¹⁴ Tables C-1 and C-2.

With respect to production levels of cement production, the Japanese Cement Committee noted that producers strive to maximize production, stating:

“All firms in the cement industry are driven to maximize production. In competitive cement markets, producers have a strong incentive to sell as much cement as possible as long as the price of the last unit sold exceeds the marginal cost of producing that unit. As discussed below, given the fungible nature of cement and the market realities in Mexico and Japan, the drive to maximize production compels Mexican and Japanese producers to sell in the United States at whatever price covers their marginal cost plus transportation, while domestic producers are equally compelled to match these lower prices to try to maintain market share and capacity utilization.”¹⁵

Japanese Imports

Based on available information during the first review, Japanese exporters were likely to respond with a significant increase in shipments of gray portland cement to the Southern California/California market if the antidumping order was removed. The main reasons for Japanese exporters’ supply responsiveness was the existence of *** levels of excess capacity, and *** alternative markets, from which Japanese exporters could shift sales. However, the supply response was significantly constrained by high U.S. inland transportation costs from import terminals to Southern California/California customers and infrastructure constraints in both Japan and Southern California/California. *** levels of inventories, and the lack of significant production alternatives further constrained Japanese exporters’ supply response. Additional information with respect to the Japanese industry is found in Part IV of this report, *U.S. Imports and the Foreign Industry*.

Japanese industry capacity

During the first review, Japanese producers’ capacity to produce gray portland cement fell marginally from 1997 to 1999, while production declined at a greater rate. As a result, capacity utilization fell from 98.8 percent in 1997 to 88.7 percent in 1999. Although Japanese producers’ capacity utilization rates were high, the absolute levels of excess capacity were substantial (1.0 million short tons in 1997, 9.6 million short tons in 1998, and 9.4 million short tons in 1999).¹⁶

Alternative markets

The vast majority of Japanese-produced gray portland cement was shipped to its home market during 1997-99. Home market shipments accounted for 89.4 percent of total Japanese shipments in 1997, 91.6 percent in 1998, and 91.7 percent in 1999. Nearly all of the remaining Japanese gray portland cement was shipped to export markets other than the United States, or was internally consumed. For further discussion of alternative markets, as it relates to this review, the Japan Cement Committee’s remarks are found in Part IV of this report, *U.S. Imports and the Foreign Industry*.

Japanese producers’ inventories

¹⁵ Japanese Cement Committee response (Second Review), pp. 6-7.

¹⁶ See, table IV-3 of this report.

During the first review, Japanese producers held small levels of inventories relative to their production. The ratio of Japanese producers' inventories to production remained under 5 percent during 1997-99.¹⁷

Production alternatives

In the first review, Japanese producers reported that ***.

Infrastructure constraints

***. In the first review, Japanese respondents argued that Japanese producers without affiliations with Southern California/California import terminals were unlikely to export to the United States. Japanese respondents reported that only two Japanese producers, Taiheiyo and Mitsubishi, are affiliated with import terminals in California, and those two companies supplied the bulk of the exports during the period covered by the original investigation. During the period of the first review, the other Japanese producers ***, and Japanese respondents maintained that there was no reason they would begin to do so if the order were revoked. ***, and their only access to the Southern California/California markets would have been through import terminals controlled by their competitors.¹⁸

During the first review, domestic interested parties stated that Japanese producers had substantial import infrastructure in California. They reported that major Japanese producers already owned (or had access to) import terminals situated on deep-water ports in California. Taiheiyo operated a terminal in Wilmington, CA (near Long Beach) which had a storage capacity of around *** and a throughput capacity of approximately *** tons per year. Taiheiyo also utilized a floating cement storage silo at the port of Stockton in northern California. This facility, which is known as the "Golden Arrow," had a storage capacity of approximately 45,000 tons and a throughput capacity of between 500,000 and 600,000 tons. In addition, Taiheiyo had announced plans to build a new import terminal at the port of Stockton that was to have a throughput capacity estimated at 650,000 tons per year.¹⁹

Finally, in the first review, domestic interested parties reported that Mitsubishi Materials, through its ownership of MCC, owned the MCC-Lucky import terminal at Long Beach, CA. The terminal had a storage capacity of around 60,000 tons and a throughput capacity of *** tons. Collectively, the three import terminals owned or operated by the Japanese producers, plus the new one that was to be built in Stockton by Taiheiyo, would have had a throughput capacity of approximately *** million tons.²⁰

¹⁷ See, table IV-3 of this report.

¹⁸ *First Review Report*, p. II-5, n. 13, citing to Japanese respondents' *First Review* prehearing brief, pp. 46-47.

¹⁹ *First Review Report*, p. II-6, n.1 4, citing to domestic interested parties' *First Review* prehearing brief, pp. 155-156.

²⁰ *Ibid.*

U.S. Demand

Demand Characteristics

The demand for gray portland cement depends on the demand for concrete, its end product. Concrete is used in all types of construction, particularly residential building, commercial building, and highways. Regarding demand, the Japanese Cement Committee stated:

“Gray portland cement has only one purpose – the production of concrete and concrete products. Clinker is an intermediate product used only in the production of cement. Because cement is used only for producing concrete, the demand for cement is derived entirely from the demand for concrete. The demand for concrete, in turn, is derived from the demand for construction. Because there is no substitute for cement for cement in the production of concrete, concrete has no substitutes in most applications, and cement represents a very small component cost of construction, the demand for cement is very unresponsive to its prices, i.e., it is ‘inelastic.’ The decision whether to undertake a construction project – and thus to generate increased cement consumption – is not affected by the price of cement. The inelasticity of cement demand make cement producers much more susceptible to injury from dumped imports than companies in most other domestic industries, because the lower prices of dumped imports do not stimulate additional demand. Instead, they merely displace domestic production ton for ton.”²¹

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

“Regional cement markets are highly cyclical, rising and falling with regional construction activity. Although periodic upswings and downswings are predictable, the precise timing and extent of such cyclical changes are not predictable. Downturns in construction typically reduce industry profitability as sales volumes decline as firms competed on price in an effort to retain the volumes they had. In order to justify domestic producers’ investment in long-lived plant and equipment, returns at the peak of the cycle must sufficiently exceed those in the trough of the cycle to generate an average rate of return over the entire cycle that covers the cost of capital, including the special risks of investing in this kind of industry. Dumped imports keep the industry from generating such returns by accentuating downturns in the cycle and by eroding the high profits during upturns that are necessary to attract capital.”²²

²¹ Japanese Cement Committee response (Second Review), pp. 9-10.

²² Japanese Cement Committee response (Second Review), pp. 12-13.

Demand Trends

In general, during the first review, U.S. producers and Mexican and Venezuelan importers²³ agreed that demand for gray portland cement sold in the Southern tier region had increased significantly since 1990. The strength in demand had the result of population growth and a strong economy in the Southern tier region, as well as significant increased public spending on infrastructure. These factors had led to increased residential and non-residential construction in the Southern tier region and to increased public infrastructure projects.

U.S. producer, *** reported that in California, demand for gray portland cement had decreased from 11.6 million short tons in 1990 to 8.5 million short tons in 1993, a 27-percent decline. Thereafter, demand had increased by more than 50 percent since 1992 to almost 13 million short tons in 1999. These trends were driven by changes in the California construction market. Population and economic growth, low interest rates, and significantly improved government fiscal conditions that supported increased public works spending (especially highways) were the major drivers of gray portland cement demand.

Substitute Products

In general, there are no substitutes for cement in the production of concrete, although flyash and ground blast furnace slag may be used as supplements in the production of concrete in some cases.^{24 25} There are, however, several substitutes for concrete. In the nonresidential construction market, structural steel is the primary substitute for concrete, while wood is the main substitute for concrete in the residential construction market. Other substitutes for concrete include asphalt (in the paving market), brick, and certain products of metal, glass, and plastics. In the first review, the vast majority of responding purchasers reported that, since 1990, there had been no changes in the number or type of products that can be substituted for gray portland cement.

Cost Share

During the first review, most responding purchasers reported that the cost of gray portland cement accounted for only a very small share of the total cost of private residential construction, private non-residential construction, public building construction, and public infrastructure. *** reported that, according to the PCA, 0.192 metric ton of gray portland cement was used per \$1,000 of construction in 1998. Using this PCA factor and ***.

²³ During period examined during the first review, imports from Japan were quite limited and no importers of Japanese product responded to Commission questionnaires.

²⁴ *First Review Report*, p. II-13, n. 39, noting that while most Southern tier producers and subject importers reported no substitutes, some reported that flyash and granulated ground blast furnace slag may be used as supplements in the production of concrete. However, flyash can only be used for certain applications, and in most cases could only replace 15-20 percent of the gray portland cement. Likewise, granulated ground blast furnace slag can only be used for certain applications, and in most cases could replace 20-40 percent of the gray portland cement.

²⁵ *First Review Report*, p. II-13, n. 40, noting the proportion of flyash and granulated ground blast furnace slag used in the production of gray portland cement has increased from 0.69 percent in 1990 to 1.90 percent in 1998.

SUBSTITUTABILITY ISSUES²⁶

Purchase Factors

In the first review, nearly all gray portland cement purchasers reported making daily purchases. Most purchasers reported in the first review that their purchasing patterns had not changed significantly since 1990, and they did not expect them to change in the next two years. Most purchasers reported that gray portland cement purchases are seasonal, following construction activity. Purchasers tended to buy more gray portland cement during the spring, summer, and fall than they did in the winter. Before making a purchase, most purchasers contacted between one and four suppliers. Most purchasers reported that they changed suppliers only infrequently; those that changed cited factors such as price, quality, and geographic location as reasons for changing. Most purchasers reported that they did not vary their purchases from a given supplier (within a given quarter) based on the price offered for that quarter. Eight of the 48 responding purchasers reported buying gray portland cement subject to “Buy American” policies.

In the first review, when gray portland cement purchasers were asked to list the three most important factors considered when choosing a supplier, price was ranked first most often by a wide margin (table II-1). Quality and availability were ranked second most often, and price and availability were ranked third most frequently. Other factors listed include delivery, traditional supplier, and location.

Twenty-three of the 46 responding gray portland cement purchasers in the first review reported that they required their suppliers to become certified or prequalified. Twenty of these purchasers reported that 100 percent of their gray portland cement was bought subject to qualification. In general, gray portland cement must meet ASTM-C150 standards. Other factors considered by purchasers in their qualification process include state Department of Transportation approval, price, availability, delivery, consistency of product, and reliability. The qualification process can take anywhere from 1 day to 6 months. Forty-four of 48 responding purchasers reported that no domestic or foreign producers ever failed in their attempts to qualify their gray portland cement, or lost their approved status.

Comparisons of Domestic Products, and Subject and Nonsubject Imports

During the first review, nearly all responding Southern tier producers reported that U.S.-produced and imported Japanese, Mexican, Venezuelan, and nonsubject gray portland cement were always used interchangeably (table II-2). Importers were split between U.S.-produced and imported Japanese, Mexican, Venezuelan, and nonsubject gray portland cement always or frequently being used interchangeably (table II-3).

²⁶ Unless otherwise noted, discussion in this section is taken from the *First Review Report*, pp. II-13-II-19.

Table II-1
Gray portland cement: Most important factors considered when selecting a gray portland cement supplier

Factor	First	Second	Third
Price	26	4	12
Quality	8	17	4
Availability	3	11	10
Delivery	0	1	4
Traditional supplier	4	1	0
Location	1	1	1
Other	3	3	3
Total	45	38	34

Note: Figures indicate the number of purchaser responses in each category.

Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the *First Review*. See also, *First Review Report*, table II-2.

Table II-2
Gray portland cement: Interchangeability between country pair products, as reported by Southern tier producers

Comparisons	Firms reporting always	Firms reporting frequently	Firms reporting sometimes	Firms reporting never
U.S. vs. Japan	17	-	-	-
U.S. vs. Mexico	19	-	-	-
U.S. vs. Venezuela	17	1	-	-
U.S. vs. nonsubject	16	1	-	-
Japan vs. Mexico	15	-	-	-
Japan vs. Venezuela	15	-	-	-
Japan vs. nonsubject	15	-	-	-
Mexico vs. Venezuela	15	-	-	-
Mexico vs. nonsubject	15	-	-	-
Venezuela vs. nonsubject	15	-	-	-

Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the *First Review*. See also, *First Review Report*, table II-3.

Table II-3
Gray portland cement: Interchangeability between country pair products, as reported by U.S. importers

Comparisons	Firms reporting always	Firms reporting frequently	Firms reporting sometimes	Firms reporting never
U.S. vs. Japan	1	1	-	1
U.S. vs. Mexico	2	3	-	-
U.S. vs. Venezuela	2	2	-	-
U.S. vs. nonsubject	2	1	-	-
Japan vs. Mexico	1	1	-	-
Japan vs. Venezuela	1	1	-	-
Japan vs. nonsubject	1	1	-	-
Mexico vs Venezuela	1	1	-	-
Mexico vs. nonsubject	1	1	-	-
Venezuela vs. nonsubject	1	1	-	-

Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the *First Review*. See also, *First Review Report*, table II-4.

In the first review, nearly all responding producers reported that there were never any significant differences in product characteristics or sales conditions between U.S.-produced and imported Japanese, Mexican, Venezuelan, and nonsubject gray portland cement (table II-4). Subject importers generally reported that there were either sometimes or never any significant differences in product characteristics or sales conditions between U.S.-produced and imported Japanese, Mexican, Venezuelan, and nonsubject gray portland cement (table II-5).

Nearly all responding purchasers in the first review reported that U.S.-produced and imported Japanese, Mexican, Venezuelan, and nonsubject imported gray portland cement were used in the same applications.²⁷ Only seven of 48 responding purchasers reported that they specifically ordered gray portland cement from one country. Six of 48 responding purchasers reported that certain types of gray portland cement were available only from a single source.

²⁷ ***.

Table II-4

Gray portland cement: Differences in product characteristics or sales conditions between country pair products, as reported by Southern tier producers

Comparisons	Firms reporting always	Firms reporting frequently	Firms reporting sometimes	Firms reporting never
U.S. vs. Japan	-	-	-	17
U.S. vs. Mexico	-	-	1	18
U.S. vs. Venezuela	-	-	2	16
U.S. vs. nonsubject	-	-	1	17
Japan vs. Mexico	-	-	-	15
Japan vs. Venezuela	-	-	-	15
Japan vs. nonsubject	-	-	-	15
Mexico vs Venezuela	-	-	-	15
Mexico vs. nonsubject	-	-	-	15
Venezuela vs. nonsubject	-	-	-	15

Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the *First Review*. See also, *First Review Report*, table II-5.

Table II-5

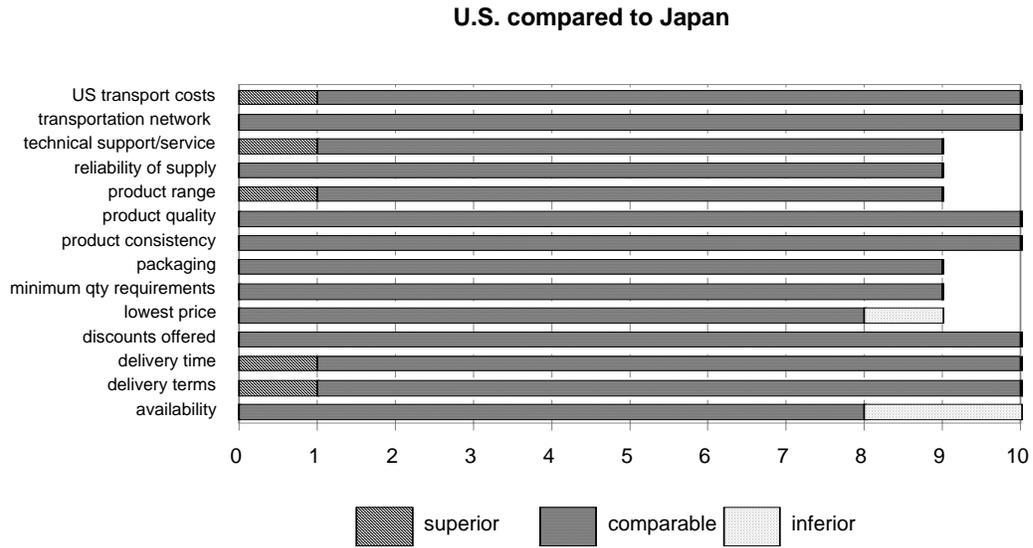
Gray portland cement: Differences in product characteristics or sales conditions between country pair products, as reported by U.S. importers

Comparisons	Firms reporting always	Firms reporting frequently	Firms reporting sometimes	Firms reporting never
U.S. vs. Japan	-	-	1	-
U.S. vs. Mexico	-	1	1	2
U.S. vs. Venezuela	-	-	1	2
U.S. vs. nonsubject	-	-	1	2
Japan vs. Mexico	-	-	1	-
Japan vs. Venezuela	-	-	1	-
Japan vs. nonsubject	-	-	-	1
Mexico vs Venezuela	-	-	1	-
Mexico vs. nonsubject	-	-	-	1
Venezuela vs. nonsubject	-	-	-	1

Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the *First Review*. See also, *First Review Report*, table II-6.

Purchasers were asked to compare U.S.-produced gray portland cement with imported Japanese and nonsubject gray portland cement based on 14 purchase factors. The results of those comparisons are shown in figure II-1.

Figure II-1
Comparison of U.S.-produced and imported Japanese gray portland cement, by specified factors



Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the *First Review*. See also, *First Review Report*, figure II-2.

PART III: U.S. PRODUCERS' TRADE, EMPLOYMENT, AND FINANCIAL DATA¹

Information in this part is based upon the questionnaire responses of producers which accounted for all production of gray portland cement and cement clinker during the period of the first review in the Southern California and California regions.²

Trade and financial data in this report are presented on a regional basis with the two regions being identified as: Southern California and California. Tables relevant to "Southern California" end in the capital letter A and tables relevant to "California" end in the capital letter B. Aggregate summary trade and financial data are presented in appendix C. Trade and financial data on a company-by-company basis are presented in appendix D.

U.S. PRODUCERS' CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Tables III-1A and III-1B present the Southern California and California industries' capacity, production, and capacity utilization figures for the first review period. As noted earlier in this report, a number of producers had announced plans to either build new production facilities or expand existing operations. For a detailed discussion of those plans, see the "U.S. producers" portion of Part I, *Introduction and Overview*, of this report. In its response to the Commission's notice in this review, the Japanese Cement Committee reported that 2003 Southern California production was 10,034,328 short tons and California production was 12,777,978 short tons.³ Further, in its response, the Japanese Cement Committee reported that 2004 total production by its Southern California members was *** short tons and by its California members was *** short tons.⁴

¹ Unless otherwise noted, the trade, employment, and financial discussions in Part III are from the first review. *First Review Report*, pp. III-1-III-42.

² Information in this part is based upon the questionnaire responses of producers which accounted for all production of gray portland cement and cement clinker in the Southern California and California regions during the period of the first review and for 10.4 percent and 15.1 percent, respectively, of overall U.S. production in 1999.

³ Production of gray portland cement in 2003 is from the USGS, *Minerals Industry Surveys, Cement 2003*, table 3. Japanese Cement Committee response (Second Review), attachment 50. At the time of the response, USGS data for 2004 gray portland cement production were not available. Cement clinker production during 2004 in Southern California and California was 9,889,025 short tons and 12,772,611 short tons, respectively. *Id.* Clinker production is from USGS, *Mineral Industry Surveys, Cement, March 2005*.

⁴ Southern California firms are ***. California firms are the aforementioned firms plus ***. Japanese Cement Committee response (Second Review), attachment 49 and Japanese Cement Committee supplemental response (Second Review), exhibits 2 and 3.

Table III-1A

Gray portland cement and cement clinker: SOUTHERN CALIFORNIA producers' capacity, production, and capacity utilization, 1997-99

Item	1997	1998	1999
Capacity (1,000 short tons):			
Gray portland cement	8,521	8,554	8,704
Cement clinker	7,732	8,092	8,347
Production (1,000 short tons):			
Gray portland cement	7,920	7,840	8,173
Cement clinker	8,136	8,202	8,673
Capacity utilization (percent):			
Gray portland cement	93.0	91.6	93.9
Cement clinker	99.8	96.4	97.4
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission in conjunction with the <i>First Review</i> . See also, <i>First Review Report</i> , table III-1B.			

Table III-1B

Gray portland cement and cement clinker: CALIFORNIA producers' capacity, production, and capacity utilization, 1997-99

Item	1997	1998	1999
Capacity (1,000 short tons):			
Gray portland cement	11,616	11,659	11,829
Cement clinker	10,789	11,149	11,404
Production (1,000 short tons):			
Gray portland cement	10,979	10,889	11,302
Cement clinker	11,064	11,119	11,795
Capacity utilization (percent):			
Gray portland cement	94.5	93.4	95.5
Cement clinker	102.5	99.7	103.4
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission in conjunction with the <i>First Review</i> . See also, <i>First Review Report</i> , table E-6.			

U.S. PRODUCERS' DOMESTIC SHIPMENTS AND EXPORT SHIPMENTS

Tables III-2A and III-2B present the Southern California and California industries' domestic shipments (within region and outside region) and export shipments of gray portland cement for the first review period. In its response to the Commission's notice in this review, the Japanese Cement Committee reported that 2004 total U.S. shipments by its Southern California members were *** short tons and by its California members were *** short tons.⁵ Tables III-3A and III-3B present the Southern California and California industries' domestic shipments (within region and outside region) and export shipments of cement clinker for the first review period. Commercial shipments of clinker during 2004 in Southern California and California were *** short tons for both regions.⁶ During the period of the first review, virtually all shipments of clinker fell into the internal consumption/company transfers category.⁷

⁵ Southern California firms are ***. California firms are the aforementioned firms plus ***. Japanese Cement Committee response (Second Review), attachment 49 and Japanese Cement Committee supplemental response (Second Review), exhibits 2 and 3.

⁶ Id. ***.

⁷ See, tables III-3A and III-3B, respectively.

Table III-2A

Gray portland cement: SOUTHERN CALIFORNIA producers' domestic shipments, by destination, and export shipments, 1997-99

Item	1997	1998	1999
Quantity (1,000 short tons)			
WITHIN region shipments	5,010	4,715	5,099
OUTSIDE region shipments	2,979	3,108	3,010
Export shipments	***	***	***
Total	***	***	***
Value (\$1,000)			
WITHIN region shipments	299,201	305,224	346,696
OUTSIDE region shipments	180,631	211,020	199,633
Export shipments	***	***	***
Total	***	***	***
Unit value (per short ton)			
WITHIN region shipments	\$59.72	\$64.74	\$67.99
OUTSIDE region shipments:	60.63	67.90	66.32
Export shipments	***	***	***
Average	***	***	***
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission in conjunction with the <i>First Review</i> . See also, <i>First Review Report</i> , table III-2B.			

Table III-2B
Gray portland cement: CALIFORNIA producers' domestic shipments, destination, and export shipments, 1997-99

Item	1997	1998	1999
Quantity (1,000 short tons)			
WITHIN region shipments	8,861	9,160	9,623
OUTSIDE region shipments	2,231	1,721	1,591
Export shipments	***	***	***
Total	***	***	***
Value (\$1,000)			
WITHIN region shipments	554,476	632,448	690,878
OUTSIDE region shipments	134,682	110,568	94,851
Export shipments	***	***	***
Total	***	***	***
Unit value (per short ton)			
WITHIN region shipments	\$62.57	\$69.04	\$71.80
OUTSIDE region shipments	60.36	64.23	59.61
Export shipments	***	***	***
Average	***	***	***
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission in conjunction with the <i>First Review</i>. See also, <i>First Review Report</i>, table E-6.			

Table III-3A
Cement clinker: SOUTHERN CALIFORNIA producers' domestic shipments, by destination, and export shipments, 1997-99

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Table III-3B
Cement clinker: CALIFORNIA producers' domestic shipments, by destination, and export shipments, 1997-99

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U.S. PRODUCERS' INVENTORIES

Tables III-4A and III-4B present the Southern California and California industries' end-of-period (EOP) inventories of gray portland cement for the first review period.⁸

Table III-4A
Gray portland cement: SOUTHERN CALIFORNIA producers' end-of-period inventories, 1997-99

Item	1997	1998	1999
EOP inventories (1,000 short tons)	219	235	297
Ratio to production (percent)	2.8	3.0	3.6
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission in conjunction with the <i>First Review</i> . See also, <i>First Review Report</i> , table III-4B.			

Table III-4B
Gray portland cement: CALIFORNIA producers' end-of-period inventories, 1997-99

Item	1997	1998	1999
EOP inventories (1,000 short tons)	314	331	413
Ratio to production (percent)	2.9	3.0	3.7
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission in conjunction with the <i>First Review</i> . See also, <i>First Review Report</i> , table E-6.			

⁸ The Japanese Cement Committee did not provide any inventory data in its response for this review.

U.S. PRODUCERS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

Tables III-5A and III-5B present the Southern California and California industries' data concerning employment, wages, productivity, and unit labor costs during the first review period.⁹

Table III-5A

Average number of SOUTHERN CALIFORNIA production and related workers producing gray portland cement and cement clinker, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 1997-99

Item	1997	1998	1999
Production and related workers:			
Gray portland cement	771	809	805
Cement clinker	819	853	848
Hours worked (1,000):			
Gray portland cement	1,807	1,862	1,905
Cement clinker	1,612	1,653	1,717
Wages paid (\$1,000):			
Gray portland cement	43,601	46,553	48,968
Cement clinker	43,181	46,090	46,892
Hourly wages:			
Gray portland cement	\$24.13	\$25.00	\$25.70
Cement clinker	\$22.05	\$23.09	\$22.33
Productivity (short tons per hour):			
Gray portland cement	4.4	4.2	4.3
Cement clinker	3.5	3.5	3.6
Unit labor costs (per short ton):			
Gray portland cement	\$5.50	\$5.94	\$5.99
Cement clinker	\$6.74	\$7.10	\$6.86
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission in conjunction with the <i>First Review</i> . See also, <i>First Review Report</i> , table III-5B.			

⁹ The Japanese Cement Committee did not provide any employment data in its response for this review.

Table III-5B

Average number of CALIFORNIA production and related workers producing gray portland cement and cement clinker, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, 1997-99

Item	1997	1998	1999
Production and related workers:			
Gray portland cement	956	994	994
Cement clinker	1,138	1,168	1,171
Hours worked (1,000):			
Gray portland cement	2,225	2,250	2,300
Cement clinker	2,307	2,271	2,351
Wages paid (\$1,000):			
Gray portland cement	51,565	55,509	58,168
Cement clinker	57,166	60,167	61,555
Hourly wages:			
Gray portland cement	\$23.18	\$24.67	\$25.29
Cement clinker	\$24.78	\$26.49	\$26.18
Productivity (short tons per hour):			
Gray portland cement	4.9	4.8	4.9
Cement clinker	4.8	4.9	5.0
Unit labor costs (per short ton):			
Gray portland cement	\$4.70	\$5.10	\$5.15
Cement clinker	\$5.17	\$5.41	\$5.22
Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission in conjunction with the <i>First Review</i> . See also, <i>First Review Report</i> , table E-6.			

FINANCIAL CONDITION OF THE U.S. INDUSTRY¹⁰

Background

During the first review, 11 plants of U.S. producers, accounting for virtually all known production of gray portland cement in Southern California (8 plants) and California (11 plants) in 1999, provided financial data on their gray portland cement and cement clinker operations.

Selected financial data for the period of the first review for Southern California and California producers, by plants, are presented in table D-5. Return on total assets for Southern California and California producers are shown in tables D-6 and D-7. U.S. plants in Southern California and California are ranked according to their operating income margin, and cumulative industry sales and percent of sales are shown in the last two columns of tables D-8 and D-9, respectively. For example, of eight plants, five plants in 1997, 1998, and 1999, each having an operating income margin of *** percent or greater, accounted for *** percent of the Southern California industry's sales in 1997, *** percent in 1998, and *** percent in 1999, respectively. For California, of 11 plants, eight plants each having an operating income margin of *** percent or greater in 1997, 1998, and 1999, accounted for *** percent of its sales in 1997, *** percent in 1998, and *** percent in 1999.

Income-and-loss data for the period of the first review for the Southern California and California producers on their gray portland cement and cement clinker operations during fiscal years 1997, 1998, and 1999 are presented in tables III-6A and III-6B, respectively; the breakdown of quantity and value of total net sales into commercial sales, internal consumption, and company transfers is shown in tables III-7A and III-7B, respectively; data on a "per-short-ton" basis are presented in tables III-8A and III-8B, respectively; and variance analyses are shown in tables III-9A and III-9B, respectively. In both instances, the variance analysis illustrates that the increase in operating income from 1997 to 1999 was the result of increases in per-unit revenues (price variance) that were much larger than increases in per-unit operating costs (net cost/expense variance).

¹⁰ As noted earlier, unless otherwise noted, the trade and financial discussion in this section is from the first review. *First Review Report*, pp. III-1-III-42. The Japanese Cement Committee did not provide any financial data in its response for this review.

Table III-6A
Results of operations of SOUTHERN CALIFORNIA producers in the production of gray portland cement and cement clinker, fiscal years 1997-99

Item	Fiscal years		
	1997	1998	1999
	Value (\$1,000)		
Net sales	496,895	541,801	577,206
Cost of goods sold	352,408	366,677	388,025
Gross profit	144,487	175,124	189,181
SG&A expenses	36,574	40,533	41,644
Operating income	107,913	134,591	147,537
Interest expense	24,071	14,533	10,345
Other expense	16,016	15,367	13,435
Other income items	5,937	6,573	4,343
Net income	73,763	111,264	128,100
Depreciation/amortization	50,842	48,693	51,319
Cash flow	124,605	159,957	179,419
	Ratio to net sales (percent)		
Cost of goods sold	70.9	67.7	67.2
Gross profit	29.1	32.3	32.8
SG&A expenses	7.4	7.5	7.2
Operating income	21.7	24.8	25.6
Net income	14.8	20.5	22.2
	Number of firms reporting		
Data	8	8	8
Operating losses	0	0	0
Net losses	2	0	0
Decreases from previous year in--			
Net sales	-	2	3
Operating income	-	1	2
Net income	-	1	2
Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the <i>First Review</i> . See also, <i>First Review Report</i> , table III-6B.			

Table III-6B

Results of operations of CALIFORNIA producers in the production of gray portland cement and cement clinker, fiscal years 1997-99

Item	Fiscal years		
	1997	1998	1999
	Value (\$1,000)		
Net sales	706,221	768,570	816,605
Cost of goods sold	493,008	506,534	528,215
Gross profit	213,213	262,036	288,390
SG&A expenses	49,991	54,974	57,975
Operating income	163,222	207,062	230,415
Interest expense	26,796	15,962	11,388
Other expense	30,790	16,602	24,410
Other income items	6,730	7,330	5,402
Net income	112,366	181,828	200,019
Depreciation/amortization	63,677	62,587	65,415
Cash flow	176,043	244,415	265,434
	Ratio to net sales (percent)		
Cost of goods sold	69.8	65.9	64.7
Gross profit	30.2	34.1	35.3
SG&A expenses	7.1	7.2	7.1
Operating income	23.1	26.9	28.2
Net income	15.9	23.7	24.5
	Number of firms reporting		
Data	11	11	11
Operating losses	0	0	0
Net losses	3	0	0
Decreases from previous year in--			
Net sales	-	2	3
Operating income	-	2	2
Net income	-	2	3
Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the <i>First Review</i> . See also, <i>First Review Report</i> , table E-5.			

Table III-7A

Gray portland cement and cement clinker: SOUTHERN CALIFORNIA producers' quantity and value of net sales, by types of sales, fiscal years 1997-99

Item	Fiscal years		
	1997	1998	1999
	Quantity (1,000 short tons)		
Net sales:			
Commercial sales:			
Cement	6,985	7,224	7,215
Clinker	***	***	***
Internal consumption:			
Cement	***	***	***
Clinker	***	***	***
Company transfers:			
Cement	***	***	***
Clinker	***	***	***
Total	8,351	8,307	8,790
	Value (\$1,000)		
Net sales:			
Commercial sales:			
Cement	424,360	481,041	487,514
Clinker	***	***	***
Internal consumption:			
Cement	***	***	***
Clinker	***	***	***
Company transfers:			
Cement	***	***	***
Clinker	***	***	***
Total	496,895	541,801	577,206
Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the <i>First Review</i> . See also, <i>First Review Report</i> , table III-7B.			

Table III-7B

Gray portland cement and cement clinker: CALIFORNIA producers' quantity and value of net sales, by types of sales, fiscal years 1997-99

Item	Fiscal years		
	1997	1998	1999
	Quantity (1,000 short tons)		
Net sales:			
Commercial sales:			
Cement	9,579	9,790	9,763
Clinker	***	***	***
Internal consumption:			
Cement	***	***	***
Clinker	***	***	***
Company transfers:			
Cement	***	***	***
Clinker	***	***	***
Total	11,454	11,366	11,894
	Value (\$1,000)		
Net sales:			
Commercial sales:			
Cement	597,477	671,158	683,901
Clinker	***	***	***
Internal consumption:			
Cement	***	***	***
Clinker	***	***	***
Company transfers:			
Cement	***	***	***
Clinker	***	***	***
Total	706,221	768,570	816,605
Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the <i>First Review</i> .			

Table III-8A
Results of operations (per short ton) of SOUTHERN CALIFORNIA producers in the production of gray portland cement and cement clinker, fiscal years 1997-99

Item	Fiscal years		
	1997	1998	1999
	<i>Per short ton</i>		
Net sales:			
Trade:			
Cement	\$60.75	\$66.59	\$67.57
Clinker	***	***	***
Internal consumption:			
Cement	(1)	(1)	(1)
Clinker	(1)	(1)	(1)
Company transfers:			
Cement	***	***	***
Clinker	***	***	***
Total	59.50	65.22	65.67
Cost of goods sold:			
Raw materials:			
Purchased clinker:			
Imported	(1)	(1)	(1)
Domestic ²	***	***	***
All others	***	***	***
Total raw materials	8.74	10.22	11.12
Direct labor	7.19	7.75	7.93
Other factory	26.27	26.17	25.10
Total cost of goods sold	42.20	44.14	44.14
Gross profit	17.30	21.08	21.52
SG&A expenses	4.38	4.88	4.74
Operating income	12.92	16.20	16.78
Net income	8.83	13.39	14.57
¹ Not applicable. ² Domestically purchased clinker was reported by one plant for all periods and by one plant for 1997-99.			
Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the <i>First Review</i> . See also, <i>First Review Report</i> , table III-8B.			

Table III-8B
Results of operations (per short ton) of CALIFORNIA producers in the production of gray portland cement and cement clinker, fiscal years 1997-99

Item	Fiscal years		
	1997	1998	1999
	<i>Per short ton</i>		
Net sales:			
Trade:			
Cement	\$62.37	\$68.56	\$70.05
Clinker	***	***	***
Internal consumption:			
Cement	(1)	(1)	(1)
Clinker	(1)	(1)	(1)
Company transfers:			
Cement	***	***	***
Clinker	***	***	***
Total	62.30	68.41	69.88
Cost of goods sold:			
Raw materials:			
Purchased clinker:			
Imported	(1)	(1)	(1)
Domestic ²	***	***	***
All others	***	***	***
Total raw materials	8.74	10.22	11.12
Direct labor	7.44	7.95	8.20
Other factory	28.07	28.14	26.97
Total cost of goods sold	44.26	46.31	46.29
Gross profit	18.61	23.05	24.25
SG&A expenses	4.36	4.84	4.87
Operating income	14.25	18.22	19.37
Net income	9.81	16.00	16.82
¹ Not applicable. ² Domestically purchased clinker was reported by one plant for all periods and by one plant for 1997-99.			
Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the <i>First Review</i> .			

Table III-9A
Gray portland cement and cement clinker: SOUTHERN CALIFORNIA producers' variance analysis, fiscal years 1997-99

Item	Fiscal years		
	1997-99	1997-98	1998-99
Total net sales:			
Price variance	54,190	47,524	3,903
Volume variance	26,121	(2,618)	31,502
Total net sales variance	80,311	44,906	35,405
Cost of sales:			
Cost variance	(17,091)	(16,126)	(28)
Volume variance	(18,526)	1,857	(21,320)
Total cost variance	(35,617)	(14,269)	(21,348)
Gross profit variance	44,694	30,637	14,057
SG&A expenses:			
Expense variance	(3,147)	(4,152)	1,246
Volume variance	(1,923)	193	(2,357)
Total SG&A variance	(5,070)	(3,959)	(1,111)
Operating income variance	39,624	26,678	12,946
Summarized as:			
Price variance	54,190	47,524	3,903
Net cost/expense variance	(20,239)	(20,277)	1,218
Net volume variance	5,673	(569)	7,826
Note.--Unfavorable variances are shown in parentheses; all others are favorable. Variances are calculated for the unrounded data.			
Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the <i>First Review</i> . See also, <i>First Review Report</i> , table III-9B.			

Table III-9B**Gray portland cement and cement clinker: CALIFORNIA producers' variance analysis, fiscal years 1997-99**

Item	Fiscal years		
	1997-99	1997-98	1998-99
Total net sales:			
Price variance	83,255	67,775	12,332
Volume variance	27,129	(5,426)	35,703
Total net sales variance	110,384	62,349	48,035
Cost of sales:			
Cost variance	(16,268)	(17,314)	1,850
Volume variance	(18,939)	3,788	(23,531)
Total cost variance	(35,207)	(13,526)	(21,681)
Gross profit variance	75,177	48,823	26,354
SG&A expenses:			
Expense variance	(6,064)	(5,367)	(447)
Volume variance	(1,920)	384	(2,554)
Total SG&A variance	(7,984)	(4,983)	(3,001)
Operating income variance	67,193	43,840	23,353
Summarized as:			
Price variance	83,255	67,775	12,332
Net cost/expense variance	(22,332)	(22,681)	1,402
Net volume variance	6,270	(1,254)	9,619
Note.--Unfavorable variances are shown in parentheses; all others are favorable. Variances are calculated for the unrounded data.			
Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the <i>First Review</i> .			

**Investment in Productive Facilities, Capital Expenditures,
and Research and Development Expenses**

The responding Southern California and California producers' data for the period of the first review on capital expenditures, R&D expenses, and the value of their property, plant, and equipment and total plant assets for their gray portland cement and cement clinker operations are shown in tables III-10A and III-10B, respectively. R&D expenses were reported by *** in Southern California.

Table III-10A
Gray portland cement and cement clinker: SOUTHERN CALIFORNIA producers' capital expenditures, research and development expenses, and value of assets, fiscal years 1997-99

Item	Fiscal years		
	1997	1998	1999
Capital expenditures	47,317	36,404	84,388
R&D expenses	***	***	***
Fixed assets:			
Original cost	968,274	1,014,896	1,071,191
Book value	483,125	511,220	546,192
Total assets	745,070	761,888	798,699
Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the <i>First Review</i> . See also, <i>First Review Report</i> , table III-10B			

Table III-10B
Gray portland cement and cement clinker: CALIFORNIA producers' capital expenditures, research and development expenses, and value of assets, fiscal years 1997-99

Item	Fiscal years		
	1997	1998	1999
Capital expenditures	59,872	51,792	103,949
R&D expenses	***	***	***
Fixed assets:			
Original cost	1,297,398	1,354,952	1,429,189
Book value	655,875	680,052	716,115
Total assets	962,177	968,989	1,010,486
Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the <i>First Review</i> .			

PART IV: U.S. IMPORTS AND THE FOREIGN INDUSTRY

U.S. IMPORTS¹

Tables IV-1A and IV-1B present Southern California and California imports of gray portland cement.² While imports from Japan dropped to near zero shortly after the imposition of the antidumping order, nonsubject imports have grown over the years the order has been in place. From 1997 to 1999, nonsubject Southern California imports grew from 1.1 million short tons to 2.5 million short tons and nonsubject California imports rose from 1.1 million short tons to 3.3 million short tons. In 2005, nonsubject Southern California imports were 4.0 million short tons, while California imports were 6.5 million short tons. The primary nonsubject sources for the Southern California/California markets in recent years have been Thailand and China. Nationally, Canada, China, Thailand, Colombia, and Venezuela have been the leading sources of imports in recent years with Canada having been the traditional leader as a source of imports.³ During the period of the first review, Thailand became a new entrant in the U.S. market coming from zero in 1997 to be the third leading source of gray portland cement imports with more than 3.4 million short tons in 1999 and the second leading source of gray portland cement and cement clinker combined at 5.6 million short tons. In 2005, Thailand was the second leading source of imports.⁴

U.S. IMPORTERS' INVENTORIES

Tables IV-2A and IV-2B present Southern California and California importers' inventories during the first review period.

¹ Unless otherwise noted, the discussion of U.S. imports in this section is from the first review. *First Review Report*, pp. IV-1-IV-10.

² Southern California and California imports of gray portland cement for 1989-2005 are presented in app. C. During the period of the first review, there were no imports of clinker into Southern California and California from Japan, Mexico, or Venezuela.

³ Official Commerce statistics.

⁴ *Ibid.*

Table IV-1A
Gray portland cement: SOUTHERN CALIFORNIA imports, by sources, 1997-99

Source	Calendar year			
	1997	1998	1999	2005
Quantity (1,000 short tons)				
Japan	0	16	32	3
Mexico	21	29	49	168
Venezuela	0	0	0	0
Subtotal	21	44	81	171
All other sources	1,089	2,099	2,465	3,955
Total imports	1,110	2,144	2,546	4,126
Value (\$1,000)				
Japan	0	702	1,328	1,069
Mexico	846	996	1,809	9,173
Venezuela	0	0	0	0
Subtotal	846	1,698	3,137	10,242
All other sources	54,411	91,410	94,069	248,142
Total imports	55,257	93,108	97,205	258,383
Unit value (per short ton)				
Japan	\$0.00	\$44.91	\$41.73	\$424.57
Mexico	40.45	34.74	36.70	54.49
Venezuela	0.00	0.00	0.00	0.00
Subtotal	40.45	38.32	38.67	59.89
All other sources	49.97	43.54	38.17	62.74
Total imports	49.79	43.44	38.18	62.63
Share of quantity (percent)				
Japan	0.0	0.7	1.2	(¹)
Mexico	1.9	1.3	1.9	4.1
Venezuela	0.0	0.0	0.0	0.0
Subtotal	1.9	2.1	3.2	4.1
All other sources	98.1	97.9	96.8	95.9
Total imports	100.0	100.0	100.0	100.0
Share of value (percent)				
Japan	0.0	0.8	1.4	(¹)
Mexico	1.5	1.1	1.9	3.6
Venezuela	0.0	0.0	0.0	0.0
Subtotal	1.5	1.8	3.2	4.0
All other sources	98.5	98.2	96.8	96.0
Total imports	100.0	100.0	100.0	100.0
¹ Less than 0.05 percent.				
Source: Compiled from official Commerce statistics.				

Table IV-1B
Gray portland cement: CALIFORNIA imports, by sources, 1997-99

Source	Calendar year			
	1997	1998	1999	2005
Quantity (1,000 short tons)				
Japan	0	16	32	3
Mexico	21	29	49	168
Venezuela	0	0	0	0
Subtotal	21	44	81	171
All other sources	1,089	2,387	3,321	6,543
Total imports	1,110	2,431	3,402	6,714
Value (\$1,000)				
Japan	0	702	1,328	1,069
Mexico	846	996	1,809	9,173
Venezuela	0	0	0	0
Subtotal	846	1,698	3,137	10,242
All other sources	54,454	106,391	137,818	405,176
Total imports	55,301	108,089	140,955	415,417
Unit value (per short ton)				
Japan	\$0.00	\$44.91	\$41.73	\$424.57
Mexico	40.45	34.74	36.70	54.49
Venezuela	0.00	0.00	0.00	0.00
Subtotal	40.45	38.32	38.67	59.89
All other sources	50.01	44.58	41.50	61.92
Total imports	49.83	44.47	41.43	61.87
Share of quantity (percent)				
Japan	0.0	0.6	0.9	(¹)
Mexico	1.9	1.2	1.4	2.5
Venezuela	0.0	0.0	0.0	0.0
Subtotal	1.9	1.8	2.4	2.5
All other sources	98.1	98.2	97.6	97.5
Total imports	100.0	100.0	100.0	100.0
Share of value (percent)				
Japan	0.0	0.6	0.9	(¹)
Mexico	1.5	0.9	1.3	2.2
Venezuela	0.0	0.0	0.0	0.0
Subtotal	1.5	1.6	2.2	2.5
All other sources	98.5	98.4	97.8	97.5
Total imports	100.0	100.0	100.0	100
¹ Less than 0.05 percent.				
Source: Compiled from official Commerce statistics.				

Table IV-2A

Gray portland cement: SOUTHERN CALIFORNIA importers' end-of period inventories of imports, 1997-99

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Table IV-2B

Gray portland cement: CALIFORNIA importers' end-of period inventories of imports, 1997-99

* * * * *

THE INDUSTRY IN JAPAN⁵

Table IV-3 (gray portland cement) and table IV-4 (cement clinker) present information submitted during the first review with respect to the gray portland cement and cement clinker capacity, production, capacity utilization, domestic and export shipments, and inventories of Japanese producers Mitsubishi, Sumitomo Osaka, Taiheiyo, Tokuyama, and Ube. Together, these firms estimated they accounted for 87.3 percent of Japanese production of gray portland cement in 1999. Four of these five firms accounted for “virtually all” exports of gray portland cement to the United States during the original investigation.⁶ The Japanese Cement Committee stated that the firms Taiheiyo, Ube/Mitsubishi (merged in 1998), and Sumitomo Osaka, in 2004, together controlled “67 percent of the output of the Japanese industry.”⁷

In its response in the current review, the Japanese Cement Committee offered the following comments regarding what it sees as the foreign producers “substantial” excess capacity:

“In evaluating the likely volume of imports in the event the orders are revoked, the Commission is also directed to consider ‘any likely increases in production capacity or existing unused production capacity in the exporting country. Cement producers in Mexico and Japan currently have large amounts of unused capacity, which demonstrates that imports from those countries are certain to be significant in the absence of the orders.

There are at least three principal reasons for the substantial excess capacity in Mexico and Japan. First, the industries in both countries adopted investment strategies that were strongly oriented toward increasing exports. They, therefore, invested in substantially more capacity than necessary to meet domestic demand.

Second, demand in their home markets has been, and will continue to be, far short of the capacity of Mexican and Japanese producers. In Japan, demand for cement has decreased every year since 1997.⁸

Third, as discussed below, third-country markets have not absorbed, and will not absorb, the enormous excess capacity of the Mexican and Japanese industries. In short,

⁵ Unless otherwise noted, the discussion of the Japanese industry in this section is from the first review. *First Review Report*, pp. IV-20-IV-28.

⁶ *Original Report*, p. A-50 and *First Review Report*, p. IV-20, n. 60. Mitsubishi, Nihon, Onada, Sumitomo Osaka, and Ube were exporters. Nihon and Onada are predecessor companies to Taiheiyo. Tokuyama was not an exporter.

⁷ Japanese Cement Committee response (Second Review), p. 18.

⁸ Japanese Cement Committee response (Second Review), p. 45 making reference to Japan Cement Association data contained in attachment 36. That attachment indicates that Japanese consumption dropped from 78.6 million metric tons in 1997 to 58.0 million metric tons in 2004.

Table IV-3
Gray portland cement: Data for producers in Japan, 1997-99

Item	1997	1998	1999
Quantity (1,000 short tons)			
AVERAGE PRODUCTION CAPACITY	85,481	85,455	83,765
PRODUCTION	84,440	75,853	74,321
END-OF-PERIOD INVENTORIES	3,764	3,703	3,400
SHIPMENTS:			
Home market	75,689	68,728	67,732
Internal consumption/transfers	2,307	2,283	2,070
Exports to--			
Florida	0	0	0
Alabama, Mississippi, Louisiana, Texas, New Mexico, and Arizona	0	0	0
Southern California	0	0	0
Northern California	0	0	0
Southern-tier	0	0	0
All other States	0	0	0
TOTAL United States	0	0	0
All other export markets	9,200	6,489	6,279
Total exports	9,200	6,489	6,279
Total shipments	87,196	77,500	76,081
Table continued on next page.			

Table IV-3--Continued

Gray portland cement: Data for producers in Japan, 1997-99

Item	1997	1998	1999
Ratios and shares (percent)			
Capacity utilization	98.8	88.8	88.7
Inventories/production	4.5	4.9	4.6
Inventories/shipments	4.3	4.8	4.5
Share of total shipments:			
Home market	86.8	88.7	89.0
Internal consumption/transfers	2.6	2.9	2.7
Exports to--			
Florida	0.0	0.0	0.0
Alabama, Mississippi, Louisiana, Texas, New Mexico, and Arizona	0.0	0.0	0.0
Southern California	0.0	0.0	0.0
Northern California	0.0	0.0	0.0
Southern-tier	0.0	0.0	0.0
All other States	0.0	0.0	0.0
TOTAL United States	0.0	0.0	0.0
All other export markets	10.6	8.4	8.3
Total exports	10.6	8.4	8.3
Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the <i>First Review</i>.			

Table IV-4
Cement clinker: Data for producers in Japan, 1997-99

Item	1997	1998	1999
Quantity (1,000 short tons)			
AVERAGE PRODUCTION CAPACITY	90,267	89,944	90,013
PRODUCTION	82,305	72,282	70,385
END-OF-PERIOD INVENTORIES	765	787	756
SHIPMENTS:			
Home market	0	0	0
Internal consumption/transfers	78,569	70,246	68,335
Exports to--			
Florida	0	0	0
Alabama, Mississippi, Louisiana, Texas, New Mexico, and Arizona	0	0	0
Southern California	0	0	0
Northern California	0	0	0
Southern-tier	0	0	0
All other States	0	0	0
TOTAL United States	0	0	0
All other export markets	3,628	1,959	2,006
Total exports	3,628	1,959	2,006
Total shipments	82,197	72,205	70,341
Table continued on next page.			

Table IV-4--Continued

Cement clinker: Data for producers in Japan, 1997-99

Item	1997	1998	1999
Ratios and shares (percent)			
Capacity utilization	91.2	80.4	78.2
Inventories/production	0.9	1.1	1.1
Inventories/shipments	0.9	1.1	1.1
Share of total shipments:			
Home market	0.0	0.0	0.0
Internal consumption/transfers	95.6	97.3	97.1
Exports to--			
Florida	0.0	0.0	0.0
Alabama, Mississippi, Louisiana, Texas, New Mexico, and Arizona	0.0	0.0	0.0
Southern California	0.0	0.0	0.0
Northern California	0.0	0.0	0.0
Southern-tier	0.0	0.0	0.0
All other States	0.0	0.0	0.0
TOTAL United States	0.0	0.0	0.0
All other export markets	4.4	2.7	2.9
Total exports	4.4	2.7	2.9
Source: Compiled from data submitted in response to Commission questionnaires in conjunction with the <i>First Review</i>.			

because of a lack of other markets, the only option for the Mexican and Japanese producers to reduce their tremendous overcapacity is by increasing exports to the United States if the orders are revoked.”⁹

During the original investigation and first review, Japan was third largest cement producing country in the world after China and the United States. As of 2003, Japan was the fourth largest cement producing country after China, India, and the United States and the third largest cement exporting country after China and India.¹⁰

With respect to Japan’s export prospects, the Japanese Cement Committee offered the following as to possible alternative markets:

“ . . . the potential outlets for the Japanese industry likewise are not a viable alternative for increased exports. In the ASEAN countries, demand increased somewhat after plunging in the midst of the financial crisis of 1997-98, but in most countries it is still lower than it was before the crisis—in some cases (e.g., Thailand) significantly lower.¹¹ Furthermore, unlike for many other commodities (including steel, which has been the subject of recent five-year review before the Commission), China has not been a significant cement importer. In fact, China has become a significant net exporter.¹² Although demand for cement in China has been booming, Chinese production has more than kept pace with that increased consumption. Similarly, India is not and will not be, a significant outlet for Japanese exports of cement despite that country’s very strong economic performance. India has excess capacity and has itself been a significant exporter of cement.¹³ Thus, if the orders are revoked, producers in Mexico and Japan have no meaningful option other than to increase their volume of exports to the United States.”¹⁴

Since 1990, there has been an overall consolidation of the Japanese industry as the number of producers dropped from 23 operating 41 plants, at the time of the original investigation to 19 producers operating 39 plants in 1998¹⁵ at the time of the first review, and then declined to the present 18 producers operating 33 plants.¹⁶ Over the same period of time, Japanese capacity rose from 96.1 million short tons

⁹ Japanese Cement Committee response (Second Review), pp. 44-45.

¹⁰ Japanese Cement Committee response (Second Review), attachment 39 citing Japan Cement Association data.

¹¹ Japanese Cement Committee response (Second Review), pp. 46-47 making reference to ASEAN Cement Industry data contained in attachment 40. That attachment indicates that ASEAN demand in 2004 was essentially the same as that in 1997; however, demand was down in Malaysia, the Philippines, Singapore, and Thailand, while it increased in Indonesia and Vietnam.

¹² Japanese Cement Committee response (Second Review), p. 47 making reference to World Trade Atlas data contained in attachment 40. That attachment indicates that China exported 6.9 million metric tons of gray portland cement and cement clinker in 2004 compared with imports of 2.7 million metric tons. For January-September 2005, China’s exports were 14.9 million metric tons (4.2 million metric tons to the United States) compared with 887,000 metric tons of imports.

¹³ Japanese Cement Committee response (Second Review), p. 47 making reference to Shree Cement Limited (India) data contained in attachment 43. That attachment indicates that, in 2005, India had a capacity of 150 million metric tons and produced 126 million metric tons.

¹⁴ Japanese Cement Committee response (Second Review), pp. 46-47.

¹⁵ *Cement in Japan, 1999*, Japan Cement Association. ***. *First Review Report*, p. IV-25, n. 65, citing Japanese respondents’ *First Review* prehearing brief, p. 48.

¹⁶ Japanese Cement Committee response (Second Review), attachment 36.

to 105.4 million short tons, then dropped to 81.8 million short tons in 2004.¹⁷ Production of cement increased from 95.9 million short tons in 1990 to a high of 109.6 million short tons in 1996, then dropped to 91.8 million short tons in 1998 and 79.8 million short tons in 2004.¹⁸ Japanese consumption, at an all time high of 93.3 million short tons in 1991, declined irregularly to 90.7 million short tons in 1996, then dropped more sharply to 78.9 million short tons in 1998, before eventually declining to 63.0 million short tons in 2004.¹⁹

As noted earlier in this section, during the first review, five Japanese producers provided the Commission information concerning their operations. Taiheiyo, an integrated multinational producer, was the largest Japanese producer of gray portland cement with 10 plants and 3 grinding operations with a 1999 capacity of 33.2 million short tons.²⁰ Taiheiyo's 2004 production was 19.7 million short tons, leaving it as the largest Japanese producer.²¹ Taiheiyo's foreign operations include production facilities in the United States,²² China, and Vietnam. During the first review, Taiheiyo exported approximately *** percent of its shipments with its principal export markets being ***.²³

With respect to anticipated changes in the character of its operations in the event the antidumping order were revoked, Taiheiyo commented: "****."²⁴

During the first review, domestic interested parties contended that Japanese producers would be highly motivated to direct their exports to the U.S. market citing, as an example, Taiheiyo's questionnaire comment that in "****."²⁵ Japanese respondents countered that their motivation to export to the United States has changed from the original investigation given Taiheiyo's and Mitsubishi's ownership of a "****" of Southern California production capacity.²⁶

¹⁷ *First Review Report*, p. IV-25, n. 66, citing *Cement in Japan, 1999*, Japan Cement Association and Japanese Cement Committee response (Second Review), attachment 36. Beginning in 1993, capacity was calculated on 320 operating days rather than the 300 days that had been used before. Thus, from 1992 to 1993, capacity increased from 99.8 million short tons to 108.0 million short tons. From 1994, capacity has declined to 81.8 million short tons. Ibid.

¹⁸ *Cement in Japan, 1999*, Japan Cement Association and Japanese Cement Committee response (Second Review), attachment 36.

¹⁹ Ibid.

²⁰ *First Review Report*, p. IV-26, n. 74, citing *Cement in Japan, 1999*, Japan Cement Association. Taiheiyo's 1999 capacity utilization rate was *** percent. Ibid.

²¹ Japanese Cement Committee response (Second Review), attachment 22.

²² Taiheiyo owns U.S. producer California Portland with plants located in Colton, CA, Mojave, CA, and Rilitto, AZ.

²³ *First Review Report*, p. IV-26, n. 76.

²⁴ Ibid.

²⁵ *First Review Report*, p. IV-26, n. 78, citing domestic interested parties' *First Review* prehearing brief, Exceptions to prehearing report, p. 15. In this regard, domestic interested parties also took note that Taiheiyo's U.S. operation, California Portland, was constructing a new import terminal at Stockton, in northern California. Domestic interested parties' *First Review* prehearing brief, foreign industry appendix, attachment O. In response, Japanese respondents stated that the "new import terminal will source cement from numerous sources, including Taiheiyo's other overseas production facilities outside Japan . . ." *First Review Report*, p. IV-26, n. 78, citing Japanese respondents' *First Review* posthearing brief, appendix A, pp. 4-5.

²⁶ *First Review Report*, p. IV-27, n. 79, citing Japanese respondents' *First Review* posthearing brief, p. 6. The level of Taiheiyo's investment in California, ***. During the original investigation, Taiheiyo's predecessors, Nihon and Onada, and Mitsubishi accounted for ***. Japanese respondents' posthearing brief, appendix A, p. 3. In 1999, the Southern California production facilities California Portland and Mitsubishi accounted for *** percent of capacity and *** percent of production in that region. California Portland opposed revocation while Mitsubishi ***. Ibid.

At the time of the first review, Sumitomo Osaka was the second largest producer of gray portland cement in Japan, operating six plants with a 1999 capacity of 15.9 million short tons.²⁷ Sumitomo Osaka's 2004 production was 12.0 million short tons, again making it the second largest Japanese producer.²⁸ Sumitomo merged with Osaka Cement in 1994 to form the present corporation and, in addition to its Japanese operations, has a production facility in the Philippines. During the first review, Sumitomo Osaka exported to ***.²⁹ Concerning anticipated changes in the character of its operations were the dumping order revoked, Sumitomo Osaka noted: "****".³⁰

Mitsubishi was the third largest Japanese producer at the time of the first review, operating six plants with a 1999 capacity of 14.8 million short tons.³¹ In 2004, Mitsubishi held its spot as the third largest producer with production of 9.9 million short tons.³² Mitsubishi is a multinational producer with operations in the United States,³³ Singapore, China, Vietnam, and the Philippines.³⁴ From 1997 to 1999, Mitsubishi exported approximately *** percent of its total shipments, with its primary markets being ***.³⁵ Insofar as the possible revocation of the dumping order changing the character of its operations, Mitsubishi noted that even if the antidumping order were revoked, it would "****" at that time.³⁶

Ube was the fourth largest Japanese producer during the first review and is a multinational producer with facilities in China and India. Ube remains the fourth largest producer, having produced 8.0 million short tons in 2004.³⁷ Ube operated three plants in Japan with a 1999 capacity of 11.8 million short tons³⁸ and, in 1998, formed a joint venture with Mitsubishi to market cement.³⁹ Ube's principal export markets were ***.⁴⁰ Should the dumping order have been revoked, Ube anticipated "****".⁴¹

Tokuyama was the fifth largest Japanese producer at the time of the first review, operating one plant with a capacity of 6.6 million short tons.⁴² Its 2004, production of 5.8 million short tons maintained its spot as the fifth largest producer.⁴³ Tokuyama's Nanyo plant is the largest single-factory cement facility in Japan.⁴⁴ Tokuyama exported in ***.⁴⁵ With regard to a change in the character of its operations if the dumping order were revoked, Tokuyama noted: "****".⁴⁶

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

²⁷ *First Review Report*, p. IV-27, n. 80, citing *Cement in Japan, 1999*, Japan Cement Association. Sumitomo Osaka's 1999 capacity utilization rate was *** percent. *Ibid.*

²⁸ Japanese Cement Committee response (Second Review), attachment 22.

²⁹ *First Review Report*, p. IV-27, n. 81.

³⁰ *Ibid.*

³¹ *First Review Report*, p. IV-27, n. 83, citing *Cement in Japan, 1999*, Japan Cement Association. Mitsubishi's 1999 capacity utilization rate was *** percent. *Ibid.*

³² Japanese Cement Committee response (Second Review), attachment 22.

³³ Mitsubishi's U.S. production facility is in Lucerne Valley, CA.

³⁴ *First Review Report*, p. IV-27, n. 85.

³⁵ *First Review Report*, p. IV-27, n. 86.

³⁶ *Ibid.*

³⁷ Japanese Cement Committee response (Second Review), attachment 22.

³⁸ *First Review Report*, p. IV-27, n. 88, citing *Cement in Japan, 1999*, Japan Cement Association.

³⁹ *First Review Report*, p. IV-27, n. 89.

⁴⁰ *First Review Report*, p. IV-28, n. 90. Ube's 1999 capacity utilization rate was *** percent. *Ibid.*

⁴¹ *Ibid.*

⁴² *First Review Report*, p. IV-28, n. 92, citing *Cement in Japan, 1999*, Japan Cement Association. Tokuyama's 1999 capacity utilization rate was *** percent. *Ibid.*

⁴³ Japanese Cement Committee response (Second Review), attachment 22.

⁴⁴ *First Review Report*, p. IV-28, n. 93.

⁴⁵ *First Review Report*, p. IV-28, n. 94.

⁴⁶ *Ibid.*

PART V: PRICING AND RELATED INFORMATION¹

FACTORS AFFECTING PRICES

Raw Material Costs

During the first review, U.S. producers reported that gray portland cement raw material costs accounted for approximately 19 percent of COGS in 1997, 20 percent in 1998, and 21 percent in 1999. Most responding U.S. producers reported that gray portland cement prices are driven by market supply and demand conditions and not by raw material costs.

Transportation Costs to the U.S. Market

In the period examined during the first review, transportation costs from Japan to the United States (excluding U.S. inland costs) were estimated to be 26.8 percent of the total cost of the subject products. The estimates were derived from official import data for HTS subheadings 2523.10.00, 2523.29.00, and 2523.90.00, and represented the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.

U.S. Inland Transportation Costs

Inland transportation costs account for a relatively large share of the delivered price of gray portland cement. For U.S. producers during the first review, estimates ranged from 8 to 18 percent. Japanese importers provided no estimates of U.S. inland transportation costs.

In 1999, producers in Southern California and California shipped 75.0 and 78.2 percent, respectively, of their gray portland cement within 200 miles of the plant or terminal while Japanese importers shipped *** of their product with a *** radius of their import terminals. U.S. shipments of gray portland cement, in bulk, by mode of transportation in 1998 and 2003, are shown in table V-1.

¹ Unless otherwise noted, the discussion in Part V is from the first review. *First Review Report*, pp. V-1-V-5.

Table V-1

Gray portland cement: U.S. shipments from U.S. plants, in bulk,¹ by types of carriers, 1998 and 2003

(In thousands of metric tons)

Type of carrier	Plant to terminal		Plant to consumers		Terminal to consumers		Total to consumers	
	1998	2003	1998	2003	1998	2003	1998	2003
Railroad	11,285	12,200	5,301	1,770	1,182	411	6,483	2,200
Truck	4,118	4,380	50,845	56,800	32,527	46,300	83,372	106,000
Barge and boat	8,423	7,910	442	141	900	44	1,342	186
Other	-	-	153	-	251	-	404	-
Total	23,826	24,490	56,742	58,711	34,860	46,755	91,602	108,000

¹ In 1998 and 2003, bulk shipments accounted for 97.0 and 97.8 percent, respectively, of total shipments.

Source: USGS, *Mineral Industry Surveys, Cement, 1998 and 2003*.

PRICING PRACTICES

During the first review, U.S. producers and importers² reported that gray portland cement pricing is generally determined by transaction-by-transaction negotiations.³ Neither U.S. producers nor importers issued price lists, although customers were often notified of price changes through price change letters. Prices for gray portland cement were quoted on both a delivered basis and an f.o.b. plant or terminal basis, and typical sales terms were \$1 per ton discount if paid within 10 days, the remainder due by 30 days. During the first review, U.S. producers and importers did not report having to set discount policies—with discounts having been negotiated on a transaction-by-transaction basis or being dependent on factors such as the prevailing competitive environment and potential purchase volumes.⁴

In the first review, U.S. producers sold the vast majority of their gray portland cement on a spot basis, whereas subject importers sold a greater share on a contract basis. The duration of subject importers' contracts was typically between 6 months and one year, and contracts were generally not renegotiated during the duration of the contract. Contracts typically fixed either price or quantity, and often contained meet-or-release provisions. One subject importer reported standard quantity

² Inasmuch as there were virtually no imports from Japan during the period examined during the first review, no Japanese importer comments were received. However, pricing for Japanese product is believed to be determined in a manner similar to that of U.S. producers and importers from other sources. *Original Report*, pp. A-89-90. The importer comments referenced in this section are importers of Mexican and Venezuelan product.

³ *First Review Report*, pp. V-2-V-3, n. 2, citing testimony of Donald Unmacht, National Cement Company of California and Mel Brekhus of TXI. Donald Unmacht, National Cement Company of California, reported that all prices in the gray portland cement business are set by competition. Price negotiations are intense, and competing prices typically fall within a very small range. See, testimony of Donald Unmacht, National Cement of California. Mel Brekhus of TXI reported that TXI had purchase price agreements with its customers, and prices set by these agreements continued as long as that customer was satisfied. However, if another supplier were to try to sell cement to one of TXI's customers, the only way the supplier could get the business would be by reducing price. See, testimony of Mel Brekhus, TXI. *Ibid*.

⁴ *First Review Report*, p. V-4, n. 3, citing testimony of Donald Unmacht, National Cement Company of California. Donald Unmacht, National Cement Company of California, reported that there are some customers that may buy as little as 1,000 tons of cement a year, and there are other customers that may buy as much as 750,000 tons of cement a year. These two situations would have materially different prices. *Ibid*.

requirements of one truck load or railway tank car. No importers reported price premiums for sub-minimum shipments.

Gray portland cement prices have traditionally been determined through a “base-point” pricing system.⁵ Under this system, the cement mill closest to a particular customer is considered that customer’s base point, and that mill effectively sets the price against which other producers must compete. A delivered price for cement consists of an f.o.b. mill price and any freight costs. In general, firms trying to enter new markets farther from the plant have to absorb additional freight costs in order to compete with firms closer to the markets under a freight equalization system. Thus, distance has traditionally played an important role in a supplier’s willingness and ability to sell to a particular customer.⁶

PRICE DATA

As noted earlier, no importers of Japanese product provided price data during the first review. Hence, inasmuch as the Japanese dropped out of the Southern California and California markets after the original investigation, the only pricing data available are from the original investigation.⁷ In the original investigation the Commission requested price data from U.S. producers and importers of Japanese cement for their sales in five distinct markets in California. The market areas chosen were Los Angeles, Orange County, Riverside County, San Diego, and San Francisco.⁸ Producers and importers were asked to provide price data for their total shipments to the ready-mix customer purchasing the largest volume (within a 300-1,200 ton range) in the fourth full week of each month from January 1986 to December 1990. Usable pricing data were reported by seven U.S. producers and two importers of Japanese cement; these producers and importers accounted for virtually all of the domestic production and the imports from Japan into Southern California during the period examined.⁹

Price Trends and Price Comparisons

During the original investigation, weighted-average delivered prices for U.S.-produced gray portland cement sold in California generally declined in all market areas from January 1986 to March 1990. Trends in weighted-average delivered prices for Japanese cement were mixed, but generally also declined. Weighted-average prices and margins of underselling/overselling for U.S.-produced and imported Japanese gray portland cement are shown in table V-2 (Los Angeles market), table V-3 (Orange County market), table V-4 (Riverside County market), and table V-5 (San Diego and San Francisco markets).¹⁰

⁵ *Original Report*, pp. A-63-A-64 and *First Review Report*, pp. V-4-V-5.

⁶ *Ibid.*

⁷ During the *First Review*, importers of Mexican product provided pricing data for the San Diego market for a 39 month period, January 1997-March 2000. During each of the 39 months, the Mexican product oversold the U.S.-produced product. The weighted-average margin of overselling was 8.2 percent in 1997; 10.8 percent in 1998; 10.7 percent in 1999; and 5.7 percent during January-March 2000. *First Review Report*, table V-4.

⁸ Los Angeles, Orange County, Riverside County, and San Diego are in Southern California.

⁹ *Original Report*, p. A-63.

¹⁰ Importer data for the San Diego market was spotty and for the San Francisco market there was no importer data.

Table V-2

Gray portland cement: Weighted-average delivered prices and margins of under/(over) selling reported by U.S. producers and importers for sales in the Los Angeles, CA market area, by months, January 1986-December 1990

* * * * *

Table V-3

Gray portland cement: Weighted-average delivered prices and margins of under/(over) selling reported by U.S. producers and importers for sales in the Orange County, CA market area, by months, January 1986-December 1990

* * * * *

Table V-4

Gray portland cement: Weighted-average delivered prices and margins of under/(over) selling reported by U.S. producers and importers for sales in the Riverside County, CA market area, by months, January 1986-December 1990

* * * * *

Table V-5

Gray portland cement: Weighted-average delivered prices and margins of under/(over) selling reported by U.S. producers and importers for sales in the San Diego, CA and the San Francisco, CA market areas, by months, January 1986-December 1990

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APPENDIX A
***FEDERAL REGISTER* NOTICES**

on gray portland cement and cement clinker from Japan and Mexico.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on gray portland cement and cement clinker from Japan and Mexico would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; ¹ to be assured of consideration, the deadline for responses is November 22, 2005. Comments on the adequacy of responses may be filed with the Commission by December 16, 2005. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: Effective October 3, 2005.

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

SUPPLEMENTARY INFORMATION:

Background. On the dates listed below, the Department of Commerce issued antidumping duty orders on the subject imports:

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-451 and 461 (Second Review)]

Gray Portland Cement and Cement Clinker From Japan and Mexico

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders

Order date	Product/country	Inv. No.	FR cite
8/30/90	Gray portland cement & clinker/Mexico	731-TA-451	55 FR 35443.
5/10/91	Gray portland cement & clinker/Japan	731-TA-461	56 FR 21658.

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 06-5-140.

expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to

the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Following five-year reviews by Commerce and the Commission, effective November 15, 2000, Commerce issued a continuation of the antidumping duty orders on imports of gray portland cement and cement clinker from Japan and Mexico (65 FR 68979). The Commission is now conducting second reviews to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to these reviews:

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

(2) The Subject Countries in these reviews Japan and Mexico.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original and full five-year determinations, the Commission defined a single Domestic Like Product consisting of gray portland cement and cement clinker.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the Domestic Industry as producers of gray portland cement and cement clinker, including "grinding only" operations. In both original determinations, the Commission concluded that "appropriate circumstances" existed for a regional analysis of the industry; however, the Commission found different regions to be appropriate based on the facts of each investigation. In its full five-year review determinations, the Commission took into account the Commission's prior regional industry definitions in its analysis and found separate regional industries, which corresponded, or were similar, to those defined in the original investigations.

In its original determination concerning Mexico, two Commissioners

found that either the Southern Tier Region (the States of Florida, Alabama, Mississippi, Louisiana, Texas, New Mexico, Arizona, and California) or the alternative Southern Tier Region (excluding northern California and the inland counties of the Gulf States) was appropriate and that no compelling case was made for one rather than the other. For purposes of the original determination, they used the Southern Tier Region because it was the more difficult region within which to reach an affirmative finding. One Commissioner found that the alternative Southern Tier Region was appropriate. In its five-year review determination concerning Mexico, the Commission found the regional industry to consist of producers in the Southern Tier Region. In its original determination concerning Japan, the Commission found the regional industry to consist of producers in Southern California; certain Commissioners found the regional industry to consist of producers in the State of California. In its five-year review determination concerning Japan, the Commission found the regional industry to consist of producers in the State of California. For purposes of this notice, you should report information separately on each of the following Domestic Industries: (1) Producers of gray portland cement and cement clinker, including "grinding only" operations, located in the Southern Tier Region; (2) producers of gray portland cement and cement clinker, including "grinding only" operations, located in Southern California; (3) producers of gray portland cement and cement clinker, including "grinding only" operations, located in the United States as a whole.

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

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

the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission is seeking guidance as to whether a second transition five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

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

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

and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 22, 2005. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is December 16, 2005. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response To this Notice of Institution: Please provide the requested information separately for each Domestic Industry, as defined by the Commission in its original and full five-year review determinations. If you are a domestic producer, union/worker

group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

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

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

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

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

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

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country(ies) that currently export or have exported Subject Merchandise to the United States or other countries after 1999.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business

association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

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

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

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

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country(ies), provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from each Subject Country; and

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

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country(ies), provide the following information on your firm's(s') operations on that product during calendar year 2004 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country(ies) after 1999, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country(ies), and such merchandise from other countries.

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

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

Issued: September 27, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05-19593 Filed 9-30-05; 8:45 am]

BILLING CODE 7020-02-P

**INTERNATIONAL TRADE
COMMISSION**

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

**Gray Portland Cement and Cement
Clinker From Japan**

AGENCY: International Trade
Commission.

ACTION: Scheduling of an expedited 5-year review concerning the antidumping duty order on gray portland cement and cement clinker from Japan.

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

DATES: *Effective Date:* January 6, 2006.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202-205-3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On January 6, 2006, the Commission determined that the domestic interested party group response to its notice of institution (70 FR 57617, October 3, 2005) of the subject 5-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.¹ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report.—A staff report containing information concerning the subject matter of the review will be

¹ Chairman Stephen Koplan and Commissioner Charlotte R. Lane dissenting. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

placed in the nonpublic record on April 27, 2006, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,² and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before May 3, 2006 and may not contain new factual information. Any person that is neither a party to the 5-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by May 3, 2006. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will

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

not accept a document for filing without a certificate of service.

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

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

Issued: January 25, 2006.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E6-1178 Filed 1-30-06; 8:45 am]

BILLING CODE 7020-02-P

interested parties and no responses from respondent interested parties, the Department has conducted an expedited (120-day) sunset review. See section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). As a result of the sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels listed in the "Final Results of Review" section below.

EFFECTIVE DATE: February 7, 2006.

FOR FURTHER INFORMATION CONTACT: Zev Primor or Jeffrey Frank, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4114 or (202) 482-0090.

SUPPLEMENTARY INFORMATION:

Background:

On October 3, 2005, the Department initiated the second sunset review of the antidumping duty order on cement from Japan pursuant to section 751(c) of the Act. See *Initiation of Five-Year ("Sunset") Reviews*, 70 FR 57560 (October 3, 2005). The Department received a notice of intent to participate from the Committee for Fairly Traded Japanese Cement, the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, the United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, and the Local Lodge 93 of the International Association of Machinists and Aerospace Workers (collectively, the domestic interested parties) within the deadline specified in 19 CFR 351.218(d)(1)(i) pertaining to sunset reviews. The domestic interested parties claimed interested-party status under section 771(9)(C) of the Act as a manufacturer, producer, or wholesaler in the United States of a domestic like product, under section 771(9)(D) of the Act as a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a domestic like product, and under section 771(9)(E) of the Act as a trade or business association, a majority of whose members manufacture, produce, or wholesale a domestic like product in the United States. We received a complete substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no

responses from the respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department has conducted an expedited (120-day) sunset review of the order.

Scope of the Order:

The products covered by this order are cement and cement clinker from Japan. Cement is a hydraulic cement and the primary component of concrete. Cement clinker, an intermediate material produced when manufacturing cement, has no use other than grinding into finished cement. Microfine cement was specifically excluded from the antidumping duty order. Cement is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2523.29, and cement clinker is currently classifiable under HTS item number 2523.10. Cement has also been entered under HTS item number 2523.90 as "other hydraulic cements." The Department made two scope rulings regarding subject merchandise. See *Scope Rulings*, 57 FR 19602 (May 7, 1992), classes G and H of oil well cement are within the scope of the order, and *Scope Rulings*, 58 FR 27542 (May 10, 1993), "Nittetsu Super Fine" cement is not within the scope of the order. The order remains in effect for all manufacturers, producers, and exporters of cement from Japan.

The HTS item numbers are provided for convenience and customs purposes. The written product description remains dispositive as to the scope of the product coverage.

Analysis of Comments Received:

All issues raised in this review are addressed in the Issues and Decision Memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated January 31, 2006, which is hereby adopted by this notice. The issues discussed in the Issues and Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order is revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B-099 of the main Commerce building.

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

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-815]

Gray Portland Cement and Clinker from Japan; Final Results of the Expedited Sunset Review of the Antidumping Duty Order

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

SUMMARY: On October 3, 2005, the Department of Commerce (the Department) initiated the second sunset review of the antidumping duty order on gray portland cement and clinker (cement) from Japan pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218. On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of domestic

Final Results of Review:

We determine that revocation of the antidumping duty order on cement and cement clinker from Japan would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

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

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

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: January 30, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6-1633 Filed 2-6-06; 8:45 am]

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APPENDIX B
STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATIONS ON ADEQUACY

in

Gray Portland Cement and Cement Clinker from Mexico and Japan Inv. Nos. 731-TA-451 and 461 (Second Review)

On January 6, 2006, the Commission determined that it should proceed to a full review in the five-year review concerning the antidumping duty order on subject imports from Mexico, pursuant to section 751(c)(5) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(5), and an expedited review in the five-year review concerning the antidumping duty order on subject imports from Japan, pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B).¹

Gray Portland Cement and Cement Clinker from Mexico, Inv. No. 731-TA-451 (Second Review)

With respect to the review on gray portland cement and cement clinker (“cement”) from Mexico, the Commission determined that the domestic interested party group response to the notice of institution was adequate. The Commission received a consolidated response filed on behalf of the domestic producers, the Committee For Fairly Traded Mexican Cement (an *ad hoc* coalition of 19 Southern Tier U.S. producers of the domestic like product), and four unions in the Southern Tier region.² The Commission also received adequate responses from two other regional U.S. producers of the domestic like product (GCC Rio Grande Inc. and CEMEX, Inc.). Because the Commission received an adequate response from domestic producers that collectively account for a majority of U.S. production of the domestic like product in the

¹Chairman Koplan and Commissioner Lane voted to conduct a full, grouped review of the order regarding subject imports from Japan, consistent with past Commission practice to conduct full reviews in grouped investigations when, with respect to at least one subject country, both interested party group responses are adequate. They do this consistent with the Commission’s decision to group Japan with Mexico and Venezuela in the first five-year reviews to promote administrative efficiency. *Gray Portland Cement and Cement Clinker from Japan, Mexico, and Venezuela, Inv. Nos. 303-TA-21 and 731-TA-451, 461, and 519 (Review)*, USITC Pub. 3361 at 5.

²The four labor unions representing workers producing the domestic like product in the Southern Tier region are: the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers; the United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; the International Union of Operating Engineers; and Local Lodge 93, International Association of Machinists and Aerospace Workers.

Southern Tier region, the Commission determined that the domestic interested party response was adequate.

The Commission also found that the respondent interested party group responses were adequate with respect to the order on cement from Mexico. The Commission received separate adequate individual responses from three Mexican producers, GCC Cemento, S.A. de C.V. (“GCCC”), Holcim Apasco, S.A. de C.V. (“Apasco”), and CEMEX, S.A. de C.V. (“CEMEX”).³ Because the Commission received an adequate response representing a substantial proportion of production and exports of cement from Mexico, the Commission determined that the respondent interested party group response from Mexico was adequate. Accordingly, the Commission determined to proceed to a full review in *Gray Portland Cement and Cement Clinker from Mexico*.

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

With respect to the review on cement from Japan, the Commission determined that the domestic interested party group response to the notice of institution was adequate. The Commission received a consolidated response filed on behalf of the domestic producers, the Committee For Fairly Traded Japanese Cement (an *ad hoc* coalition of four U.S. producers of the domestic like product in the State of California), and four unions in the State of California.⁴ Because the Commission received an adequate response from domestic producers that collectively account for a significant portion of U.S. production of the domestic like product in the State of California region, the Commission determined that the domestic interested party response was adequate.

The Commission did not receive a response from any respondent interested party in the review concerning cement from Japan, and therefore determined that the respondent interested party group response to the notice of institution was inadequate. In the absence of an adequate respondent interested party group response, and any other circumstances involving the specific facts of this regional industry review that it deemed warranted proceeding to a full review, the Commission determined to conduct an expedited review with respect to the order concerning

³The CEMEX response included separate data for CEMEX, the Mexican producer and exporter of subject merchandise, its U.S. affiliated companies, CEMEX, Inc., a U.S. producer of the domestic like product, and CEMEX Cement, Inc., the exclusive U.S. importer of cement produced in Mexico by CEMEX.

⁴The four labor unions representing workers producing the domestic like product in the State of California region are: the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers; the United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; the International Union of Operating Engineers; and Local Lodge 93, International Association of Machinists and Aerospace Workers.

Japan.⁵ Specifically, in separately conducted original investigations, the Commission made its determinations based on different regional industries regarding subject imports from Mexico and subject imports from Japan. Therefore, administrative efficiency would not be achieved by grouping the review of subject imports from Mexico with the review of subject imports from Japan. Accordingly, the Commission determined to proceed to an expedited review in *Gray Portland Cement and Cement Clinker from Japan*.

A record of the Commissioners' votes is available from the Office of the Secretary and at the Commission's web site (<http://www.usitc.gov>).

⁵Chairman Koplun and Commissioner Lane determined that the respondent interested party group response with respect to cement from Japan was inadequate. They, however, voted to conduct a full review, consistent with past Commission practice to conduct full reviews in grouped investigations when, with respect to at least one subject country, both interested party group responses are adequate. They do this consistent with the Commission's decision to group Japan with Mexico and Venezuela in the first five-year reviews to promote administrative efficiency. Gray Portland Cement and Cement Clinker from Japan, Mexico, and Venezuela, Inv. Nos. 303-TA-21 and 731-TA-451, 461, and 519 (Review), USITC Pub. 3361 at 5.

APPENDIX C
SUMMARY DATA

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

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

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

Table continued on next page.

Table C-1--Continued

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

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

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

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

(2) Not applicable.

(3) Not available.

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

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

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

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

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

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

Table continued on next page.

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

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

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

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

(2) Not applicable.

(3) Not available.

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

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

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

Table C-3

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

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

Item	Reported data			Period changes		
	1997	1998	1999	1997-99	1997-98	1998-99
U.S. consumption quantity:						
Amount	104,152	111,169	116,450	11.8	6.7	4.8
Responding producers' share (1)	72.1	69.7	68.9	-3.2	-2.4	-0.8
Other producers' share (1)	13.0	11.4	8.5	-4.6	-1.7	-2.9
Importers' share (1):						
Japan	0.0	0.0	0.0	0.0	0.0	0.0
Mexico	0.9	1.1	1.0	0.1	0.2	-0.1
Venezuela	1.3	1.3	1.6	0.4	0.0	0.3
Subtotal	2.2	2.5	2.7	0.5	0.2	0.2
Other sources	12.6	16.5	19.9	7.3	3.8	3.5
Total imports	14.9	18.9	22.7	7.8	4.1	3.7
U.S. imports from:						
Japan:						
Quantity	0,373	23	33	8,704.1	6,041.1	43.4
Value	252	1,368	1,873	644.6	443.8	36.9
Unit value	\$675.03	\$59.78	\$57.09	-91.5	-91.1	-4.5
Ending inventory quantity	***	***	***	***	***	***
Mexico:						
Quantity	978	1,262	1,216	24.4	29.1	-3.6
Value	34,858	45,318	44,861	28.7	30.0	-1.0
Unit value	\$35.65	\$35.91	\$36.90	3.5	0.7	2.7
Ending inventory quantity	***	***	***	***	***	***
Venezuela:						
Quantity	1,338	1,462	1,907	42.5	9.3	30.4
Value	60,640	66,542	89,098	46.9	9.7	33.9
Unit value	\$45.32	\$45.50	\$46.72	3.1	0.4	2.7
Ending inventory quantity	***	***	***	***	***	***
Subtotal:						
Quantity	2,316	2,747	3,156	36.3	18.6	14.9
Value	95,750	113,228	135,832	41.9	18.3	20.0
Unit value	\$41.34	\$41.22	\$43.04	4.1	-0.3	4.4
Ending inventory quantity	***	***	***	***	***	***
Other sources:						
Quantity	13,165	18,303	23,223	76.4	39.0	26.9
Value	612,376	824,487	1,012,351	65.3	34.6	22.8
Unit value	\$46.52	\$45.05	\$43.59	-6.3	-3.2	-3.2
Ending inventory quantity	***	***	***	***	***	***
All sources:						
Quantity	15,481	21,050	26,379	70.4	36.0	25.3
Value	708,125	937,714	1,148,182	62.1	32.4	22.4
Unit value	\$45.74	\$44.55	\$43.53	-4.8	-2.6	-2.3
Ending inventory quantity	580	655	659	13.5	12.8	0.6
Shipments by nonresponding						
U.S. producers (quantity)	13,560	12,631	9,861	-27.3	-6.9	-21.9

Table continued on next page.

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

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

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

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

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

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

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

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

Region/Source	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Quantity (1,000 short tons)																	
Southern California (1):																	
Japan	1,607	(3)	(3)	(3)	(3)	(3)	(3)	0	0	0	16	32	36	0	(3)	1	3
Mexico	595	195	0	531	414	391	248	421	21	29	49	32	32	0	0	63	168
Venezuela	46	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
All other sources	506	0	(3)	28	33	53	(3)	0	1,089	2,099	2,465	2,471	3,143	2,681	2,683	3,438	3,955
Total	2,753	195	(3)	560	448	444	249	421	1,110	2,144	2,546	2,539	3,146	2,681	2,684	3,502	4,126
Total California (2):																	
Japan	1,726	(3)	(3)	(3)	(3)	(3)	(3)	(3)	0	16	32	36	0	0	(3)	1	3
Mexico	884	195	0	531	414	391	248	421	21	29	49	32	32	0	0	63	168
Venezuela	46	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
All other sources	583	(3)	(3)	28	70	54	1	1	1,089	2,387	3,321	3,392	4,258	3,514	3,809	5,326	6,543
Total	3,239	195	(3)	560	484	445	250	422	1,110	2,431	3,402	3,460	4,260	3,514	3,810	5,390	6,714
All other districts:																	
Japan	454	(3)	(3)	306	47	15	(3)	(3)	(3)	7	1	1	(3)	1	(3)	1	1
Mexico	3,014	41	5	329	406	248	619	880	957	1,233	1,167	1,295	1,594	1,161	816	1,307	1,950
Venezuela	655	6	9	60	261	586	1,027	1,041	1,338	1,462	1,907	2,046	1,562	1,648	1,716	2,185	2,005
All other sources	6,222	111	19	3,448	4,503	8,219	9,703	10,018	12,076	15,916	19,902	19,618	17,912	17,201	16,875	17,994	21,478
Total	10,344	158	34	4,143	5,218	9,068	11,350	11,939	14,371	18,619	22,977	22,959	21,068	20,010	19,408	21,488	25,435
Total United States:																	
Japan	2,180	(3)	(3)	306	47	15	(3)	(3)	(3)	23	33	37	1	(3)	1	2	4
Mexico	3,898	236	5	860	820	639	868	1,301	978	1,262	1,216	1,327	1,596	1,161	816	1,370	2,118
Venezuela	699	6	9	60	261	586	1,027	1,041	1,338	1,462	1,907	2,046	1,562	1,648	1,716	2,185	2,005
All other sources	6,805	111	19	3,477	4,573	8,273	9,704	10,018	13,165	18,303	23,223	23,010	22,170	20,715	20,685	23,321	28,021
Total	13,583	354	34	4,703	5,702	9,514	11,600	12,361	15,481	21,050	26,379	26,419	25,329	23,525	23,217	26,877	32,149

(1) Los Angeles and San Diego.

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

(3) Less than 500 short tons.

Source: USDOC (HTS 2523.29.0000 and 2523.90.0000).

APPENDIX D

**U.S. PRODUCERS' TRADE, EMPLOYMENT, AND FINANCIAL DATA,
BY PLANT AND BY REGION**

Table D-1

Gray portland cement: U.S. production, capacity, and capacity utilization within SOUTHERN CALIFORNIA AND CALIFORNIA, by firm, 1997-99

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Table D-2

Gray portland cement: U.S. producers' total U.S. shipments of cement produced in SOUTHERN CALIFORNIA AND CALIFORNIA, by firm, 1997-99

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Table D-3

Gray portland cement: U.S. producers' inventories of cement produced in SOUTHERN CALIFORNIA AND CALIFORNIA, by firm, 1997-99

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Table D-4

Gray portland cement: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs for U.S. producers in SOUTHERN CALIFORNIA AND CALIFORNIA, by firm, 1997-99

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Individual financial data of U.S. plants

This section of appendix D presents selected income-and-loss data and return on total assets of each U.S. portland cement and cement clinker plant in the Southern California and California regions. A brief description of the selected financial indicators is presented below:

Operating income margin.—The operating income margin is operating income divided by net sales. The ratio is useful in measuring relative operating results of each plant over the review period and in comparing the operating results among the various plants by reducing the results to “common size” ratios for comparison purposes.

Net income margin.—The net income margin is net income divided by net sales. The use of this ratio is similar to the operating income margin, but it is measured at the net income level. Therefore, additional expenses such as interest expense on debt and other income and expense items are included in the computation of the ratio. Depreciation expense for the plants is deducted in the computation of both operating income and net income.

Operating return on total assets.—Operating return on total assets is operating income divided by the book value of total assets. Total assets includes the book value of plant, property, and equipment (the cement plants in the case of the producers in each of the regions, as none of the plants are leased or rented) and the current assets of the plant (items such as inventory, cash and cash equivalents, investments, and receivables). Operating return on total assets is computed on a pre-tax basis. In addition, the ratio does not take into account the timing of the operating income and the time value of money.

Net return on total assets.—Net return on total assets is net income divided by the book value of total assets. Total assets and net income are computed as described above.

The net return on total assets ratio is a relative measure useful for some comparison purposes. Net income may fluctuate widely from plant to plant and from period to period due to the changes in the characteristics of the items deducted from operating income to derive net income. Interest expense is not directly comparable between plants or even for the same plant between periods, as different plants have different costs and are capitalized with different debt/equity ratios, and some plants have been revalued or refinanced over the period of review.

Net return on total assets is computed on a pre-tax basis. In addition, the ratio does not take into account the timing of the net income and the time value of money.

Note.—The financial indicators utilized, as described above, are not directly comparable to the cost of capital for each cement plant as they do not consider factors such as the time value of money, debt/equity ratios utilized for the capitalization of each plant, and the differences in the original cost and book value of each plant. In addition, all computations are on a pre-tax basis. The rate of return method of making capital budgeting decisions is one of the more popular methods of incorporating time discounting into the analysis. For capital budgeting decisions, the costs and benefits are measured more appropriately by the cash flows attributable to the investment.

Table D-5
Results of operations of SOUTHERN CALIFORNIA AND CALIFORNIA producers in the production of gray portland cement and cement clinker, by plants, fiscal years 1997-99

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Table D-6
Return on total assets of SOUTHERN CALIFORNIA producers in the production of gray portland cement and cement clinker, fiscal years 1997-99

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Table D-7
Return on total assets of CALIFORNIA producers in the production of gray portland cement and cement clinker, fiscal years 1997-99

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Table D-8
Ranking of SOUTHERN CALIFORNIA producers in the production of gray portland cement and cement clinker by operating income margin, by plants, fiscal years 1997-99

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Table D-9
Ranking of CALIFORNIA producers in the production of gray portland cement and cement clinker by operating income margin, by plants, fiscal years 1997-99

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