

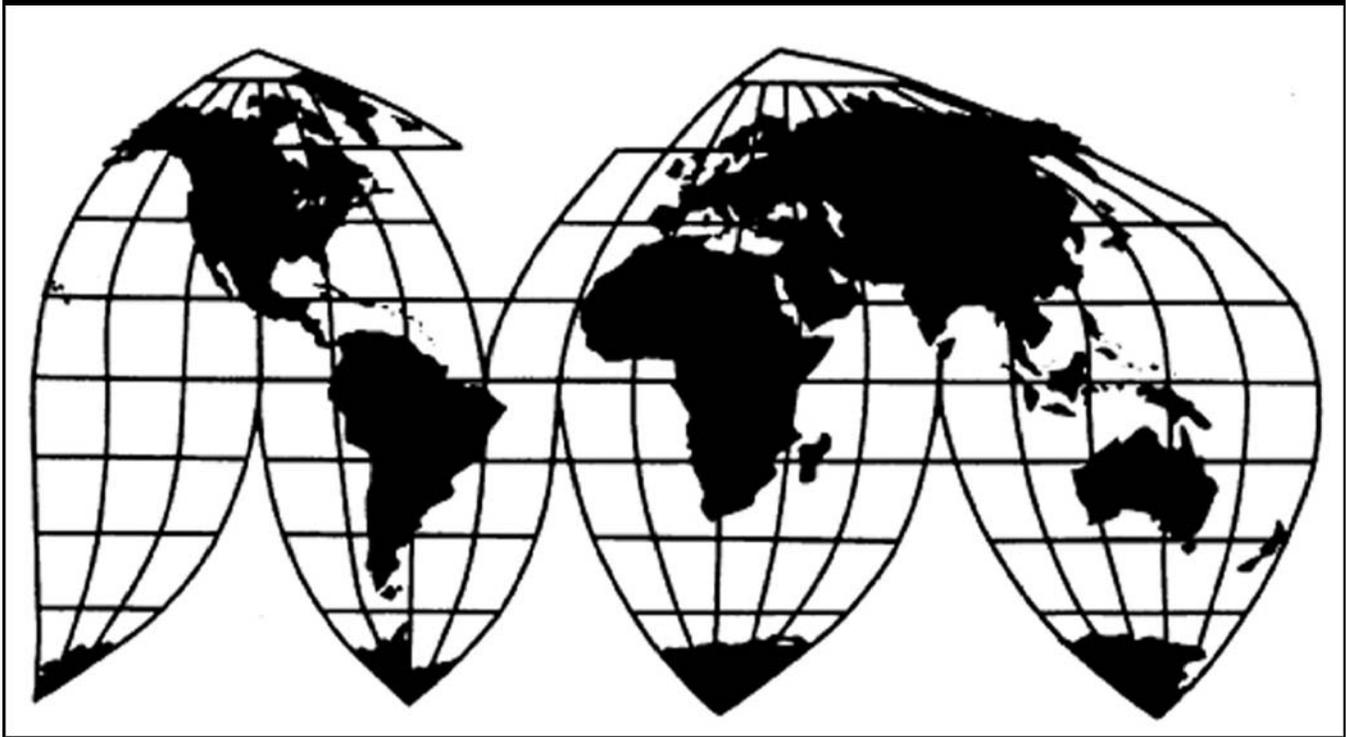
Light-Walled Rectangular Pipe and Tube from Turkey

Investigation No. 731-TA-1121 (Final)

Publication 4001

May 2008

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been replaced with asterisks (***) in this report.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1121 (Final)

LIGHT-WALLED RECTANGULAR PIPE AND TUBE FROM TURKEY

DETERMINATION

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission (Commission) determines,² pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Turkey of light-walled rectangular pipe and tube, provided for in subheading 7306.61 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).

BACKGROUND

The Commission instituted this investigation effective June 27, 2007, following receipt of a petition filed with the Commission and Commerce by Allied Tube and Conduit, Harvey, IL; Atlas Tube, Plymouth, MI; California Steel and Tube, City of Industry, CA; Ex-L-Tube, Kansas City, MO; Hannibal Industries, Los Angeles, CA; Leavitt Tube Company LLC, Chicago, IL; Maruichi American Corporation, Sante Fe Springs, CA; Searing Industries, Rancho Cucamonga, CA; Southland Tube, Birmingham, AL; Vest Inc., Los Angeles, CA; Welded Tube, Concord, Ontario (Canada); and Western Tube and Conduit, Long Beach, CA. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of light-walled rectangular pipe and tube from Turkey were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of February 5, 2008 (72 FR 6740). The hearing was held in Washington, DC, on April 11, 2008, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² Commissioner Dean A. Pinkert did not participate.

IEWS OF THE COMMISSION

Based on the record in this investigation, we determine that an industry in the United States is materially injured by reason of imports of light-walled rectangular pipe and tube (“LWR pipe and tube”) from Turkey that have been found by the Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”).^{1 2 3}

I. BACKGROUND

A. In General

LWR pipe and tube is an intermediate product employed in a variety of end uses not involving the conveyance of liquids or gases, and is not designed to bear weight.⁴ The main uses for LWR pipe and tube include ornamental fencing, window guards and framing, cattle chutes, railings for construction and agricultural applications, and more ornamental (but also functional) items such as metal furniture parts, athletic equipment, lawn and garden equipment, store display shelves and racks, towel racks, and similar items.⁵

The petitions alleging that subject imports from China, Korea, Mexico, and Turkey are materially injuring or threaten to materially injure an industry in the United States were filed on June 27, 2007. The petitioners are Allied Tube & Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, EXL Tube,⁶ Hannibal Industries, Leavitt Tube Co., Maruichi American Corporation, Searing Industries, Southland Tube, Vest, Inc., Welded Tube, and Western Tube & Conduit (“Petitioners”).⁷ Representatives from Allied Tube, Leavitt Tube, Searing Industries, Bull Moose Tube, Hannibal Industries, Southland Tube, Vest Inc, and U.S. Wholesale Pipe and Tube Co., appeared at the hearing. Petitioners also filed prehearing and posthearing briefs.

Mexican producer Nacional de Acero S.A. de C.V. (“Nacional”) filed a prehearing and posthearing brief. Mexican producer Hylsa S.A. de C.V. (“Hylsa”) filed a posthearing brief. Representatives on behalf of Nacional and Hylsa (“Mexican Respondents”) appeared at the hearing, as did a representative of Mueller Metals, Inc., a purchaser and importer of LWR pipe and tube from Mexico, and representatives from the Embassy of Mexico. No producer or exporter of the subject merchandise from China, Korea, or Turkey appeared at the hearing or submitted a brief.

¹ Commissioner Pinkert did not participate in this determination.

² The petitions alleged that subject imports from China, Korea, Mexico, and Turkey are materially injuring or threaten to materially injure an industry in the United States. Commerce has not yet made its final determinations with respect to subject imports from China, Korea, and Mexico, and therefore the Commission is not making determinations with respect to imports from these countries at this time.

³ Pursuant to the statute and our regulations, we have disregarded new factual information in the Final Comments filed by Mexican Respondents, including references to information first raised in their rejected May 6, 2008 filings. 19 U.S.C. § 1677m(g); 19 C.F.R. § 207.3(b).

⁴ Confidential Staff Report (“CR”) at I-12 and Public Staff Report (“PR”) at I-10.

⁵ CR at I-12, PR at I-10-I-11.

⁶ EXL Tube is not a petitioner in the investigation regarding imports of LWR pipe and tube from Mexico.

⁷ These producers account for approximately *** of reported U.S. production of LWR pipe and tube. CR/PR at Table III-1.

The Commission received usable questionnaire responses from 22 U.S. producers, accounting for the vast majority of U.S. production of LWR pipe and tube in 2007.⁸ The Commission also received usable questionnaire responses from 43 importers (41 of which imported within-scope merchandise) representing a majority (82.5 percent) of LWR pipe and tube imports between 2005 and 2007 based on official Commerce statistics. Imports from these firms comprised *** percent of subject imports and *** percent of nonsubject imports.⁹ Three Chinese producers of LWR pipe and tube accounting for *** percent of U.S. imports from China submitted questionnaire responses.¹⁰ The Commission received no questionnaire responses from Korean producers of LWR pipe and tube, although six Korean producers, accounting for almost all U.S. imports from Korea in 2006 (both subject and nonsubject), responded in the preliminary phase of these investigations.¹¹ Eight Mexican producers of LWR pipe and tube accounting for more than *** percent of subject U.S. imports from Mexico between 2005 and 2007 submitted questionnaire responses,¹² as did seven Turkish producers of LWR pipe and tube, accounting for an estimated *** percent of subject U.S. imports of LWR pipe and tube from Turkey over the period of investigation.¹³

⁸ CR at I-4, PR at I-3 and CR/PR at Table III-1.

⁹ CR at IV-1 and n.1, PR at IV-1 and n.1 and CR/PR at Table IV-1.

¹⁰ CR at VII-2, PR at VII-2.

¹¹ CR at VII-6, PR at VII-3. Data for two of the Korean producers, ***, were not included in the compilation of the Korean industry data due to outstanding data issues. CR/PR at Tables VII-5 and VII-6. Additionally, Korean producer Nexteel is now considered a nonsubject source of LWR pipe and tube, and its data were presented separately. CR/PR at Tables VII-5, VII-21 and VII-22.

¹² CR at VII-11, PR at VII-5 and CR/PR at Table VII-7. The largest Mexican exporter of LWR pipe and tube, Prolamsa, also provided the Commission with a questionnaire response. Because Commerce found that Prolamsa was not selling LWR pipe and tube at LTFV in the U.S. market in its preliminary antidumping duty determination, its imports are considered nonsubject for purposes of this investigation, and data on its operations were presented separately. CR at VII-10, VII-11, n. 11, PR at VII-5, n.11 and CR/PR at Tables VII-23 and VII-24.

¹³ CR at VII-15, PR at VII-6 and CR/PR at Table VII-10.

B. Previous and Related Investigations¹⁴

LWR pipe and tube imports from a number of countries have been the subject of several countervailing duty and antidumping duty investigations since the mid-1980s.¹⁵ The only antidumping duty order currently in effect for LWR pipe and tube is on imports from Taiwan.¹⁶ There are no outstanding countervailing duty orders on LWR pipe and tube in effect. The most recent antidumping investigations involving subject countries were initiated on October 6, 2003, and covered imports from Mexico and Turkey. After final affirmative LTFV determinations by Commerce, the Commission determined that the domestic LWR pipe and tube industry was neither materially injured nor threatened with material injury by reason of imports of LWR pipe and tube from Mexico and Turkey.¹⁷

¹⁴ Each antidumping or countervailing duty investigation is *sui generis*, presenting unique interactions of the economic variables the Commission considers, and therefore is not binding on the Commission in subsequent investigations, even when the same subject country and merchandise are at issue. E.g., Nucor Corp. v. United States, 414 F.3d 1331, 1340 (Fed. Cir. 2005); Ugine-Savoie Imphy v. United States, 248 F. Supp. 2d 1208, 1220 (Ct. Int'l Trade 2002). Findings made in investigations under other statutory provisions, such as those in the section 201 and section 421 investigations discussed in this section, provide even lesser guidance in subsequent antidumping or countervailing duty proceedings. Greenhouse Tomatoes from Canada, Inv. No. 731-TA-925 (Preliminary), USITC Pub. 3424 (May 2001) at n.13 (“See Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp. 2d 1353, 1379 (Ct. Int'l Trade 1999) (“As the ITC explained that the previous [ITC] publication was not for an antidumping investigation and the information and data gathered were not for the same time period as this investigation, the Court finds the ITC did not abuse its discretion in apparently not relying on its previous finding in this determination.”)); Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 (Preliminary) and 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 5-6, n.20 (“determinations in Commission investigations of live cattle conducted under section 201 of the Trade Act of 1974 in 1977 . . . offer limited guidance in decisions under the antidumping/countervailing duty laws”).

¹⁵ Certain Pipe and Tube from Argentina, Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey, Inv. Nos. 701-TA-253 and 731-TA-132, 252, 271, 274, 409, 410, 532-534, and 536 (Second Review), USITC Pub. 3867 (July 2006); Light-Walled Rectangular Pipe and Tube from Mexico and Turkey, Inv. Nos. 731-TA-1054 and 1055 (Final) USITC Pub. 3728 (Oct. 2004) at 15; Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey, and Venezuela, Inv. Nos. 701-TA-253 (Review) and 731-TA-132, 252, 271, 273, 276, 277, 296, 409, 410, 532-534, 536, and 537 (Review), USITC Pub. 3316 (July 2000) at 13-14; Light-Walled Rectangular Pipe and Tube from Mexico, Inv. No. 731-TA-730 (Preliminary), USITC Pub. 2892 (May 1995) at I-6-I-7; Certain Light-Walled Rectangular Pipes and Tubes from Argentina, Inv. No. 731-TA-409 (Final), USITC Pub. 2187 (May 1989) at 5, 15-16, 31, 37; Certain Light-Walled Rectangular Pipes and Tubes from Taiwan, Inv. No. 731-TA-410 (Final), USITC Pub. 2169 (Mar. 1989) at 3-6, 51 n.2, 59, 67 n.1; Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. No. 731-TA-349 (Final), USITC Pub. 1994 at 3-4 (July 1987); Certain Welded Carbon Steel Pipes and Tubes from the Philippines and Singapore, Inv. Nos. 731-TA-293, 294, and 296 (Final), USITC Pub. 1907 (Nov. 1986); Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. No. 731-TA-211 (Final), USITC Pub. 1799 (Jan. 1986); Certain Welded Carbon Steel Pipes and Tubes from Brazil and Spain, Inv. Nos. 731-TA-197 and 198 (Preliminary), USITC Pub. 1569 (Aug. 1984); Certain Welded Carbon Steel Pipes and Tubes from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-131,132, and 138 (Final), USITC Pub. 1519 (Apr. 1984). A summary of prior investigations regarding LWR pipe and tube appears in the CR/PR at Table I-1.

¹⁶ 71 Fed. Reg. 42118 (July 25, 2006).

¹⁷ 69 Fed. Reg. 53675, 53677 (Sept. 2, 2005); and Light-Walled Rectangular Pipe and Tube from Mexico and Turkey, Inv. Nos 731-TA-1054 and 1055 (Final), USITC Pub. 3728 at 1 (Oct. 2004).

II. DOMESTIC LIKE PRODUCT AND DOMESTIC INDUSTRY

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”¹⁸ Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant domestic industry as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”¹⁹ In turn, the Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation”²⁰

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.²¹ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.²² The Commission looks for clear dividing lines among possible like products and disregards minor variations.²³ Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise allegedly sold at LTFV,²⁴ the Commission determines what domestic product is like the imported articles Commerce has identified.²⁵

¹⁸ 19 U.S.C. § 1677(4)(A).

¹⁹ 19 U.S.C. § 1677(4)(A).

²⁰ 19 U.S.C. § 1677(10).

²¹ See, e.g., Cleo, Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

²² See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

²³ Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49. See also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”).

²⁴ See, e.g., USEC, Inc. v. United States, Slip Op. 01-1421 (Fed. Cir. April 25, 2002) at 9 (“The ITC may not modify the class or kind of imported merchandise examined by Commerce.”); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int’l Trade 1988), aff’d, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

²⁵ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Cleo, Inc. v. United States, 501 F.3d 1291, 1298, n.1 (Fed. Cir. 2007) (“Commerce’s [scope] finding does not control the Commission’s [like product] determination.”); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

B. Product Description

In its final antidumping determination on LWR pipe and tube from Turkey, Commerce defined the imported merchandise within the scope of this investigation as follows:

certain welded carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section (LWR), having a wall thickness of less than 4 mm.²⁶

C. Analysis²⁷

In the preliminary phase of this investigation, Petitioners proposed that a single domestic like product should be defined to include all LWR pipe and tube, coextensive with the scope of investigation.²⁸ The Commission agreed that the evidence supported defining a single domestic like product consisting of LWR pipe and tube, coextensive with the scope of investigation.²⁹

In the final phase of this investigation, no party advocates defining the domestic like product differently from the definition adopted in the preliminary phase of this investigation.³⁰ No new information has been developed since the preliminary determination to suggest that a different definition would be warranted. Accordingly, for the reasons stated in the preliminary determination, we define a single domestic like product consisting of LWR pipe and tube, coextensive with the scope of investigation.³¹

III. DOMESTIC INDUSTRY

A. In General

The domestic industry is defined as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the

²⁶ 73 Fed. Reg. 19814 (April 11, 2008). Commerce’s scope language defines “carbon-quality” in terms of the “small amounts” of alloying elements contained in the steel. Id.

²⁷ In previous antidumping investigations, the Commission has defined LWR pipe and tube as a single domestic like product, co-extensive with scopes that encompassed black and corrosion-resistant LWR pipe and tube. See, e.g., Certain Pipe and Tube from Argentina, Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey, Inv. Nos. 701-TA-253 and 731-TA-132, 252, 271, 274, 409, 410, 532-534, and 536 (Second Review), USITC Pub. 3867 (July 2006); Light-Walled Rectangular Pipe and Tube from Mexico and Turkey, Inv. Nos. 731-TA-1054 and 1055 (Final), USITC Pub. 3728 (Oct. 2004) at 15; Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey, and Venezuela, Inv. Nos. 701-TA-253 (Review) and 731-TA-132, 252, 271, 273, 276, 277, 296, 409, 410, 532-534, 536, and 537 (Review), USITC Pub. 3316 (July 2000) at 13-14; Light-Walled Rectangular Pipe and Tube from Mexico, Inv. No. 731-TA-730 (Preliminary), USITC Pub. 2892 (May 1995) at I-6-I-7.

²⁸ CR at I-10, PR at I-9.

²⁹ Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey, Inv. Nos. 701-TA-449 and 731-TA-1118-1121 (Preliminary), USITC Pub. 3941 (Aug. 2007) at 7.

³⁰ CR at I-10, PR at I-9-I-10.

³¹ Specifically, LWR pipe and tube, whether domestically produced or imported from the subject countries, generally has common physical characteristics and uses, is interchangeable in most end uses, is sold primarily to distributors, is produced by similar production processes, and is generally perceived to be a discrete product.

total domestic production of the product.”³² In defining the domestic industry, the Commission’s general practice has been to include in the industry all domestic production of the domestic like product, whether toll produced, captively consumed, or sold in the domestic merchant market.³³ Based on our finding that the domestic like product is LWR pipe and tube, we find that the domestic industry consists of all known domestic producers of LWR pipe and tube. The Commission obtained data from 22 domestic producers estimated to account for the vast majority of U.S. production of LWR pipe and tube.³⁴

B. Related Parties

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). Subsection 1677(4)(B) 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.³⁵ Exclusion of such a producer is within the Commission’s discretion based upon the facts presented in each investigation.

No party has argued that a domestic producer should be excluded from the domestic industry under the related party provision. However, U.S. producer *** is a related party because it is wholly owned by ***, which imported subject LWR pipe and tube from a variety of subject sources over the 2005-2007 period.³⁶ *** did not itself import or purchase LWR pipe and tube from subject sources during the period.³⁷ It is a Petitioner and accounted for *** percent of domestic production during the period.³⁸ *** operating income as a ratio of net sales ***.³⁹ No party has argued that *** should be excluded from the domestic industry.

Based on the data, *** interests lie more in domestic production than in importation. There is no record evidence that *** derives a significant financial benefit from its parent’s importation of subject merchandise.⁴⁰ *** operating margins are *** than the industry average during the period, and declined sharply in 2007. Therefore, the Commission finds that appropriate circumstances do not exist to exclude *** from the domestic industry.

*** is a related party due to its importation of LWR pipe and tube from *** in which it imported subject merchandise.⁴¹ *** accounted for *** percent of reported domestic production of LWR pipe and

³² 19 U.S.C. § 1677(4)(A).

³³ United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

³⁴ CR/PR at Table III-1, CR at III-5, PR at III-4.

³⁵ 19 U.S.C. § 1677(4)(B).

³⁶ CR at III-17, PR at III-14 and CR/PR at Table III-7.

³⁷ *** reported that it imported subject merchandise due to “sizes outside domestic capability and/or geographic considerations.” *** U.S. Importers’ Questionnaire Response, question II-4.

³⁸ CR/PR at Table III-1.

³⁹ CR/PR at Table VI-3.

⁴⁰ Consistent with her practice in past investigations and reviews, Vice Chairman Shara L. Aranoff does not rely on individual-company operating income margins in assessing whether a related party has benefitted from importation of subject merchandise. Rather, she determines whether to exclude a related party based principally on its ratio of subject imports to domestic production and whether its primary interests lie in domestic production or importation.

⁴¹ CR/PR at Table III-7.

tube during the period.⁴² It has expressed support for the petitions.⁴³ The ratio of its subject imports to its domestic production was ***,⁴⁴ ***/ operating income to net sales was ***/ percent in 2006, ***/ the industry average of 11.4 percent, and in 2007, ***/, its ratio of operating income to net sales ***/ to ***/ percent, ***/ the industry average of 6.4 percent.⁴⁵ No party has argued that ***/ should be excluded from the domestic industry.

Based on the data, ***/ interests appear to lie in domestic production. Its U.S. operations do not appear to have benefitted financially from its low volumes of subject imports. Its operating income to net sales ratio ***/ with its importation of subject imports ***/. Therefore, the Commission finds that appropriate circumstances do not exist to exclude ***/ from the domestic industry.⁴⁶

IV. CUMULATION

A. In General

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, section 771(7)(G)(I) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the U.S. market.⁴⁷ In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered four factors, including:

- (1) the degree of fungibility between the subject 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 geographic markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and

⁴² CR/PR at Table III-I.

⁴³ CR/PR at Table III-1.

⁴⁴ CR/PR at Table III-7.

⁴⁵ CR/PR at Table VI-3.

⁴⁶ Although they apparently did not import subject merchandise directly, both ***/ and ***/ purchased subject merchandise during the period of investigation. CR/PR at Table III-7. The Commission has concluded that a domestic producer that does not itself import subject merchandise, or does not 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 producers were responsible for a predominant proportion of an importer's purchases and the importer's purchases were substantial. See, e.g., Certain Cut-to-Length Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia, Inv. Nos. 701-TA-387-392 and 731-TA-815-822 (Preliminary), USITC Pub. 3181 at 12 (April 1999); Certain Brake Drums and Rotors from China, Inv. No. 731-TA-744 (Final), USITC Pub. 3035 at 10 n.50 (April 1997).

We find that neither ***/ or ***/ is a related party. ***/ was not responsible for a predominant share of any importer's purchases. CR at III-19, n.45, PR at III-14, n.45 and CR/PR at Table IV-1. The purchases of the importers from which ***/ obtained its LWR pipe and tube were insubstantial. CR at III-18-III-19, PR at III-14-III-15.

⁴⁷ 19 U.S.C. § 1677(7)(G)(i).

- (4) whether the subject imports are simultaneously present in the market.^{48 49}

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.⁵⁰ Only a “reasonable overlap” of competition is required.⁵¹

B. Analysis

Petitioners contend that subject imports from China, Korea, Mexico, and Turkey should be cumulated on the basis that they are fungible with the domestic product and each other, are sold in the same geographic markets, through common or similar channels of distribution, and were all present in the U.S. market throughout the period of investigation.⁵² Mexican Respondents do not challenge that subject imports from all subject countries should be cumulated for the purpose of the Commission’s present injury analysis.⁵³ Based on the discussion that follows, we cumulate subject imports from China, Korea, Mexico, and Turkey for purposes of our present material injury analysis.

The threshold requirement for cumulation is satisfied because Petitioners filed a petition with respect to imports from each of the four subject countries on the same day, June 27, 2007. None of the statutory exceptions to cumulation is applicable.⁵⁴ We next examine the four factors that the Commission customarily considers in determining whether there is a reasonable overlap of competition.

1. Fungibility

Subject imports from the four subject countries are fungible with both the domestic like product and with each other. Both Petitioners and Mexican Respondents have described LWR pipe and tube as a commodity product.⁵⁵ The majority of market participants found domestically produced LWR pipe and tube to be always or frequently interchangeable with LWR pipe and tube from China, Korea, Mexico, and

⁴⁸ See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff’d, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int’l Trade), aff’d, 859 F.2d 915 (Fed. Cir. 1988).

⁴⁹ Commissioner Lane notes with respect to the first factor that her analysis does not require such similarity of products that a perfectly symmetrical fungibility is required and that this factor would be better described as an analysis of whether subject imports from each country and the domestic like product could be substituted for each other. See Separate Views of Commissioner Charlotte R. Lane, Certain Lightweight Thermal Paper from China, Germany, and Korea, Inv. Nos. 701-TA-451 and 731-TA-1126-1128 (Preliminary), USITC Pub. 3964 (Nov. 2007).

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

⁵¹ The Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103-316, Vol. 1 at 848 (1994) (“SAA”) expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” SAA at 848 (citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int’l Trade 1988)), aff’d 859 F.2d 915 (Fed. Cir. 1988). See Goss Graphic Sys., Inc. v. United States, 33 F. Supp. 2d 1082,1087 (Ct. Int’l Trade 1998) (“cumulation does not require two products to be highly fungible”); Wieland Werke, AG, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

⁵² Petitioners’ Prehearing Brief at 4-7.

⁵³ Hearing Transcript (“Tr.”) at 193 (Pierce).

⁵⁴ See 19 U.S.C. § 1677(7)(G)(ii).

⁵⁵ Petitioners’ Posthearing Brief at 13; Nacional’s Posthearing Brief at Exhibit 1, p. 1.

Turkey.⁵⁶ Additionally, the majority of market participants who compared subject imports from different sources also found them to be always or frequently interchangeable.⁵⁷

2. Same Geographical Markets

There appears to be significant geographical overlap among the subject merchandise from each subject country and the domestic like product during the period of investigation. In the majority of cases, U.S. producers and importers of subject merchandise sell LWR pipe and tube in one or more specific regions of the United States.⁵⁸ Many domestic producers sell to more than one region, and a number of domestic producers sold to four or more regions of the country.⁵⁹ Shipments of subject imports from China and Korea showed the highest concentration in the Pacific Coast region, but shipments from China were also significant in the Central Southwest where imports from Turkey and Mexico are concentrated.⁶⁰ In addition, there were subject imports from all four countries in the Southeast and Mountain regions. Therefore, although subject imports from China and Korea tended to be more concentrated in the Pacific Coast region, and subject imports from Turkey and Mexico tended to be more concentrated in the Central Southwest, subject imports and the domestic like product were present in significant quantities in the same geographical markets during the period.⁶¹ In short, the record demonstrates that subject imports from China, Korea, Mexico, and Turkey and the domestic like product were each marketed and sold in common geographic regions.

3. Channels of Distribution

Domestic producers and importers sold the majority of their LWR pipe and tube to distributors during the period of investigation. U.S. producers sold 81.5 percent of their U.S. shipments to distributors during the period of investigation, whereas U.S. importers sold 91.7 percent of their U.S. shipments of imports of LWR pipe and tube from subject sources to distributors.⁶² The record therefore demonstrates a substantial overlap in the channels of distribution through which subject imports and the domestic like product are distributed in the United States.

⁵⁶ CR/PR at Table II-5.

⁵⁷ CR/PR at Table II-5. The one exception to this statement was that only five out of 11 purchasers found LWR pipe from China and Mexico to be always or frequently interchangeable, while five purchasers found them to be sometimes interchangeable, and one purchaser found them to be never interchangeable. Id.

⁵⁸ CR at II-1, PR at II-1. Nine out of 21 domestic producers sell the majority of their LWR pipe and tube to the Midwest, six sell primarily to the Pacific Coast, three sell mostly to the Southeast, and two sell mostly to the Central Southwest.

⁵⁹ CR at II-1, PR at II-1.

⁶⁰ CR/PR at Table IV-6 and Figure IV-10.

⁶¹ CR/PR at Table IV-6 (showing the quantity and market share of U.S. importers' U.S. shipments, by region, in 2007.) Mexican Respondents testified that while subject imports from Mexico were concentrated in the Central Southwest, "you do have some evidence of some domestic mills{ ' sales in the Cental Southwest} and you've also got imports from Turkey and China through the port of Houston, Galveston. ... to say that cumulation is not allowed in a material injury context, that would be pushing the {same geographical markets} argument pretty far." Tr. at 193 (Pierce).

⁶² CR at I-15- I-16 n.36, PR at I-13 n.36. In 2007, shipments to distributors accounted for *** percent of subject imports from China, *** percent of subject imports from Korea, *** percent of subject imports from Mexico, and *** percent of subject imports from Turkey. CR/PR at Table II-1.

4. Simultaneous Presence

Imports from each of the subject countries have been present in the U.S. market throughout the period of investigation. Specifically, subject imports from China, Korea, and Mexico were recorded in every month of the period of investigation.⁶³ Subject imports from Turkey were recorded in 29 of the 36 months.⁶⁴

5. Conclusion

The record in these investigations consequently indicates that the domestic like product and imports from each of the four subject countries are sufficiently similar in characteristics to satisfy the fungibility criterion. The criteria concerning geographic overlap, simultaneous presence, and channels of distribution are also satisfied. Accordingly, we cumulate imports from all four subject countries for our analysis of material injury by reason of subject imports.

IV. MATERIAL INJURY BY REASON OF SUBJECT IMPORTS⁶⁵

In the final phase of antidumping or countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.⁶⁶ In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.⁶⁷ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁶⁸ In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.⁶⁹ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁷⁰

For the reasons stated below, we determine that the domestic industry producing LWR pipe and tube is materially injured by reason of subject imports from Turkey.

⁶³ CR/PR at Table IV-3.

⁶⁴ CR/PR at Table IV-3. Out of seven months in which there were no entries of subject imports from Turkey, four occurred after the filing of the petition. CR at IV-29, PR at IV-14.

⁶⁵ No party argues that negligibility is an issue in these investigations under 19 U.S.C. § 1677(24). Subject imports from each of the subject countries were above three percent of total imports for the most recent 12-month period preceding the filing of the petitions (June 2006 to May 2007). Specifically, subject imports from China accounted for 26.4 percent, subject imports from Korea accounted for *** percent, subject imports from Mexico accounted for *** percent, and subject imports from Turkey accounted for 12.8 percent of total imports of the subject merchandise in that period. CR/PR at Table IV-7. Consequently, we find that subject imports are not negligible.

⁶⁶ 19 U.S.C. §§ 1671d(a) and 1673d(a).

⁶⁷ 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each [such] factor . . . [a]nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B). See also *Angus Chemical Co. v. United States*, 140 F.3d 1478 (Fed. Cir. 1998).

⁶⁸ 19 U.S.C. § 1677(7)(A).

⁶⁹ 19 U.S.C. § 1677(7)(C)(iii).

⁷⁰ 19 U.S.C. § 1677(7)(C)(iii).

A. Conditions of Competition and the Business Cycle

The following conditions of competition are pertinent to our analysis of the impact of cumulated subject imports of LWR pipe and tube on the domestic industry.

1. Demand Conditions

LWR pipe and tube is an intermediate product with many end use applications, including fences, gates, hand rails, furniture, sports equipment, and automotive equipment. Overall demand for LWR pipe and tube is closely linked to demand for those end products. Petitioners and Mexican Respondents agreed that demand for LWR pipe and tube increased between 2005 and 2006, before declining in 2007.⁷¹ Producers reporting decreased demand in 2007 attributed the decline primarily to an overall economic recession, and a decrease in the residential construction sector and in home improvement.⁷²

When measured by apparent U.S. consumption, U.S. LWR pipe and tube demand increased from 962,225 short tons in 2005 to 1.03 million short tons in 2006, and then declined to 894,973 short tons in 2007, for an overall period decline of 7.0 percent.⁷³

2. Supply Conditions

The Commission received questionnaire responses from 22 U.S. producers, accounting for the vast majority of U.S. production of LWR pipe and tube during the period of investigation.⁷⁴ The record indicates that no one producer *** within the U.S. LWR pipe and tube industry in terms of production,⁷⁵ although there has been some recent consolidation in this industry.⁷⁶ The domestic industry's capacity exceeded apparent U.S. consumption in 2005 and 2007, but was nearly 78,000 short tons less than apparent consumption in 2006.⁷⁷ The domestic industry's production capacity and production declined during the period of investigation by 6.5 percent and 7.2 percent, respectively.⁷⁸

Domestic producers' share of the U.S. market, by quantity, declined from 65.1 percent in 2005 to 60.8 percent in 2006, before increasing to 64.8 percent in 2007, for an overall period decrease of 0.3

⁷¹ Petitioners' Posthearing Brief at 1; Nacional's Posthearing Brief at 5-6.

⁷² CR at II-8, PR at II-5. Petitioner Hannibal Industries estimated that "between 60 and 70 percent of the product is utilized in the residential construction sector." Tr. at 59 (Lind). Petitioners did not anticipate a rebound in the housing market until the latter part of 2008 and into 2009, and state that any rebound will be smaller than the levels experienced in the early 2000s. Tr. at 61-63 (Montgomery, Meyer, and Knox).

⁷³ CR/PR at Table C-1. From 2006 to 2007, apparent U.S. consumption of LWR pipe and tube fell by 12.7 percent.

⁷⁴ CR/PR at Table III-1, CR at III-3, PR at III-4.

⁷⁵ CR/PR at Table III-1 (reflecting that the individual shares of production for the four largest U.S. producers of LWR pipe and tube range from *** percent to *** percent and for the four smallest from *** percent to *** percent during the period examined).

⁷⁶ For example, on March 7, 2008, Maruichi Steel Tube Ltd. (parent company to Maruichi American Corp.) announced the acquisition of Leavitt Tube Company. CR at III-8, PR at III-7.

⁷⁷ CR/PR at Table C-1.

⁷⁸ The domestic industry's capacity declined from 964,957 short tons in 2005, to 947,858 short tons in 2006, and to 902,385 short tons in 2007. Domestic production increased slightly from 625,933 short tons in 2005 to 631,842 short tons in 2006, before declining to 580,847 short tons in 2007. CR/PR at Table III-3.

percentage points.⁷⁹ Subject imports' share of the U.S. market increased from *** percent in 2005 to *** percent in 2006, before declining to *** percent in 2007, for an overall period increase of *** percentage points.⁸⁰ The U.S. market share held by nonsubject imports, an overwhelming majority of which were imported from either Canada or from a nonsubject producer in Mexico (Prolamsa), declined steadily during the period examined, from *** percent in 2005, to *** percent in 2006, and to *** percent in 2007, for an overall period decline of *** percentage points.⁸¹

3. Substitutability and Other Conditions

Because manufacturing processes and technologies are similar throughout the world, LWR pipe and tube from different sources is generally viewed as interchangeable across a range of applications.⁸² LWR pipe and tube is manufactured to meet common ASTM specifications (such as A-513 or A-500) regarding materials, dimensions, and testing.⁸³ The vast majority of market participants found domestically produced LWR pipe and tube always or frequently interchangeable with subject LWR pipe and tube.⁸⁴ Additionally, the majority of market participants who compared subject imports from different sources found them to be always or frequently interchangeable.⁸⁵

B. Volume of the Subject Imports

Section 771(7)(c) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”⁸⁶

Cumulated subject import volume increased from *** short tons in 2005 to *** short tons in 2006, before declining to *** short tons in 2007, for a period increase of *** percent.⁸⁷ The ratio of subject imports to U.S. production increased over the period by *** percentage points.⁸⁸ The total market share held by subject imports increased from *** percent of apparent U.S. consumption in 2005 to *** percent in 2006, before declining to *** percent in 2007, for a period increase of *** percentage points.⁸⁹ The U.S. market share held by nonsubject imports declined throughout the period, from *** percent of apparent U.S. consumption in 2005, to *** percent in 2006, and to 12.7 percent in 2007, for a period

⁷⁹ CR/PR at Table IV-11.

⁸⁰ CR/PR at Table IV-11.

⁸¹ CR/PR at Table IV-11.

⁸² CR at I-14, PR at I-12. Although they state that LWR pipe and tube is a “commodity product,” Mexican Respondents state that most, if not all, of the Mexican LWR pipe and tube inventory currently awaiting sale in the home market is unmarketable in the United States due largely to the difficulties of cutting LWR pipe currently in metric sizes to standard sizes. Nacional’s Posthearing Brief at Exhibit 1, p. 1; Tr. at 143 (Psooy). Petitioners stated that they sell pipe with metric specifications in the United States. Tr. at 123-24 (Meyer and Mandel).

⁸³ CR at I-14, PR at I-12.

⁸⁴ CR/PR at Table II-5.

⁸⁵ CR/PR at Table II-5. The one exception to this statement was that only five out of 11 purchasers found LWR pipe and tube from China and Mexico to be always or frequently interchangeable, while five purchasers found them to be sometimes interchangeable, and one purchaser found them to be never interchangeable. Id.

⁸⁶ 19 U.S.C. § 1677(7)(C)(i).

⁸⁷ CR/PR at Table IV-2.

⁸⁸ CR/PR at Table IV-12.

⁸⁹ CR/PR at Table IV-11.

decline of *** percentage points.⁹⁰ The U.S. market share held by the domestic industry declined from 65.1 percent in 2005 to 60.8 percent in 2006, before increasing to 64.8 percent in 2007, for an overall period decline of 0.3 percentage points.⁹¹ As the data reflect, increasing subject import volumes took market share from the domestic industry and nonsubject imports over the period of investigation.

The above data showing that subject imports increased both in absolute terms over the period and relative to production and consumption while taking market share from the domestic industry must also be viewed in light of a decline in apparent U.S. consumption of 7.0 percent over the period, and a *** percent drop from 2006 to 2007. Despite this drop in apparent U.S. consumption, and a slowing of LWR pipe and tube demand at the beginning of 2007 due to a general economic downturn and a decrease in the residential construction and home improvement sectors, subject import volume for the first six months of 2007 exceeded subject import volume for the same period in 2006.⁹² It was not until after June 2007, the month in which the petitions in these investigations were filed, that cumulated subject imports began to decline. As discussed above, even with this sharp decline in the second half of 2007, subject import volume in 2007 was greater than in 2005. In conducting our analysis, we have given less weight to the decline in subject imports that occurred in the last six months of 2007, since we find that it was due to the effects of the filing of the petitions.⁹³

For the foregoing reasons, we find that the subject import volume and the increase in that volume are significant, both in absolute terms and relative to consumption and production in the United States.

C. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.⁹⁴

As discussed above, LWR pipe and tube is largely a commodity product that is commonly produced to ASTM specifications, and a high degree of fungibility exists between the domestic like product and subject imports. A majority of market participants found subject imports and the domestic like product to be always or frequently interchangeable.⁹⁵ Price plays an important role in sales of LWR

⁹⁰ CR/PR at Table IV-11.

⁹¹ CR/PR at Table IV-11.

⁹² CR/PR at Tables IV-3 and Table C-1. Subject U.S. imports were *** short tons from January through June 2007 compared to *** short tons from January through June 2006. CR/PR at Table IV-3.

⁹³ See 19 U.S.C. § 1677(7)(I).

⁹⁴ 19 U.S.C. § 1677(7)(C)(ii).

⁹⁵ CR/PR at Table II-5.

pipe and tube. The vast majority of purchasers stated that price was very important to their purchasing decisions, and listed price as either the number one or number two factor in purchasing decisions.⁹⁶

The Commission collected quarterly weighted-average price data from U.S. producers and importers on five LWR pipe and tube products.⁹⁷ Price data reported by U.S. producers accounted for approximately 19.0 percent of U.S. producers' commercial shipments during the period and the following percentages of subject import shipments from each country: China - 24.3 percent, Korea - 20.3 percent, Mexico - 35.0 percent, and Turkey - 33.9 percent.⁹⁸

Price comparisons between U.S.-produced LWR pipe and tube and cumulated subject imports were possible in a total of 56 quarters. In 50 quarters, cumulated subject imports undersold the domestic product, by margins ranging from 0.9 percent to 45.5 percent.⁹⁹ The average margin of underselling for subject imports over the period was 15.2 percent.¹⁰⁰

We have also considered movements in LWR pipe and tube prices over the period of investigation. Prices for LWR pipe and tube for products 1 to 5 generally fell in 2005, stabilized and increased slightly in 2006, and then fell to period lows in 2007. Overall, during the period of investigation, domestic prices for all five pricing products declined. For pricing products 1 and 3, which accounted for a significant majority of the volume of domestic sales of the pricing products, domestic prices ended 2007 at levels that were 9.2 percent and 18.9 percent, respectively, lower than the levels at the start of 2005.¹⁰¹ We find that the persistent underselling by subject imports depressed prices during the period of investigation, and by 2007, caused domestic mills to institute pricing programs in which they offered product to customers at greatly reduced prices to remain competitive with imported product and maintain volumes. Additionally, the Commission confirmed multiple instances in which domestic producers lost sales to subject imports or had to lower their prices in response to low-priced offers for

⁹⁶ CR/PR at Table II-3 and Table II-2. Availability/reliability of supply was cited by purchasers most frequently as the primary factor in purchasing decisions, with price a close second (14 to 13). The majority of purchasers ranked the U.S. product superior to subject product from each of the subject countries in terms of availability/reliability of supply. CR/PR at Table II-4.

⁹⁷ The five types of LWR pipe and tube for which pricing data were requested are: Product 1 - ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), carbon welded, not pickled and oiled, 2 inch square, 0.120 inch (+ or -10 percent) wall thickness (11 gauge), 20 foot or 24 foot lengths; Product 2 - ASTM A-513 (mechanical) or A-500 grade A or B (ornamental) tubing, carbon welded, not pickled and oiled, 1 inch square, 0.065 nominal wall thickness (+ or -10 percent) (16 gauge), 20 foot or 24 foot mill lengths; Product 3 - ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), hot-rolled, not pickled and oiled, 11 gauge or 0.120 inch + or -10 percent wall, three inch square to four inches square, or in rectangular circumferences of 12 inches to 16 inches, lengths of 20 or 24 feet; Product 4 - ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), 16 gauge or .065 inch + or -10 percent wall, galvanized, one inch square, lengths of 20 or 24 feet; Product 5 - ASTM A-513 (mechanical) or A-500 grade A or B (ornamental) tubing, galvanized, 2.5 inch square, 0.083 nominal wall thickness (+ or -10 percent) 14 gauge), lengths of 20 or 24 feet.

⁹⁸ CR at V-9, PR at V-7.

⁹⁹ CR/PR at Tables V-1, V-2, V-3, V-4, and V-5. In six quarterly comparisons, all for Product 5, for which there were significantly fewer sales of both the domestic like product and subject imports than products 1 and 3, cumulated subject imports oversold the domestic like product by margins ranging from *** percent to *** percent.

¹⁰⁰ CR/PR at Table V-7 (as revised by memorandum INV-FF-052, May 6, 2008). We note that a majority of purchasers indicated that the prices of LWR pipe and tube from each of the subject countries were below those of the U.S.-produced product. CR/PR at Table II-4. In contrast, imports from Canada were considered by the majority of purchasers to be "comparable" in price. Id.

¹⁰¹ CR/PR at Table V-6 (as revised by memorandum INV-FF-052, May 6, 2008).

subject imports.¹⁰² These instances help to confirm that the underselling had an effect in the market and that subject imports played a role in causing domestic prices to decline.¹⁰³ Therefore, we find that subject imports depressed prices to a significant degree.

We also find that lower-priced subject imports suppressed domestic prices to a significant degree.¹⁰⁴ The domestic industry's cost of goods sold ("COGS") as a share of net sales increased from 2005 to 2007 by 3.1 percentage points.¹⁰⁵ Although unit COGS declined slightly over the period from \$764 to \$761, for a period decline of 0.4 percent, unit sales values were also lower, falling from \$912 to \$876, or by 3.9 percent, and thus were still not sufficient to cover costs and expenses.¹⁰⁶ These data indicate that the domestic producers were unable to raise their prices sufficiently to cover costs due to significant volumes of lower-priced subject imports entering the U.S. market. We therefore find that U.S. producers' prices were suppressed because of persistent underselling by subject imports.

Mexican Respondents argue that there is no causal link between underselling by subject imports and domestic prices because, for the first three quarters of 2006 when subject imports' largest underselling margins occurred, domestic prices for the two pricing products sold in the largest volumes (products 1 and 3) rose, yet in 2007, when underselling margins tightened for these products, U.S. prices dropped.¹⁰⁷ We find that in 2006, the domestic industry was able to raise its prices despite large underselling margins by the subject imports, because the price of subject imports also rose due to continued strong demand for LWR pipe and tube. Although the domestic industry was able to raise prices in 2006, as discussed above, the domestic industry still lost market share to subject imports. By the end of the first quarter of 2007, domestic prices for LWR pipe and tube were already below the prices at the start of the period for all pricing products except product 5, as significant volumes of low-priced subject imports continued to undersell the domestic like product by significant margins, and apparent consumption declined. Despite the drop in apparent consumption in 2007, subject import volume was actually greater for the first six months of 2007 than for the same period in 2006, and only declined after the petitions in these investigations were filed in late June of 2007. Accordingly, we find that the significant volumes of low-priced subject imports caused domestic producers to reduce their prices throughout 2007, to the point that domestic prices were at or near their period lows by the last quarter of

¹⁰² Tr. at 41 (Montgomery).

¹⁰³ The Commission confirmed six lost sales allegations totaling \$*** of the alleged \$*** in lost sales over the period of investigation, CR at V-22, PR at V-17 and CR/PR at Table V-8. The Commission also confirmed six lost revenue allegations totaling \$*** in lost revenues over the period. CR at V-22, PR at V-17 and CR/PR at Table V-9.

¹⁰⁴ Vice Chairman Aranoff and Commissioner Okun, having found that subject imports depressed domestic prices to a significant degree, do not reach the issue of price suppression and do not join this paragraph.

¹⁰⁵ CR/PR at Table VI-1. COGS/sales declined from 83.8 percent in 2005 to 82.6 percent in 2006, before increasing to 86.9 percent in 2007.

¹⁰⁶ CR/PR at Table C-1.

¹⁰⁷ Nacional's Posthearing Brief at 4-5.

2007.¹⁰⁸ These depressed prices explain to a large degree why underselling margins were somewhat lower at the end of 2007.

In sum, the record indicates significant underselling by subject imports during the period of investigation, and that subject imports have depressed and/or suppressed domestic prices to a significant degree. Accordingly, we find that subject imports have had significant adverse effects on domestic prices during the period of investigation.

D. Impact of the Subject Imports on the Domestic Industry¹⁰⁹

Section 771(7)(C)(iii) of the Act provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”¹¹⁰ These factors include output, sales, inventories, ability to raise capital, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹¹¹

¹⁰⁸ Mexican Respondents argue that raw material costs, specifically those for hot-rolled steel and zinc (for galvanized product), drive pricing for the U.S. industry, not subject imports. Nacional’s Prehearing Brief at 13. Although raw material costs can be a factor influencing prices, in this case the correlation between raw material costs and domestic prices is weak. In 2006, when prices for all five pricing products increased to varying degrees, the cost of raw materials actually declined from \$602 per short ton in 2005 to \$592 per short ton in 2006. CR/PR at Table VI-4. In 2007, when U.S. prices for all five pricing products dropped sharply, raw material costs declined only slightly. CR/PR at Table VI-4.

Mexican Respondents also argue that the pricing data collected in these investigations should be viewed with skepticism because subject imports are more heavily concentrated in sales to lower-priced distributors than are domestic mills’ sales, resulting in exaggerated margins of underselling. Nacional’s Prehearing Brief at 13. For domestic producers, shipments to distributors ranged between 81 percent and 82 percent of sales over the period of investigation, while shipments of imports from subject sources to distributors ranged between 89 percent and 93 percent. CR/PR at Table II-1. Thus, the data show that a vast majority of both domestic producers’ shipments and shipments of subject imports were sold to distributors, and based on the large underselling margins for subject imports throughout the period, we do not find that this relatively small difference in the distribution of shipments compromises the pricing data. At any rate, there is no record evidence that end users uniformly pay higher prices than all distributors, as the few end users who purchase directly from the mills are often very large and purchase significant volumes. Tr. at 147 (Psooy, Mueller Metals) (“This price {\$57} is only given to what we refer to in our industry as the ‘big dogs,’ which consist of large distributors, large manufacturers, and large retail chains, many of which have more than 10 outlets. Smaller distributors typically pay substantially more than the ‘big dog’ clients.”)

¹⁰⁹ The statute instructs the Commission to consider the “magnitude of the dumping margin” in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final antidumping duty determination regarding LWR pipe and tube from Turkey, Commerce found dumping margins for subject imports ranging from 27.04 percent to 41.71 percent. In its preliminary antidumping duty determinations, Commerce found dumping margins ranging from 223.52 percent to 264.64 percent for subject imports from China, from 15.98 percent to 30.66 percent for subject imports from Korea, and from 4.96 percent to 11.50 percent for subject imports from Mexico.

¹¹⁰ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 (“In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.”). SAA at 885.

¹¹¹ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386, 731-TA-812-813 (Preliminary), USITC Pub. 3155 at 25 n.148 (Feb. 1999).

We have examined the performance indicators in the trade and financial data for the domestic industry producing LWR pipe and tube. These data indicate declining overall trends from 2005 to 2007, with significant declines in most indicators occurring in 2007.

U.S. production, capacity, capacity utilization, and shipments all declined overall from 2005 to 2007. U.S. production of LWR pipe and tube increased from 2005 to 2006, but declined in 2007 for an overall decline of 7.2 percent from 2005 to 2007.¹¹² Domestic producers' capacity and U.S. shipments of LWR pipe and tube declined each year for an overall decline of 6.5 percent and 7.4 percent, respectively, from 2005 to 2007.¹¹³ Capacity utilization followed production trends, increasing from 2005 to 2006, then declining in 2007.¹¹⁴

During the period 2005-2007, domestic producers' ending inventories of LWR pipe and tube declined by 13.0 percent, and relative to the quantity of total shipments, ending inventories fell by 0.7 percentage points over the period.¹¹⁵ Over this same period, U.S. importers' inventories of subject merchandise increased by *** percent.¹¹⁶

A number of employment-related indicators – including average number of production-related workers, hours worked, and wages paid for producing LWR pipe and tube – declined steadily from 2005 to 2007, by 12.7 percent, 15.6 percent, and 7.0 percent, respectively.¹¹⁷ The domestic industry's average unit labor costs fluctuated between years and rose slightly by 0.2 percent from 2005 to 2007. Productivity rose by 9.9 percent over the period.¹¹⁸

The domestic industry's financial indicators, including operating income and operating margins, improved from 2005 to 2006, but then fell to their lowest levels of the period in 2007. Operating income rose from 53.6 million in 2005 to 61.7 million in 2006, before falling to 30.9 million in 2007, for a period decline of 42.4 percent.¹¹⁹ The industry's ratio of operating income to net sales followed a similar trend, growing from 9.9 percent in 2005 to 11.4 percent in 2006, before declining to 6.4 percent in 2007.¹²⁰ By 2007, seven out of 22 domestic producers reported operating losses, more than triple the number of firms reporting losses in 2005.¹²¹

¹¹² U.S. production increased from 625,933 short tons in 2005 to 631,842 short tons in 2006 and then declined to 580,847 short tons in 2007. CR/PR at Table C-1.

¹¹³ U.S. shipments declined from 625,967 short tons in 2005 to 623,389 short tons in 2006 and 579,559 short tons in 2007. CR/PR at Table C-1.

¹¹⁴ CR/PR at Table C-1. Capacity utilization increased from 64.9 percent in 2005 to 66.7 percent in 2006, before declining to 64.4 percent in 2007.

¹¹⁵ CR/PR at Table C-1.

¹¹⁶ CR/PR at Table C-1.

¹¹⁷ CR/PR at Table C-1. The average number of production workers declined from 1,114 in 2005 to 973 in 2007. While hours worked also decreased from 2.0 million in 2005 to 1.7 million in 2007, hourly wages increased from \$16.99 in 2005 to \$18.71 in 2007. Additionally, wages paid decreased from \$33.9 million in 2005 to \$31.5 million in 2007. CR/PR at Table C-1.

¹¹⁸ CR/PR at Table C-1. Productivity increased from 314.1 short tons per 1,000 hours in 2005 to 346.9 short tons per 1,000 hours in 2006, and then declined to 345.3 short tons per 1,000 hours in 2007.

¹¹⁹ CR/PR at Table C-1.

¹²⁰ CR/PR at Table VI-1. The domestic industry's return on investment increased from 18.7 percent in 2005 to 21.2 percent in 2006, before falling to 10.0 percent in 2007. CR/PR at Table VI-8.

¹²¹ CR/PR at Table VI-3.

Net sales volume declined throughout the period from 591,721 short tons in 2005 to 549,260 short tons in 2007, a period decline of 7.2 percent.¹²² The decline in net sales value occurred at even a greater rate, falling by 10.8 percent over the period.¹²³ As discussed previously, COGS as a ratio to sales increased overall from 2005 to 2007 by 3.1 percentage points.¹²⁴

The industry's capital expenditures declined irregularly from \$12.0 million in 2005 to \$9.3 million in 2007.¹²⁵ R&D expenses fell steadily throughout the period from \$*** in 2005 to \$*** in 2007.¹²⁶

As described in earlier sections, the subject imports have increased in volume and market share, have undersold domestic product, and have depressed and suppressed domestic prices. In this section, we have described how these volume and price effects have led to declines in many of the industry's performance indicators, such as capacity, production, capacity utilization, shipments, and employment. Especially significant has been the decrease in industry profitability, due mainly to falling prices brought about by the subject imports.

Mexican Respondents argue that the domestic industry continued to be profitable and maintained the same market share over the period of investigation despite a significant decrease in U.S. demand for LWR pipe and tube.¹²⁷ Mexican Respondents argue that this decrease in demand had nothing to do with subject imports, and that any declining indicators reflect the overall economic recession, particularly the general decline of the U.S. housing and construction sectors.¹²⁸ We disagree. We find that while the drop in apparent U.S. consumption from 2006 to 2007 likely had a negative impact on the domestic industry in 2007, that impact was exacerbated by significant volumes of low-priced subject imports entering the market.¹²⁹ Although apparent consumption dropped from 2006 to 2007, subject imports were still entering the market at rates that exceeded the volumes for 2006 until the filing of the petitions in late June. As noted above, by 2007, the substantial and growing presence of dumped and subsidized subject imports reportedly forced domestic mills to institute pricing programs in which they offered product to

¹²² CR/PR at Table C-1.

¹²³ CR/PR at Table C-1. Net sales value declined from \$539.8 million in 2005 to \$481.4 million in 2007.

¹²⁴ CR/PR at Table C-1.

¹²⁵ CR/PR at Table VI-6.

¹²⁶ CR/PR at Table VI-6.

¹²⁷ Nacional's Prehearing Brief at 9.

¹²⁸ There is some disagreement among market participants about whether there was an actual decline in demand for LWR pipe and tube or for the downstream products that incorporate it. Most producers but relatively few importers reported a decrease in demand for LWR from 2005 to 2007. CR at II-8, PR at II-5. Relatively few purchasers reported decreased demand for their end products that incorporate LWR. CR at II-9, PR at II-5. Some producers and importers who reported demand growth attributed it to increased demand outside of the United States, while others attributed the increase in U.S. demand to the growth in the construction sector and to a strong U.S. economy. CR at II-8, PR at II-5.

¹²⁹ Declining consumption would be expected to result in reduced production and reductions in trade indicators such as shipments and sales, which could lead to lower profitability. However, in this case the main factor driving the industry's lower profits was the decline in prices, which we have shown to be tied directly to the subject imports. CR/PR at Table VI-5. Moreover, as described above, the filing of the petitions and institution of the investigations precipitated the reduction in the volume of subject imports; this decreased volume of imports helped to moderate the decline in domestic industry indicators in 2007.

certain customers at deeply discounted prices in order to remain competitive with imported product and to maintain volumes.¹³⁰

The Commission's pricing data confirm the significant declines in the domestic industry's prices for all five pricing products in 2007. Even with prices falling dramatically in 2007, cumulated subject imports continued to undersell the domestic like product in the vast majority of quarters, often by double-digit margins. Moreover, the Commission's variance analysis shows that out of the \$22.7 million decline in operating income between 2005 and 2007, \$19.7 million was directly attributable to the negative effect of decreased prices.¹³¹

Consequently, based on the record in the final phase of this investigation, we conclude that subject imports had an adverse impact on the condition of the domestic industry during the period of investigation. In particular, we find that the absolute and relative volume of subject imports, and the increase in those volumes, are significant and that subject imports have undersold the domestic product, and have depressed and suppressed domestic prices to a significant degree. The pattern of consistent underselling by the subject imports, which depressed and suppressed domestic prices, has caused declines in the domestic industry's relevant economic factors over the period of investigation.

¹³⁰ Tr. at 41 (Montgomery). As a representative from petitioner Welded Tube testified at the hearing:

... I can't ever remember them {sales staff in the field} coming back to me and saying in the period in question, that customers would say to them: Gee, the price has to come down because we're not that busy. The price has to come down because the Chinese or Mexican product is all the way down here. And unless you get your price over here, we're not going to be able to do business. In other words, it wasn't the activity level was necessarily dampened, the reference that constantly, exclusively, was to where the imported price was.

Tr. at 94-95 (Mandel).

¹³¹ CR/PR at Table VI-5. Mexican Respondents also argue that the domestic industry has recently announced massive price increases that far outstripped the increases in their raw material costs, leading to much higher profits in the first quarter of 2008, and therefore the Commission may not find that the domestic industry is currently experiencing injury. Hylsa's Posthearing Brief at 6-8. We note that, unlike the pricing and cost data gathered for the period of investigation (2005-2007) through questionnaire responses, we do not have questionnaire data for 2008 to place any evidence on price or raw material cost increases in 2008 in its proper context. Nevertheless, information on the record from 2007 shows that announced price increases by the domestic industry were ultimately not accepted, as reported prices declined throughout 2007. Record evidence provided by Petitioners shows that ***. See Petitioners' Posthearing Brief at A-22 and Exhibit 8 (showing that Bull Moose achieved *** on LWR pipe and tube in 2008.). Moreover, while there is some information on the record regarding announced price increases, there is also information on the record showing that costs, particularly for hot-rolled steel, have also increased dramatically in 2008. CR/PR at Figure V-1. As a representative from Petitioner Southland Tube testified at the hearing:

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

Tr. at 79 (Montgomery). Finally, any announced price increases in 2008 occurred not only after the petitions in these investigations were filed, but also after Commerce announced its affirmative preliminary antidumping and countervailing duty determinations. For these reasons, we are not persuaded that price increase announcements made by the domestic industry in 2008 are entitled to much weight in our material injury determination.

IV. APPLICATION OF THE *BRATSK ALUMINIUM SMELTER v. UNITED STATES* REPLACEMENT/BENEFIT TEST

Having reached an affirmative determination by application of the statutorily mandated factors, the Federal Circuit's decision in Bratsk Aluminium Smelter v. United States requires that we turn to an additional analysis which can, in some circumstances, negate an affirmative determination.¹³² The Federal Circuit directed the Commission to undertake an "additional causation inquiry" whenever certain triggering factors are met: "whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market."¹³³ The additional inquiry required by Bratsk, which we refer to as the Bratsk replacement/benefit test, is "whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers."¹³⁴

As noted in other investigations, we respectfully disagree with Bratsk that the statute requires any analysis beyond that already included in our discussion of volume, price, and impact above, and do not reiterate the Commission's interpretation of the statutory scheme here.¹³⁵ The Commission has a well established approach to addressing causation.¹³⁶ However, we apply the Bratsk replacement/benefit test to our analysis because the Federal Circuit has directed us to do so, notwithstanding that, in our considered view, this test is not required by, or consistent with, the statute.

The Bratsk analysis "is triggered whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market."¹³⁷ If both Bratsk triggering factors are satisfied, we apply the "replacement/benefit" test required under Bratsk.

Petitioners state that the Bratsk analysis is inapplicable to the present investigations. While Petitioners acknowledge that the first Bratsk triggering factor (whether the investigation involves a commodity product) is met, they argue that the second triggering factor (whether price competitive nonsubject imports are a significant factor in the market) is not met.¹³⁸ Mexican Respondents argue that the Bratsk replacement/benefit analysis is triggered for nonsubject imports from Mexico (i.e., those produced by Prolamsa), and that Prolamsa would gain all the benefits from an antidumping duty order on LWR pipe from Mexico, with no benefit flowing to the U.S. industry.¹³⁹

¹³² 444 F.3d at 1369 (Fed. Cir. 2006).

¹³³ Bratsk, 444 F.3d at 1375.

¹³⁴ Bratsk, 444 F.3d at 1375.

¹³⁵ For a full discussion of our views on the applicability of Bratsk, see our Views in the Remand Determination for Silicon Metal from Russia, Inv. No. 731-TA-991 (Final) (Second Remand), USITC Pub. 3910 (March 2007) and Views of the Commission in Certain Polyester Staple Fiber from China, Inv. No. 731-TA-1104 (Final), USITC Pub. 3922 at 24-26 (June 2007). For a full discussion of Chairman Pearson's views on the applicability of Bratsk, see his Separate and Additional Views in Silicon Metal from Russia. For a full discussion of Vice Chairman Aranoff's views on the applicability of Bratsk, see the Views of the Commission in Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago, Inv. No. 731-TA-961 (Final) (Remand), USITC Pub. 3903 (January 2007). For a full discussion of Commissioner Okun's views of the applicability of Bratsk, see her Separate and Dissenting Views in Certain Lined Paper School Supplies from China, India, and Indonesia, Inv. Nos. 701-TA-442-443, 731-TA-1095-1097 (Final), USITC Pub. 3884 (Sept. 2006).

¹³⁶ See Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand), USITC Pub. 3910 (Mar. 2007), at 3-8 (articulating in detail the Commission's long-standing interpretation of the "by reason of" causation standard).

¹³⁷ Bratsk, 444 F.3d at 1375.

¹³⁸ Petitioners' Posthearing Brief at 13.

¹³⁹ Nacional's Posthearing Brief at Exhibit 1, p. 1. Mexican respondents focus their arguments under Bratsk on whether imports from Prolamsa would replace subject imports from Mexico. However, our task under Bratsk is to

(continued...)

As discussed below, while we find that the first Bratsk triggering factor is satisfied, we find that the evidence is mixed regarding whether the second triggering factor is met.¹⁴⁰ Nonetheless, assuming arguendo that both triggers are met, we also find that the evidence is mixed regarding whether nonsubject imports would have replaced subject imports during the period of investigation, but find that the imposition of an antidumping order on subject imports would have benefitted the domestic industry.

A. Triggering Factors

We find that LWR pipe and tube qualifies as a commodity product based upon Bratsk's definition of "commodity product" as "meaning that it is generally interchangeable regardless of its source."¹⁴¹ No party argues otherwise.¹⁴² The record indicates that LWR pipe and tube is broadly interchangeable regardless of where it is produced. U.S. producers and most importers and purchasers reported that the U.S. product, the subject imports, and non-subject imports are frequently or always comparable.¹⁴³

With respect to the second triggering factor (whether price-competitive nonsubject imports are a significant factor in the U.S. market), nonsubject imports declined from *** percent of total imports (on a quantity basis) in 2005, to *** percent in 2007.¹⁴⁴ By comparison, subject imports increased from *** percent of total imports (on a quantity basis) in 2005, to *** percent in 2007.¹⁴⁵ The U.S. market share of nonsubject imports declined from *** percent in 2005 to *** percent in 2007, while that of subject imports increased irregularly from *** percent in 2005 to *** percent in 2007.¹⁴⁶ While subject imports increased in absolute volume and market share from 2005 to 2007, nonsubject imports declined during this period, and it is therefore not clear that nonsubject imports have been a significant factor in the market on either a volume or market share basis over the period of investigation.¹⁴⁷

¹³⁹ (...continued)

determine whether subject imports *as a whole* would be replaced, resulting in no benefit to the domestic industry.

¹⁴⁰ Consistent with her views in Certain Lined Paper School Supplies from China, India, and Indonesia, Inv. Nos. 701-TA-442-443, 731-TA-1095-1097 (Final), USITC Pub. 3884 (Sept. 2006), Commissioner Lane finds that non-subject imports were not a significant factor in the market during the period of investigation. Thus, she does not join the Commission's finding, here and in any subsequent references below, regarding the significance of non-subject imports nor does she find it necessary to address whether non-subject imports are price competitive.

¹⁴¹ We note that it is improper to assume that simply because goods are generally interchangeable for purposes of the "reasonable overlap of competition" analysis for cumulation, or are interchangeable for purposes of defining the domestic like product, that they are necessarily "commodities" for purposes of assessing causation, which is the function of the Bratsk "test." See Silicon Metal from Russia, USITC Pub. 3910 at 10-11 (footnotes omitted), citing BIC Corp. v. United States, 964 F. Supp. 391, 397, 399 (Ct. Int'l Trade 1997) ([L]ike product, cumulation and causation are functionally different inquiries because they serve different statutory purposes As a result, each inquiry requires a different level of fungibility. Hence the record may contain substantial evidence that two products are fungible enough to support a finding in one context (e.g., one like product), but not in another (e.g., cumulation or causation.")).

¹⁴² Both Petitioners and Mexican Respondents acknowledge that LWR pipe and tube is a commodity product. Petitioners' Posthearing Brief at 13; Nacional's Posthearing Brief at Exhibit 1, p. 1.

¹⁴³ CR/PR at Table II-5.

¹⁴⁴ CR/PR at Table IV-2.

¹⁴⁵ CR/PR at Table IV-2.

¹⁴⁶ CR/PR at Table C-1.

¹⁴⁷ During this period, apparent U.S. consumption declined by 7.0 percent. On an absolute volume basis, nonsubject imports declined by *** percent during the period, with the two largest suppliers of nonsubject imports, Canada and Mexico, declining by 35.9 percent and *** percent, respectively. By contrast, subject imports increased by *** percent from 2005 to 2007. See CR/PR at Table C-1.

The information in the record on the pricing of nonsubject imports also presents a mixed picture.¹⁴⁸ The quarterly pricing data that were collected for non-subject imports show a mixture of overselling and underselling of the domestic like product by nonsubject imports.¹⁴⁹ The average selling price of nonsubject imports was nearly uniformly *** than the average selling price from all subject sources for all of the pricing products.¹⁵⁰ There were, however, wide variations in the pricing data for nonsubject imports. The prices of imports from Canada were *** than prices for both the domestic like product and subject imports, while the prices for nonsubject imports from Mexico were *** prices for the domestic like product, except for pricing product five, but were *** than the average selling price for all subject sources.¹⁵¹ The average unit values of nonsubject imports as a whole were significantly higher than those of subject imports throughout the period of investigation.¹⁵² Therefore, we find that the record presents mixed evidence regarding whether nonsubject imports were price competitive and have been a significant factor in the U.S. market.

B. Replacement/Benefit Factors

While it is unclear that the second triggering factor of the Bratsk test is met, assuming, arguendo, that both Bratsk triggering factors are satisfied, we consider whether non-subject imports would have replaced subject imports over the period of investigation, without any benefit to the domestic industry. We find that nonsubject imports at most would have partially replaced subject imports, and that, even if there were full replacement, the domestic industry still would have benefitted from an antidumping duty order on subject imports.

In the final phase of these investigations, the Commission sought questionnaire information regarding nonsubject producers of LWR pipe and tube from Canada, Korea, and Mexico, as well as public data on the LWR pipe and tube industries in these countries.¹⁵³ The Commission received questionnaire data accounting for *** percent of nonsubject imports between 2005 and 2007 based on official Commerce statistics.¹⁵⁴

In 2007, the total reported production capacity for the four Canadian firms that submitted data on their LWR pipe and tube operations is *** short tons.¹⁵⁵ These firms shipped *** quantities to their home

¹⁴⁸ Pricing data reportedly accounted for 22.7 percent of nonsubject shipments in the U.S. market during the period. CR at V-9, PR at V-7.

¹⁴⁹ CR/PR at Tables V-1 through V-5. For example, nonsubject imports *** the domestic like product in *** quarters for pricing product 1, but *** the domestic like product in *** comparisons for pricing product 2.

¹⁵⁰ CR/PR at Tables V-1 through V-5. Specifically, in only 3 instances were subject prices higher than nonsubject prices.

¹⁵¹ Compare CR/PR at Table V-1 with CR/PR at Tables D-1 through D-5.

¹⁵² CR/PR at Table IV-2.

¹⁵³ CR at VII-24, PR at VII-9. All other sources of nonsubject LWR pipe and tube accounted for only *** percent of total U.S. imports over the period. CR at VII-32, PR at VII-12.

¹⁵⁴ CR at IV-1, PR at IV-1. In the final phase of these investigations, the Commission received questionnaire data from ***. CR at VII-26, VII-30, PR at VII-11, VII-12. The one nonsubject Korean producer ***. CR at VII-28, PR at VII-11.

¹⁵⁵ CR/PR at Table VII-19. These firms do not appear to have any *** to produce LWR pipe and tube in the reasonably foreseeable future. CR/PR at Table VII-19.

market, and made *** of their export shipments to the U.S. market.¹⁵⁶ However, their capacity utilization declined from *** percent in 2005 to *** percent in 2007.¹⁵⁷

With respect to Mexican nonsubject production, which is composed entirely of the production of Prolamsa due to its zero preliminary dumping margin, total reported Mexican nonsubject production capacity in 2007 is *** short tons.¹⁵⁸ Prolamsa shipped *** quantities to its home market, and made *** of its export shipments to the U.S. market.¹⁵⁹ However, its capacity utilization declined from *** percent in 2005 to *** percent in 2007.¹⁶⁰

With respect to Korean nonsubject production, which is composed entirely of the production of Nexteel due to its *de minimis* preliminary dumping margin, its total reported production capacity, ***, was *** short tons in 2006, but was projected to *** short tons in 2007.¹⁶¹ Nexteel shipped *** quantities to its home market, with *** percent of its total shipments exported to the U.S. market in 2006, and *** percent destined for other markets.¹⁶² Capacity utilization also declined from *** percent in 2004 to *** percent in 2006.¹⁶³

Taken together, nonsubject sources of LWR pipe and tube have enough nameplate capacity to ***, in theory, all subject imports in the U.S. market.¹⁶⁴ However, based on actual excess capacity, and even assuming that the major nonsubject producers could shift all of their other export shipments to the U.S. market, it appears that nonsubject producers could have replaced only approximately *** percent of subject imports in 2007.¹⁶⁵ Moreover, trends during the period for both producers in Canada and Mexican producer Prolamsa showed *** home market shipments, and *** export shipments to the U.S. market.¹⁶⁶ In fact, in 2007, when cumulated subject imports declined after the filing of the petitions in these investigations in June 2007, U.S. imports of nonsubject LWR pipe and tube from both Canadian producers and Mexican producer Prolamsa *** with U.S. imports from Prolamsa *** percent and U.S. imports from Canada having declined by 35.9 percent over the period.¹⁶⁷ Thus, we find that nonsubject imports at most would have only partially replaced subject imports.

¹⁵⁶ CR/PR at Table VII-19. The share of total Canadian shipments to the home market was *** percent in 2005, *** percent in 2006, *** percent in 2007, and is projected to be *** percent in 2008 and *** percent in 2009. Id.

¹⁵⁷ CR/PR at Table VII-19.

¹⁵⁸ CR/PR at Table VII-23. Prolamsa does not appear to have any *** to produce LWR pipe and tube in the reasonably foreseeable future. CR at Table VII-23.

¹⁵⁹ CR/PR at Table VII-23. The share of total Mexican shipments to the home market was *** percent in 2005, *** percent in 2006, *** percent in 2007, and is projected to be *** percent in 2008 and 2009. Id.

¹⁶⁰ CR/PR at Table VII-21.

¹⁶¹ CR/PR at Table VII-21.

¹⁶² CR/PR at Table VII-21. The share of total Korean shipments to the home market was *** percent in 2004, *** percent in 2005, *** percent in 2006, and was projected to remain at *** percent in 2007 and 2008. Id.

¹⁶³ CR/PR at Table VII-21.

¹⁶⁴ We find it unlikely that the major nonsubject producers would actually divert all or many of their home market shipments to the United States. Throughout the period of investigation, Canadian producers and Prolamsa have shipped a *** of their LWR pipe and tube production to their home markets, and the shares of their home market shipments in total shipments have *** during the period of investigation. CR/PR at Tables VII-19 and VII-23. Finally, nonsubject Korean producer *** from 2005 to 2006, and although it ***. CR/PR at Table VII-21 and CR at VII-30, PR at VII-12.

¹⁶⁵ Calculated from CR/PR at Table IV-2 (*** short tons of subject imports), Table VII-19 (excess capacity of approximately ***), Table VII-23 (excess capacity of approximately ***), and Table VII-21 (excess capacity of approximately ***). *** was the only nonsubject producer with exports to countries other than the United States in 2007.

¹⁶⁶ CR/PR at Tables VII-19 and VII-23

¹⁶⁷ CR/PR at Table C-1.

With respect to the benefit to the domestic industry, the Court in Bratsk appears to have focused primarily on price factors. The Bratsk opinion indicates that the price of the nonsubject imports would be an important consideration: “it may well be that ... the price of the nonsubject imports is sufficiently above the subject imports such that elimination of the subject imports would have benefitted the domestic industry.”¹⁶⁸ As discussed in more detail above, the pricing data for nonsubject imports indicate that ***.¹⁶⁹ Also, the AUVs of nonsubject imports were higher than the AUVs of subject imports throughout the period.¹⁷⁰

Accordingly, we conclude that the domestic industry would likely have benefitted from the imposition of an antidumping duty order on subject imports due to higher prices for its LWR pipe and tube, even if nonsubject imports would have fully replaced or partially replaced subject imports. Therefore, our affirmative material injury determination is consistent with the Court’s holding in Bratsk.

V. CONCLUSION

For the reasons stated above, we find that the domestic industry producing LWR pipe and tube is materially injured by reason of subject imports of LWR pipe and tube from Turkey that are sold in the United States at less than fair value.

¹⁶⁸ Bratsk at 1375.

¹⁶⁹ CR at V-1, PR at V-1.

¹⁷⁰ CR/PR at Table IV-2.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on behalf of 12 U.S. producers¹ of carbon-quality light-walled rectangular pipe and tube (“LWR pipe and tube”)² alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (“LTFV”) imports of LWR pipe and tube from China, Mexico, Korea, and Turkey and by reason of imports of subsidized LWR pipe and tube from China. The following tabulation provides information relating to the background of these investigations:³

Effective date	Action
June 27, 2007	Petition filed with Commerce and the Commission; institution of Commission investigations (72 FR 36479, July 3, 2007)
July 24, 2007	Commerce’s notices of initiation of antidumping duty investigations on China, Korea, Mexico, and Turkey (72 FR 40274) and notice of initiation of countervailing duty investigation on China (72 FR 40281)
August 28, 2007	Commission’s preliminary affirmative determinations (72 FR 49310)
November 30, 2007	Commerce’s preliminary affirmative countervailing duty determination and alignment with final antidumping duty determination (72 FR 67703)
January 28, 2008	Commission’s notification by letter from Commerce of affirmative LTFV determinations for each subject country
January 28, 2008	Commission’s scheduling of final phase investigations (73 FR 6740, February 5, 2008)
January 30, 2008	Commerce’s publication of preliminary LTFV determinations for China, Mexico, and Turkey (73 FR 5500, 73 FR 5515, and 73 FR 5508, respectively) ¹
January 31, 2008	Commerce’s publication of preliminary affirmative LTFV determination for Korea (73 FR 5794) ²
February 28, 2008	Commerce’s postponement of its final LTFV determination on Mexico (73 FR 10743)
April 11, 2008	Commission’s hearing ³

¹ Allied Tube and Conduit, Harvey, IL; Atlas Tube, Plymouth, MI; California Steel and Tube, City of Industry, CA; EXL Tube, Kansas City, MO (now called Steel Ventures, LLC); Hannibal Industries, Los Angeles, CA; Leavitt Tube Company LLC, Chicago, IL; Maruichi American Corporation, Sante Fe Springs, CA; Searing Industries, Rancho Cucamonga, CA; Southland Tube, Birmingham, AL; Vest Inc., Los Angeles, CA; Welded Tube, Concord, Ontario (Canada); and Western Tube and Conduit, Long Beach, CA. Bull Moose Tube, Inc., joined the original 12 petitioning firms over the course of these investigations.

² A complete description of the imported products subject to these investigations is presented in the *Subject Merchandise* section of this part of the report.

³ *Federal Register* notices cited in the tabulation since the Commission’s preliminary determinations are presented in app. A.

April 11, 2008	Commerce's final LTFV determination on Turkey (73 FR 19814)
May 14, 2008	Commission's vote on Turkey
May 23, 2008	Determination and views on Turkey transmitted to Commerce
June 13, 2008	Expected final LTFV determinations from Commerce on China, Korea, and Mexico
July 17, 2008	Commission's vote on China, Korea, and Mexico
July 28, 2008	Determination and views on China, Korea, and Mexico due to Commerce
¹ In its preliminary affirmative LTFV determination on China, Commerce extended its final determination an additional 60 days. ² In its preliminary affirmative LTFV determination on Korea, Commerce extended its final determination an additional 60 days. ³ Appendix B presents the list of witnesses appearing at the hearing.	

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory Criteria

Section 771(7)(B) of the Tariff Act of 1930 (the "Act") (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.

...

In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether. . . (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.

...

In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to . . . (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

Organization of Report

Information on the subject merchandise, margins of dumping and subsidies, and domestic like product is presented in *Part I*. Information on conditions of competition and other relevant economic factors is presented in *Part II*. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. The volume and pricing of imports of the subject merchandise are presented in *Parts IV and V*, respectively. *Part VI* presents information on the financial experience of U.S. producers. The statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury and the judicial requirements and information obtained for use in the Commission's consideration of *Bratsk* issues are presented in *Part VII*.

MARKET SUMMARY

LWR pipe and tube is used for a variety of applications, such as ornamental fencing, display racks, cages, sports equipment, furniture, hand rails, scaffolding, and carports. Trade in the U.S. market for LWR pipe and tube totaled more than \$730 million during 2007, of which 69.0 percent was accounted for by sales of U.S.-produced LWR pipe and tube, *** percent by imports from subject sources, and *** percent related to imports from nonsubject sources (primarily from producers in Canada and from the nonsubject Mexican producer Prolamsa). Twenty-two of 29 known producers supplied the Commission with data on their U.S. LWR pipe and tube operations. Forty-one firms responded that they imported LWR pipe and tube during the 2005-07 period.

SUMMARY DATA

Table C-1 in appendix C presents a summary of data collected in these investigations. U.S. industry data are based on the questionnaire responses from U.S. producers (see Part III of this report). U.S. import data are based on modified U.S. Department of Homeland Security, Customs and Border Protection ("Customs") data used to compile official Commerce statistics (see Part IV of this report). Other information on imports, such as U.S. shipments, are based on the questionnaire responses from U.S. importers. Information on LWR pipe and tube industries in Canada, China, Korea, Mexico, and Turkey was compiled from responses to the Commission's foreign producers'/exporters' questionnaire (see Part VII of this report). Data from other sources are referenced and footnoted where appropriate.

PREVIOUS INVESTIGATIONS

Since 1980, the Commission has investigated LWR pipe and tube several times both in import-injury investigations and in studies associated with steel safeguard measures. Four antidumping duty investigations resulted in the imposition of orders on imports of LWR pipe and tube. The order on Korea was revoked in 1985. The order on Singapore was revoked following a negative determination by the Commission in its first five-year review, completed in 2000. Following the Commission's second five-year reviews concerning LWR pipe and tube in 2005-06, which resulted in a negative determination regarding Argentina and an affirmative determination regarding Taiwan, the order on Taiwan is the only current outstanding antidumping duty order in effect on LWR pipe and tube in the United States. Table I-1 presents data on previous investigations and reviews concerning LWR pipe and tube in the United States since 1980.

Table I-1
LWR pipe and tube: Previous investigations

Source	Inv. No.	USITC Publication		Result
		Number	Date	
Korea	731-TA-138 (F)	USITC 1519	April 1984	Affirmative; revoked October 1985 following VRA
Spain	731-TA-198 (P)	USITC 1569	August 1984	Terminated after preliminary; petition withdrawn
Taiwan	731-TA-211 (F)	USITC 1799	January 1986	Negative
Singapore	731-TA-296 (F)	USITC 1907	November 1986	Affirmative
	731-TA-296 (Review)	USITC 3316	July 2000	Revoked following ITC negative
Taiwan	731-TA-349 (F)	USITC 1994	July 1987	Negative
Argentina	731-TA-409 (F)	USITC 2187	May 1989	Affirmative
	731-TA-409 (Review)	USITC 3316	July 2000	Order continued
	731-TA-409 (Second Review)	USITC 3867	July 2006	Revoked following ITC negative
Taiwan	731-TA-410 (F)	USITC 2169	March 1989	Affirmative
	731-TA-410 (Review)	USITC 3316	July 2000	Order continued
	731-TA-410 (Second Review)	USITC 3867	July 2006	Order continued
Mexico	731-TA-730 (P)	USITC 2892	May 1995	ITC Negative

Table continued on next page.

Table I-1--Continued
LWR pipe and tube: Previous investigations

Source	Inv. No.	USITC Publication		Result
		Number	Date	
World wide	201-TA-73	USITC 3479	December 2001	Additional tariffs; ¹ relief did not apply to imports from Mexico or Turkey
	204-TA-9 332-TA-452	USITC 3632	September 2003	The President terminated the import relief shortly after these investigations ²
Mexico	731-TA-1054 (F)	USITC 3728	October 2004	ITC Negative
Turkey	731-TA-1055 (F)	USITC 3728	October 2004	ITC Negative
<p>¹ Following affirmative determinations of serious injury and remedy recommendations by the Commission, President Bush issued a proclamation on March 5, 2002, imposing temporary import relief for a period not to exceed three years and one day. Presidential Proclamation 7529 of March 5, 2002 (67 FR 10553, March 7, 2002). Import relief relating to LWR pipe and tube consisted of an additional tariff of 15 percent <i>ad valorem</i> on imports in the first year, 12 percent in the second year, and 9 percent in the third year.</p> <p>² Following receipt of the Commission's mid-term monitoring report "Steel: Monitoring Developments in the Domestic Industry" (Inv. No. TA-204-9) and "Steel-Consuming Industries: Competitive Conditions With Respect to Steel Safeguard Measures" (Inv. No. 332-452), the President terminated the steel safeguard tariffs and tariff-rate quotas. Presidential Proclamation 7741 of December 4, 2003 (68 FR 68483, December 8, 2003). The Commission issued a final evaluation of the safeguard measures in its final evaluation report "Steel: Evaluation of the Effectiveness of Import Relief" (Inv. No. TA-204-12).</p> <p>Source: Cited Commission publications.</p>				

NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV

Subsidies

On November 30, 2007, the Commission received Commerce's preliminary determination of countervailable subsidies for producers and exporters of LWR pipe and tube in China.⁴ Table I-2 presents Commerce's findings of subsidization of LWR pipe and tube for certain producers.

Table I-2
LWR pipe and tube: Commerce's preliminary subsidy determination

Country	Entity	Preliminary countervailable subsidy margins (percent)
China	Kunshan Lets Win Steel Machinery Co., Ltd.	0.27
	Qingdao Xiangxing Steel Pipe Co.	77.85
	Zhangjiagang Zhongyuan Pipe-making Co., Ltd., Jiangsu Qiyuan Group Co., Ltd.	2.99
	All others	2.99
Source: 72 FR 67703, November 30, 2007.		

⁴ *Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 72 FR 67703, November 30, 2007.

Sales at LTFV

On January 28, 2007, the Commission received Commerce’s preliminary determinations of sales at less than fair value (“LTFV”) with respect to imports from China,⁵ Korea,⁶ Mexico,⁷ Turkey,⁸ and preliminary finding of critical circumstances with respect to imports from China.⁹ On April 11, 2008, the Commission received Commerce’s final determination of sales at LTFV with respect to Turkey.¹⁰ Table I-3 summarizes Commerce’s LTFV findings.

Table I-3
LWR pipe and tube: Commerce’s weighted-average LTFV margins

Country / status	Entity	Dumping margins (percent)
China ¹ (preliminary)	Zhangjiangang Zhonguan Pipe Making Co., Ltd.	264.64
	Kunshan Lets Win Steel Machinery Co., Ltd.	223.52
	Wuxi Baishun Steel Pipe Co., Ltd.	247.75
	Guangdong Walsall Steel Pipe Industrial Co., Ltd.	247.75
	Wuxi Worldunion Trading Co., Ltd.	247.75
	Weifang East Steel Pipe Co., Ltd.	247.75
	Jiangyin Jianye Metal Products Co., Ltd.	247.75
	PRC-wide rate	264.64

Table continued on next page.

⁵ This determination was published in the Federal Register on January 30, 2008. *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People’s Republic of China*, 73 FR 05500, January 30, 2008.

⁶ This determination was published in the Federal Register on January 31, 2008. *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Light-Walled Rectangular Pipe and Tube From the Republic of Korea*, 73 FR 05794, January 31, 2008.

⁷ This determination was published in the Federal Register on January 30, 2008. *Notice of Preliminary Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube From Mexico*, 73 FR 05515, January 30, 2008.

⁸ This determination was published in the Federal Register on January 30, 2008. *Notice of Preliminary Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube From Turkey*, 73 FR 05508, January 30, 2008.

⁹ Commerce’s preliminary critical circumstances findings are discussed in Part IV.

¹⁰ This determination was published in the Federal Register on April 11, 2008. *Notice of Final Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube From Turkey*, 73 FR 19815, April 11, 2008.

Table I-3--Continued

LWR pipe and tube: Commerce's weighted-average LTFV margins

Country	Entity	Dumping margins (percent)
Korea (preliminary)	Nexteel Co., Ltd.	1.30 (<i>de minimus</i>)
	Dong-A Steel Pipe Co. Ltd.	30.66
	HiSteel Co. Ltd.	30.66
	Jinbang Steel Co. Ltd.	30.66
	Joong Won	30.66
	Miju Steel Mfg. Co., Ltd.	30.66
	Yujin Steel Industry Co.	30.66
	Ahshin Pipe & Tube	30.66
	Han Gyu Rae Steel Co., Ltd.	30.66
	Kukje Steel Co., Ltd.	30.66
	SeAH Steel Corporation, Ltd.	15.98
	All others	15.98
	Mexico (preliminary)	Maquilacero S.A. de C.V.
Productos Laminados S.A. de C.V. (Prolamsa)		0.00
Arco Metal S.A. de C.V.		4.96
Hylsa S.A. de C.V.		4.96
Industrias Monterrey S.A. de C.V.		11.50
Internacional de Aceros, S.A. de C.V.		4.96
Nacional de Acero S.A. de C.V.		11.50
PEASA-Productos Especializados de Acero		11.50
Perfiles y Herrajes LM, S.A. de C.V.		4.96
Regiomontana de Perfiles y Tubos		4.96
Talleres Acero Rey S.A. de C.V.		4.96
Tuberias Aspe		11.50
Tuberia Laguna, S.A. de C.V.		4.96
Tuberias y Derivados S.A. de C.V.		11.50
All others		4.96

Table continued on next page.

Table I-3--Continued

LWR pipe and tube: Commerce's weighted-average LTFV margins

Country	Entity	Dumping margins (percent)
Turkey (final)	Guven Boru Profil Sanayii ve Ticaret Limited Sirketi	41.71
	MMZ Onur Boru Profil Uretim San. ve Tic. A.S.	41.71
	Anadolu Boru	41.71
	Ayata Metal Industry	41.71
	Goktas Tube	41.71
	Kalibre Boru Sanayi ve Ticaret A.S.	41.71
	Kerim Celik Mamulleri Imalat ve Ticaret	41.71
	Ozgur Boru	41.71
	Ozmak Makina ve Elektrik Sanayi	41.71
	Seamless Steel Tube and Pipe Co. (Celbor)	41.71
	Umran Steel Pipe Inc.	41.71
	Yusan Industries, Ltd.	41.71
	Borusan Mannesmann Boru	27.04
	Erbosan Erciyas Boru Sanayi ve Ticaret A.S.	27.04
	Noksel Steel Pipe Co.	27.04
	Ozborsan Boru San. ve Tic. A.S.	27.04
	Ozdemir Boru Sanayi ve Ticaret Ltd. Sti.	27.04
	Toscelik Profil ve Sac End. A.S.	27.04
	Yucel Boru ve Profil Endustrisi A.S.	27.04
	All others	27.04

Source: 73 FR 5500 (China) and 73 FR 5515 (Mexico), January 30, 2008; 73 FR 5794 (Korea), January 31, 2008; and 73 FR 19815 (Turkey), April 11, 2008.

THE SUBJECT MERCHANDISE

Commerce's Scope

Commerce has defined the scope of these investigations as:

“The merchandise that is the subject of this investigation is certain welded carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section (LWR), having a wall thickness of less than 4mm.”

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of

carbon-quality is intended to identify carbon-quality products within the scope.”¹¹

Tariff Treatment

LWR pipe and tube is classifiable in the Harmonized Tariff Schedule of the United States (“HTS”) under subheadings 7306.61.50 (on or after February 3, 2007) and 7306.60.50 (prior to February 3, 2007). Certain LWR pipe and tube was misclassified under HTS subheading 7306.69.50 between January 1, 2007 and February 3, 2007 (see Part IV of this report for full discussion). Additionally, any allowed LWR pipe and tube otherwise meeting Commerce’s definition of carbon quality may be classified under HTS subheading 7306.61.7060.¹² LWR pipe and tube imported from China, Korea, Mexico, and Turkey enter the U.S. market at a column 1-general duty rate of “free.” The HTS subheadings are provided for convenience and Customs purposes, but Commerce’s scope of these investigations is dispositive.

THE DOMESTIC LIKE PRODUCT

The Commission’s decision regarding the appropriate domestic products that are “like” the subject imported product is based on a number of factors, including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price. In previous antidumping investigations involving LWR pipe and tube, the Commission defined a single domestic like product co-extensive with the scope of investigations as defined by Commerce.¹³

In the preliminary phase of these investigations, the petitioners argued that the Commission should find a single domestic like product co-extensive with Commerce’s scope.¹⁴ By contrast, Mexican respondents urged the Commission to “re-examine” whether or not rectangular and circular tubing are two separate like products.¹⁵ However, as noted by the Commission in its preliminary determinations, round pipe is not included in the scope of these investigations and thus cannot be defined as a separate domestic like product.¹⁶ In the final phase of these investigations, no party has requested that the

¹¹ *Notice of Final Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube From Turkey*, 73 FR 19815, April 11, 2008.

¹² This statistical reporting number in the HTS relates to light-walled square and rectangular pipe and tube made of an alloy steel other than stainless steel.

¹³ The Commission has previously considered whether corrosion-resistant LWR pipe and tube was a separate domestic like product from black LWR pipe and tube. In the final phase investigations on LWR pipe and tube from Mexico and Turkey in 2004, the Commission found a single domestic like product consisting of all LWR pipe and tube. Data on U.S. production and U.S. imports of corrosion-resistant and black LWR pipe and tube are discussed in parts III and IV of this report. In the current investigations, however, no party has argued for separate domestic like products based on corrosion resistance.

¹⁴ Conference transcript, p. 56 (Schagrín) and petitioners’ postconference brief, p. 3.

¹⁵ In the preliminary phase of these investigations, Mexican respondents contended that rectangular and circular light-walled pipe and tube have similar physical characteristics and uses; common channels of distribution; and common production facilities, processes, and employees. Also, according to the Mexican respondents, U.S. producers were able to readily shift production between rectangular and circular light-walled pipe and tube. Mexican respondents’ postconference brief, p. 32.

¹⁶ *Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico and Turkey, Inv. Nos. 701-TA-449 and 731-TA-1118-1121 (Preliminary)*, USITC Publication 3941, August 2007, p. 7, n. 26.

Commission explore additional domestic like product issues. Information on the Commission’s domestic like product factors is set forth below.

Physical Characteristics and Uses

In common usage, and generally in the HTS, the terms “pipes,” “tubes,” and “tubular products” are interchangeable. Producers of tubular products, however, typically characterize pipes as circular cross-sectional tubular products produced in a few standard sizes, while tubes, conversely, may be of any cross-sectional shape, including circular, square, and rectangular, among others. Steel pipes and tubes can be divided into two general categories according to the method of manufacture - either welded or seamless; however, only welded steel tubular products are subject to these investigations. Steel pipes and tubes are also distinguished by specific end uses.¹⁷ LWR pipe and tube, shown in figure I-1, is often referred to by industry participants as “ornamental tubing.”¹⁸ A small portion, the upper range of this product in terms of wall thickness, may be considered by industry participants as a hollowed structural section (“HSS”).¹⁹ In the United States, steel pipes and tubes generally are produced according to industrial standards and specifications by standards-setting organizations.²⁰

Figure I-1
LWR pipe and tube: Examples



Source: www.alibaba.com.

LWR tubing is a category of pipe and tube employed in a variety of end uses not involving the conveyance of liquids or gases, and is not designed to bear weight. The main uses for LWR pipe and tube include: ornamental fencing, window guards and door security frames, metal furniture, cattle chutes,

¹⁷ Tubes and pipes classified according to end uses by the AISI include standard pipe, line pipe, structural pipe and tubing, mechanical tubing, pressure tubing, and oil country tubular goods.

¹⁸ Hearing transcript, p. 38 (Searing).

¹⁹ Petitioners’ counsel did not provide a numerical estimate as to the extent of the overlap of LWR tubing and HSS. Conference transcript, pp. 37-38 (Schagrin). Data gathered in the final phase of these investigations and presented in table III-2 of this report provide information on this overlap.

²⁰ Product-standard organizations for steel pipe and tube include ASTM International (formerly the American Society of Testing and Materials (ASTM)) and the American Society of Mechanical Engineers (ASME). Domestically produced and subject imported LWR pipe and tube are typically manufactured to meet ASTM specifications A-513 (Standard Specification for Electric-Resistance-Welded Carbon and Alloy Steel Mechanical Tubing) or, less frequently, A-500 (Standard Specification for Cold-Formed Welded and Seamless Carbon Steel Structural Tubing in Rounds and Shapes). ASTM A-513 is a specification with lower tensile and yield strengths than for A-500. Nevertheless, there is also considerable overlap between these two specifications, particularly for smaller sized tubing. Conference transcript, pp. 14 (Baker) and 39-40 (Schagrin).

railings, furniture components, athletic equipment, lawn and garden equipment, store display shelves, racks, and similar items.²¹

LWR pipe and tube is also distinguished according to coating types:

- Corrosion-resistant LWR tubing is produced from hot-rolled and cold-rolled sheet that is either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel-, or iron-based alloys, whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating.
- Black LWR tubing is blackened, pickled, and/or coated with a thin layer of oil or lacquer for weather and rust protection; and does not meet the description above for corrosion-resistant products.

Generally, the physical properties (strength, hardness, and ductility) and the mechanical characteristics of black and corrosion-resistant LWR pipe and tube are not affected by the galvanizing process.²² Although reportedly both black and corrosion-resistant LWR pipe and tube can be used in the same applications, depending upon customer specification and quality, galvanized products are used in applications where corrosion resistance is an important service requirement (such as carports, air conditioning equipment, automotive parts, and outdoor signs).²³

Manufacturing Process

The process of manufacturing LWR pipe and tube begins by slitting flat-rolled steel into strips lengthwise to the width necessary for the desired pipe or tube diameter. The steel strips are then fed into machinery that bends each strip into tubular form. The edges of the strip are then pressed together and heated to approximately 2,600 degrees Fahrenheit to form a weld. After welding, the round tube is passed through additional forming rolls to shape the tube into rectangular or square cross sections. The tube is then cooled and cut to length.²⁴ U.S. producers currently employ two methods for manufacturing LWR pipe and tube--either two-stage forming (from flat coil, to round tube, to rectangular tube) or direct forming (from flat coil to rectangular tube).²⁵ LWR pipe and tube frequently is produced on the same equipment, by the same employees, as circular and other non-circular tubing, as well as heavier-walled or structural tubing (see Part III of this report for data on U.S. producers' production of other pipe products on their LWR pipe and tube mills).²⁶

Corrosion-resistant galvanized products are subject to galvanizing, the process of coating steel with a thin film of zinc to protect the steel from corrosion. The most common galvanizing method is the

²¹ Hearing transcript, p. 38 (Searing). Circular mechanical tubing, by contrast, is used in the auto and industrial vehicles, conveyor belts, water heaters, office furniture, playground equipment, and scaffolding.

²² *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey, Inv. Nos. 731-TA-1054 and 1055 (Final)*, USITC Publication 3728, October 2004, p. I-9.

²³ *Ibid.*

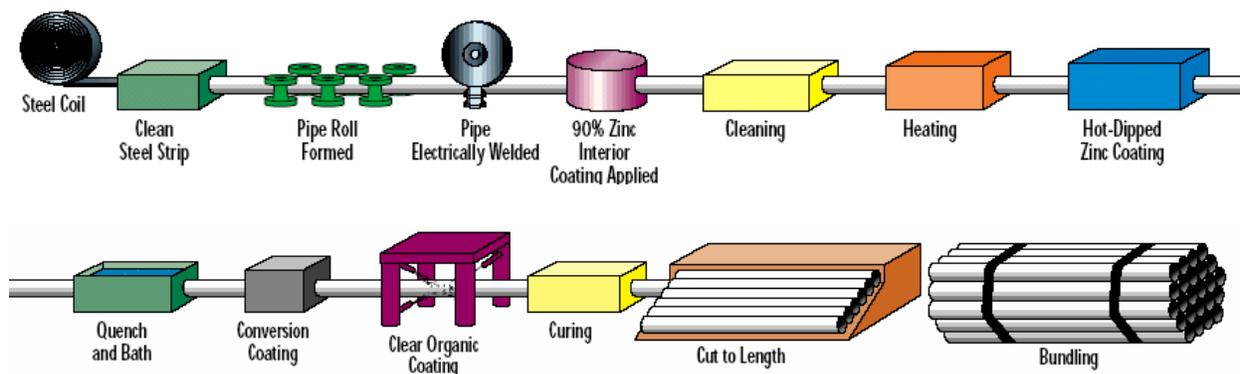
²⁴ A succinct description of the production process which is still valid today can be found in *Certain Light-Walled Rectangular Pipes and Tubes from Taiwan, Inv. No. 731-TA-410 (Final)*, USITC Publication 2169, March 1989, pp. A-4-A-5.

²⁵ *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey Inv. Nos. 731-TA-1054 and 1055 (Final)*, USITC Publication 3728, October 2004, p. I-10.

²⁶ While there is an overlap between producers of LWR pipe and tube and circular mechanical tubing, the mechanical tubing industry is substantially larger, encompassing an estimated 70 to 80 producers in the United States. Staff e-mail correspondence with ***.

hot-dip process, in which the tubes are dipped into a molten zinc bath. Alternatively, some producers manufacture LWR tubing from purchased pre-galvanized sheet and subsequently re-galvanize the weld zone.²⁷ Figure I-2 graphically depicts the manufacturing process for LWR pipe and tube with in-line galvanizing.

**Figure I-2
LWR pipe & tube: Manufacturing process**



Note.--This image does not demonstrate the additional step necessary for the production of square and rectangular shapes which would involve additional rollers following the welding step to form the circular pipe into the appropriate shape. Note also that this image demonstrates the production of corrosion-resistant pipe through a zinc bath. Black product would be cut following the rolling into squares or rectangles (black product as well as corrosion resistant product might also be painted, pickled, oiled, et cetera). Corrosion-resistant product can also be produced by rolling and welding pre-galvanized or corrosion-resistant sheet into pipe.

Source: Prolamsa, Inc.

Interchangeability and Customer and Producer Perceptions

Because manufacturing processes and technologies are similar throughout the world, LWR pipe and tube from different sources are generally viewed as interchangeable across a range of applications.²⁸ In addition, LWR tubing must meet common standards regarding materials, dimensions, and testing, established by standard authorities.²⁹

Design criteria for specific applications and price competitiveness, key considerations for the use of LWR pipe and tube, reportedly limit interchangeability with other products. According to U.S. producers and importers, factors that limit interchangeability among LWR pipe and tube from different sources include severe fabrication such as bending or swaging, steel quality failing to meet specification

²⁷ Hearing transcript, p. 39 (Searing). In previous investigations, the share of domestic production utilizing pre-galvanized sheet was estimated as a small portion of the total volume. *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey*, Inv. Nos. 731-TA-1054 and 1055 (Final), USITC Publication 3728, October 2004, p. I-10.

²⁸ *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey*, Inv. Nos. 731-TA-1054 and 1055 (Final), USITC Publication 3728, October 2004, p. 15; and *Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey, and Venezuela*, Inv. Nos. 731-TA-296 and 409-410 (Review), USITC Publication 3316, July 2000, p. LWR-I-11.

²⁹ A domestic producer representative testified that "...Chinese and Mexican producers manufacture LWR products to either industry specifications or to the specifications required by most original equipment manufacturers." Conference transcript, p. 19 (Kurasz). Mexican respondents allege that they too produce product for the U.S. market that meet industry specifications. Hearing transcript, p. 149 (Sifuentes).

standards, longer lead times, and availability of vessels. Purchasers mentioned additional factors that limit interchangeability such as quality of coatings and the usage of the Metric system that is not marketable in the United States.³⁰

Although other, generally less expensive products, including steel angle, bar, rod, and channel can be utilized in place of LWR pipe and tube in many applications, their inferior strength-to-weight ratio serves to restrain their usage in many other instances.³¹ Also, circular light-walled pipe and tube could theoretically be substituted for LWR pipe and tube, but end-user specifications and long standing customer preferences limit the interchangeability of these products.³² Industry participants report that although black and corrosion-resistant LWR pipe and tube can be interchangeable in most applications, specific applications and customers may require the use of the corrosion-resistant product (*e.g.*, manufacturers of carports).³³

Channels of Distribution

Typically, LWR pipe and tube is sold through distributors to the ultimate end users.³⁴ During the period for which data were collected, both U.S. producers and importers sold the majority of their LWR pipe and tube to distributors.³⁵ U.S. producers sold 81.5 percent of their U.S. shipments to distributors over the 2005-07 period, whereas U.S. importers sold 80.9 percent of their U.S. shipments to distributors.³⁶

Price

Pricing practices and prices reported for LWR pipe and tube in response to the Commission's questionnaires are presented in *Part V* of this report.

³⁰ Additional details on factors that limit or preclude interchangeability are provided in Part II of this report.

³¹ *Light-Walled Rectangular Pipe and Tube from Mexico, Inv. No. 731-TA-730 (Preliminary)*, USITC Publication 2892, May 1995, p. II-4.

³² *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey, Inv. Nos. 731-TA-1054 and 1055 (Final)*, USITC Publication 3728, October 2004, p. I-12.

³³ *Ibid.*

³⁴ Hearing transcript, p. 38 (Searing). The witnesses observed that while most LWR pipe and tube is sold through distributors, some end users are big enough to buy direct from mills or directly from importers.

³⁵ In contrast, mechanical tubing is generally sold to end users. *Certain Circular, Welded, Non-Alloy Steel Pipes and Tubes from Brazil, Korea, Mexico, Romania, Taiwan, and Venezuela, Inv. Nos. 731-TA532-537 (Final)*, USITC Publication 2564, October 1992, p. I-23 (88 percent of hot-rolled mechanical tubing sold directly to end users).

³⁶ U.S. importers reportedly sold 91.7 percent of their U.S. shipments of imports of LWR pipe and tube from subject sources to distributors, of which: *** percent from China, *** percent from Korea, *** percent from Mexico, and *** percent from Turkey. U.S. importers sold 70.2 percent of their U.S. shipments of imports of LWR pipe and tube from nonsubject sources to distributors, of which: *** percent from Canada, *** percent from Korea nonsubject, *** percent from Mexico nonsubject, and *** percent from all other sources.

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

U.S. MARKET CHARACTERISTICS/CHANNELS OF DISTRIBUTION

LWR pipe and tube is used in a wide variety of applications. Uses cited by questionnaire respondents included automotive applications; doors; commercial greenhouses; fencing and railings; furniture and athletic equipment; horse trailers; metal building components; ornamental iron gates, retail garden centers; RV trailers; shelving systems; scaffolding and racks; uprights for shelving gondola systems; utility cargo trailers; and window guards and framing.

The majority of shipments of LWR pipe and tube within the United States are generally sold through distributors than directly to end users. For U.S. producers, total shipments to distributors accounted for between 80.9 and 81.8 percent of shipments during the period 2005-07. For subject imports from China, between *** and *** percent of total annual shipments went to distributors. For subject imports from Korea, *** shipments went to distributors during that period. For subject imports from Mexico, between *** and *** percent of total annual shipments went to distributors during that period. For imports from Turkey, U.S. shipments to distributors accounted for between *** and *** percent of shipments during the period for which data were collected (table II-1).

In most cases, U.S. producers and importers of product from the subject countries sell LWR pipe and tube in one or more specific regions of the United States. Ten out of 23 producers¹ sell most of their LWR pipe and tube to the Midwest and 7 producers sell mostly to the Pacific Coast. Three producers sell mostly to the Southeast and two to the Central Southwest. Only one producer sells to only one region (***). Six producers sell to two or three regions and thirteen producers sell their LWR pipe and tube to four or more regions. Of the 34 responding importers, 7 firms import from a single country and then sell 100 percent of the imports to one region. Moreover, seven import only from Mexico and supply mostly the Central Southwest; three firms import only from Turkey and supply the Central Southwest and the Southeast; three firms import only from Korea and supply mostly the Pacific Coast; six firms import only from China: three supply mostly the Central Southwest, one supplies mostly the Pacific Coast, one supplies mostly the Mountains, and the other one supplies five different regions; two firms import only from Canada, and supply mostly the Northeast, the Midwest, and the Pacific Coast. The remaining firms import from more than one country and supply more than one U.S. geographic region. A total of 28 importers supply the Central Southwest.²

U.S. producers were asked if they attempted and failed to sell their product to other U.S. geographical regions. Of the 12 responding producers, eight reported failing to sell to new geographical regions because of imports that are already present in these regions. U.S. producer *** reported: "The closer you get to a port city in the Gulf region, or the Mexican border, the more competition there is from Mexico, Turkey, Korea, and China." Among the four U.S. producers that reported other reasons for failure to capture new geographic areas, U.S. producer *** reported "shipping out of the 11 western states is cost prohibitive due to freight costs."

U.S. inland shipping distances for U.S.-produced LWR pipe and tube and imports from China, Korea, Mexico, and Turkey were reported during the period 2005-07. Of the 23 responding producers, only 6 producers reported that the majority of their U.S. sales occur within 100 miles of their production or storage facilities. Most producers, 16 of 23, sold the majority of their LWR pipe and tube within distances of 101 to 1,000 miles. Nonetheless, 10 producers sold up to 10 percent of their LWR pipe and tube at distances of over 1,000 miles. Thirteen of 32 responding importers had the majority of their U.S. sales occurring within 100 miles of their storage facilities. Seventeen importers sold the majority of their

¹ For the purpose of this report, Atlas Tube Chicago and Atlas Tube Plymouth are treated as separate entities.

² Additional details on regional shipments are provided in Parts III and IV of this report.

LWR pipe and tube within distances of 101 to 1,000 miles while two importers sold the majority of their LWR pipe and tube at distances of over 1,000 miles.

Table II-1

LWR pipe and tube: U.S. producers' and U.S. importers' shares of reported U.S. shipments, by sources and channels of distribution, 2005-07

Item	2005	2006	2007
	Share of reported shipments (<i>percent</i>)		
Domestic producers' shipments:			
To distributors	81.7	81.8	80.9
To end users	18.3	18.2	19.1
Shipments of imports from China:			
To distributors	***	***	***
To end users	***	***	***
Shipments of imports from Korea:			
To distributors	***	***	***
To end users	***	***	***
Shipments of imports from Mexico:			
To distributors	***	***	***
To end users	***	***	***
Shipments of imports from Turkey:			
To distributors	***	***	***
To end users	***	***	***
Shipments of imports from subject sources:			
To distributors	***	***	***
To end users	***	***	***
Shipments of imports from Korea nonsubject:			
To distributors	-	-	***
To end users	-	-	***
Shipments of imports from Mexico nonsubject:			
To distributors	***	***	***
To end users	***	***	***
Shipments of imports from all other sources:¹			
To distributors	***	***	***
To end users	***	***	***
Shipments of imports from nonsubject sources:²			
To distributors	***	***	***
To end users	***	***	***
Total imports:			
To distributors	79.8	81.8	81.1
To end users	20.2	18.2	18.9
¹ Canada accounts for vast majority of the shipments from nonsubject countries.			
² Nonsubject sources include shipments from Korean nonsubject suppliers, Mexican nonsubject suppliers, and all other sources.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Lead times for delivery from inventory varied widely for both U.S.-produced and imported LWR pipe and tube. For U.S. producers, lead times ranged from 1 day to as much as 30 days. For importers, they ranged from 1 day to 36 days. Lead times for delivery for produced-to-order LWR pipe and tube ranged from 15 days to 2 months for U.S. producers and from 15 days to 3 months for U.S. imports. Most imports are produced to order, while 11 reporting U.S. producers sell most of their LWR pipe and tube from inventories, and the other 10 produce to order.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Industry

The responsiveness of the domestic supply of LWR pipe and tube to changes in price depends on several factors including the level of excess capacity, the availability of alternate markets for U.S.-produced LWR pipe and tube, inventory levels, and the ability to shift to the manufacture of other products. The overall information in the final phase of these investigations indicates that the industry has a high degree of flexibility in expanding output and U.S. shipments in response to an increase in price; factors supporting this level of responsiveness include low-to-moderate industry capacity utilization rates and moderate levels of inventories relative to total shipments. U.S. producers' annual capacity utilization rates were below 67.0 percent during the period for which data were collected. Capacity utilization ranged from a low of 64.4 percent in 2007 to a high of 66.7 percent in 2006. In each of these years, exports were less than 2.0 percent of total shipments. U.S. producers' end-of-period inventories, as a ratio to their total shipments, ranged between 9.6 and 10.3 percent during 2005-07.

As discussed in detail in Parts I and III of this report, U.S. producers use mills to produce a range of tubular products, including circular mechanical tubing, electrical conduit, structural tubing, and roll-formed shapes. This information suggests that the industry has flexibility in shifting its product mix in response to price changes.

Supply of Subject Imports to the U.S. Market

The responsiveness of supply of imports from subject countries to changes in price in the U.S. market is affected by such factors as capacity utilization rates, the availability of home markets and other export markets, and inventories. Based on available information, suppliers of subject imports are capable of responding to changes in demand with moderate to high changes in the quantity of total shipments of LWR pipe and tube to the U.S. market.

Subject Imports from China

During 2005-07, the capacity utilization rate for Chinese producers of LWR pipe and tube was between *** percent; it is estimated to be *** percent in 2008 and *** percent in 2009. Available data indicate that Chinese LWR pipe and tube producers' inventories, as a percentage of total shipments, ranged from a low of *** percent to a high of *** percent. LWR pipe and tube commercial shipments sold in the Chinese home market ranged from *** percent to *** percent of total shipments during this period. Chinese LWR pipe and tube producers' exports to the United States, as a percentage of total shipments, ranged from a low of *** percent to a high of *** percent. Chinese LWR pipe and tube producers' exports to non-U.S. markets, as a percentage of total shipments, ranged from a low of *** percent to a high of *** percent. Therefore, suppliers of LWR pipe and tube from China have the capability to respond to changes in demand with relatively moderate changes in the quantity shipped to

the U.S. market. Supply responsiveness is increased by *** inventories and home market sales, and the existence of non-U.S. export markets.

Subject Imports from Korea

The Commission received no questionnaire responses from Korean suppliers in the final phase of these investigations. Accordingly, the analysis of Korean suppliers responsiveness is from the preliminary phase of these investigations, as adjusted to remove Nexteel's data. During 2004-06, the capacity utilization rate for Korean producers of LWR pipe and tube was *** percent; and based on responses in the preliminary phase of these investigations, the capacity utilization rate for Korean suppliers is estimated to be *** percent in 2007 and *** percent in 2008. Available data indicate that Korean LWR pipe and tube producers' inventories, as a percentage of total shipments, ranged from a low of *** percent to a high of *** percent. LWR pipe and tube commercial shipments sold in the Korean home market ranged from *** percent to *** percent of total shipments during the period 2004-06. Korean LWR pipe and tube producers' exports to non-U.S. markets, as a percentage of total shipments, ranged from a low of *** percent to a high of *** percent. Therefore, suppliers of LWR pipe and tube from Korea have the capability to respond to changes in demand with relatively large changes in the quantity shipped to the U.S. market. Supply responsiveness is increased by the existence of a strong home market, existence of non-U.S. markets, and existence of excess capacity.

Subject Imports from Mexico

During 2005-07, the capacity utilization rate for subject Mexican producers of LWR pipe and tube was between *** and *** percent; it is estimated to increase to *** percent in 2008 and *** percent in 2009. Available data indicate that subject Mexican LWR pipe and tube producers' inventories, as a percentage of total shipments, ranged from a low of *** percent to a high of *** percent. LWR pipe and tube shipments sold commercially by subject producers in the Mexican home market ranged between *** percent and *** of total shipments percent during this period. Subject Mexican LWR pipe and tube producers' exports to the United States, as a percentage of total shipments, ranged from a low of *** percent to a high of *** percent. Subject Mexican LWR pipe and tube producers' exports to non-U.S. markets, as a percentage of total shipments, were *** percent during the period 2005-07, a figure that is estimated to remain the same for the period 2008-09. Therefore, suppliers of LWR pipe and tube from Mexico have the capability to respond to changes in demand with at least moderate changes in the quantity shipped to the U.S. market. Supply responsiveness is enhanced by the existence of home market sales and the existence of excess capacity; however, *** inventories and *** non-U.S. export markets may constrain Mexico's ability to increase exports to the U.S. market.

Subject Imports from Turkey

During 2005-07, the capacity utilization rate for Turkish producers of LWR pipe and tube was between *** and *** percent; it is estimated to increase to *** percent in 2008 and to *** percent in 2009. Available data indicate that Turkish LWR pipe and tube producers' inventories, as a percentage of total shipments, ranged from a low of *** percent to a high of *** percent. LWR pipe and tube commercial shipments sold in the Turkish home market ranged from *** percent to *** percent of total shipments during this period. Turkish LWR pipe and tube producers' exports to the U.S. market, as a percentage of total shipments, ranged from a low of *** percent to a high of *** percent. Turkish LWR pipe and tube producers' exports to non-U.S. markets, as a percentage of total shipments, ranged from a low of *** percent to a high of *** percent. Therefore, suppliers of LWR pipe and tube from Turkey have the capability to respond to changes in demand with relatively large changes in the quantity shipped

to the U.S. market. Supply responsiveness is increased by the volume of home market sales, strong non-U.S. markets, and existence of excess capacity.

U.S. Demand

Demand Characteristics

Since LWR pipe and tube is an intermediate product with many end-use applications, including fences, gates, hand rails, furniture, sports equipment, automotive equipment, and others as discussed earlier, the overall demand for LWR pipe and tube is closely linked to the demand for those end use products. The price elasticity of demand for LWR pipe and tube is likely to be moderate since LWR pipe and tube products have substitutes for some applications and they often account for a substantial share of the final cost of products in which they are used as inputs.

Demand Trends

When asked how U.S. demand and demand outside the United States for LWR pipe and tube had changed since January 1, 2005, responses from U.S. producers were mixed: 4 of 23 producers reported that U.S. demand had increased, 11 reported that demand decreased,³ and 8 reported that demand either fluctuated or did not change. One producer that reported increased demand attributed the rise to economic factors such as a strong housing market. The producers reporting reduced demand attributed the decline to overall economic recession, slumping residential construction, customers moving production abroad or outside of the producers' sales region, and an increase in imports of finished products or fabricated components from countries such as China. Most U.S. producers reported that they are not aware of demand for LWR pipe and tube outside the United States since it is not part of their market. However, two U.S. producers reported that demand outside the United States has increased; one producer reported that it has decreased, and four reported that it has either stayed the same or fluctuated. The producers reporting fluctuating demand attributed the fluctuation to a decrease in the value of the U.S. currency; the producers reporting increased global demand attributed the rise to a growing world economy and global GDP.

While the majority of producers reported that U.S. demand decreased, a large number of importers reported that U.S. demand increased. Only three importers reported that U.S. demand decreased and 13 reported fluctuation or no change in demand during the period 2005-07. The 14 importers reporting increased U.S. demand attributed the rise to factors such as growth in the construction sector (the main consumer of LWR pipe and tube) and to a strong U.S. economy. Similarly, 8 of 24 responding importers reported increased demand outside of the United States, 10 firms reported that demand has either stayed the same or fluctuated, and 7 reported no knowledge about demand outside of the United States.

Purchasers who are end users were asked if the demand for their firm's final product incorporating LWR pipe and tube has changed since January 1, 2005. Seven purchasers reported that demand has increased, one reported that demand has decreased, and six reported that demand for their final products either fluctuated or remained the same.

³ Petitioners reported that demand for LWR pipe and tube has declined due to the decrease in the residential construction sector (new homes) and in home improvement (lawn mowers, lawn furniture, hammocks, window guards, fencing, etc.) where 60-70 percent of the product is utilized. According to petitioners, there is still activity in the housing sector and while the raw numbers are down dramatically from previous levels, the trend, they believe, should improve. However, while the industry suffered "from declining demand, it suffered more and will continue to suffer more because the subject imports weren't responsive to the changes in market conditions," according to petitioners. Hearing transcript, pp. 57-64 (Mr. Searing, Mr. Lind, Mr. Meyer, and Mr. Montgomery).

Apparent U.S. consumption of LWR pipe and tube increased from 962,225 short tons in 2005 to 1,025,684 short tons in 2006, and then decreased to 894,973 short tons in 2007.

Substitute Products

U.S. producers and importers were asked to list any products that may be substituted for LWR pipe and tube, the relevant applications and end uses, and to indicate whether changes in the prices of the substitutes affected the price for LWR pipe and tube. Twelve of 23 producers mentioned substitute products for LWR pipe and tube in different end uses, including seamless tube, DOM (drawn over mandrel) tubing, round tubulars, flat bar, rebar, steel angles, hydroformed tube, aluminum, wood, wrought iron, steel channels, chain link, block wall, steel shapes, and roll formed sections. These products are substitutes in mechanical and automotive applications, hydraulics, conduit, gym equipment, structural members, handrails, furniture, different types of fencing, racks, or shelving. Only 4 of these 12 producers reported that the prices of the substitutes affected the price of LWR pipe and tube. Twelve of the 38 responding importers reported a few substitutes including wood, solid steel bar, wire mesh, plastic, purlins, aluminum tube, stainless steel tube, round tubulars, and lighter gauges. Only three importers reported that the prices of the substitutes affect the price of LWR pipe and tube.

Seventeen purchasers reported that they are not aware of any substitutes, while seven purchasers reported substitutes for LWR pipe and tube. In order of importance, these firms stated that aluminum extrusions, steel angles, channel iron, graphite, and t-posts would be the first choice as substitutes, while roll-formed steel, channels, angle iron, and wood posts would follow. Examples of applications where substitute products could be used were structural framing and network racks.

Cost Share

Producers and importers were asked to estimate the cost of LWR pipe and tube products as a share of the cost of the end use products in which LWR pipe and tube is used as input. Sixteen producers and 16 importers provided estimates for various products ranging between 5 and 80 percent for producers and 40 to 100 percent for importers.

Purchasers who are end users of LWR pipe and tube were asked what share of total cost was accounted for by LWR pipe and tube of the major products they produce. A producer of metal iron gates indicated that LWR pipe and tube accounted for *** percent of total cost. A producer of commercial greenhouses, retail garden centers, and display fixtures reported LWR pipe and tube to be *** percent of total cost. A producer of doors, fences, and window guards indicated shares of total cost would be *** percent of total cost. A summary of the share of total cost of the end-use products which is accounted for LWR pipe and tube is presented in the following tabulation.

End use	Share of total cost of end-use product (in percent)
Carports	50
Chassis frames	20-30
Commercial greenhouses	35
Display fixtures	30
Doors	50-70
End frames for shelving gondola system	10
Fencing and railings	30-82
Furniture and athletic equipment	20-60
Metal building components	15
Ornamental iron gates	60

Ornamental iron fences	60
Rectangular dairy cattle stanchion	19
Retail garden centers	35
RV trailer frames/chassis	25-35
Shelving systems, scaffolding, and racks	50-70
Slide out units	15
Trailers	40
Truck body	20
Uprights for shelving gondola system	80
Utility cargo trailers	8
Window guards and framing	30-80

SUBSTITUTABILITY ISSUES

This section examines the degree of substitutability between domestic products and subject and nonsubject imports, between subject imports from different sources, and between subject and nonsubject imports. The discussion is based upon questionnaire responses from producers, importers, and purchasers.

Factors Affecting Purchasing Decisions

Table II-2 summarizes the purchasers' responses concerning the top three factors they reported in their purchasing decisions.⁴ As indicated in the table, availability/reliability of supply was cited most frequently as the primary factor in buying decisions, followed closely by price. Price was the most frequently cited second factor, and availability/reliability of supply was the most cited third factor.

Table II-2
LWR pipe and tube: Ranking factors used in purchasing decisions by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Price	13	16	7
Quality	7	7	3
Availability/reliability of supply	14	6	9
Traditional supplier/contract	0	1	1
Reliability/product consistency	0	1	2
Delivery/transportation	0	3	6
Other ¹	3	2	12

¹ Other factors include meeting specification requirements, extension of credit for first factor, traditional supplier and product offering for second factor; service, prearranged contracts, manufacturing and scheduling flexibility for third factor.

Source: Compiled from data submitted in response to Commission questionnaires.

⁴ Questionnaires were sent to 133 purchasers and 38 responded.

Purchasers were asked to rate the importance of 15 factors in their purchasing decisions (table II-3). Thirty-five purchasers rated price and 34 firms reported product consistency very important; 33 firms considered quality meeting industry standards and reliability of supply very important; 32 firms reported availability as very important. Fifteen firms reported that extension of credit was not an important factor and 10 firms reported that “quality exceeds industry standards” was not an important factor.

Table II-3
LWR pipe and tube: Importance of purchase factors, as reported by U.S. purchasers

Factor	Very important	Somewhat important	Not important
	<i>Number of firms responding</i>		
Availability	32	6	0
Delivery terms	19	17	2
Delivery time	29	9	0
Discounts offered	17	18	3
Extension of credit	8	15	15
Minimum quantity requirements	4	28	6
Packaging	12	22	4
Price	35	3	0
Product consistency	34	4	0
Product range	11	22	5
Quality exceeds industry standards	13	13	10
Quality meets industry standards	33	4	1
Reliability of supply	33	5	0
Technical support/service	11	19	7
U.S. transportation costs	20	16	2

Note.--Not all purchasers responded for each factor.

Source: Compiled from data submitted in response to Commission questionnaires.

Purchasers were asked for a country-by-country comparison on the same 15 factors (table II-4). For U.S.-produced product compared to subject countries’ product, most purchasers reported that subject product was superior (i.e. lower) in terms of price. For U.S.-produced product compared to Chinese product, most purchasers reported that the U.S. product was superior with regard to product availability, delivery terms, delivery time, product consistency, quality meets industry standards, product range, reliability of supply, and technical support. The majority of firms reported that the Chinese product was superior for price and that the U.S. product and the Chinese product were comparable with regard to discounts offered, extension of credit, minimum quantity requirements, packaging, and quality exceeds industry standards.

Similarly, for U.S.-produced product compared to Korean product, most purchasers reported that U.S. product was superior with regard to product availability, delivery terms, delivery time, reliability of supply, and technical support. The majority of firms reported that the Korean product was superior in terms of price and that the U.S. product and the Korean product were comparable with regard to discounts offered, extension of credit, packaging, quality meets and exceeds industry standards, and U.S. transportation costs.

For U.S.-produced product compared to Mexican product, most purchasers reported that the products were comparable for most factors. The firms reported that the U.S.-product was superior in terms of availability, delivery terms, delivery time, and reliability of supply. A slight majority of reporting firms stated that the Mexican product was superior for price (i.e., lower price).

Table II-4
LWR pipe and tube: Comparisons of product by source country, as reported by U.S. purchasers

Factor	U.S. vs China			U.S. vs Korea			U.S. vs Mexico			U.S. vs Turkey		
	S	C	I	S	C	I	S	C	I	S	C	I
	<i>Number of firms responding</i>											
Availability	14	5	0	7	3	0	6	4	0	6	0	0
Delivery terms	12	7	0	7	4	0	5	5	0	4	2	0
Delivery time	15	4	0	9	2	0	7	3	0	6	0	0
Discounts offered	3	12	4	2	6	2	1	8	1	2	3	1
Extension of credit	3	15	1	0	10	0	1	9	0	1	5	0
Price ¹	1	5	13	1	1	9	0	4	6	0	0	5
Minimum quantity requirements	7	11	1	5	6	0	4	6	0	3	3	0
Packaging	4	14	1	0	10	1	0	10	0	0	6	0
Product consistency	11	7	1	1	10	0	4	6	0	2	3	1
Product range	8	10	1	6	5	0	3	7	0	4	2	0
Quality exceeds industry standards	8	11	0	1	10	0	1	9	0	4	1	1
Quality meets industry standards	10	9	0	1	10	0	0	10	0	3	3	0
Reliability of supply	13	6	0	9	2	0	7	3	0	5	0	1
Technical support/service	16	2	1	8	2	1	5	5	0	5	0	1
U.S. transportation costs ¹	8	8	2	3	7	1	4	6	0	2	4	0
Factor	U.S. vs Canada			China vs Korea			China vs Mexico					
	S	C	I	S	C	I	S	C	I			
	<i>Number of firms responding</i>											
Availability	2	3	0	0	4	1	0	4	2			
Delivery terms	1	4	0	0	4	1	0	3	3			
Delivery time	3	2	0	0	3	2	1	1	4			
Discounts offered	0	5	0	0	4	1	1	4	1			
Extension of credit	1	4	0	0	5	0	1	4	1			
Price ¹	1	4	0	2	2	1	1	4	1			
Minimum quantity requirements	1	4	0	0	5	0	0	4	2			
Packaging	0	5	0	0	3	2	0	4	2			
Product consistency	1	4	0	0	2	3	0	4	2			
Product range	2	3	0	0	3	2	0	4	2			
Quality exceeds industry standards	1	4	0	0	3	2	1	2	3			
Quality meets industry standards	0	5	0	0	2	3	0	4	2			
Reliability of supply	2	3	0	0	2	3	1	4	1			
Technical support/service	2	3	0	0	3	2	0	4	2			
U.S. transportation costs ¹	3	2	0	0	5	0	0	4	2			

¹ A rating of superior means that price/U.S. transportation cost is generally lower. For example, if a firm reported "U.S. superior", it meant that the price of U.S. product was generally lower than the price of the imported product.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior. Data shown only for comparisons made by at least 3 purchasers.

Source: Compiled from data submitted in response to Commission questionnaires.

When comparing U.S.-produced product to Turkish product, most purchasers reported that the U.S. product was superior in terms of availability, delivery terms, delivery time, product range, quality exceeds industry standards, reliability of supply, and technical support. The majority of firms reported that the Turkish product was superior for price and that the U.S. product and the Turkish product were comparable with regard to discounts offered, extension of credit, packaging, product consistency, and U.S. transportation costs.

Purchasers were asked if they purchase LWR pipe and tube product from only one source. Of the responding firms, 5 firms reported that they purchase domestic material only; 2 firms reported that they purchase only Korean material; and 15 firms purchase from multiple sources.

When asked if certain grades/types/sizes of LWR pipe and tube were available from only a single source, 33 of 38 responding purchasers reported that they are not available from only one source. However, one firm did not know and four firms reported yes, mentioning the large spectrum of U.S. products not being available from import sources and the availability in the United States of LWR pipe and tube with galvanized coating.

Purchasers were also asked if they or their customers ever specifically requested product from one country over other possible sources. Fourteen of the 26 responding purchasers reported that they order product from the United States only and 3 purchasers reported that they order both the U.S. and Canadian product because of consistent quality, availability and shipping costs. However the majority, 20 of 26 firms, order from multiple sources.

When asked how often their firm purchases LWR pipe and tube that is offered at the lowest price, three purchasers indicated "always," 17 indicated "usually," 16 indicated "sometimes," and 1 purchaser indicated "never."

Purchasers were also asked if their buyers are aware or interested in the country of origin of LWR pipe and tube. Five purchasers indicated "always," 6 indicated "usually," 23 indicated "sometimes," and 3 purchasers indicated "never."

Asked whether or not they required their suppliers to become certified or pre-qualified with respect to the quality, chemistry, strength, or other performance characteristics of the LWR pipe and tube they purchase, 32 of 39 responding purchasers reported that they did.

When qualifying a new supplier, most purchasers take into consideration the quality of the product, reliability, and price. One supplier mentioned that the new supplier needs to meet their purchase order requirements which included specifications, special instructions, and delivery schedule. Another purchaser considers the quality of the product and the adherence to the required dimensional tolerance. A different purchaser mentioned that the supplier's product must meet or exceed the ASTM A-500 grade B specifications. The vendor also needs to deliver the product on time, and the vendor is considered "conditional" until they have performed well several times, over a period of 6 months. Also, all vendors are reevaluated once every 6 months. Another purchaser reported that it provides suppliers with a quality questionnaire and evaluates the product samples; it also evaluates test reports, past history, published information, and registered quality management system.

Fifteen purchasers provided information on the time necessary to qualify a supplier, which ranged from one week to one year. Two other firms reported that qualification times vary. When asked if any new suppliers failed certification, 8 firms reported that they have failed new certifications, and 28 reported no new failed certifications. Six firms declined to give certifications to Chinese firms, reporting reasons such as not meeting ASTM specifications, failure to meet their standards at a specific price including terms and delivery schedule, and testing failure rates from 25 percent to 100 percent of shipments.

When purchasers were asked what characteristics they consider when determining the quality of LWR pipe and tube, the 36 responding purchasers reported characteristics that included surface finish, particular tolerances, tensile strength, hardness, ability to be coated with paint or other finishes, ability to be bent and formed, dents, weld seam integrity, straightness, roll marks, wall consistency, and meeting or

exceeding ASTM standards. Often these characteristics included requirements of cleanliness and surface quality, and especially that the product be rust free.

Comparisons of Domestic Products and Subject Imports

In order to determine whether U.S.-produced LWR pipe and tube can generally be used in the same applications as imports from China, Korea, Mexico, and Turkey, producers, importers, and purchasers were asked whether the product can “always,” “frequently,” “sometimes,” or “never” be used interchangeably (table II-5).

Table II-5
LWR pipe and tube: Interchangeability of product from different sources¹

Country comparison	U.S. producers				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	17	2	1	0	12	1	8	1	10	5	9	1
U.S. vs. Korea	18	2	0	0	12	3	2	0	10	6	2	0
U.S. vs. Mexico	17	2	1	0	13	4	2	0	9	6	3	0
U.S. vs. Turkey	17	2	1	0	10	4	6	0	7	5	2	0
U.S. vs. Canada	18	2	0	0	10	3	1	0	8	5	2	0
U.S. vs. Nonsubject	15	2	1	0	8	0	2	0	2	4	0	0
China vs. Korea	11	0	0	0	10	0	1	0	7	2	3	0
China vs. Mexico	11	0	0	0	12	0	3	0	4	1	5	1
China vs. Turkey	11	0	0	0	9	1	3	0	4	3	1	0
China vs. Canada	11	0	0	0	9	0	4	0	3	1	5	1
China vs. Nonsubject	10	0	0	0	8	0	1	0	1	1	1	0
Korea vs. Mexico	11	0	0	0	12	0	2	1	4	3	0	1
Korea vs. Turkey	11	0	0	0	9	0	2	0	4	4	0	0
Korea vs. Canada	11	0	0	0	9	0	2	0	3	4	0	1
Korea vs. Nonsubject	10	0	0	0	8	0	1	0	1	2	0	0
Mexico vs. Turkey	11	0	0	0	11	0	3	1	5	2	0	1
Mexico vs. Canada	11	0	0	0	11	2	2	0	4	2	3	1
Mexico vs. Nonsubject	10	0	0	0	9	0	1	0	1	2	0	0
Turkey vs. Canada	11	0	0	0	9	0	2	0	4	1	1	1
Turkey vs. Nonsubject	10	0	0	0	9	0	1	0	2	1	0	0
Canada vs. Nonsubject	10	0	1	0	8	0	1	0	1	2	0	0

¹ Firms were asked if LWR pipe and tube produced in the United States and in other countries is used interchangeably.

Note.--“A” = Always, “F” = Frequently, “S” = Sometimes, and “N” = Never.

Source: Compiled from data submitted in response to Commission questionnaires.

For U.S. producers, importers, and purchasers that compared U.S. products with those from China, Korea, Mexico, and Turkey, the majority reported that the products from these countries can always or frequently be used interchangeably, with some importers and purchasers reporting that certain product (generally LWR pipe and tube from China) is only sometimes interchangeable.

Three producers that compared the domestic products and subject imports with respect to interchangeability made additional comments on factors that limit or preclude interchangeability. One

firm, ***, stated that severe fabrication, such as bending or swaging, limits interchangeability. Another firm, ***, indicated that the products are all interchangeable and would always make a suitable ornamental fence. A third firm, ***, reported that Chinese quality is not acceptable and the Chinese products have specification issues.

Four importers that compared the domestic products and subject imports with respect to interchangeability also made additional comments on factors that limit or preclude interchangeability. These importers mentioned problems such as steel quality, lead times, service, price, availability of vessels, and use of the Metric system.

Eight purchasers that compared the domestic products and subject imports with respect to interchangeability also made additional comments on factors that limit or preclude interchangeability. They mentioned that the quality of coatings vary as well as other issues such as longer lead times and use of the Metric system. However, four of these purchasers reported that unless there is a “domestic only” requirement, they prefer the foreign product because it is affordable.

Producers, importers, and purchasers were also asked to compare U.S.-produced products with imports from each of the subject countries in terms of product differences other than price such as quality, availability, product range, and technical support. Again, firms were asked whether these product differences are always, frequently, sometimes, or never significant (table II-6).

Of the producers and importers that compared the U.S. product with those from China, Korea, Mexico, and Turkey, most reported that the differences are sometimes or never significant. However, among the purchasers, the majority reported that the differences are always or frequently significant for all four countries, with a few reporting that differences are sometimes or never significant.

Comparisons of Domestic Products and Nonsubject Imports

Producers, importers, and purchasers were also asked to compare U.S.-produced LWR pipe and tube with nonsubject imports both in terms of interchangeability and product specifications (table II-5). The majority of the responding firms reported that the products from these countries can always or frequently be used interchangeably, with one U.S. producer and two importers reporting that the product is only sometimes interchangeable.

Comparisons of Subject Imports and Nonsubject Imports

U.S. producers, importers, and purchasers of LWR pipe and tube were also asked to separately compare imports from China, Korea, Mexico, and Turkey with nonsubject imports, both in terms of interchangeability and product differences. All U.S. producers and most importers that compared imports from China, Korea, Mexico, and Turkey with nonsubject imports in terms of interchangeability reported that the products are always interchangeable. Most U.S. producers and importers that compared imports from China, Korea, Mexico, and Turkey with nonsubject imports in terms of product differences reported that the differences are sometimes or never significant. Of the purchasers that compared products from the four countries with nonsubject imports in terms of interchangeability, the majority reported that they are always or frequently interchangeable, except with respect to China, where responses were closely divided.

Table II-6
LWR pipe and tube: Differences other than price between products from different sources¹

Country comparison	U.S. producers				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. China	2	3	6	8	2	3	8	6	9	5	3	3
U.S. vs. Korea	2	2	6	8	2	1	8	5	6	3	3	3
U.S. vs. Mexico	2	3	6	8	2	4	5	6	7	3	4	1
U.S. vs. Turkey	3	2	6	7	2	1	7	5	5	3	3	0
U.S. vs. Canada	2	2	5	10	2	2	2	6	6	3	2	2
U.S. vs. Nonsubject	2	2	4	8	1	1	2	5	2	1	3	0
China vs. Korea	1	0	2	5	1	0	2	5	3	3	2	2
China vs. Mexico	1	0	2	5	1	2	2	6	3	3	2	0
China vs. Turkey	1	0	2	5	1	0	1	6	2	2	2	0
China vs. Canada	1	0	3	5	1	1	2	5	3	3	0	1
China vs. Nonsubject	1	0	1	5	1	0	1	5	1	2	1	0
Korea vs. Mexico	1	0	2	5	2	2	1	7	2	2	3	0
Korea vs. Turkey	1	0	2	5	2	0	1	6	2	2	2	0
Korea vs. Canada	1	0	3	5	2	1	1	5	2	2	1	1
Korea vs. Nonsubject	1	0	1	5	1	1	0	5	1	1	1	1
Mexico vs. Turkey	1	0	2	6	2	1	3	7	2	2	2	0
Mexico vs. Canada	1	0	3	5	2	2	2	6	3	2	2	0
Mexico vs. Nonsubject	1	0	1	6	1	1	0	7	1	1	2	0
Turkey vs. Canada	1	0	3	5	2	0	2	5	2	2	1	1
Turkey vs. Nonsubject	1	0	1	5	1	2	0	5	1	1	1	0
Canada vs. Nonsubject	1	0	1	6	1	1	0	6	1	1	2	0

¹ Firms were asked if differences other than price between LWR pipe and tube produced in the United States and in other countries were significant.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, and "N" = Never.

Source: Compiled from data submitted in response to Commission questionnaires.

Comparisons of Subject Products from the Subject Countries

U.S. producers, importers, and purchasers of LWR pipe and tube from all sources were also asked to compare imports from China, Korea, Mexico, and Turkey both in terms of interchangeability and product differences. All responding producers and most importers that compared products from the four countries in terms of interchangeability reported that they are always interchangeable. Similarly, the majority of purchasers that compared products from the four countries in terms of interchangeability reported that they are always or frequently interchangeable with the exception of the "China vs. Mexico" comparison where the majority responding purchasers reported that they products are only sometimes or never interchangeable. Most of the U.S. producers and importers that compared products from China, Korea, Mexico, and Turkey in terms of product differences reported that the differences are sometimes or never significant. Of the purchasers that compared products from the four countries in terms of product differences, the majority reported that the differences are always or frequently significant.

ELASTICITY ESTIMATES

U.S. Supply Elasticity

The domestic supply elasticity for LWR pipe and tube measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price for LWR pipe and tube. The elasticity of domestic supply depends on several factors, including the level of excess capacity, the existence of inventories, and the availability of alternate markets for U.S.-produced LWR pipe and tube. Available information on these factors indicates that the U.S. industry is likely to have the ability to increase or decrease shipments to the U.S. market; an estimate in the range of 5 to 10 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for LWR pipe and tube measures the sensitivity of the overall quantity demanded to changes in the U.S. market price for LWR pipe and tube. This estimate depends on the factors discussed earlier, such as the existence, availability, and commercial viability of substitute products and the relative cost share of LWR pipe and tube. Based on information available, a demand elasticity in the range of 0.75 and 1.0 is reasonable.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products. Product differentiation, in turn, depends upon such factors as quality and conditions of sale. Based on available information, the elasticity of substitution between U.S.-produced LWR pipe and tube and LWR pipe and tube imported from Korea, Mexico, and Turkey is estimated to be in the range of 3 to 5. However, elasticity of substitution between U.S.-produced LWR pipe and tube and LWR pipe and tube imported from China is estimated to be in the range 2 to 4.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

U.S. PRODUCERS

Table III-1 lists known U.S. producers of LWR pipe and tube, their plant locations, number of mills, positions on the petition, production, and shares of reported production over the period for which data were collected. Figure III-1 presents U.S. producers' mill locations and shares of U.S. producers' U.S. shipments by region. Most U.S. producers are located throughout the Midwest United States, although there is a concentration of West Coast producers in the greater Los Angeles area. Relatively few U.S. producers operate in the Central Southwest, Mountain, or Northeast regions.

Table III-1
LWR pipe and tube: U.S. producers, their positions on the petition, production locations, number of mills, U.S. production, and shares of reported U.S. production, January 2005-December 2007 aggregated

Firm	Position on the petition	Production location(s)	Total number of mills producing LWR pipe and tube	Total production (short tons)	Share of production (percent)
AK Tube	Support	Walbridge, OH	***	***	***
Allied Tube and Conduit	Support	DePere, WI Harvey, IL Philadelphia, PA Phoenix, AZ Pine Bluff, AR	***	***	***
Atlas Tube (Chicago)	Support	Chicago, IL	***	***	***
Atlas Tube (Plymouth)	Support	Plymouth, MI	***	***	***
Bull Moose Tube	Support	Chicago Heights, IL Elkhart, IN Gerald, MO Masury, OH Trenton, GA	***	***	***
California Steel and Tube	Support	City of Industry, CA	***	***	***
Dundee Products ¹	Support	Dundee, MI	***	***	***
Evraz Oregon Steel Mills (Columbia Structural Tubing)	Support	Portland, OR	***	***	***
EXL Tube	Support, except no position on Mexico	Kansas City, MO	***	***	***
Hanna Steel	Support	Pekin, IL Tuscaloosa, AL	***	***	***
Hannibal Industries	Support	Vernon, CA	***	***	***

Table continued on next page.

Table III-1--Continued

LWR pipe and tube: U.S. producers, their positions on the petition, production locations, number of mills, U.S. production, and shares of reported U.S. production, January 2005-December 2007 aggregated

Firm	Position on the petition	Production location(s)	Total number of mills producing LWR pipe and tube	Total production (short tons)	Share of production (percent)
Hofmann ¹	Support	Sinking Spring, PA	***	***	***
Jackson Tube ¹	***	Charlotte, NC Piqua, OH	***	***	***
Leavitt Tube	Support	Chicago, IL Jackson, MS	***	***	***
Leggett & Platt	No position	LaVergne, TN West Point, MS	***	***	***
Longhorn Tube	Support	Dallas, TX	***	***	***
Maruichi American	Support	Santa Fe Springs, CA	***	***	***
Mid-States Tube	Support	Kenosha, WI	***	***	***
Northwest Pipe	Support	Houston, TX	***	***	***
Paragon Tube	Support	Fort Wayne, IN	***	***	***
P.C. Campana ²	(²)	Lorain, OH	(²)	***	***
Searing Industries	Support	Rancho Cucamonga, CA	***	***	***
Southeast Tube	Support	Cadiz, KY	***	***	***
Southland Tube ³	Support	Birmingham, AL	***	***	***
Tubetech North America ²	(²)	East Palestine, OH	(²)	***	***
Vest	***	Vernon, CA	***	***	***
Welded Tube	Support	Berkeley, SC Delta, OH	***	***	***
Western Tube and Conduit	Support	Long Beach, CA	***	***	***
Wheatland Tube ²	(²)	Wheatland, PA	(²)	***	***
Total³			127	1,913,227	100.0
¹ ***. ² ***. ³ In the preliminary phase, ***. Data provided on *** operations of LWR pipe and tube in the final phase of these investigations are ***. Staff telephone interview, ***, March 10, 2008.					
Source: Compiled from data submitted in response to Commission questionnaires.					

The 28 firms represented in table III-1 are believed to account for the vast majority of U.S. production of LWR pipe and tube. In the preliminary phase of these investigations, respondents' counsel

raised a data coverage issue and provided a list of potential producers of LWR pipe and tube.¹ In the final phase of these investigations, the Commission contacted each these additional potential producers. Ten of these firms, together *** percent of total reported U.S. production over the period for which data were collected, responded to the Commission's request for information.² An additional three firms that provided partial data on their LWR pipe and tube operations in the preliminary phase of these investigations did not provide data on their operations in the final phase, including: Dundee Products, Hofmann Industries, and Jackson Tube.³ In total, 22 firms provided useable data for purposes of this report, including:

AK Tube LLC, Walbridge, OH;⁴
Allied Tube and Conduit, Harvey, IL;⁵
Atlas Tube, Chicago, IL;⁶ and Atlas Tube, Plymouth, MI;⁷
Bull Moose Tube, Chesterfield, MO;⁸
California Steel and Tube, City of Industry, CA;⁹
Evraz Oregon Steel Mills, Portland, OR;¹⁰
EXL Tube, Kansas City, MO;¹¹
Hanna Steel, Fairfield, AL;¹²
Hannibal Industries, Los Angeles, CA;¹³
Leavitt Tube Co., LLC, Chicago, IL;¹⁴
Leggett & Platt, Carthage, MO;¹⁵
Longhorn Tube, LP, Dallas, TX;¹⁶
Maruichi American Corp., Sante Fe Springs, CA;¹⁷
Mid-States Tube, Kenosha, WI;¹⁸

¹ Respondents' postconference brief, exh. 6.

² Four of the additional producers, ***, provided full responses to the U.S. producers' questionnaire in the final phase of these investigations. Three additional firms, ***, provided estimates relating to their production of subject merchandise, and in each instance the quantities involved were very small. Finally three new responding firms certified that they do not produce LWR pipe and tube, including ***.

³ Of these, *** had only provided partial, unusable data in the preliminary phase.

⁴ <http://www.aktube.com>.

⁵ <http://www.alliedtube.com>.

⁶ <http://www.atlastube.com>.

⁷ This facility *** and its data were submitted separately from the mills in Chicago.

⁸ <http://www.bullmoosetube.com>. Bull Moose subsequently joined the petitioning firms. It is the largest U.S. producer of LWR pipe and tube and has been in the business for over four decades. Hearing transcript, p. 28 (Meyers).

⁹ <http://www.californiasteelandtube.com>.

¹⁰ <http://www.osm.com>.

¹¹ <http://www.exltube.com>.

¹² <http://www.hannasteel.com>.

¹³ <http://www.hannibalindustries.com>.

¹⁴ <http://www.leavitt-tube.com>.

¹⁵ <http://www.leggett.com>.

¹⁶ <http://www.longhorntube.com>.

¹⁷ <http://www.macsf.com>.

¹⁸ <http://www.midstatestube.com>

Northwest Pipe, Portland, OR;¹⁹
 Paragon Tube, Fort Wayne, IN;²⁰
 Searing Industries, Rancho Cucamonga, CA;²¹
 Southeast Tube, Kadiz, KY;²²
 Southland Tube, Birmingham, AL;²³
 Vest Inc., Los Angeles, CA;²⁴
 Welded Tube, Concord, Ontario (Canada);²⁵ and
 Western Tube and Conduit, Long Beach, CA.²⁶

Table III-2 presents information on U.S. producers' ownership and each company's share of sales of various product lines produced at their LWR pipe and tube facilities.

Table III-2
LWR pipe and tube: Parent companies and product lines, 2007

Firm	Parent company	Share of total sales in 2007 (<i>in percent</i>)			
		LWR pipe and tube	Circular mechanical tubing	Heavy-walled pipe or tube ¹	Other
AK Tube	AK Investments, Inc., Middletown, OH	***	***	***	***
Allied Tube and Conduit	Tyco International, Princeton, NJ ¹	***	***	***	***
Atlas Tube (Chicago)	The Carlyle Group ²	***	***	***	***
Atlas Tube (Plymouth)	The Carlyle Group ²	***	***	***	***
Bull Moose Tube	Caparo Industries, PLC, London, the United Kingdom	***	***	***	***
California Steel and Tube	MacSteel Service Centers USA ³	***	***	***	***
Dundee Products ⁴	None	***	***	***	***
Evrax Oregon Steel Mills (Columbia Structural Steel)	Evrax Group, Luxembourg	***	***	***	***
EXL Tube	Steel and Pipe Supply Co., Manhattan, KS	***	***	***	***
Hanna Steel	Hanna Holdings, Fairfield, AL	***	***	***	***

Table continued on next page.

¹⁹ <http://www.nwpipe.com>.

²⁰ <http://www.paragontube.com>

²¹ <http://www.searingindustries.com>.

²² <http://www.southeasttube.com>.

²³ <http://www.southlandtube.com>.

²⁴ <http://www.vestinc.com>.

²⁵ <http://www.weldedtube.com>.

²⁶ <http://www.westerntube.com>.

Table III-2--Continued

LWR pipe and tube: Parent companies and product lines, 2007

Firm	Parent company	Share of total sales in 2007 (in percent)			
		LWR pipe and tube	Circular mechanical tubing	Heavy-walled pipe or tube ¹	Other
Hannibal Industries	Mitsui & Co. (USA), Inc., New York, NY ⁵	***	***	***	***
Hofmann Industries ⁶	None	***	***	***	***
Jackson Tube ⁷	None	***	***	***	***
Leavitt Tube ⁸	None ⁸	***	***	***	***
Leggett & Platt	None	***	***	***	***
Longhorn Tube	None	***	***	***	***
Maruichi American ⁸	Maruichi Steel Tube Co. Ltd., Osaka, Japan (***) and Metal One Corp., Tokyo, Japan (***) ⁸	***	***	***	***
Mid-States Tube	None	***	***	***	***
Northwest Pipe	None	***	***	***	***
Paragon Tube	None	***	***	***	***
Searing Industries	None	***	***	***	***
Southeast Tube	Monarch Steel, Cleveland, OH	***	***	***	***
Southland Tube	None	***	***	***	***
Vest	JFE Shoji Trade USA, New York, NY ⁹	***	***	***	***
Welded Tube	Welded Tube Holdings, Concord, ON, Canada	***	***	***	***
Western Tube and Conduit	Sumitomo Metals Industries, Ltd., Tokyo, Japan (***)	***	***	***	***

¹ Includes data on any circular or noncircular welded carbon steel pipe or tube with a wall thickness of 4mm or more, such as hollow structural shapes (HSS), structural tubing, and standard pipe, among others.

² Atlas merged with the John Maneely Company (owner of Wheatland Tube) in 2006. The John Maneely Company itself was purchased by the Carlyle Group in March 2006. *U.S. Buyout: John Maneely Company*, website of the Carlyle Group, <http://www.carlyle.com/Fund/Buyout/U.S.%20Buyout/item7581.html>, retrieved March 11, 2008; and *John Maneely Company to Merge with Atlas Tube, Inc.; Building a Global Manufacturing Champion - Combined Company to Be Largest North American Manufacturer of Steel Tubing*, press release, The Carlyle Group, October 25, 2006, <http://www.carlyle.com/Media%20Room/News%20Archive/2006/item6932.html>, retrieved March 11, 2008. While the Carlyle Group is the effective owner of Atlas Tube, ***.

³ MacSteel Service Centers USA, which submitted a U.S. importers' questionnaire response in these investigations, is in turn owned by MacSteel Global BV (Netherlands).

⁴ Dundee Products ***.

⁵ In 2008, employees of Hannibal Industries, entered into an employee stock ownership program (ESOP) to buy the company from Mitsui USA.

⁶ Hofmann Industries ***.

⁷ Jackson Tube ***.

⁸ Maruichi Steel Tube Co. Ltd. has announced the acquisition of Leavitt Tube Company, effective May 2008.

⁹ ***.

Source: Compiled from data submitted in response to Commission questionnaires and from public sources.

On March 7, 2008, Maruichi Steel Tube Ltd. (parent company to Maruichi American Corp.) announced the acquisition of Leavitt Tube Company for \$90 million in an effort to expand operations into the Midwest and South of the United States. Maruichi Steel Tube Ltd. indicates that these markets are attractive, especially in the South.²⁷ In 2008, employees of Hannibal Industries, entered into an employee stock ownership program (ESOP) to buy the company from Mitsui USA.²⁸

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

Table III-3 and figure III-2 present U.S. producers' production, capacity, and capacity utilization. Producers of LWR pipe and tube also produce light-walled round pipe and tube (or "circular mechanical tube"), since all LWR pipe and tube milling technologies first produce a circular product that is then flattened with rollers to produce square and rectangular tubing. Some U.S. producers of LWR pipe and tube, like ***, produce and market primarily subject merchandise as their core business, while the majority of U.S. producers of LWR pipe and tube indicate that subject merchandise makes up only one of the several types of products they produce and sell using the same facilities as LWR pipe and tube (see table III-2).²⁹ In some instances producers of structural tubing, or heavy-walled rectangular pipe and tube, will produce minimal quantities of LWR pipe and tube, such as is the case with ***. U.S. producers of LWR pipe and tube also produced circular mechanical tubing (*i.e.*, "rounds" in industry nomenclature) and heavy-walled tubing of any shape (*i.e.*, structural tubing) on their LWR pipe and tube mills. Other products that shared the same equipment as LWR pipe and tube include roll-formed shapes (which are steel products rolled to specific shapes, such as street sign posts, but not fully welded shut, *i.e.*, not a tubular good) and light-walled specialty tubing such as ovals, tears, or triangles.

Table III-3
LWR pipe and tube: U.S. producers' production, capacity, and capacity utilization, 2005-07

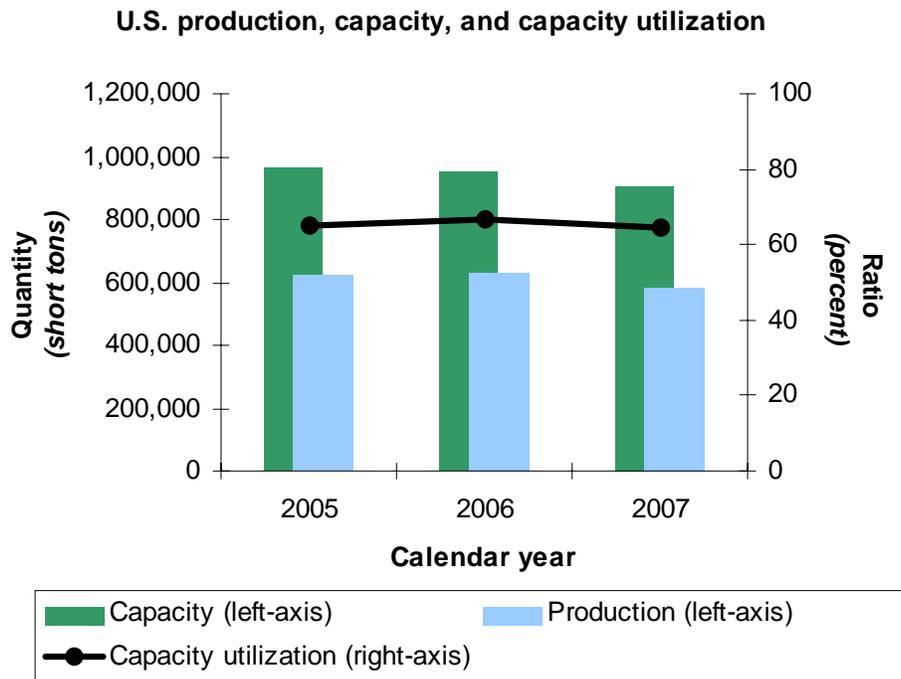
Item	Calendar year		
	2005	2006	2007
Quantity (short tons)			
Capacity	964,957	947,858	902,385
Production	625,933	631,842	580,847
Ratio (percent)			
Capacity utilization	64.9	66.7	64.4
<p>Note.--Capacity utilization is higher than reported in the preliminary phase of these investigations for calendar years 2005 and 2006. In addition to the slight change in the universe of reporting firms, the Commission's methodology for collecting data on LWR pipe and tube operations in final phase of these investigations explicitly included gathering data on the production of heavy-walled tubular products on firms' light-walled capable mills. In the preliminary phase, producers had been asked to make capacity allocations themselves based on heavy-wall production. This slightly modified methodology resulted in somewhat higher capacity utilization rates from those calculated in the preliminary phase for a number of firms, as they had not made capacity allocations for their heavy-walled production in the preliminary phase.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>			

²⁷ *Aquisition of 60% interest in Leavitt Tube Company, LLC*, press release, Maruichi Steel Tube Ltd., March 7, 2008.

²⁸ Hearing transcript, p. 52 (Lind).

²⁹ For example, Bull Moose Tube, the self-described largest U.S. producer of LWR pipe and tube, produces the merchandise subject to these investigations as well as structural tubing products and sprinkler pipe at its mill facilities. Hearing transcript, p. 28-29 (Meyers).

Figure III-2
LWR pipe and tube: U.S. producers' production, capacity, and capacity utilization, 2005-07



Source: Table III-3.

Table III-4 presents information on U.S. producers' production of LWR pipe and tube, circular mechanical tubing, and all other carbon steel tubular and rolled-formed products produced on the same equipment as LWR pipe and tube by reporting U.S. producers. Overall product mix in the industry remained relatively constant over the 2005-07 period.

Several U.S. producers identified changes to their U.S. LWR pipe and tube operations: *** indicated that it reduced its workforce by 29 employees between 2005 and 2007; *** indicated that it closed a production facility in the United States and opened another;³⁰ Allied Tube and Conduit indicated that it was able to maintain its operations and volume by cutting prices in the face of import competition;³¹ Bull Moose Tube indicated that it did not invest in the tooling necessary to produce LWR pipe and tube at a new mill facility in Casa Grande, AZ, and that it shut down a mill at its Gerald, MO facility in 2006 based on its "inability to maintain acceptable operating levels on the various mills in that facility due to not being able to compete with low price foreign product;"³² *** reduced production at a LWR pipe and tube mill to a single shift between October 2006 and February 2007 and sold a LWR pipe and tube mill due to there "not {being} enough demand or margin to run it profitably;" *** indicated it consolidated tube manufacturing at *** into its *** facility and it had to alternate mill shutdowns from the 4th quarter of 2006 through the 4th quarter 2007 due to lack of volume; *** indicated that it reduced both the number of employees and their hours worked on LWR pipe and tube production; Leavitt Tube

³⁰ These facilities, however, did not and do not produce LWR pipe and tube. Specifically, the ***. Staff telephone interview, ***, March 6, 2008.

³¹ Hearing transcript, pp. 44-45 (Kuratz). Allied Tube and Conduit would allegedly have to take mills out of production "without relief against unfairly traded imports."

³² Hearing transcript, p. 30 (Meyers).

Table III-4

Steel products: U.S. producers' production of tubular and roll-form products on light-walled capable mills, 2005-07

Item	Calendar year		
	2005	2006	2007
Quantity (short tons)			
Capacity:			
Nameplate capacity	6,554,267	6,540,249	6,551,255
Average practical capacity	2,540,169	2,515,486	2,524,374
Production:			
LWR pipe and tube	625,933	631,842	580,847
Circular mechanical tubing	458,675	441,013	429,021
Other light-walled products	127,274	132,266	144,820
Subtotal, all light-walled products	1,211,882	1,205,121	1,154,688
All heavy-walled products	470,639	532,522	515,684
Total, all products	1,682,521	1,737,643	1,670,372
Ratio (percent)			
Capacity utilization (overall)	66.2	69.1	66.2
Share of total production (percent)			
LWR pipe and tube	37.2	36.4	34.8
Circular mechanical tubing	27.3	25.4	25.7
Other light-walled products	7.6	7.6	8.7
Subtotal, all light-walled products	72.0	69.4	69.1
All heavy-walled products	28.0	30.6	30.9
Total, all products	100.0	100.0	100.0
Note.--Data in this table only report production and capacity for products produced on LWR pipe and tube capable mills for reporting firms.			
Source: Compiled from data submitted in response to Commission questionnaires.			

indicated that it sold two of its mechanical tube mills in July 2007 due to underutilization of existing mill capacity caused by import competition;³³ *** indicated that it experienced a *** percent reduction in production on two mills currently producing LWR pipe and tube and two other mills *** were shut down completely ***; *** indicated that since August 2005 it has had to stop operations periodically on four mills producing LWR pipe and tube due to import competition; in mid-June 2006 Northwest Pipe essentially ceased production at its Houston, TX plant³⁴ and has indicated that ***;³⁵ Searing Industries indicated that it experienced production curtailments with eventually layoffs in 2007 caused by the “large volume of unfairly traded imports;”³⁶ Southland Tube indicated that it has suffered significant volume

³³ Hearing transcript, p. 33 (Katsafanas).

³⁴ Hearing transcript, p. 35 (Katsafanas).

³⁵ Northwest Pipe ***.

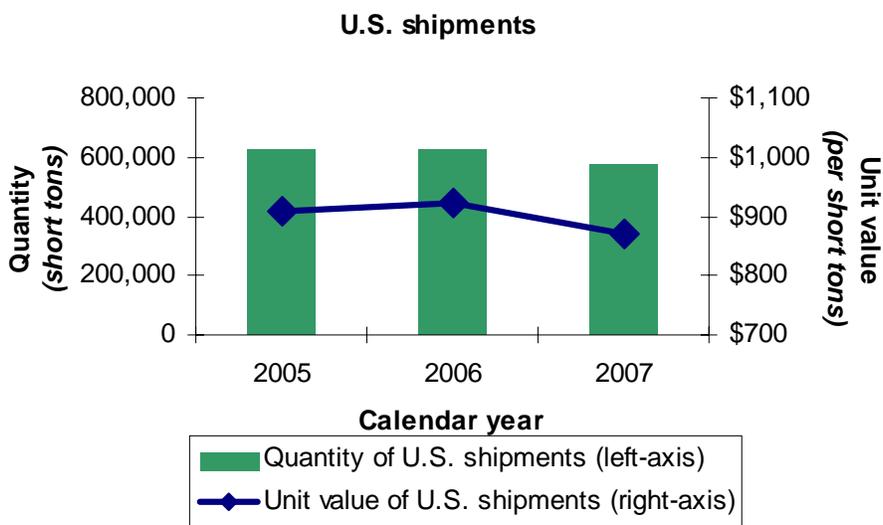
³⁶ Hearing transcript, p. 37 (Searing).

losses in the latter half of 2006 and early part of 2007;³⁷ Vest indicated that its was able to maintain operations by cutting price, but that it will not be able to do any further going forward;³⁸ Welded Tube reportedly has put off the installation of a new ornamental and mechanical tube mills in its Hugar, SC, facility due to the “squeeze on margins caused by the price pressures in the marketplace of unfairly traded imports;”³⁹ and *** indicated that it reduced its LWR pipe and tube operations since 2002 due to business lost to unfairly traded Chinese pipe and tube.⁴⁰

U.S. PRODUCERS’ U.S. SHIPMENTS AND EXPORTS

Table III-5 and figure III-3 present data on the U.S. producers’ shipments during the period for which data were collected. The quantity of U.S. shipments of U.S.-produced LWR pipe and tube remained relatively constant between 2005 and 2006, and then it decreased in 2007. The average unit value of U.S. producers' U.S. shipments of LWR pipe and tube first increased between 2005 and 2006 and then decreased in 2007. All but four of the 22 reporting U.S. producers indicated a decrease in the quantity of U.S. shipments of LWR pipe and tube in 2007 compared to 2006, of which *** reported the largest decreases in absolute terms, while *** reported the largest decrease in terms of percentage change (***).

Figure III-3
LWR pipe and tube: U.S. producers’ U.S. shipments, 2005-07



Source: Table III-5.

³⁷ Hearing transcript, p. 41 (Montgomery).

³⁸ Hearing transcript, p. 49-50 (Knox).

³⁹ Hearing transcript, p. 46 (Mandel).

⁴⁰ ***.

Table III-5
LWR pipe and tube: U.S. producers' shipments, by type, 2005-07

Item	Calendar year		
	2005	2006	2007
Quantity (short tons)			
Commercial U.S. shipments	***	***	***
Transfers to related firms	***	***	***
Total U.S. shipments	625,967	623,389	579,559
Export shipments	4,635	7,547	9,241
Total shipments	630,602	630,936	588,800
Value (1,000s of dollars)			
Commercial U.S. shipments	***	***	***
Transfers to related firms	***	***	***
Total U.S. shipments	569,288	574,517	504,081
Export shipments	4,596	8,367	8,863
Total shipments	573,884	582,884	512,944
Unit value (per short ton)			
Commercial U.S. shipments	\$***	\$***	\$***
Transfers to related firms ¹	***	***	***
Average U.S. shipments	909	922	870
Export shipments	992	1,109	959
Average shipments	910	924	871
Share of quantity (percent)			
Commercial U.S. shipments	***	***	***
Transfers to related firms	***	***	***
Total U.S. shipments	99.3	98.8	98.4
Export shipments	0.7	1.2	1.6
Total shipments	100.0	100.0	100.0
<p>Note.--None of the reporting firms reported internal consumption. Had the three carport manufacturers identified by Mexican respondents in the preliminary phase of these investigations responded to the Commission's questionnaires, there would likely have been some reported internal consumption.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>			

In the final phase of these investigations, data have been gathered on U.S. producers' U.S. shipments of corrosion-resistant LWR pipe and tube versus black LWR pipe and tube.⁴¹ Data submitted indicate that corrosion-resistant LWR pipe and tube accounted for 11.3 percent of U.S. shipments in 2007, while black LWR pipe and tube accounted 88.7 percent.⁴²

⁴¹ No party in these investigations argued that black and corrosion-resistant LWR pipe and tube constitute separate domestic like products.

⁴² While U.S. producers shipped primarily black LWR pipe and tube, the market for corrosion-resistant product may be larger than an analysis of U.S. producers' U.S. shipments might otherwise indicate since certain distributors can also provide or arrange for third-party galvanization.

Regional Shipments

Table III-6 presents U.S. producers' U.S. shipments by region in 2007.

Table III-6
LWR pipe and tube: U.S. producers' U.S. shipments, by region, 2007

Region	Mill in region?		Total
	No	Yes	
	Quantity (short tons)		
Central Southwest	***	***	51,580
Midwest	***	***	218,345
Mountains	***	***	44,484
Noncontinental	***	***	912
Northeast	***	***	24,644
Pacific Coast	***	***	99,590
Southeast	***	***	140,006
Total	162,026	417,535	579,561
	Share of quantity within region (percent) ¹		
Central Southwest	***	***	100.0
Midwest	***	***	100.0
Mountains	***	***	100.0
Noncontinental	***	***	100.0
Northeast	***	***	100.0
Pacific Coast	***	***	100.0
Southeast	***	***	100.0
Total	27.9	72.1	100.0
	Share of quantity (percent) ²		
Central Southwest	(3)	(3)	8.9
Midwest	(3)	(3)	37.7
Mountains	(3)	(3)	7.7
Noncontinental	(3)	(3)	0.2
Northeast	(3)	(3)	4.3
Pacific Coast	(3)	(3)	17.2
Southeast	(3)	(3)	24.2
Total	(3)	(3)	100.0
<p>¹ These share calculations demonstrate whether within a region the firms reporting U.S. shipments of LWR pipe and tube in that region also operate a production facility (a.k.a., mill) there.</p> <p>² This share calculation demonstrates the primary regions for U.S. producers.</p> <p>³ Not meaningful calculations.</p>			
<p>Note.—See figure III-1 for regional definitions.</p>			
<p>Source: Compiled from data submitted in response to Commission questionnaires.</p>			

As table III-6 indicates, U.S. producers ship to all regions in the United States. In general, U.S. producers ship to customers in the region where their mills are located (72.1 percent) versus regions where their mills are not located (27.9 percent). Most U.S. producers ship into the region where U.S. imports from Mexico are most prevalent (Central Southwest) from other regions in the United States. The Northeast and the Mountains regions are two additional regions into which most U.S. producers ship their LWR pipe and tube from outside those regions, although as a share of total U.S. producers' U.S. shipments these two regions are not very sizable. The largest regions for U.S. producers when measured by the volume of U.S. producers' U.S. shipments (Midwest, Pacific Coast, and Southeast) are typically the same regions in which they operate their production facilities.

U.S. PRODUCERS' IMPORTS AND PURCHASES

Several U.S. producers also imported or purchased LWR pipe and tube over the period for which data were collected. *** (****) imported LWR pipe and tube from ***, either directly or through their parent or sister firms. According to Customs data presented in Part IV of this report, *** was the *** U.S. importer of LWR pipe and tube in the 2005 to 2007 period regardless of source, while *** was the ***.⁴³ A sister company to *** also apparently imported some LWR pipe and tube from Canada and from other sources. The parent company to U.S. producer *** reportedly imported LWR pipe and tube from a variety of subject and nonsubject sources over the 2005-07 period. *** also imported some LWR pipe and tube from China in 2006. Table III-7 presents data on these firms' U.S. production and U.S. imports of LWR pipe and tube.

Table III-7
LWR pipe and tube: Select producers' U.S. production, imports, and imports as ratio to production, 2005-07

* * * * *

Two U.S. producers reported purchases of LWR pipe and tube from subject sources. *** reported *** short tons of ***-origin LWR pipe and tube in 2006 accounting for less than *** percent of its U.S. production that year, and *** short tons of ***-origin LWR pipe and tube in 2007 accounting for *** percent of its U.S. production that year. ***, which owns LWR pipe and tube mills in ***, idled these facilities in favor of purchasing ***- and ***-origin LWR pipe and tube beginning in 2006. In 2006, *** U.S. production decreased *** percent as it began to distribute subject LWR pipe and tube imports, resulting in it distributing and reselling *** percent more subject imports in the U.S. market than U.S. production in 2006, and *** percent more in 2007.^{44 45} *** reported purchases of ***-origin LWR pipe and tube accounting for *** percent of its U.S. production in 2005, *** percent in 2006, and *** percent in 2007. *** on the petition with respect to the investigation of LWR pipe and tube from ***. An additional two U.S. producers, ***, reported small quantities of purchases of ***-origin LWR pipe and tube over the period for which data were collected.

⁴³ The other three of the top five U.S. importers in the 2004 to 2006 period were all Mexican firms.

⁴⁴ Despite *** decision to distribute subject LWR pipe and tube imports in lieu of producing the product domestically, it has indicated that it ***.

⁴⁵ *** reportedly purchased *** percent (***) of its ***-origin LWR pipe and tube from *** and *** percent (***) from ***. The company purchased *** percent (***) of its ***-origin LWR pipe and tube from ***, *** percent (***) from ***, and *** percent (***) from ***.

U.S. PRODUCERS' INVENTORIES

Table III-8 presents data on U.S. producers' end-of-period ("EOP") inventories during the period for which data were collected. U.S. producers on the whole held less EOP inventory at the end of 2007 than they did in either 2005 or 2006. While this trend was reflected in the data submitted by more than half of the U.S. producers, two firms, ***, accounted for most of the declines in terms of the absolute volume of the change in ending inventories between 2006 and 2007.

Table III-8
LWR pipe and tube: U.S. producers' end-of-period inventories, 2005-07

Item	Calendar year		
	2005	2006	2007
Quantity (short tons)			
End-of-period inventories	64,764	65,118	56,366
Ratio (percent)			
Ratio to production	10.3	10.3	9.7
Ratio to U.S. shipments	10.3	10.4	9.7
Ratio to total shipments	10.3	10.3	9.6
Source: Compiled from data submitted in response to Commission questionnaires.			

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Table III-9 shows the U.S. producers' employment-related data during the period for which data were collected. Production and related workers and hours worked decreased in each year for which data were collected. Overall industry productivity, on the other hand, first increased noticeably in 2006 and then decreased slightly in 2007. The change in productivity in 2006 is the result of several firms' data: first, *** between 2005 and 2006; in addition, three *** reported increases in production while at the same time decreases in the hours worked, increasing their overall productivity.

Table III-9
LWR pipe and tube: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 2005-07

Item	Calendar year		
	2005	2006	2007
Production and related workers (<i>number</i>)	1,114	1,023	973
Hours worked (<i>1,000</i>)	1,993	1,822	1,682
Wages paid (<i>\$1,000</i>)	33,854	33,343	31,485
Hourly wages	\$16.99	\$18.30	\$18.71
Productivity (<i>short tons per 1,000 hours</i>)	314.1	346.9	345.3
Unit labor costs (<i>per short ton</i>)	\$54.08	\$52.77	\$54.20
Source: Compiled from data submitted in response to Commission questionnaires.			

PART IV: U.S. IMPORTS, APPARENT U.S. CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

Commission staff sent U.S. importers' questionnaires to 54 firms identified as importers of subject merchandise in Customs data. Of these 54 firms contacted, two firms reported that their imports under the relevant HTS numbers were product other than LWR pipe and tube.¹ The remaining 52 firms contacted represent 96.9 percent of the quantity of LWR pipe and tube imported between 2005 and 2007 as reported in the modified U.S. Customs data. Of these 52 firms contacted, 43 firms supplied the Commission with usable U.S. importer questionnaire responses,² collectively accounting for 82.5 percent of the quantity of LWR pipe and tube imported between 2005 and 2007 in U.S. Customs data, including *** percent coverage of subject imports and *** percent coverage of nonsubject imports.³

In this report, the import data used to compile apparent U.S. consumption are based on official Commerce statistics with the two modifications described above to remove certified nonsubject product. In February 2007, Customs changed the classification scheme within the Harmonized Tariff Schedule (HTS) to distinguish LWR pipe and tube (7306.61.50) from other specialty shapes (7306.69.50) which had previously been included in a single subheading (7306.60.50). Due to some misreporting by Customs in the months of January and February before the HTS change became effective and due to the fact that this was a within-period change to methodology, the small volume of imports reported under other specialty shapes has been retained as LWR pipe and tube for purposes of this report.⁴ For purposes of this report entries of LWR pipe and tube from foreign producer Nexteel in Korea were classified as nonsubject due to Commerce's preliminary *de minimus* dumping margin for that firm; these imports are described as "Korea nonsubject" in this report. Similarly, entries of LWR pipe and tube from foreign producer Prolamsa in Mexico were classified as nonsubject due to Commerce's preliminary zero percent dumping margin; these imports are described as "Mexico nonsubject" in this report.

Table IV-1 presents data on U.S. importers of LWR pipe and tube by source.

Table IV-1
LWR pipe and tube: U.S. importers by source, 2005-07

* * * * *

¹ Imports by *** from China totaling *** short tons were removed from the compiled Customs data as the company certified that its imports were nonsubject "closet rods and poles" of "circular cross-section." See correspondence from ***, July 19, 2007. Imports by *** from a variety of countries, but primarily from ***, totaling *** short tons were removed from the compiled Customs data as the company certified that its imports were nonsubject "circular or oval" shapes. See correspondence from ***, February 13, 2008.

² The top two U.S. importers of subject merchandise from China, ***, did not provide a questionnaire response in the final phase of these investigations. Data for these firms, therefore, cover only 2005-06. Two U.S. importers that did provide questionnaire responses in the final phase of these investigations, ***, only provided partial data on certain 2007 operations.

³ Reporting firms represented the following shares of U.S. import data: *** percent of U.S. imports from China, *** percent from subject Korea, *** percent from subject Mexico, *** percent from Turkey, *** percent from Canada, *** percent from nonsubject Korea, *** percent from nonsubject Mexico, and *** percent from all other sources.

⁴ A more detailed discussion of this issue may be found under the section heading "Subject imports in 2007."

Based on official import statistics with modifications, *** is the single largest U.S. importer of LWR pipe and tube, accounting for *** percent of imports from all sources between 2005 and 2007. ***'s imports relate to ***. The next-largest U.S. importer, ***, accounted for *** percent of imports from all sources over the 2005-07 period. *** U.S. imports are of LWR pipe and tube ***. The third- and fourth-largest U.S. importers of LWR pipe and tube over the 2005-07 period were ***, whose imports accounted for *** percent of all LWR pipe and tube imports between 2005 and 2007, each. As with most *** producers of LWR pipe and tube, these firms served as the importer of record for U.S. Customs purposes on their U.S. shipments as a service to their customers. *** was the fifth-largest U.S. importer of LWR pipe and tube over of the 2005-07 period, accounting for *** percent of imports. *** imports of LWR pipe and tube relate primarily to ***. The sixth-largest U.S. importer of LWR pipe and tube was ***, whose imports accounted for *** percent of U.S. imports from 2005 to 2007. *** serves as the importer of record for ***. The seventh-largest U.S. importer of LWR pipe and tube over the 2005-07 period was ***. *** imported LWR pipe and tube from *** and accounted for *** percent of all LWR pipe and tube imports over the 2005-07 period.⁵ The eighth-largest U.S. importer of LWR pipe and tube was ***, which when combined with *** accounted for *** percent of all LWR pipe and tube imports over the 2005-07 period. The ninth-largest U.S. importer, ***, imported LWR pipe and tube from two subject sources (***) as well as three nonsubject sources (***) and accounted for *** percent of LWR pipe and tube imports. *** imports accounted for *** percent of official Commerce statistics. The tenth-largest U.S. importer of LWR pipe and tube between 2005 and 2007, ***, imported from two subject sources (***) and accounted for *** percent of U.S. imports. These ten firms' imports accounted for 60.0 percent of total U.S. imports of LWR pipe and tube between 2005 and 2007.

U.S. IMPORTS

Official Commerce statistics were modified with U.S. Customs data quantifying the imports of LWR pipe and tube by and from specific companies. For the purposes of this report, imports by two firms (***) were removed from the compilation as those imports were certified to be products other than LWR pipe and tube. Table IV-2 and figure IV-1 present data on U.S. imports by source.

As demonstrated in table IV-2 and figure IV-1, the quantity of subject imports first increased in 2006 over 2005, but then decreased in 2007, resulting in a net total increase of subject imports of *** percent comparing 2007 to 2005. The quantity of nonsubject LWR pipe and tube imports decreased in both 2006 and 2007, resulting in a net total decrease of nonsubject imports of *** percent between 2005 and 2007.

⁵ ***, which provided the Commission with data on its operations in the preliminary phase of these investigations, failed to comply with repeated requests for information on their operations in the final phase, ***.

Table IV-2
LWR pipe and tube: U.S. imports, by source, 2005-07

Source	Calendar year		
	2005	2006	2007
Quantity (short tons)			
China	39,945	81,657	88,879
Korea (subject)	***	***	***
Mexico (subject)	***	***	***
Turkey	30,517	55,952	14,511
Subtotal, subject	***	***	***
Canada	76,231	71,142	48,899
Korea (nonsubject)	***	***	***
Mexico (nonsubject)	***	***	***
All other sources	***	***	***
Subtotal, nonsubject	***	***	***
Total U.S. imports	336,258	402,295	315,412
Landed, duty-paid value (1,000 dollars)			
China	27,040	47,605	52,939
Korea (subject)	***	***	***
Mexico (subject)	***	***	***
Turkey	23,264	35,584	9,192
Subtotal, subject	***	***	***
Canada	69,074	65,584	43,262
Korea (nonsubject)	***	***	***
Mexico (nonsubject)	***	***	***
All other sources	***	***	***
Subtotal, nonsubject	***	***	***
Total U.S. imports	264,904	294,805	226,400
Unit value (per short ton)			
China	\$677	\$583	\$596
Korea (subject)	***	***	***
Mexico (subject)	***	***	***
Turkey	762	636	633
Subtotal, subject	***	***	***
Canada	906	922	885
Korea (nonsubject)	***	***	***
Mexico (nonsubject)	***	***	***
All other sources	***	***	***
Subtotal, nonsubject	***	***	***
Total U.S. imports	788	733	718

Table continued on next page.

Table IV-2--Continued
LWR pipe and tube: U.S. imports, by source, 2005-07

Source	Calendar year		
	2005	2006	2007
Share of quantity (percent)			
China	11.9	20.3	28.2
Korea (subject)	***	***	***
Mexico (subject)	***	***	***
Turkey	9.1	13.9	4.6
Subtotal, subject	***	***	***
Canada	22.7	17.7	15.5
Korea (nonsubject)	***	***	***
Mexico (nonsubject)	***	***	***
All other sources	***	***	***
Subtotal, nonsubject	***	***	***
Total U.S. imports	100.0	100.0	100.0

Source: Official Commerce statistics with modifications based on U.S. Customs data.

Figure IV-1
LWR pipe and tube: U.S. imports, by source, 2005-07

* * * * *

Within subject sources, U.S. imports from China were the only source to increase in each calendar year comparison. U.S. imports from China increased by 122.5 percent comparing 2007 to 2005. Subject U.S. imports from Korea and Turkey both first increased in 2006 and then decreased in 2007. Subject U.S. imports from Mexico fluctuated over the 2005-07 period but remained above *** short tons in each year. Figure IV-2 presents the quantity of U.S. imports from subject sources graphically, while figure IV-3 presents the share of U.S. imports from all major sources aggregated for the 2005-07 period. Despite the exclusion of LWR pipe and tube produced by Prolamsa from subject U.S. imports from Mexico, Mexico ***. China, however, ***.

Figure IV-2
LWR pipe and tube: U.S. imports from subject sources, 2005-07

* * * * *

Figure IV-3
LWR pipe and tube: U.S. imports, by source, 2005-07 aggregated

* * * * *

The average unit values of subject U.S. imports of LWR pipe and tube were lower than nonsubject U.S. imports of LWR pipe and tube by 15-23 percent over the 2005-07 period. Figure IV-4 graphically presents the unit values of U.S. imports by source. China had the lowest average unit value of all subject sources over the period, although U.S. imports from *** were lower than the average unit value of U.S. imports from China in 2005 and 2006. U.S. imports from Mexican producer Prolamsa

(nonsubject LWR pipe and tube) were imported into the United States at *** average unit values than product produced by other Mexican producers of LWR pipe and tube. While the volume of subject imports from Turkey and Korea both decreased *** in 2007 compared to 2006, the trends in the average unit values of those imports diverged: the average unit value of U.S. imports from Turkey remained relatively constant between 2006 and 2007, while the average unit value of subject U.S. imports from Korea increased *** between 2006 and 2007. U.S. imports of LWR pipe and tube from Canada had the highest average unit value generally of all sources of imports, with the exception of 2007 when imports from “all other sources” which had a slightly higher average unit value, although on a smaller volume basis.

Figure IV-4
LWR pipe and tube: Average unit value of U.S. imports, by source, 2005-07

* * * * *

Table IV-3 and figures IV-5, IV-6, and IV-7 present data on monthly imports of LWR pipe and tube. When measured on a three month moving average (*see* figure IV-6), LWR pipe and tube imports were generally highest in second half of 2006.

Table IV-3
LWR pipe and tube: Monthly subject U.S. imports, by source, 2005-07

Year / month		Subject source				
		China	Korea	Mexico	Turkey	Total
		Quantity (<i>short tons</i>)				
2005	January	1,504	***	***	0	***
	February	2,192	***	***	7,894	***
	March	4,323	***	***	1,612	***
	April	3,833	***	***	2,818	***
	May	4,681	***	***	552	***
	June	2,709	***	***	4,344	***
	July	4,075	***	***	2,050	***
	August	1,544	***	***	2,005	***
	September	3,189	***	***	1,499	***
	October	2,881	***	***	2,370	***
	November	3,978	***	***	569	***
	December	5,037	***	***	4,804	***

Table continued on next page.

Table IV-3--Continued
LWR pipe and tube: Monthly subject U.S. imports, by source, 2005-07

Year / month		Subject source				
		China	Korea	Mexico	Turkey	Total
		Quantity (short tons)				
2006	January	3,444	***	***	925	***
	February	1,677	***	***	2,387	***
	March	2,056	***	***	977	***
	April	3,121	***	***	3,835	***
	May	8,011	***	***	3,767	***
	June	5,723	***	***	8,702	***
	July	10,055	***	***	9,090	***
	August	11,147	***	***	0	***
	September	11,312	***	***	4,945	***
	October	6,184	***	***	3,601	***
	November	11,846	***	***	15,666	***
	December	7,082	***	***	2,057	***
2007	January	9,348	***	***	1,548	***
	February	6,329	***	***	90	***
	March	8,785	***	***	4,150	***
	April	7,112	***	***	0	***
	May	9,191	***	***	647	***
	June	8,521	***	***	4,394	***
	July	19,896	***	***	2,156	***
	August	3,477	***	***	0	***
	September	8,683	***	***	0	***
	October	3,959	***	***	1,527	***
	November	3,180	***	***	0	***
	December	397	***	***	0	***

Source: Official Commerce statistics with modifications based on U.S. Customs data.

Figure IV-5
LWR pipe and tube: Monthly U.S. imports, by status, 2005-07

* * * * *

Figure IV-6
LWR pipe and tube: Monthly subject U.S. imports, by source, 2005-07

* * * * *

Figure IV-7
LWR pipe and tube: Monthly subject U.S. imports, 2005-07

* * * * *

Subject Imports in 2007

On January 4, 2007, President Bush issued a Presidential Proclamation modifying the HTS.⁶ This proclamation instructed Customs to implement changes in the U.S. tariff schedule pursuant to changes proposed in the Commission's annual Omnibus Trade and Competitiveness Act report.⁷ Among other changes enacted, the President's proclamation modified the previous U.S. HTS subheading for LWR pipe and tube, 7306.60.50, by superseding it with two new subheadings: 7306.61.50 and 7306.69.50. The new subheading 7306.61.50 relates specifically to subject merchandise in these investigations,⁸ while the other new subheading 7306.69.50 relates to nonsubject merchandise, namely light-walled specialty shapes.⁹ This modification as well as all the other modifications from the President's proclamation became effective February 4, 2007.¹⁰ Prior to February 4, 2007, subject merchandise was provided for under the old subheading 7306.60.50, and after February 4, 2007, subject merchandise was provided for under the new subheading 7306.61.50. For import data between January 1, 2007 and February 4, 2007, Customs reclassified all material that had been recorded under the old HTS designation (7306.60.50) as having been imported under the second of the new HTS designations (7306.69.50), *i.e.*, under the nonsubject merchandise number.¹¹ Therefore, material reported in official statistics under HTS subheading 7306.61.50 in 2007 understate the actual quantity of LWR pipe and tube imported in 2007. For the purposes of this report, both HTS numbers have been retained to measure LWR pipe and tube as the new classification methodology accurately covers only a 10- or 11-month period during the period 2005-07. Table IV-4 presents data on imports reported under the new classification system between January 2007 and December 2007.

⁶ Presidential Proclamation 8097, *To Modify the Harmonized Tariff Schedule of the United States, To Adjust Rules of Origin Under the United States- Australia Free Trade Agreement and for Other Purposes*, 72 FR 453, January 4, 2007.

⁷ *Modifications to the Harmonized Tariff Schedule of the United States Under Section 1206 of the Omnibus Trade and Competitiveness Act of 1988*, USITC Publication 3898, December 2006, retrieved at <http://hotdocs.usitc.gov/docs/tata/hts/Pub3898.pdf>.

⁸ "Other tubes, pipes and hollow profiles... other, welded, of noncircular cross section... of square or rectangular cross section... having a wall thickness of less than 4 mm.... of iron or nonalloy steel." Emphasis added.

⁹ "Other tubes, pipes and hollow profiles... other, welded, of noncircular cross section.... of other non circular cross section... having a wall thickness of less than 4 mm.... of iron or nonalloy steel." Emphasis added.

¹⁰ Presidential Proclamation 8097, *To Modify the Harmonized Tariff Schedule of the United States, To Adjust Rules of Origin Under the United States- Australia Free Trade Agreement and for Other Purposes*, 72 FR 453, January 4, 2007.

¹¹ Staff telephone interview, ***, U.S. Department of Homeland Security, U.S. Customs and Border Protection, July 27, 2007.

Table IV-4
LWR pipe and tube: U.S. imports, by HTS designation, January-December 2007

Month	HTS 7306.61.50 (squares and rectangles)	HTS 7306.69.50 (specialty shapes)
January	248	25,844
February	17,852	4,740
March	27,978	3,395
April	23,305	2,404
May	28,387	2,633
June	29,386	2,213
July	37,548	3,166
August	17,822	1,634
September	24,166	1,873
October	22,652	1,902
November	22,475	1,216
December	11,106	1,466
Total imports	262,926	52,487
Note.--With respect to data from March to December, imports under the old classification scheme may be over-reported by 5 to 8 percent.		
Source: Official Commerce statistics with modifications.		

U.S. Shipments of Imports

Table IV-5 presents data on reporting U.S. importers' U.S. shipments of LWR pipe and tube by source over the period for which data were collected.¹² For the U.S. importers that responded to the Commission's U.S. importers' questionnaire, U.S. shipments of imports from subject sources combined had lower average unit values than U.S. shipments of imports from nonsubject sources combined for each calendar year. This differential ranged between *** and *** percent (slightly lower compared to the *** to *** percent differential between AUVs of subject and nonsubject U.S. imports in table IV-2). This difference reflects the large share of nonsubject LWR pipe and tube from NAFTA sources. U.S. importers from NAFTA sources generally did not report a mark-up after clearance through Customs for their handling costs; rather those costs are reflected in the import values reported to Customs. By and large, U.S. importers of NAFTA-origin LWR pipe and tube are the actual foreign producers who serve as the importer of record for U.S. Customs purposes as a service to their customers, while most other U.S. importers of subject LWR pipe and tube, *i.e.*, those importing material from non-NAFTA sources such as China, Korea, and Turkey, generally reported their handling cost mark-up after clearance through Customs. Yet despite this difference between U.S. importers of NAFTA-origin LWR pipe and tube and U.S. importers of non-NAFTA-origin LWR pipe and tube,¹³ the reported average unit values of U.S.

¹² See page IV-1 fn. 2 for a discussion of questionnaire coverage.

¹³ The general structural difference in the practices of importing LWR pipe and tube from NAFTA and non-NAFTA sources reflects where the profit and risk for Customs clearance for the imported LWR pipe and tube is borne. In the case of Mexico, most U.S. importers are also the Mexican producers, which, as a service to their customers, clear their own shipments through U.S. Customs (thus bearing clearance and compliance risks). Hearing (continued...)

importers' U.S. shipments were still lower for subject sources than nonsubject sources and U.S. producers' U.S. shipments.¹⁴ Figure IV-8 presents data on U.S. importers' U.S. shipments of LWR pipe and tube over the period for which data were collected.

Table IV-5
LWR pipe and tube: U.S. importers' U.S. shipments of imports, by source, 2005-07

U.S. shipments of imports from--	Calendar year		
	2005	2006	2007
Quantity (short tons)			
China	21,916	69,853	65,080
Korea (subject)	***	***	***
Mexico (subject)	***	***	***
Turkey	32,840	43,100	20,756
Subtotal, subject	***	***	***
Canada	74,974	82,705	66,376
Korea (nonsubject)	***	***	***
Mexico (nonsubject)	***	***	***
All other sources	***	***	***
Subtotal, nonsubject	***	***	***
Total reported U.S. shipments	299,875	360,130	298,234
Value (1,000 dollars)			
China	15,643	47,096	45,199
Korea (subject)	***	***	***
Mexico (subject)	***	***	***
Turkey	21,008	29,136	13,836
Subtotal, subject	***	***	***
Canada	70,546	78,378	56,841
Korea (nonsubject)	***	***	***
Mexico (nonsubject)	***	***	***
All other sources	***	***	***
Subtotal, nonsubject	***	***	***
Total reported U.S. shipments	238,822	281,464	227,372

Table continued on next page.

¹³ (...continued)
transcript, pp. 168-169 (Pierce).

¹⁴ This difference exists even after taking into account the handling cost mark-up for U.S. importers of Chinese-origin, Korean-origin, and Turkish-origin LWR pipe and tube.

Table IV-5--Continued

LWR pipe and tube: U.S. importers' U.S. shipments of imports, by source, 2005-07

U.S. shipments of imports from--	Calendar year		
	2005	2006	2007
Unit value (per short ton)			
China	\$714	\$674	\$695
Korea (subject)	***	***	***
Mexico (subject)	***	***	***
Turkey	640	676	667
Subtotal, subject	***	***	***
Canada	941	948	856
Korea (nonsubject)	***	***	***
Mexico (nonsubject)	***	***	***
All other sources	***	***	***
Subtotal, nonsubject	***	***	***
Total reported U.S. shipments	796	782	762
<p>Note.—Data submitted by *** during the preliminary phase of these investigations were used for 2005 and 2006. Data in 2007 are, therefore, understated especially in relation to China. Also, data submitted by *** in the final phase of these investigations only covered their 2007 operations. Data in 2005 and 2006 are, therefore, understated especially in relation to China and Turkey.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>			

Figure IV-8

LWR pipe and tube: Average unit values of reporting U.S. importers' U.S. shipments of subject merchandise, by source, 2005-07

* * * * *

U.S. producers on the West Coast allege that by 2007, U.S. importers were holding inventories of LWR pipe and tube, which had not been the case prior to and in the early part of the housing boom when most importers mainly shipped to order.¹⁵ Few U.S. importers reported storing inventories. Since most U.S. importers sell to distributors, the distributors likely maintain some level of inventories of both domestic and imported product. See Part VII of this report for more information on U.S. importers' inventories.

¹⁵ Hearing transcript, p. 38 (Searing). This would apparently apply primarily to U.S. imports from China and Korea as they are most prevalent on the West Coast.

Corrosion-resistant Versus Black LWR Pipe and Tube

Of the U.S. importers that responded to the Commission's U.S. importers' questionnaire, the vast majority reported that their imports were of black product in 2007. Overall, 88.9 percent of reporting U.S. importers' U.S. imports relate to black LWR pipe and tube, while 11.1 percent were corrosion-resistant.^{16 17} Based on these firms' data, the share of corrosion-resistant LWR pipe and tube out of total is similar to that reported by U.S. producers.

Regional Coverage of U.S. Importers' U.S. Shipments

Table IV-6 presents data on reporting U.S. importers' U.S. shipments by region. Reporting U.S. importers indicate that Chinese-origin LWR pipe and tube is sold primarily in the Central Southwest and on the Pacific Coast, subject Korean-origin LWR pipe and tube is sold primarily on the Pacific Coast, subject Mexican-origin LWR pipe and tube is sold primarily in the Central Southwest, and Turkish-origin LWR pipe and tube is sold primarily in the Central Southwest and Southeast United States.¹⁸ Chinese- and Korean-origin LWR pipe and tube are the primary sources of imported LWR pipe and tube on the Pacific Coast, while Mexican-origin (both subject and nonsubject) LWR pipe and tube is the primary source of imported LWR pipe and tube in the Central Southwest. Nonsubject Canadian-origin LWR pipe and tube is largely present in the Northeast (where U.S. producers do not supply much product) and the Midwest (where U.S. producers have a large presence).

Table IV-6
LWR pipe and tube: U.S. importers' U.S. shipments, by region, 2007

* * * * *

NEGLIGIBILITY

The Tariff Act of 1930 provides for the termination of an investigation if imports of the subject product from a country are less than 3 percent of total imports, or, if there is more than one such country, their combined share is less than or equal to 7 percent of total imports, during the most recent 12 months

¹⁶ Reporting U.S. importers indicated that approximately *** percent of U.S. imports from China were corrosion-resistant product in 2007, *** percent for Korea (subject), *** percent for Mexico (subject), and *** percent for Turkey, resulting in on average *** percent of U.S. imports being corrosion-resistant for subject sources; while *** percent of U.S. imports from Canada were corrosion-resistant product in 2007, *** percent for Korea (nonsubject), *** percent for Mexico (nonsubject), and *** percent for all other sources, resulting in on average *** percent of U.S. imports being corrosion-resistant for nonsubject sources.

¹⁷ The share of corrosion-resistant LWR pipe and tube out of all LWR pipe and tube is likely overstated slightly since the two largest U.S. importers of Chinese-origin LWR pipe and tube, ***, did not provide data on their operations in the final phase of these investigations. In the preliminary phase, *** reported importing only black LWR pipe and tube, and ***, while indicating a predominate share of corrosion-resistant LWR pipe and tube, also conflictingly reported quantities of black LWR pipe and tube pricing products equal to their reported import quantities in 2006. Were data provided by these two firms in the final phase of these investigations, the share of corrosion-resistant LWR pipe and tube for China *** would likely be lower.

¹⁸ The share of Chinese-origin LWR pipe and tube that is sold on the Pacific Coast is likely understated in table IV-7 due to missing data for *** that imported LWR pipe and tube primarily on the Pacific Coast region (although *** also served the Central Southwest).

for which data are available preceding the filing of the petition.¹⁹ On an aggregated basis, subject imports accounted for *** percent of total imports of LWR pipe and tube by quantity between June 2006 and May 2007. Individual subject were country shares were ***. Table IV-7 and figure IV-9 present data on U.S. imports in the 12-month period beginning in June 2006 by source.

Table IV-7
LWR pipe and tube: U.S. imports, by source, June 2006 to May 2007

Source	June 2006 to May 2007	
	Quantity (<i>short tons</i>)	Share (<i>percent</i>)
China	104,114	26.4
Korea (subject)	***	***
Mexico (subject)	***	***
Turkey	50,496	12.8
Subtotal, subject	***	***
Canada	60,120	15.2
Korea (nonsubject)	***	***
Mexico (nonsubject)	***	***
All other sources	***	***
Subtotal, nonsubject	***	***
Total	394,608	100.0
Source: Compiled from U.S. Customs data.		

Figure IV-9
LWR pipe and tube: U.S. imports, by source, June 2006 to May 2007

* * * * *

CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical market, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Issues concerning fungibility are addressed in Part II of this report and channels of distribution are discussed in Parts I and II.

Table IV-8 presents data on U.S. imports by Customs district and table IV-9 presents data on U.S. imports by the entry region. U.S. Customs data indicate that Chinese-origin LWR pipe and tube entered the United States primarily on the Pacific Coast, followed by the Central Southwest; subject Korean-origin LWR pipe and tube also primarily entered the United States on the Pacific Coast; subject Mexican-origin LWR pipe and tube almost entirely entered in the Central Southwest; and Turkish-origin LWR pipe and tube entered primarily in the Central Southwest, followed by the Southeast. These data, which reflect the Customs district of entry for U.S. imports of LWR pipe and tube, largely match the customers' end location as reported by reporting U.S. importers' U.S. shipments data by region presented in table IV-6, indicating that the Customs entry districts generally are the regions in which the imported LWR pipe and tube eventually is shipped to customers.

¹⁹ 19 U.S.C. § 1677(24)(A)(ii).

Table IV-8

LWR pipe and tube: U.S. imports from subject countries, by Customs district, 2005-07

Source / District	Calendar year			2005-07	
	2005	2006	2007		
	Quantity (short tons)			Quantity (short tons)	Share (percent)
China--					
Los Angeles, CA	22,268	38,918	45,397	106,584	50.6
Houston-Galveston, TX	10,823	29,688	27,418	67,929	32.3
Columbia-Snake, OR	671	5,656	5,309	11,636	5.5
San Francisco, CA	3,608	2,622	3,157	9,387	4.5
Subtotal,	37,371	76,884	81,281	195,536	92.9
All other districts	2,574	4,772	7,598	14,945	7.1
Total	39,945	81,657	88,879	210,481	100.0
Korea (subject)--					
Los Angeles, CA	***	***	***	***	***
San Juan, PR	***	***	***	***	***
Columbia-Snake, OR	***	***	***	***	***
Houston-Galveston, TX	***	***	***	***	***
Subtotal	***	***	***	***	***
All other districts	***	***	***	***	***
Total	***	***	***	***	***
Mexico (subject)--					
Laredo, TX	***	***	***	***	***
El Paso, TX	***	***	***	***	***
Subtotal	***	***	***	***	***
All other districts	***	***	***	***	***
Total	***	***	***	***	***
Turkey--					
Houston-Galveston, TX	18,765	28,182	2,267	49,215	48.7
Tampa, FL	5,233	8,867	3,996	18,096	17.9
Baltimore	1,534	7,181	7,108	15,822	15.7
Philadelphia, PA	1,561	5,307	0	6,868	6.8
Subtotal	27,094	49,536	13,371	90,001	89.1
All other districts	3,423	6,417	1,140	10,980	10.9
Total	30,517	55,952	14,511	100,981	100.0

Source: Official Commerce statistics with modifications based on U.S. Customs data.

Table IV-9
LWR pipe and tube: U.S. imports from subject countries, by entry region, 2005-07

Source / Entry region	Calendar year			2005-07	
	2005	2006	2007	Quantity (short tons)	Share (percent)
	Quantity (short tons)				
China---					
Pacific Coast	27,044	47,858	56,034	130,936	62.2
Central Southwest	11,034	30,671	27,874	69,579	33.1
Subtotal	38,078	78,530	83,908	200,515	95.3
All other regions	1,867	3,127	4,971	9,965	4.7
Total U.S. imports	39,945	81,657	88,879	210,481	100.0
Korea (subject)--					
Pacific Coast	***	***	***	***	***
Central Southwest	***	***	***	***	***
Noncontinental	***	***	***	***	***
Subtotal	***	***	***	***	***
All other regions	***	***	***	***	***
Total U.S. imports	***	***	***	***	***
Mexico (subject)--					
Central Southwest	***	***	***	***	***
All other regions	***	***	***	***	***
Total U.S. imports	***	***	***	***	***
Turkey--					
Central Southwest	19,479	31,082	2,267	52,828	52.3
Southeast	7,782	17,791	11,597	37,171	36.8
Subtotal	27,261	48,873	13,865	89,999	89.1
All other districts	3,256	7,079	647	10,982	10.9
Total U.S. imports	30,517	55,952	14,511	100,981	100.0
Source: Official Commerce statistics with modifications based on U.S. Customs data.					

Figure IV-10 presents data on the regional presence of subject imports in the U.S. market.

Figure IV-10
LWR pipe and tube: Regional presence of subject imports, by source and region, 2007

* * * * *

As discussed previously, and presented in table IV-3, imports from each of the subject sources were present throughout the period 2005-07. Subject imports from China, Korea, and Mexico each entered the United States in all 36 months between 2005 and 2007. Subject imports from Turkey entered the United States in 29 of the 36 months between 2005 and 2007; most of the seven months in which there were no entries occurred after the filing of the petition.

APPARENT U.S. CONSUMPTION AND U.S. MARKET SHARES

Table IV-10 presents apparent U.S. consumption and table IV-11 presents U.S. market shares for the period of investigation.

Table IV-10
LWR pipe and tube: Apparent U.S. consumption and average unit values, 2005-07

Item	Calendar year		
	2005	2006	2007
Quantity (short tons)			
U.S. producers' U.S. shipments	625,967	623,389	579,559
Imports from--			
China	39,945	81,657	88,879
Korea (subject)	***	***	***
Mexico (subject)	***	***	***
Turkey	30,517	55,952	14,511
Subtotal, subject sources	***	***	***
Canada	76,231	71,142	48,899
Korea (nonsubject)	***	***	***
Mexico (nonsubject)	***	***	***
All other sources	***	***	***
Subtotal, nonsubject sources	***	***	***
All sources	336,258	402,295	315,412
Apparent U.S. consumption	962,225	1,025,684	894,973
Value (1,000 dollars)			
U.S. producers' U.S. shipments	569,288	574,517	504,081
Imports from--			
China	27,040	47,605	52,939
Korea (subject)	***	***	***
Mexico (subject)	***	***	***
Turkey	23,264	35,584	9,192
Subtotal, subject sources	***	***	***
Canada	69,074	65,584	43,262
Korea (nonsubject)	***	***	***
Mexico (nonsubject)	***	***	***
All other sources	***	***	***
Subtotal, nonsubject sources	***	***	***
All sources	264,904	294,805	226,400
Apparent U.S. consumption	834,193	869,323	730,480

Table continued on next page.

Table IV-10--Continued

LWR pipe and tube: Apparent U.S. consumption and average unit values, 2005-07

Item	Calendar year		
	2005	2006	2007
Unit value (per short ton)			
U.S. producers' U.S. shipments	\$909	\$922	\$870
Imports from--			
China	677	583	596
Korea (subject)	***	***	***
Mexico (subject)	***	***	***
Turkey	762	636	633
Average, subject sources	***	***	***
Canada	906	922	885
Korea (nonsubject)	***	***	***
Mexico (nonsubject)	***	***	***
All other sources	***	***	***
Average, nonsubject sources	***	***	***
Average, all import sources	788	733	718
Average unit value, all sources	867	848	816
Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics with modifications based on Customs data.			

Apparent U.S. consumption as shown in table IV-10 increased between 2005 and 2006. During this time, U.S. producers' share of the U.S. market decreased by 4.3 percentage points. Then, while U.S. producers' U.S. shipments continued to decline in 2007 on an absolute basis (a decrease of 7.0 percent), U.S. producers actually gained 4.0 percentage points of market share as U.S. imports of LWR pipe and tube also declined (including Canadian-, subject Korean-, nonsubject Mexican-, and Turkish-origin LWR pipe and tube).

Table IV-11
LWR pipe and tube: U.S. market shares, 2005-07

Item	Calendar year		
	2005	2006	2007
Quantity (short tons)			
Apparent U.S. consumption	962,225	1,025,684	894,973
Value (1,000 dollars)			
Apparent U.S. consumption	834,193	869,323	730,480
Market share by quantity (percent)			
U.S. producers' U.S. shipments	65.1	60.8	64.8
Imports from--			
China	4.2	8.0	9.9
Korea (subject)	***	***	***
Mexico (subject)	***	***	***
Turkey	3.2	5.5	1.6
Subtotal, subject sources	***	***	***
Canada	7.9	6.9	5.5
Korea (nonsubject)	***	***	***
Mexico (nonsubject)	***	***	***
All other sources	***	***	***
Subtotal, nonsubject sources	***	***	***
All sources	34.9	39.2	35.2
Market share by value (percent)			
U.S. producers' U.S. shipments	68.2	66.1	69.0
Imports from--			
China	3.2	5.5	7.2
Korea (subject)	***	***	***
Mexico (subject)	***	***	***
Turkey	2.8	4.1	1.3
Subtotal, subject sources	***	***	***
Canada	8.3	7.5	5.9
Korea (nonsubject)	***	***	***
Mexico (nonsubject)	***	***	***
All other sources	***	***	***
Subtotal, nonsubject sources	***	***	***
All sources	31.8	33.9	31.0
Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics with modifications based on Customs data.			

Figures IV-11 and IV-12 present data on the quantity of apparent U.S. consumption and market shares, respectively, of LWR pipe and tube.

Figure IV-11
LWR pipe and tube: Apparent U.S. consumption, by source, 2005-07

* * * * *

Figure IV-12
LWR pipe and tube: U.S. market shares by quantity, by source, 2005-07

* * * * *

RATIO OF IMPORTS TO U.S. PRODUCTION

Table IV-12 presents data on ratios of U.S. imports of LWR pipe and tube to U.S. production over the period for which data were collected.

Table IV-12
LWR pipe and tube: Ratio of U.S. imports to U.S. production, 2005-07

Source	Calendar year		
	2005	2006	2007
Quantity (short tons)			
U.S. production	625,933	631,842	580,847
Ratio of imports to production (percent)			
China	6.4	12.9	15.3
Korea (subject)	***	***	***
Mexico (subject)	***	***	***
Turkey	4.9	8.9	2.5
Subtotal, subject	***	***	***
Canada	12.2	11.3	8.4
Korea (nonsubject)	***	***	***
Mexico (nonsubject)	***	***	***
All other sources	***	***	***
Subtotal, nonsubject	***	***	***
Total, all sources	53.7	63.7	54.3

Source: Calculated from tables III-3 and IV-2.

CRITICAL CIRCUMSTANCES

In its preliminary affirmative determination of LTFV sales of the LWR pipe and tube from China, Commerce found that critical circumstances exist for imports of LWR pipe and tube for firms subject to the PRC-wide rate.²⁰

²⁰ *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 73 FR 5500, January 30, 2008.

If the Commission determines that an industry in the United States is materially injured by reason of LTFV imports of LWR pipe and tube from China, it must further determine “whether the imports subject to the affirmative {Commerce critical circumstances} determination . . . are likely to undermine seriously the remedial effect of the antidumping duty order to be issued.”²¹ The statute further provides that in making this determination, the Commission shall consider:

- (I) the timing and the volume of the imports,
- (II) a rapid increase in inventories of the imports, and
- (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.²²

Table IV-13 presents data on monthly imports of LWR pipe and tube from China before and after the filing of the petition (January to December 2007).²³ Figure IV-13 graphically presents U.S. imports of Chinese-origin LWR pipe and tube. Inventories are discussed in Part VII.

Table IV-13
LWR pipe and tube: U.S. imports from China subject to Commerce’s preliminary affirmative critical circumstances determination, January 2007 - December 2007

* * * * *

As table IV-13 and figure IV-13 demonstrate, there was an increase in imports from China in the month immediately following the filing of the petition. However, when comparing the six-month periods before and after the filing of the petition, there was an overall decline in the quantity of imports. Petitioners contend that the increase in Chinese-origin imports of LWR pipe and tube in July 2007 may be related to a change in export rebate policies in China and the filing of the petition in these proceedings.²⁴

Figure IV-13
LWR pipe and tube: Monthly imports from China, January 2007-December 2007

* * * * *

²¹ Section 735(b)(4)(A)(i) of the Act (19 U.S.C. § 1673d(b)(4)(A)(i)).

²² Section 735(b)(4)(A)(iii) of the Act (19 U.S.C. § 1673d(b)(4)(A)(ii)).

²³ These data reflect U.S. imports of LWR pipe and tube from firms other than those that received firm-specific weighted average dumping margins in Commerce’s preliminary LTFV determination on China as Commerce found that the critical circumstance allegations did not apply to those firms and only applied to firms subject to the PRC-wide rate. Additionally, these statistics reflect the modifications made to official Commerce statistics in the final phase of these investigations to remove U.S. imports by *** from compiled imports.

²⁴ Hearing transcript, p. 112 (Schagrin).

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

Raw materials account for a major share of the cost of producing LWR pipe and tube. During 2005-07, these costs accounted for approximately three-quarters of the cost of goods sold. Hot-rolled and cold-rolled sheet are raw material inputs for black LWR pipe and tube and those corrosion-resistant LWR pipes and tubes that are made corrosion-resistant through a zinc bath. Hot-dipped galvanized sheet is the raw material input for those producers of LWR pipe and tube that produce corrosion resistant LWR pipe and tube with pre-galvanized materials. Zinc is an important additional raw material input for those producers that produce galvanized LWR pipe and tube through the zinc-dipping process. Prices for hot-rolled, cold-rolled, and galvanized sheet and zinc fluctuated over the period 2005-07, showing an increase in the last half of 2007 that has continued into 2008 (figure V-1). Prices for zinc rose rapidly from the beginning of 2006 to mid-2006, were constant between mid 2006 and the end of 2006, and then decreased for 2007 to levels that were similar to those at the beginning of 2005.

According to petitioners, U.S. producers are unable to absorb the raw material price increases; rather, they seek to pass these price increases on to the customers immediately. Most U.S. producers purchase their raw materials on a spot basis rather than a contractual basis. Accordingly, surcharges are not a common feature of pricing for LWR pipe and tube.¹

Figure V-1
Monthly average prices for raw materials for LWR pipe and tube, January 2005-April 2008

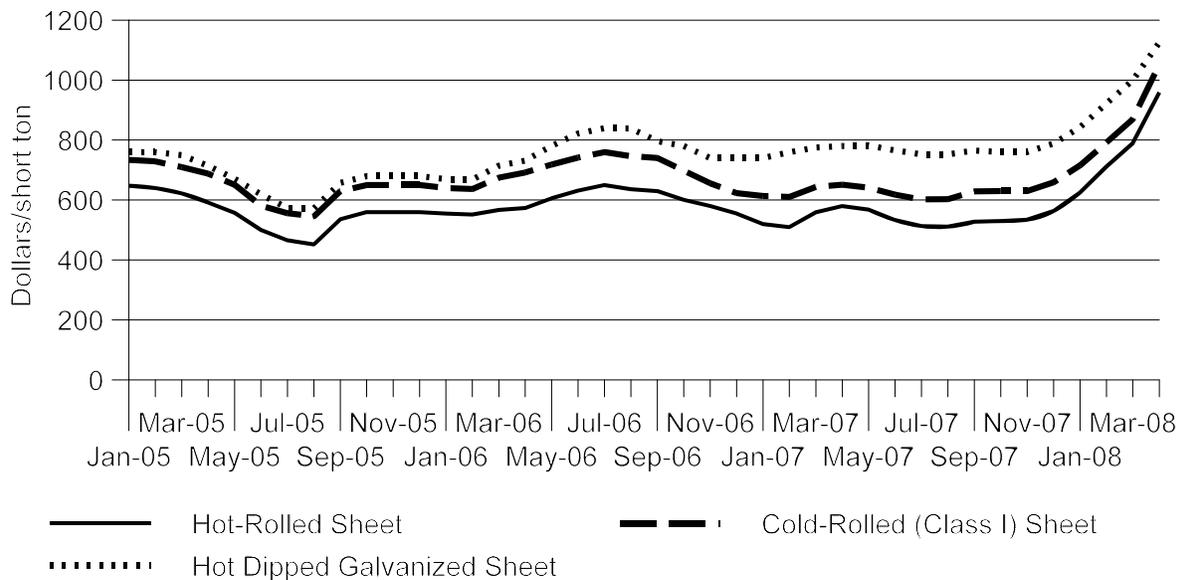
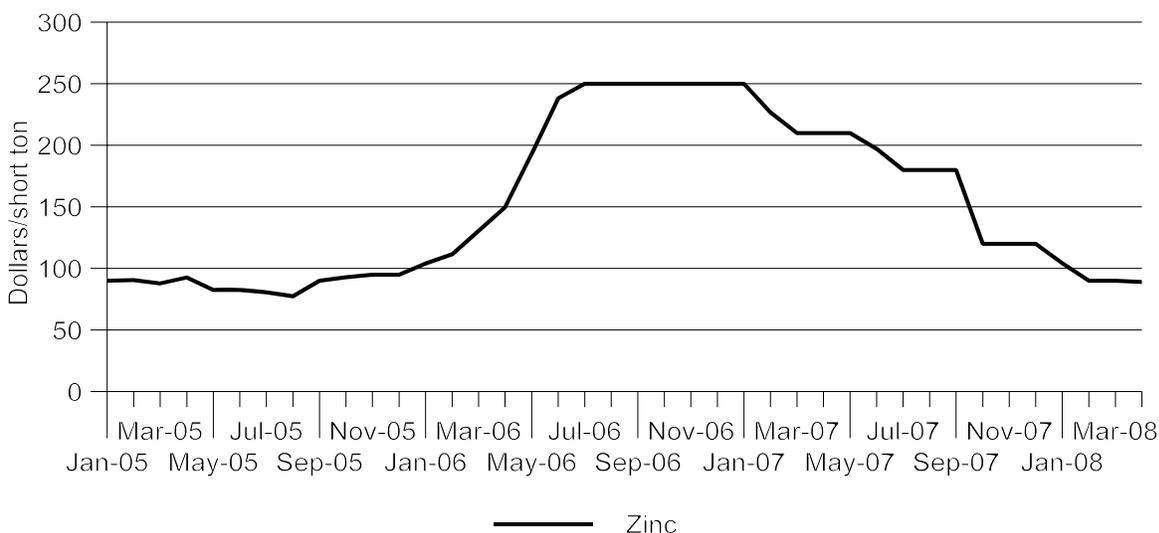


Figure continued on next page.

¹ To the contrary, one witness testified that surcharges are more difficult to pass on to the customer. Hearing transcript, p. 65-66 (Mr. Meyer).

Figure V-1--Continued
Monthly average prices for raw materials for LWR pipe and tube, January 2005-April 2008



Source: *American Metal Market's (AMM's)* on-line "Historical Pricing Archives" website at <http://amm.com/priorprice/hprices/histpric.asp>

Transportation Costs to the U.S. Market

Transportation costs for LWR pipe and tube shipped from subject countries to the United States were 13.3 percent for China, 14.2 percent for Korea, 3.0 percent for Mexico, and 6.2 percent for Turkey. These estimates are derived from official import data and represent the transportation and other charges on imports.²

U.S. Inland Transportation Costs

Transportation costs on U.S. inland shipments of LWR pipe and tube generally account for a relatively small share of the delivered price of these products. For U.S. producers, reported costs ranged from 2 to 12 percent of the delivered price. For importers that made estimates, these costs ranged from 1 percent to 15 percent.

Exchange Rates

Nominal and real exchange rate data for China, Korea, Mexico, and Turkey are presented on a quarterly basis in figure V-2.³

² The estimated transportation costs were obtained by subtracting the customs value from the c.i.f. value of the imports for 2007 and then dividing by the customs value based on the HTS subheading 7306.61.50.

³ Real exchange rates are calculated by adjusting the nominal rates for movements in producer prices in the United States and each of the subject countries. The Chinese government effectively pegged the yuan to the U.S. dollar at 8.28 yuan per dollar during the early part of this period. On July 21, 2005, the Chinese government

(continued...)

Figure V-2
Exchange rates: Indexes of nominal and real values of the currencies of China, Korea, Mexico, and Turkey relative to the U.S. dollar, by quarters, January 2005-December 2007

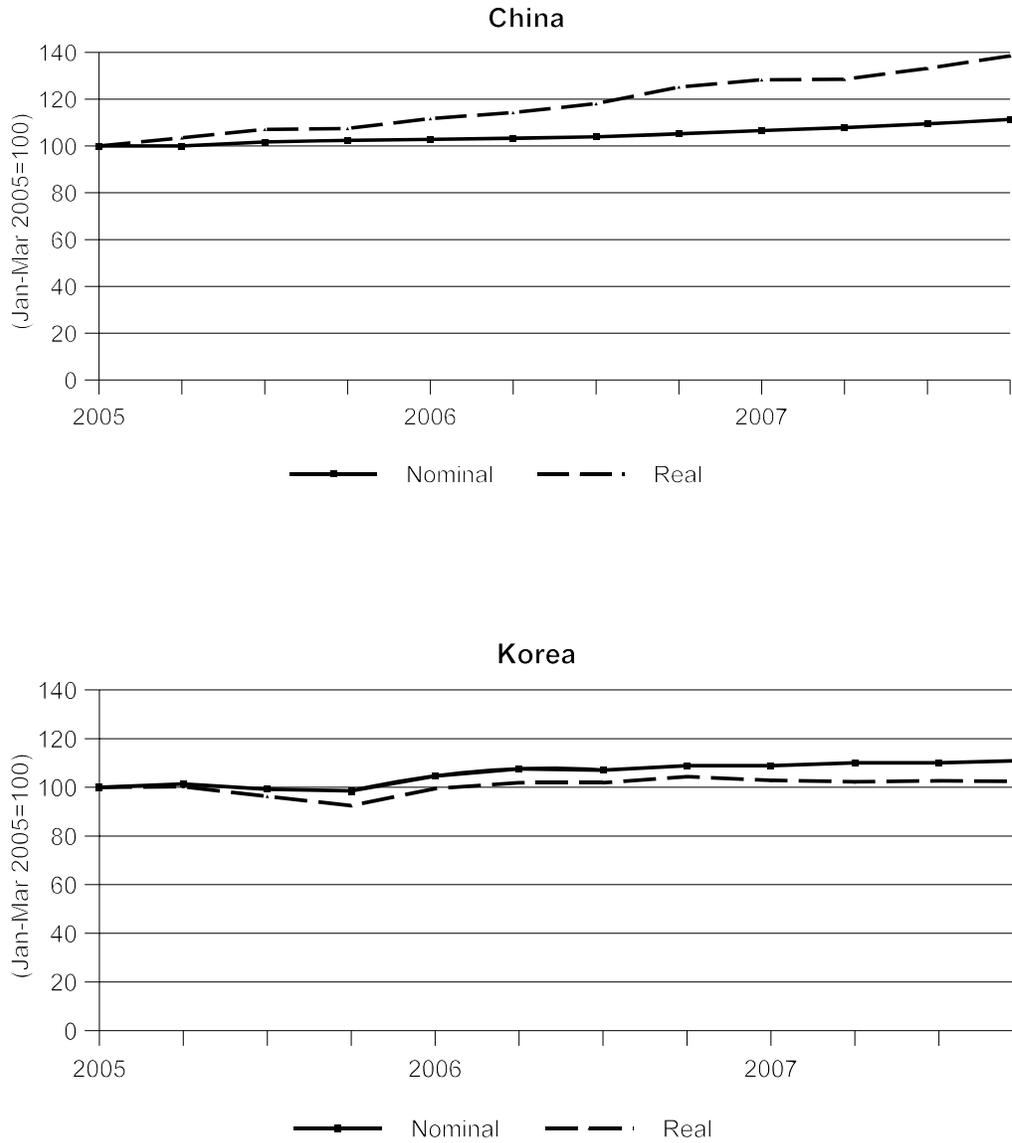


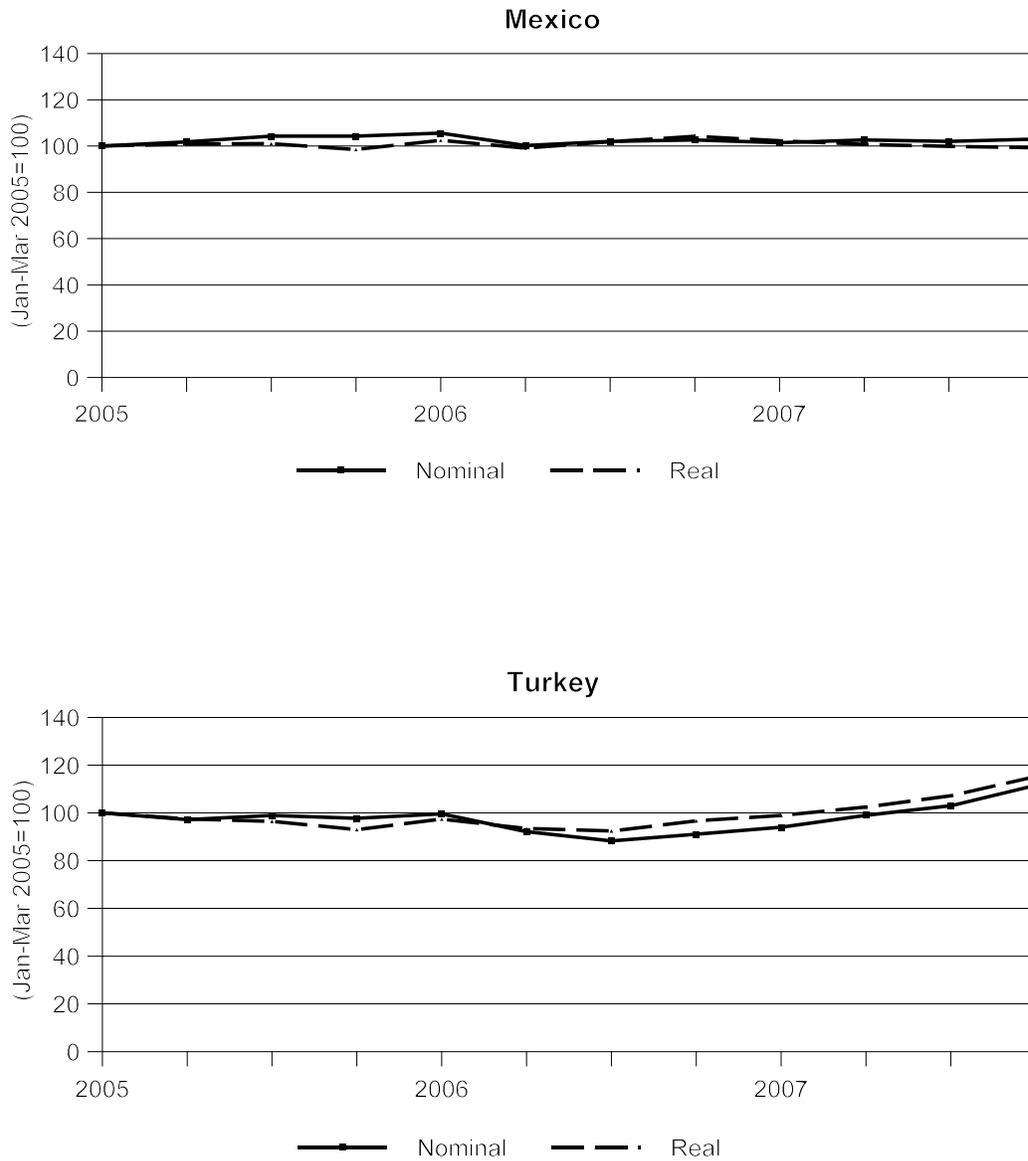
Figure continued on next page.

³ (...continued)

announced that it would no longer peg the yuan to the U.S. dollar but would tie the yuan to a basket of currencies. Within this new basket, the yuan was revalued upward against the U.S. dollar by 2.1 percent, or from 8.28 yuan per dollar under the old peg to 8.11 yuan per dollar under the new exchange rate policy. The Chinese government has not disclosed which currencies are in the new basket, but indicated that the weight of the U.S. dollar represented less than 50 percent of the new basket of currencies.

Figure V-2-Continued

Exchange rates: Indexes of nominal and real values of the currencies of China, Korea, Mexico, and Turkey relative to the U.S. dollar, by quarters, January 2005-December 2007



Source: International Monetary Fund, *International Financial Statistics*, March 2008.

PRICING PRACTICES

Pricing Methods

Firms reported that prices of LWR pipe and tube are determined in a variety of ways. U.S. producers most commonly cited transaction-by-transaction negotiations as their method for arriving at prices (reported by 20 producers).⁴ In addition, six producers reported that prices are determined by contracts and seven producers reported that they use price lists.⁵ The majority of the responding importers (33 of 41) also negotiate prices on a transaction-by-transaction basis. Seven importers reported that they use price lists, six importers reported using contracts, two reported market conditions, and four reported using other methods, generally based on market conditions to set prices.

Sales Terms and Discounts

Discount policies vary widely among U.S. producers and importers of LWR pipe and tube. Questionnaire responses indicate that producers are more likely to provide discounts than importers. Fifteen of 23 producers reported one or more discount policies, while the remaining 8 reported no discount policy. Among the producers reporting discount policies, quantity discounts and total annual volume discounts were each reported by 10 producers. Five producers mentioned other methods such as negotiating prices with each customer or giving discounts based on payment terms as opposed to volume discounts if attractive financial terms can be met. Thirty-two of 41 importers reported having no discount policy, while 2 importers reported quantity discounts, 1 firm reported total annual volume discounts, and 6 reported other discount policies.

The majority of U.S. producers (18 of 23) and the majority of importers (25 of 37) quote prices on f.o.b. basis.⁶ The remaining 5 responding producers and 14 responding importers usually quote prices on a delivered basis.

LWR pipe and tube is commonly sold on a spot and, to a lesser extent, short-term contract basis. Two producers reported that they sell LWR pipe and tube on long- and short-term contracts and on a spot basis. Three other producers sell the majority of their product on a short-term contract basis while selling on a spot basis as well, but not on a long-term contract basis. Nine producers sell most of their product on a spot sale basis, while selling the rest of the product on a short-term contract basis. In addition, seven producers sell 100 percent of their LWR pipe and tube on spot basis; one producer sells 100 percent of its product on a short-term contract basis, and one other producer sells 100 percent of its production on a long-term contract basis. Of the responding importers, 22 firms sell subject product only on a spot sale basis; 6 firms reported only short-term contracts, and 1 firm reported only long-term contracts. In addition, five firms sell the majority of their product on a spot basis; three other firms sell the majority of their product on a short-term contract basis; and one importer sells 50 percent of its LWR pipe and tube on a short-term contract basis and 50 percent on a spot basis.

Of the limited number of firms using long-term contract sales, one U.S. producer reported that its long-term contracts were less than 18 months in duration; another reported that its contracts ranged from 9 to 12 months; and a third reported that the duration of its contracts is unlimited. One importer reported that the contract period was unlimited. Only one importer reported that the contracts were not renegotiated. Two U.S. producers and two importers reported that both prices and quantities are fixed, while one importer and one producer reported that only price is fixed during a long-term contract period.

⁴ Some U.S. producers and importers reported more than one method for determining prices.

⁵ Four producers also reported the use of “adjustable” price lists or distributor price lists.

⁶ Producers generally quote f.o.b. warehouse or f.o.b. plant. Importers usually quote f.o.b. port of entry.

Producers and importers reported similar short-term contract characteristics. For producers, in most cases, short-term contract periods were 3 months, although one U.S. producer reported that its short-term contracts are one year in duration, and another producer reported month-to-month contracts. For importers, short-term contracts ranged between 2 weeks and 12 months.

The majority of producers' and importers' short-term contracts can be renegotiated. Seven responding producers and 12 importers reported that both prices and quantities are initially fixed, 7 producers and 1 importer reported that only price is fixed, and one producer reported that only quantity is fixed during a short-term contract period.

PRICE DATA

U.S. producers and importers of LWR pipe and tube were asked to provide quarterly data for the total quantity and f.o.b. (U.S. point of shipment) value of five selected products that were shipped to unrelated customers in the U.S. market from January 2005 through December 2007. The products for which pricing data were requested were as follows:

Product 1.– ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), carbon welded, not pickled and oiled, 2 inch square, 0.120 inch (+ or -10 percent) wall thickness (11 gauge), 20 foot or 24 foot lengths.

Product 2.– ASTM A-513 (mechanical) or A-500 grade A or B (ornamental) tubing, carbon welded, pickled and oiled, 1 inch square, 0.065 inch nominal wall thickness (+ or -10 percent) (16 gauge), 20 foot or 24 foot mill lengths.

Product 3.– ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), hot-rolled, not pickled and oiled, 11 gauge or 0.120 inch +/- 10% wall, three inch square to four inches square, or in rectangular circumferences of 12 inches to 16 inches, lengths of 20 to 24 feet.

Product 4.– ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), 16 gauge or .065 inch +/- 10% wall, galvanized, one inch square, lengths of 20 to 24 feet.

Product 5.– ASTM A-513 (mechanical) or A-500 grade A or B (ornamental) tubing, galvanized, 2.5 inch square, 0.083 nominal wall thickness (+ or – 10 percent) (14 gauge), lengths of 20 to 24 feet.

In the preliminary phase of these investigations, the Commission requested price data for shipments of products 1 and 2 to unrelated customers.⁷ However, in light of the coverage, the Commission invited parties to provide additional products.⁸ Accordingly, when drafting questionnaires, Staff added galvanized and black pricing items which generally corresponded to pricing items for which data were collected in the most recent previous investigations of LWR pipe and tube,⁹ and requested

⁷ *Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey, Invs. Nos. 701-TA-449 and 731-TA-1121 (Preliminary)*, USITC Publication 3941, August 2007, p. V-5.

⁸ *Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey, Invs. Nos. 701-TA-449 and 731-TA-1121 (Preliminary)*, USITC Publication 3941, August 2007, p. 17, fn. 90.

⁹ In *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey*, the Commission requested price data for sales to unrelated customers of products similar or identical to current products 3, 4, and 5. *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey, Invs. Nos. 701-TA-1054 and 731-TA-1055 (Final)*, USITC

(continued...)

comments from parties. Only the petitioners provided comments on the draft questionnaires, including the price items.

Twenty U.S. producers¹⁰ and 32 importers^{11, 12, 13} provided price data for the three black products (products 1-3) and the two galvanized products (products 4 and 5). Pricing data¹⁴ reported by U.S. producers accounted for approximately 19.0 percent of U.S. producers' commercial shipments during January 2005-December 2007 and the following percentages of subject import shipments from each country: China--24.3 percent, Korea--20.3 percent, Mexico--35.0 percent, Turkey--33.9 percent, and all other countries--22.7 percent.¹⁵

⁹ (...continued)

Publication 3728, October 2006, p. V-4-5.

¹⁰ Producer ***'s pricing data for products 4 and 5 were not included in the dataset because they did not meet the definition of the pricing items (both of which are galvanized).

¹¹ Importer *** submitted revised pricing data; originally, *** only included rectangular products in their questionnaire response. Importers ***, ***, and *** did not submit questionnaires in the final phase of these investigations. Importers *** and *** provided pricing data for their 2007 imports, but did not provide data for 2005-06. Importer *** submitted revised pricing data; about two-thirds of their data was removed from the data set because it contained products that with gauges heavier than .156".

¹² ***'s reported price data for Mexico are not included. Because it was not the importer of record, data reported by *** double counts data already reported by the Mexican importers of record. *** was the importer of record in 2005 for small shipments for which it cannot identify the source. ***.

¹³ The majority of U.S. importers of Mexican-origin LWR pipe and tube are not traditional importers with physical location in the United States, rather they ship from their Mexican facility directly to the U.S. customers. Since the Mexican producers act as their own importers, they incur all customs charges and pay shipping and distribution costs to their customers as do other U.S. importers.

¹⁴ In their prehearing brief, Mexican respondents argued for the first time that price data for U.S. and imported LWR pipe and tube from the subject countries are not entirely comparable as they include sales to both end users and to distributors, and therefore contain data for sales at different levels of trade. Mexican Respondents' prehearing brief, p. 30. However, while both U.S. producers and importers did sell a portion of their LWR to the limited number of end users capable of direct sourcing, the vast majority of sales for both U.S. producers and importers were made to distributors that in turn to smaller distributors or to those end users not capable of direct sourcing.

¹⁵ Data for Mexican producer Prolamsa and Korean producer Nexteel, companies that were preliminarily found to have *de minimis* margins, are included with nonsubject sources.

Table V-1

LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 1, and margins of underselling/(overselling), 2005-07

Period	United States		China			Korea subject		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	<i>per short ton</i>	<i>short tons</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>
2005:								
January-March	\$828	10,158	\$***	***	***	\$746	203	9.9
April-June	813	10,610	***	***	***	753	198	7.4
July-September	753	11,862	***	***	***	770	61	(2.4)
October-December	803	9,954	***	***	***	654	245	18.6
2006:								
January-March	826	11,485	***	***	***	663	465	19.8
April-June	855	13,661	693	1,036	19.0	636	214	25.6
July-September	903	10,581	686	1,416	24.1	718	466	20.5
October-December	861	9,279	686	930	20.3	704	506	18.2
2007:								
January-March	807	11,220	694	1,187	14.1	714	397	11.6
April-June	795	10,487	700	518	12.0	710	297	10.7
July-September	759	10,889	***	***	***	736	288	3.1
October-December	749	11,196	***	***	***	654	534	12.7
Period	Mexico subject			Turkey				
	Price	Quantity	Margin	Price	Quantity	Margin		
	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>		
2005:								
January-March	\$865	704	(4.5)	\$772	42	6.7		
April-June	786	1,264	3.3	707	834	13.1		
July-September	658	1,047	12.6	682	476	9.4		
October-December	653	1,384	18.6	590	501	26.5		
2006:								
January-March	671	866	18.8	601	628	27.3		
April-June	739	2,210	13.5	***	***	***		
July-September	810	829	10.4	598	1,089	33.8		
October-December	700	599	18.6	717	277	16.7		
2007:								
January-March	663	1,477	17.9	***	***	***		
April-June	757	1,602	4.8	***	***	***		
July-September	735	1,353	3.2	***	***	***		
October-December	726	1,156	3.0	***	***	***		

Table continued on next page.

Table V-1-- Continued

LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 1, and margins of underselling/(overselling), 2005-07

Period	United States		All subject sources			Nonsubject sources ¹	
	Price	Quantity	Price	Quantity	Margin	Price	Quantity
	<i>per short ton</i>	<i>short tons</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>
2005:							
January-March	\$828	10,158	***	***	***	\$865	1,542
April-June	813	10,610	***	***	***	***	***
July-September	753	11,862	***	***	***	727	1,781
October-December	803	9,954	***	***	***	793	1,497
2006:							
January-March	826	11,485	***	***	***	793	1,529
April-June	855	13,661	***	***	***	767	2,811
July-September	903	10,581	***	***	***	820	2,003
October-December	861	9,279	***	***	***	853	1,366
2007:							
January-March	807	11,220	***	***	***	784	2,007
April-June	795	10,487	***	***	***	***	***
July-September	759	10,889	***	***	***	755	1,710
October-December	749	11,196	***	***	***	750	1,518

Product 1 –ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), carbon welded, not pickled and oiled, 2 inch square, 0.120 inch (+ or -10 percent) wall thickness (11 gauge), 20 foot or 24 foot lengths.

¹ Nonsubject data were reported for Canada, Korea, Mexico, and “all other” sources.

Note.--Margins are calculated from unrounded data.

Source: Compiled from data submitted in response to Commission questionnaires.

Table V-2

LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 2, and margins of underselling/(overselling), 2005-07

Period	United States		China			Korea subject		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	<i>per short ton</i>	<i>short tons</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>
2005:								
January-March	\$932	2,791	-	-	-	\$***	***	***
April-June	944	2,992	-	-	-	***	***	***
July-September	930	2,948	-	-	-	***	***	***
October-December	920	2,650	\$***	***	***	***	***	***
2006:								
January-March	893	3,190	***	***	***	***	***	***
April-June	909	3,198	***	***	***	***	***	***
July-September	923	2,383	683	1,300	26.1	***	***	***
October-December	897	2,112	664	440	26.0	***	***	***
2007:								
January-March	853	2,542	657	775	22.9	***	***	***
April-June	844	2,458	649	316	23.1	***	***	***
July-September	811	2,556	665	431	18.0	-	-	-
October-December	814	2,220	689	163	15.3	***	***	***
Period	Mexico subject			All subject sources			Nonsubject sources ¹	
	Price	Quantity	Margin	Price	Quantity	Margin	Price	Quantity
	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>
2005:								
January-March	\$***	***	***	\$***	***	***	\$***	***
April-June	***	***	***	***	***	***	***	***
July-September	***	***	***	***	***	***	***	***
October-December	***	***	***	***	***	***	***	***
2006:								
January-March	***	***	***	***	***	***	***	***
April-June	***	***	***	***	***	***	***	***
July-September	***	***	***	***	***	***	***	***
October-December	***	***	***	***	***	***	***	***
2007:								
January-March	***	***	***	***	***	***	***	***
April-June	***	***	***	***	***	***	***	***
July-September	***	***	***	***	***	***	***	***
October-December	***	***	***	***	***	***	***	***
Product 2 – ASTM A-513 (mechanical) or A-500 grade A or B (ornamental) tubing, carbon welded, pickled and oiled, 1 inch square, 0.065 inch nominal wall thickness (+ or -10 percent) (16 gauge), 20 foot or 24 foot mill lengths.								
¹ Nonsubject data were reported for Canada and Mexico.								
Note.--Margins are calculated from unrounded data.								
Note.--There was one sale reported for Turkey in the second quarter of 2006; with a price of \$***, a quantity of *** short tons, and a margin *** percent.								
Source: Compiled from data submitted in response to Commission questionnaires.								

Table V-3

LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 3, and margins of underselling/(overselling), 2005-07

Period	United States		China			Korea subject		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	<i>per short ton</i>	<i>short tons</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>
2005:								
January-March	\$912	7,436	\$***	***	***	\$***	***	***
April-June	847	8,329	-	-	-	***	***	***
July-September	775	9,953	-	-	-	768	174	0.8
October-December	823	9,946	-	-	-	***	***	***
2006:								
January-March	845	13,634	-	-	-	***	***	***
April-June	860	14,221	***	***	***	626	775	27.2
July-September	908	12,267	734	348	19.1	654	755	28.0
October-December	868	10,025	***	***	***	657	1,063	24.3
2007:								
January-March	811	12,152	703	627	13.2	***	***	***
April-June	806	12,581	662	500	17.9	625	500	22.5
July-September	749	12,364	791	1,104	(5.7)	***	***	***
October-December	740	10,991	737	429	0.4	681	646	7.9
Period	Mexico subject			Turkey				
	Price	Quantity	Margin	Price	Quantity	Margin		
	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>		
2005:								
January-March	\$828	1,049	9.2	\$***	***	***		
April-June	763	1,347	9.8	***	***	***		
July-September	690	1,405	10.9	***	***	***		
October-December	684	1,363	17.0	***	***	***		
2006:								
January-March	676	2,024	20.0	***	***	***		
April-June	761	2,609	11.5	***	***	***		
July-September	795	1,691	12.5	***	***	***		
October-December	702	905	19.1	***	***	***		
2007:								
January-March	647	1,550	20.2	***	***	***		
April-June	703	1,611	12.8	***	***	***		
July-September	701	2,427	6.3	***	***	***		
October-December	703	2,063	5.0	***	***	***		

Table continued on next page.

Table V-3-- Continued

LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 3, and margins of underselling/(overselling), 2005-07

Period	United States		All subject sources			Nonsubject sources ¹	
	Price	Quantity	Price	Quantity	Margin	Price	Quantity
	<i>per short ton</i>	<i>short tons</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>
2005:							
January-March	\$912	7,436	***	***	***	\$859	1,223
April-June	847	8,329	***	***	***	805	1,790
July-September	775	9,953	***	***	***	***	***
October-December	823	9,946	***	***	***	***	***
2006:							
January-March	845	13,634	***	***	***	836	1,189
April-June	860	14,221	***	***	***	878	1,717
July-September	908	12,267	***	***	***	974	1,465
October-December	868	10,025	***	***	***	918	1,344
2007:							
January-March	811	12,152	***	***	***	766	960
April-June	806	12,581	***	***	***	***	***
July-September	749	12,364	***	***	***	715	1,230
October-December	740	10,991	***	***	***	727	707

Product 3 – ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), hot-rolled, not pickled and oiled, 11 gauge or 0.120 inch +/- 10% wall, three inch square to four inches square, or in rectangular circumferences of 12 inches to 16 inches, lengths of 20 to 24 feet.

¹ Nonsubject data were reported for Canada, Korea (nonsubject suppliers), Mexico (nonsubject suppliers), and “all other” sources.

Note.--Margins are calculated from unrounded data.

Source: Compiled from data submitted in response to Commission questionnaires.

Table V-4

LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 4, and margins of underselling/(overselling), 2005-07

Period	United States		China			Korea subject		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	<i>per short ton</i>	<i>short tons</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>
2005:								
January-March	\$***	***	-	-	-	-	-	-
April-June	***	***	-	-	-	-	-	-
July-September	***	***	-	-	-	-	-	-
October-December	***	***	-	-	-	-	-	-
2006:								
January-March	***	***	-	-	-	\$***	***	***
April-June	***	***	-	-	-	-	-	-
July-September	***	***	\$***	***	***	-	-	-
October-December	***	***	***	***	***	-	-	-
2007:								
January-March	***	***	***	***	***	***	***	***
April-June	***	***	***	***	***	-	-	-
July-September	***	***	***	***	***	-	-	-
October-December ¹	***	***	***	***	***	***	***	***
Period	Mexico subject			All subject sources			Nonsubject sources ²	
	Price	Quantity	Margin	Price	Quantity	Margin	Price	Quantity
	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>	<i>percent</i>	<i>per short ton</i>	<i>short tons</i>
2005:								
January-March	-	-	-	-	-	-	-	-
April-June	-	-	-	-	-	-	-	-
July-September	-	-	-	-	-	-	-	-
October-December	\$***	***	***	\$***	***	***	-	-
2006:								
January-March	-	-	-	***	***	***	-	-
April-June	-	-	-	-	-	-	-	-
July-September	-	-	-	***	***	***	-	-
October-December	-	-	-	***	***	***	-	-
2007:								
January-March	***	***	***	927	64	***	\$***	***
April-June	***	***	***	845	70	***	***	***
July-September	-	-	-	***	***	***	***	***
October-December	-	-	-	***	***	***	***	***
Product 4 – ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), 16 gauge or .065 inch +/- 10% wall, galvanized, one inch square, lengths of 20 to 24 feet.								
1 ***								
2 Nonsubject data were reported for Mexico (nonsubject suppliers).								
Note.--Margins are calculated from unrounded data.								
Source: Compiled from data submitted in response to Commission questionnaires.								

Table V-5
LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 5, and margins of underselling/(overselling), 2005-07

* * * * *

Figure V-3
LWR pipe and tube: Weighted-average f.o.b. selling prices of products 1-5, 2005-07

* * * * *

Price Trends

Overall, prices for both U.S. produced and imported LWR pipe and tube fluctuated during the period January 2005-December 2007. A summary of price trends is shown in table V-6.

U.S. prices for LWR pipe and tube products 1-5 generally decreased in 2005, firmed somewhat by mid-2006, then began to weaken in 2007.

Prices of products 1-3 imported from China rose at the beginning of 2005, declined towards the beginning of 2006, then stabilized somewhat until the end of 2007. Prices of products 1, 3, and 5 imported from Korea had a similar pattern to the prices from China, rising at the beginning of 2005, declining towards the beginning of 2006, then stabilizing until the end of 2007. Prices of products 1 and 3 imported from Mexico had a similar pattern to the prices from China and Korea, while prices for product 2 and 5 fluctuated for the period 2005-07. Prices of products 1 and 3 imported from Turkey had a similar pattern to the prices from China, Korea, and Mexico.

Purchasers were also asked if there has been a change in the price of LWR pipe and tube since 2005. Seventeen of 37 responding purchasers reported that prices of LWR pipe and tube increased, 3 firms reported that prices decreased, 1 firm reported that prices both increased and fluctuated, and 17 firms reported that prices either fluctuated or stayed the same. Of the purchasers that reported increases in prices, five attributed it to a lack of import competition that gave domestic suppliers the opportunity to raise prices to “whatever level they want to,”¹⁶ five other firms attributed the rise to increase in raw material and scrap prices, and one firm attributed the rise to the increased price of coil and to the high demand in China that decreased imports of LWR pipe and tube.

When purchasers were asked if there was a price leader in the LWR pipe and tube industry, 27 of the purchasers reported “yes,” with nearly all purchasers citing more than one U.S. producer, while two cited the ***. The U.S. price leaders that were mentioned by most firms were ***. Most purchasers reported that these firms exhibited price leadership by being the first to announce changes in price.

¹⁶ *** purchaser questionnaire.

Table V-6
LWR pipe and tube: Summary of weighted-average f.o.b. prices for products 1-5, by country

Country	Number of quarters	Highest price	Lowest price	Percentage increase (decrease) in price ¹
		Per short ton	Per short ton	Percent
Product 1				
United States	12	\$903	\$749	(9.2)
China	12	***	***	***
Korea	12	770	636	(12.4)
Mexico	12	865	653	(16.0)
Turkey	12	***	***	***
Product 2				
United States	12	944	811	(12.6)
China	9	***	***	***
Korea	11	***	***	***
Mexico	12	***	***	***
Turkey	1	***	***	-
Product 3				
United States	12	912	740	(18.9)
China	8	***	***	***
Korea	12	***	***	***
Mexico	12	828	647	(15.1)
Turkey	12	***	***	***
Product 4				
United States	12	***	***	***
China	6	***	***	***
Korea	3	***	***	***
Mexico	3	***	***	***
Product 5				
United States	12	***	***	***
Korea	11	***	***	***
Mexico	12	***	***	***
¹ Percentage change from the first quarter in which price data were available to the last quarter in which price data were available. Note.-- Only countries where price data were reported are listed. Source: Compiled from data submitted in response to Commission questionnaires.				

Price Comparisons

Prices for imported LWR pipe and tube from subject countries were lower than those for U.S.-produced LWR pipe and tube in the majority (91.2 percent) of instances where comparisons were possible. A summary of margins of underselling and overselling are presented in table V-7.

Table V-7
LWR pipe and tube: Summary of underselling/overselling

Country	Number of quarters of underselling	Number of quarters of overselling	Average margin ¹
China:			
2005	5	1	21.4
2006	13	0	25.2
2007	14	1	16.3
Subtotal	32	2	20.5
Korea:			
2005	13	2	12.9
2006	17	0	20.6
2007	16	1	11.4
Subtotal	46	3	15.0
Mexico:			
2005	13	4	9.2
2006	14	2	9.5
2007	15	3	10.0
Subtotal	42	9	9.6
Turkey:			
2005	8	0	14.6
2006	8	0	26.7
2007	8	0	18.3
Subtotal	24	0	19.9
All subject sources:			
2005	39	7	12.9
2006	52	2	19.3
2007	54	5	13.2
Total	145	14	15.2
¹ The average margin column represents the average of underselling and overselling margins. Source: Compiled from data submitted in response to Commission questionnaires.			

LOST SALES AND LOST REVENUES

In the petition, the petitioning firms provided numerous allegations of lost sales and lost revenues from China and four allegations of lost sales from Mexico during January 2004-March 2007. In the final phase of the investigations, one producer, ***, provided four lost sales and four lost revenue allegations from China.¹⁷ There were no allegations of lost sales from Korea or Turkey. There were no allegations of lost revenues from Korea, Mexico, or Turkey. Staff contacted 38 purchasers, representing the largest

¹⁷ Producers *** and *** provided lost sale allegations that could not be verified due to lack of information. *** reported that it did not provide any lost sales or lost revenue allegations because it is not applicable to its firm. Petitioner *** provided several lost sales and lost revenue allegations that were also not able to be verified due to lack of information.

value of lost sales and lost revenues, to investigate these allegations. Ten purchasers, including some accounting for largest volume allegations, did not respond. For the lost sales, seven respondents reported that they disagreed, and six reported that they agreed with the allegations.¹⁸ The six confirmed lost sales totaled \$***. For the lost revenues, five firms disagreed and five firms reported that they agreed with the allegations.¹⁹ The six confirmed lost revenues totaled \$***. Information regarding lost sales is presented in table V-8 and information regarding lost revenues is presented in table V-9. Information is only presented for purchasers that responded to the staff’s request for information. Responses from purchasers are discussed below.

Table V-8
LWR pipe and tube: U.S. producers’ lost sales allegations

* * * * *

Table V-9
LWR pipe and tube: U.S. producers’ lost revenues allegations

* * * * *

*** disagreed with the lost revenue allegation, stating, “I do not recall receiving an offer from a domestic supplier, responding that their price was too high, the domestic supplier lowering their price, and accepting the lower offer.”

*** disagreed with the allegation, stating, “In my opinion, there are too many tube mills in the USA. A lot of sales could have been lost to other domestic producers, for instance, tube mills on the West Coast are traditionally higher priced than mills in the Mid-West. Hard for me to exactly pin-point it as you do not specify which producer(s) is (are) whining. I urge you to look at their financial statements and determine your own opinion. Furthermore, U.S. producers have steadily raised their prices and are now mentioning the allocation word. And in addition, are saying availability of certain products will diminish. P.S. controlled order entry is a synonym for allocation.”

*** agreed with the lost sale allegation, and provided no further comment.

*** disagreed with the lost revenue allegation. It stated, “during the referenced time frame, domestic producers lowered their prices less than *** percent and it was due, in large part, to increased domestic competition and an anticipated and/or actual reduction in their raw material cost.”

*** disagreed with the lost revenue allegation. It reported that it buys *** tons per year, not *** tons; that it purchases about *** percent from domestic producers and about *** percent from China and Europe; and that the percentage purchased from U.S. producers has not changed over the years regardless of price. It further reported, “***.”

*** disagreed with the lost sale allegation, stating “our company does not import raw material pipe or tubing from ***; we purchase any such product from a U.S. producer.”

*** agreed with the lost sale allegation, and provided no further comment.

*** stated that it purchased nothing during the period referenced (***) in the allegation. It stated, however, “*** in tube from trading companies.” It further stated, “***. Typically the price is approximately *** percent lower than U.S.-produced.”

*** reported that what it purchased from ***. *** reported that “they told me they could not produce because *** and it would be *** months.”

*** reported that it was unable to respond. It stated that it did not recall soliciting such a quote over the past year and generally does not respond to unsolicited quotes. It further stated, “No business

¹⁸ One additional purchaser, ***, reported that it was unable to respond.

¹⁹ One additional purchaser, ***, reported that it disagrees with the allegation, although it only disagreed with the quantity and not with the price.

has a right to claim they lost our business merely because we failed or refused to respond to, or declined an unsolicited quote, nor should it be assumed that price alone is/was the reason for our decision to disregard an unsolicited offer.”

*** agreed with ***, and provided no further comment.

*** disagreed with the lost revenue allegation, stating that the difference in price was *** to *** percent, not *** percent.

*** disagreed with the lost sale allegation but agreed with the lost revenue allegation. It stated, “our purchases from *** were above the range you listed by \$*** to \$*** per ton because we made sure the material we bought was excellent quality.”

*** agreed with the allegation, reporting that “during the time frame specified, feedstock costs were rising, forcing domestic producers to increase prices, while import prices were below domestic prices and continued to decline. As a purchaser of this product, we felt compelled to purchase import material to stay competitive in our market place.”

*** agreed with the lost sale allegation. It stated that it “cannot remember which deal this was.” *** had requested prices from several U.S. companies for *** tons of steel but the U.S. prices were never close to those of the *** imports.

*** disagreed with the lost sale allegation. It stated, “the prices here locally for *** tons are pretty much about *** percent, they are based in \$*** CWT coming from *** versus \$*** or \$*** at the most locally.”

*** agreed with the lost sale revenue “however, *** only purchased \$*** of import LWR in 2007.

*** disagreed with the lost sales allegation. It stated “we never received nor rejected a quote for anything close to \$*** per ton by a U.S. producer. We buy consistent amounts of domestically produced *** and imported *** product.”

*** agreed with the lost revenue allegation, although it reported the volume offered by the U.S. producer was *** tons, not ***, as stated in the allegation.

Initially, *** neither agreed nor disagreed with one lost sales allegation. It stated “you’re wasting time and money, have you bought any domestic tube lately? The price is around \$*** per hundred weight or \$*** per lb. They have no import competition now.” During follow-up telephone interview, a company official declared that he disagrees with the allegation.

*** agreed with the lost sale allegation, and provided no further comment.

*** agreed with the lost sale allegation, and provided no further comment.

*** stated that it did not recall rejecting a U.S. offer for purchases of LWR pipe and tube. It reported that it has purchased both domestic and imported products for years but that purchases are not always based on price. Other factors considered include logistics, demand, quality, and terms.

PART VI: FINANCIAL CONDITION OF U.S. PRODUCERS

BACKGROUND

Twenty-two producers provided usable financial data on their operations producing LWR pipe and tube.¹ The responding producers include four companies that did not provide data in the preliminary phase of these investigations, while two known producers did not provide data in the final phase of these investigations. The responding producers are believed to represent the substantial majority of U.S. production.

The firms differ considerably in size in terms of sales volume and value. The *** largest producers, ***, reported average annual sales volumes over *** short tons. In contrast, *** firms, ***, reported average annual sales of less than *** short tons. Overall, net sales consisted of commercial sales and minor amounts of related party transfers by ***.² No U.S. producer reported internal consumption.³

OPERATIONS ON LWR PIPE AND TUBE

The results of operations of the responding firms on their LWR pipe and tube operations are presented in table VI-1, which includes data on a per-short ton basis as well as operating income (loss) to net sales ratios.⁴ To summarize, the financial results of the U.S. producers declined over time as sales quantities and unit sales values decreased while unit costs remained essentially the same. The quantity of total sales decreased continuously between 2005 and 2007. In contrast, total sales values increased somewhat from 2005 to 2006 and then decreased noticeably from 2006 to 2007, as unit net sales values increased from 2005 to 2006 and decreased from 2006 to 2007. Per-unit values of cost of goods sold (“COGS”) decreased from 2005 to 2006, due to lower raw material costs, and then increased slightly from 2006 to 2007 as direct labor cost increased, more than offsetting the continuing decline in raw material costs. The combined producers’ operating income increased from \$53.6 million in 2005 to \$61.7 million in 2006, then decreased in 2007 to \$30.9 million as a result of lower sales quantities and per-unit sales values, in conjunction with higher per-unit COGS. The ratio of operating income to net sales increased by about 1.5 percentage points between 2005 and 2006 and decreased by 5.0 percentage points between 2006 and 2007.

¹ The producers with fiscal year ends other than December 31 are Allied (September 28), Atlas (September 30), EXL Tube/Steel Ventures (April 30), Hannibal (March 31), Searing (February 28), and Welded (October 31). However, the financial data of Allied, Atlas (Chicago), EXL Tube/Steel Ventures, and Hannibal were submitted on a calendar year basis. ***. The data include nearly all known producers, however, ***’s response was not used due to incompleteness and inconsistency. ***. Differences between data reported in the trade and financial sections of the Commission’s producers’ questionnaire mainly are attributable to timing differences and treatment of toll shipments.

² ***.

³ ***.

⁴ There were major data changes for *** in the final phase of these investigations to correct data errors made in the preliminary phase of these investigations.

Table VI-1
LWR pipe and tube: Results of operations of U.S. producers, fiscal years 2005-07

Item	Fiscal year		
	2005	2006	2007
	Quantity (short tons)		
Net sales ¹	591,721	586,896	549,260
	Value (\$1,000)		
Net sales ¹	539,809	542,437	481,378
COGS	452,240	444,888	418,199
Gross profit	87,569	97,549	63,179
SG&A expenses	33,990	35,853	32,310
Operating income	53,579	61,696	30,869
Interest expense	3,216	3,651	3,268
Other expense	2,271	3,954	2,914
Other income	1,074	1,871	1,355
Net income	49,166	55,962	26,042
Depreciation/amortization	10,877	10,024	10,195
Cash flow	60,043	65,986	36,237
	Unit value (per short ton)		
Net sales	\$912	\$924	\$876
COGS	764	758	761
Gross profit	148	166	115
SG&A expenses	57	61	59
Operating income	91	105	56
	Ratio to net sales (percent)		
COGS	83.8	82.0	86.9
Gross profit	16.2	18.0	13.1
SG&A expenses	6.3	6.6	6.7
Operating income	9.9	11.4	6.4
	Number of firms reporting		
Operating losses	2	3	7
Data	22	22	22
<p>¹ ***.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>			

Lower net sales quantity and value in 2007 compared to 2006 contributed to noticeably lower operating income in 2007 (\$30.9 million compared to \$61.7 million in 2006), as both decreased per-unit sales values and increased per-unit total costs/expenses, especially direct labor cost, negatively impacted financial performance.⁵ While the average unit sales values decreased by \$48 per short ton, average unit total cost (COGS plus selling, general, and administrative (“SG&A”) expenses) increased by \$1 per short ton (\$819 compared to \$820) between 2006 and 2007. As a result, operating income fell by \$49 per short ton and the operating income margin decreased from 11.4 percent in 2006 to 6.4 percent in 2007.

***,⁶ performed toll processing during 2005-07.⁷ Toll processing revenue accounted for less than *** percent of the total net sales value for all firms combined in 2007. These limited toll operations are not reflected in the aggregate results of operations of LWR pipe and tube due to their completely different revenue and cost structures. *** toll-processed for ***. Aggregate income-and-loss data for *** toll-processing operations are presented in table VI-2. The quantity and value of the toll-processing operations increased between 2005 and 2007, as did the toll processing net income.

Table VI-2
LWR pipe and tube: Tolling operations of U.S. producers, fiscal years 2005-07

* * * * *

Selected financial data, by firm, are presented in table VI-3. Total net sales (quantities and values), per-unit values (sales and COGS), operating income (loss), and the ratio of operating income (loss) to net sales are presented in this table on a firm-by-firm basis. Fourteen of the 22 reporting producers generated positive operating income in each fiscal year during 2005-07, while the remaining eight reported operating losses in one or two years during the period. However, the combined operating income and operating income margins of the 22 producers decreased between 2005 and 2007 (and in particular between 2006 and 2007). From 2005 to 2007, 19 of the 22 producers reported decreases in sales values, 18 reported decreases in operating income, and 17 reported decreases in the operating income margin. When comparing 2007 results to 2006 results, only six producers, ***, reported improved profitability (in terms of operating income margin). Seven producers, ***, reported operating losses in 2007, compared to three in 2006.

Table VI-3
LWR pipe and tube: Results of operations of U.S. producers, by firm, fiscal years 2005-07

* * * * *

The data show that ***. This may be partially due to its ***. However, *** operating income decreased noticeably (by *** percent) from 2006 to 2007, principally because its production costs rose and its average unit sales values fell substantially during the same period.

***. ***. It explained that ***. ***. Longhorn entered the LWR pipe and tube business when it purchased the assets of the closed Dallas Tube and Rollform in September 2005. Therefore, its ***. Northwest’s sales and income ***.

⁵ Per-unit conversion costs (direct labor and factory overhead combined), which included direct labor and factory overhead, generally increased from 2006 to 2007 except for ***. *** experienced substantially increased per-unit conversion costs between these periods.

⁶ ***.

⁷ In toll processing, the firm that owns raw materials (the tollee) arranges for unrelated processors (the tollers) to process the materials for a fee, and then the tollee arranges for the final sale of the products to other parties.

Selected aggregate per-unit cost data of the producers on their operations, i.e., COGS and SG&A expenses,⁸ are presented in table VI-4. Overall per-unit COGS and total cost (which includes SG&A expenses) decreased somewhat from 2005 to 2006, driven mainly by changes (decreases) in raw material costs (i.e., reflecting changes in the cost of hot-rolled steel coils). Per-unit COGS increased minimally from 2006 to 2007, due to the increases in conversion costs, in spite of further declines in raw material costs.⁹ The ratio of total COGS to net sales increased from 2006 (82.0 percent) to 2007 (86.9 percent), the result of essentially flat unit costs and decreasing unit revenues.

Table VI-4
LWR pipe and tube: Average unit costs of U.S. producers, fiscal years 2005-07

Item	Fiscal year		
	2005	2006	2007
COGS:	<i>Value (per short ton)</i>		
Raw materials	\$602	592	\$587
Direct labor	60	64	73
Factory overhead	102	102	102
Total COGS	764	758	761
SG&A expenses	57	61	59
Total cost	822	819	820
Source: Compiled from data submitted in response to Commission questionnaires.			

A variance analysis for the 22 U.S. producers is presented in table VI-5. A variance analysis depicts the effects of changes in average prices and volume on the producers' net sales, and of costs/expenses and volume on their total cost. The data presented in table VI-5 are comparable to changes in operating income as presented in table VI-1. The analysis is summarized at the bottom of the table. The analysis indicates that the decrease in operating income (\$22.7 million) between 2005 and 2007 was attributable mainly to the negative effect of decreased prices (\$19.7 million) and decreased sales volume (\$3.8 million) which was marginally offset by the positive effect of decreased costs/expenses (\$0.8 million). Between 2006 and 2007, it indicates that the decrease in operating income of \$30.8 million resulted from the additional negative effects of increased costs/expenses combined with decreases in prices and sales volume.

⁸ ***.

⁹ Even though the majority of producers reported substantially increased factory overhead costs from 2005 to 2007 (and some reported substantial increases), a few producers, such as, ***, reported sizeable decreases in factory overhead costs. As a result, the per-unit factory overhead cost remained at \$102 per short ton throughout the period examined. The producers' responses to the Commission staff's supplemental questions about changes in factory overhead costs are as follows: ***.

Table VI-5**LWR pipe and tube: Variance analysis of operations of U.S. producers, fiscal years 2005-07**

Item	Between fiscal years--		
	2005-07	2005-06	2006-07
	Value (\$1,000)		
Net sales:			
Price variance	(19,695)	7,030	(26,274)
Volume variance	(38,736)	(4,402)	(34,785)
Total net sales variance	(58,431)	2,628	(61,059)
Cost of sales:			
Cost variance	1,589	3,664	(1,840)
Volume variance	32,452	3,688	28,529
Total cost variance	34,041	7,352	26,689
Gross profit variance	(24,390)	9,980	(34,370)
SG&A expenses:			
Expense variance	(759)	(2,140)	1,244
Volume variance	2,439	277	2,299
Total SG&A variance	1,680	(1,863)	3,543
Operating income variance	(22,710)	8,117	(30,827)
Summarized as:			
Price variance	(19,695)	7,030	(26,274)
Net cost/expense variance	830	1,524	(597)
Net volume variance	(3,845)	(437)	(3,956)
Note.--Unfavorable variances are shown in parentheses; all others are favorable. The data are comparable to changes in operating income as presented in table VI-1.			
Source: Compiled from data submitted in response to Commission questionnaires.			

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

The responding firms' aggregate data on capital expenditures and research and development ("R&D") expenses are presented in table VI-6. All U.S. producers except for *** reported at least nominal capital expenditures, while five producers incurred substantial amounts of capital expenditures during 2005-07.¹⁰ Data for capital expenditures on a firm-by-firm basis are shown in table VI-7. While capital expenditures decreased from 2005 to 2006, due primarily to ***, they increased slightly from 2006 to 2007, due to the spending by *** in 2007. R&D expenses decreased continuously between 2005 and 2007. Only *** of the responding firms, ***, reported R&D expenses.

Table VI-6
LWR pipe and tube: Capital expenditures and R&D expenses by U.S. producers, fiscal years 2005-07

Item	Fiscal year		
	2005	2006	2007
	Value (\$1,000)		
Capital expenditures ¹	12,015	8,738	9,281
R&D expenses ²	***	***	***
¹ All companies except *** reported capital expenditures. ² Only *** reported R&D expenses.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Table VI-7
LWR pipe and tube: Capital expenditures by U.S. producers, by firms, fiscal years 2005-07

* * * * * * *

ASSETS AND RETURN ON INVESTMENT

U.S. producers were requested to provide data on their assets used in the production and sales of LWR pipe and tube during the period for which data were collected to assess their return on investment ("ROI"). Although ROI can be computed in different ways, a commonly used method is income earned during the period divided by the total assets utilized for the operations. Therefore, staff calculated ROI as operating income divided by total assets used in the production and sales of LWR pipe and tube. Data on the U.S. producers' total assets and their ROI are presented in table VI-8. The return on investment increased from 2005 to 2006 and decreased substantially from 2006 to 2007. The trend of ROI over the period was the same as the trend of the operating income margin shown in table VI-1.

¹⁰ As presented and discussed in some detail in table VI-7, *** accounted for a substantial portion of reported capital expenditures.

While the value of total assets and the original cost of property, plant, and equipment (“PPE”) increased steadily, net book value of PPE fluctuated over the period examined, and the data for individual companies varied widely during the same period.^{11 12 13 14}

Table VI-8
LWR pipe and tube: Value of assets and return on investment of U.S. producers, fiscal years 2005-07

Item	Fiscal year		
	2005	2006	2007
Value of assets	Value (\$1,000)		
1. Current assets:			
A. Cash and equivalents	41,394	37,817	44,426
B. Trade receivables (net)	66,529	54,209	52,852
C. Inventories	67,150	83,248	69,478
D. All other current	9,298	7,029	10,253
Total current	184,371	182,303	177,009
2. Non-current assets:			
A. Productive facilities ¹	238,093	251,750	256,043
B. Productive facilities ²	94,146	99,346	97,501
C. Other non-current	7,265	9,029	34,766
Total non-current	101,411	108,375	132,267
Total assets	285,782	290,678	309,276
	Value (\$1,000)		
Operating income	53,579	61,696	30,869
	Ratio of operating income to total assets (percent)		
Return on investment	18.7	21.2	10.0
¹ Original cost of property, plant, and equipment (PPE). ² Net book value of PPE (original cost less accumulated depreciation).			
Source: Compiled from data submitted in response to Commission questionnaires.			

¹¹ ***.

¹² ***.

¹³ ***.

¹⁴ Other variations and changes of the value of PPE may be attributable to the allocated assets based on the relative sales value of the subject merchandise compared to total sales.

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual negative effects on their return on investment, or their growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of LWR pipe and tube from China, Korea, Mexico, or Turkey. The producers' comments are presented in appendix E.

PART VII: THREAT CONSIDERATIONS AND *BRATSK* CONSIDERATIONS

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

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors¹--

(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,

(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) 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,

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section

¹ Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that “The Commission shall consider {these factors} . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.”

705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

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

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).²

Information in relation to subsidies in China is presented in Part I; information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this Part of the report is information obtained for consideration by the Commission in relation to *Bratsk* rulings.

THE INDUSTRY IN CHINA

Of the 38 firms sent foreign producers'/exporters' questionnaires in China in the final phase of these investigations, three of the firms contacted submitted completed questionnaire responses accounting for *** percent of U.S. imports according to Customs data. No Chinese interested party entered an appearance during the course of these proceedings. Table VII-1 presents data on the foreign producers and exporters identified in U.S. Customs data for U.S. imports from China. Table VII-2 presents data on the LWR pipe and tube operations of the three firms in China that submitted responses to the Commission's questionnaires. Table VII-3 presents data on the overall mill operations of the three Chinese firms that submitted data on their LWR pipe and tube operations.

Table VII-1
LWR pipe and tube: Foreign producers/exporters for Chinese-origin LWR pipe and tube, 2005-07

* * * * *

Table VII-2
LWR pipe and tube: Operations for subject producers in China, 2005-07, and projected 2008-09

* * * * *

² Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

**Table VII-3
Steel products: Chinese producers' production of tubular and roll-form products on light-walled capable mills, 2005-07**

* * * * *

Petitioners argue that since most of the Chinese producers of LWR pipe and tube that shipped product to the United States during the period for which data were collected have not provided data on their operations, the Commission should take adverse inferences against China and consider other published measures of capacity, and included data on 17 pipe producers in China for this purpose.³ Aggregated the capacity data represent *** short tons of potential LWR pipe and tube capacity; however, these data are not specific to LWR pipe and tube.⁴

THE INDUSTRY IN KOREA

In the final phase of these investigations, the firms in the Korean LWR pipe and tube industry did not respond to the Commission's inquiries. While the Korean producers retained counsel in the preliminary phase of these investigations, they withdrew their entry of appearance for the purpose of the final phase of these investigations. In the preliminary phase, six Korean firms provided the Commission with completed foreign producers'/exporters' questionnaire responses, including: Hanguk Steel Co., Ltd ("Hanguk"); Histeel Co., Ltd. ("Histeel"); Jinbang Steel Korea Co., Ltd. ("Jinbang"); Kukje Steel Co., Ltd. ("Kukje"); Miju Steel Mfg. Co., Ltd. ("Miju"); and Nexteel Co., Ltd. ("Nexteel"). Based on estimates provided in several Korean producers' questionnaire responses as to their share of overall production of LWR pipe and tube in Korea, these firms represent the large majority of Korean LWR pipe and tube production. Table VII-4 presents data on the foreign producers and exporters identified in U.S. Customs data for U.S. imports from Korea. Table VII-5 presents data on the LWR pipe and tube operations of the firms in Korea that submitted questionnaire responses to the Commission's questionnaires in the preliminary phase (excluding Nexteel (nonsubject) and Kukje and Miju (unresolved data inconsistencies)). Table VII-6 presents data on the overall mill operations of the Korean firms that submitted data on their LWR pipe and tube operations.

**Table VII-4
LWR pipe and tube: Foreign producers/exporters for subject Korean-origin LWR pipe and tube, 2005-07**

* * * * *

**Table VII-5
LWR pipe and tube: Operations for subject producers in Korea, 2004-06, January-March 2006, January-March 2007, and projected 2007-08**

* * * * *

³ Petitioners' prehearing brief, pp. 21-23 and exhibit 5.

⁴ Ibid., p. 22. Petitioners compare these data with apparent U.S. consumption; however, since the Chinese capacity numbers reported in their exhibit 5 relate to nameplate capacity for *all* welded carbon steel pipe such a comparison may overstate the capacity actually dedicated to LWR pipe and tube. For example, U.S. producers' nameplate capacity was over 7 times the amount of average capacity dedicated for LWR pipe and tube (comparing table III-4 to table III-3) in 2007.

Table VII-6

Overall light-walled steel pipe and tube: Korean producers' production of tubular and roll-form products on light-walled capable mills, 2004-06, January-March 2006, and January-March 2007

* * * * *

Over the period for which data were collected, Korean producers reported increased capacity and production of LWR pipe and tube. The increasing reported capacity between 2004 and 2006 was largely accounted for by *** entering the market for LWR pipe and tube by bringing online new LWR pipe and tube operations in Korea at the beginning of the period for which data were collected in the preliminary phase of these investigations. Projections for production and export shipments of LWR pipe and tube to the United States in 2007 and 2008 are higher than the most recent actual experience due ***. *** reported *** projections for 2007 and 2008 compared to its actual experience in 2006, and its expected export shipments to the United States account for *** of the increase in the overall Korean industry's projected increases in export shipments to the United States.⁵ In general, home market sales in Korea accounted for the majority of Korean producers' shipments of LWR pipe and tube over the period for which data were collected, while the United States was a substantial export market for Korean-produced LWR pipe and tube after the domestic Korean market.⁶

Petitioners argue that since the Korean producers of LWR pipe and tube that reported on their operations in the preliminary phase of these investigations have failed to participate in the final phase of these investigations, the Commission should take adverse inferences against Korea and consider other published measures of capacity, and included data on eight pipe producers in Korea for this purpose.⁷ Aggregated the capacity data represent *** short tons of potential LWR pipe and tube capacity; however, these data are not specific to LWR pipe and tube.⁸

THE INDUSTRY IN MEXICO

Table VII-7 presents data on the foreign producers and exporters identified in U.S. Customs data for subject U.S. imports from Mexico. The largest Mexican exporter, Prolamsa, is considered nonsubject for purposes of this report and therefore its data are presented separately.

Table VII-7

LWR pipe and tube: Foreign producers/exporters for subject Mexican-origin LWR pipe and tube, 2005-07

* * * * *

⁵ *** reported projected export shipments in 2007 to the United States that were *** times its actual experience in 2006, and reported projected export shipments in 2008 to the United States that were *** times its actual experience in 2006.

⁶ In aggregate export shipments to all other markets besides the United States were reportedly higher than export shipments to the United States. Other Korean export markets include: countries in the Middle East for ***; Panama, Chile, Australia for ***; countries in South America, East Asia, and the Middle East, as well as New Zealand and Australia for ***.

⁷ Petitioners' prehearing brief, pp. 23 and exhibit 6.

⁸ Ibid., p. 23. As noted previously, nameplate capacity may substantially overstate the capacity actually dedicated to LWR pipe and tube production.

Eight producers of LWR pipe and tube in Mexico provided the Commission with foreign producers' questionnaire responses in these proceedings: Arco Metal S.A. de C.V. ("Arco"); Hysla, S.A. de C.V. ("Hysla"),⁹ which was purchased by Ternium (an Argentinian producer of steel pipe and tube); Industrias Monterrey, S.A. de C.V. ("IMSA");¹⁰ Maquilacero, S.A. de C.V. ("Maquilacero"); Nacional de Acero S.A. de C.V. ("Nasa"); Perfiles y Herrajes LM S.A. de C.V. ("Perfiles y Herrajes"); Productos Laminados de Monterrey, S.A. de C.V. ("Prolamsa");¹¹ and Regiomontana de Perfiles y Turbos, S.A. de C.V. ("Regio"). Table VII-8 presents data on the LWR pipe and tube operations of the Mexican LWR pipe and tube industry. Table VII-9 presents data on the overall mill operations of the Mexican LWR pipe and tube industry.

**Table VII-8
LWR pipe and tube: Operations for subject producers in Mexico, 2005-07, and projected 2008-09**

* * * * *

**Table VII-9
Steel products: Mexican producers' production of tubular and roll-form products on light-walled capable mills, 2005-07**

* * * * *

Over the period for which data were collected, Mexican producers reported both increased capacity and production of LWR pipe and tube. The following Mexican producers reported changes to their operations with implications for capacity and production of subject merchandise: *** apparently began its LWR pipe and tube operations in January 2004, prior to the period for which data were collected in the final phase of these investigations; *** increased its production capacity through productivity improvements (reported in the preliminary phase); and *** reported replacing old production equipment with new production equipment with a larger wall thickness range and greater capacity for production.¹² Overall, Mexican capacity for producing LWR pipe and tube increased only *** between 2005 and 2007. While reporting firms indicate *** increasing LWR pipe and tube capacity, this trend is not the result of major capacity expansions by Mexican producers, but rather improvements to existing operations.

Home market sales in Mexico consistently accounted for the majority of Mexican producers' shipments of LWR pipe and tube over the period for which data were collected. The United States was the second largest market for Mexican-produced LWR pipe and tube.¹³ Mexican LWR pipe and tube producers also produce other products on their LWR pipe and tube mills including light-wall channels, circular mechanical pipe, products with a heavy-wall (*i.e.*, greater than 4mm), and so on. However, LWR pipe and tube remains the primary product produced on reporting firms' light-walled mills.

⁹ *** Hysla's foreign producer questionnaire response, question II-2.

¹⁰ Ternium, parent to Hysla, now owns IMSA.

¹¹ Commerce found that Prolamsa was not selling LWR pipe and tube at less than fair value in the U.S. market in its preliminary antidumping duty determinations. As such, data for Prolamsa have not been included in this section of the report, but are presented under the *Bratsk* section.

¹² Foreign producers'/exporters' questionnaire response, question II-2.

¹³ Exports to other markets were minimal, accounting for less than *** percent of total shipments.

THE INDUSTRY IN TURKEY

Table VII-10 presents data on the foreign producers and exporters identified in U.S. Customs data for U.S. imports from Turkey. According to the Commission’s 2004 investigation into LWR pipe and tube from Turkey, there were 10 known producers of LWR pipe and tube in Turkey: Borusan Birlesik Boru Earrikalari A.S. (“Borusan”); Erbosan Erciyas Boru Sanayii ve Ticaret A.S. (“Erbosan”); Goktas Yassi Hadde Marnulleri Tic ve San A.S. (“Goktas”); Guven Boru ve Panfil Sanayi ve Ticovet Ltd. Std. (“Guven”); Mannesmann Boru Endustrisi T.A.S. (“Mannesmann”); MMZ Onur Boru Profil Uretim San ve Tic A.S. (“MMZ”); Noksel Celik Boru Sanyi A.S. (“Noksel”); Ozdemir Boru Profil San ve Tic Ltd. Std. (“Ozdemir”); Ozborsan Boru San ve Tic A.S. (“Ozborsan”); and Umran Celik Boru Sanayii A.S. (“Umran”).¹⁴

Table VII-10
LWR pipe and tube: Foreign producers/exporters for Turkish-origin LWR pipe and tube, 2005-07

* * * * *

In the final phase of these investigations, the Commission received completed questionnaire responses from seven producers in Turkey, including Cinar Boru, Guven, MMZ, Noksel, Ozborusan, Ozdemir, and an additional firm not identified in the 2004 investigations, Tosçelik Profil ve Sac Endustrisi A.S. (“Tosçelik”). The second largest exporter of LWR pipe and tube in the 2005 to 2007 period, ***, did not respond to the Commission’s inquiry in the final phase of these investigations despite having participated in the preliminary phase. Table VII-11 presents data on the LWR pipe and tube operations of the firms in Turkey that submitted responses to the Commission’s questionnaires. Table VII-12 presents data on the overall mill operations of the Turkish firms that submitted data on their LWR pipe and tube operations.

Table VII-11
LWR pipe and tube: Operations for producers in Turkey, 2005-07, and projected 2008-09

* * * * *

Table VII-12
Steel products: Turkish producers’ production of tubular and roll-form products on light-walled capable mills, 2005-07

* * * * *

Over the period for which data were collected, Turkish producers reported increased capacity and production of LWR pipe and tube.¹⁵ *** reported adding four new production lines, two of which related to the production of subject merchandise, between 2005 and 2006. *** reported adding a new production

¹⁴ *Light-Walled Rectangular Pipe and Tube From Mexico and Turkey, Inv Nos. 731-TA-1054-1055 (Final)*, USITC Publication 3728 (October 2004), p. VII-5.

¹⁵ In the preliminary phase, *** reported the opening of a new LWR pipe and tube production facility in ***, Turkey with a nameplate capacity of *** short tons as well as the expansion of existing production lines.

line in 2005 and another one in 2007.¹⁶ *** reported closing its production facility at ***, Turkey, but then opening an expanded facility in ***, Turkey. *** reported a production curtailment due to structural reasons. Projections for capacity and production of LWR pipe and tube are higher than the Turkish firms' actual experience in 2006 due primarily to ***. Reporting producers in Turkey ship primarily to customers in their home market. While the United States is an export market for Turkish-origin LWR pipe and tube, producers in Turkey export to a variety of countries. In 2007, responding producers in Turkey noticeably reduced their exports to the United States.

Petitioners argue that since a number of Turkish producers of LWR pipe and tube did not provide data on their operations in these investigations, the Commission should take adverse inferences against Turkey and consider other published measures of capacity for nonresponding producers, and included data on 10 pipe producers in Turkey for this purpose.¹⁷ Aggregated the additional capacity data represent *** million short tons of potential LWR pipe and tube capacity; however, these data are not specific to LWR pipe and tube.¹⁸

U.S. INVENTORIES OF IMPORTED MERCHANDISE

Tables VII-13 and VII-14 present data on U.S. importers' reported inventories of subject LWR pipe and tube. Data on U.S. importers' inventories show increases, although U.S. importers' inventories of LWR pipe and tube likely understate the quantities of imported LWR pipe and tube available to sale for end users, as distributors, *i.e.*, U.S. importers' customers, are more likely to maintain inventories than the importers themselves.¹⁹ Nonetheless, reporting subject U.S. importers indicated an *** percent increase in end-of-period ("EOP") inventories in 2006 over beginning-of-period ("BOP") inventories in 2006.^{20 21} Only two firms reported inventories of Mexican-origin LWR pipe and tube. Mexican respondents allege that Mexican inventories are not produced nor intended for sale in the U.S. market.²² The respondents' arguments may apply to *** inventories, but do not apply to those reported by *** as

¹⁶ In the preliminary phase, *** had reported opening two new LWR pipe and tube production lines in 2004.

¹⁷ Petitioners' prehearing brief, pp. 24-25, and exhibit 7.

¹⁸ *Ibid.*, p. 24. As noted previously, nameplate capacity may substantially overstate the capacity actually dedicated to LWR pipe and tube production.

¹⁹ For example, ***, primarily a U.S. purchaser of imported LWR pipe and tube from Mexico, had reported inventories of Mexican-origin LWR pipe and tube ***.

²⁰ This increase in inventories related to primarily Chinese-origin LWR pipe and tube. Inventories for Chinese-origin LWR pipe and tube in 2006 are likely understated since *** did not provide data on its operations in 2005 and 2006, and accounts for, in part, the difference in BOP inventories of U.S. imports from China in 2007 and EOP inventories of U.S. imports from China in 2006 in table VII-13.

²¹ Although on an absolute basis the *** short ton increase only raised importers' ratio of inventories to their U.S. shipments that year from *** to *** percent, reflecting that in general the importers are not the firms maintaining inventories in the United States, but rather their customers, *i.e.* U.S. purchasers which are primarily nonimporting U.S. distributors.

²² Respondents' prehearing brief, pp. 37-39. Respondents argued that reported inventories of Mexican-origin LWR pipe and tube presented in the prehearing staff report were product physically located in Mexico and made to metric dimensions, and were therefore better analyzed as unavailable for U.S. consumption. Three firms accounted for those inventories—***. Since it was determined that *** was not the importer of record for most of the LWR pipe and tube it had originally reported in its questionnaire response, *** has subsequently revised its response, thereby removing the majority of the inventories previously reported (*e.g.*, ***). Data on Mexican inventories in table IV-6, therefore, now represent only ***.

*** is one of the few U.S. importers of Mexican-origin LWR pipe and tube to be physically located in the United States.²³

Table VII-13
LWR pipe and tube: U.S. importers' inventories for subject sources, 2005-07

* * * * *

Table VII-14
LWR pipe and tube: U.S. importers' end-of-period inventories, 2005-07

* * * * *

U.S. IMPORTERS' OUTSTANDING ORDERS

Table VII-15 presents data on imports arranged for importation after January 1, 2008 by quarter.

Table VII-15
LWR pipe and tube: U.S. importers' arranged imports, 2008

* * * * *

DUMPING IN THIRD-COUNTRY MARKETS

On November 17, 2003, the Canadian antidumping authority made a final determination of dumping regarding structural tubing known as hollow structural sections, made of carbon and alloy steel, welded, in sizes up to and including 16.0 inches (406.4 mm) in outside diameter for round products and up to and including 48.0 inches (1219.2 mm) in periphery for rectangular and square products originating in or exported from the Republic of Korea, South Africa, and Turkey.²⁴ The scope of the orders on steel structural tubing in Canada include both product subject (LWR pipe and tube) and not subject to these investigations (such as heavy-walled rectangular pipe and tube and circular carbon welded pipe and tube). The Canadian order assessed dumping margins of 89.0 percent on all Korean-origin steel structural tubing, 52.6 to 55.4 percent on South African-origin steel structural tubing, and 6.9 to 30.0 percent on Turkish-origin steel structural tubing.

On May 24, 2007, the Australia antidumping authorities imposed interim duties on certain hollow structural sections exported from China.²⁵ Product subject to the interim Australian antidumping duties include both product subject (LWR pipe and tube) and not subject to these investigations (such as heavy-walled rectangular pipe and tube, and circular carbon welded pipe and tube). Interim duties ranged from 2.5 percent to 14.6 percent.

²³ *** accounted for the noticeable increase in end-of-period inventories of Mexican-origin LWR pipe and tube in 2007 over beginning-of-period inventories.

²⁴ *Final Determination - Steel Structural Tubing*, Canada Border Services Agency, December 2, 2003, found at <http://www.cbsa-asfc.gc.ca/sima-lmsi/i-e/ad1303/ad1303f-eng.html>.

²⁵ *Certain Hollow Structural Sections Exported from the People's Republic of China*, Australian Customs Service, May 24, 2007, found at <http://www.customs.gov.au/webdata/resources/notices/ACDN0722.pdf>.

INFORMATION ON NONSUBJECT SOURCES

“Bratsk” Considerations

As a result of the Court of Appeals for the Federal Circuit (“CAFC”) decision in *Bratsk Aluminum Smelter v. United States* (“Bratsk”), the Commission is directed to:^{26 27}

undertake an “additional causation inquiry” whenever certain triggering factors are met: “whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market.” The additional inquiry required by the Court, which we refer to as the Bratsk replacement / benefit test, is “whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers.

Nonsubject Source Information

During the final phase of these investigations, the Commission sought pricing data from U.S. importers of LWR pipe and tube from all sources, presented in appendix D of this report. With respect to foreign industry data, the Commission sought questionnaire information regarding nonsubject producers of LWR tubing from Canada, Korea, and Mexico, as well as public data on industries in these countries. The information obtained is presented in the following sections.

Overview

LWR pipe and tube is produced in substantial quantities by welded pipe and tube producers throughout the world. Although figures specifically for global LWR tubing production are not generally available, the International Iron and Steel Institute (“IISI”) publishes data on the global production of the larger product grouping of all welded pipe and tube.²⁸ As shown in table VII-16, welded pipe and tube production, especially in China, increased between 2004 and 2006.²⁹

²⁶ *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2; citing *Bratsk Aluminum Smelter v. United States*, 444 F.3d at 1375.

²⁷ In the silicon metal remand, Chairman Pearson noted “consistent with his views in *Lined Paper School Supplies From China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final)*, USITC Pub. 3884 (September 2006) at 51, that while he agrees with the Commission that the Federal Circuit’s opinion suggests a replacement/benefit test, he also finds that the Federal Circuit’s opinion could be read, not as requiring a new test, but rather as a reminder that the Commission, before it makes an affirmative determination, must satisfy itself that it has not attributed material injury to factors other than subject imports.” *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2, fn. 17. Commissioner Okun joined in those separate and dissenting views in *Lined Paper*.

²⁸ IISI, *Steel Statistical Yearbook 2007*. Global and regional production data as published by IISI refer to all welded pipe and tube (including, e.g., mechanical tubing, structural tubing, OCTG, and line pipe), and are therefore *substantially* broader than the subject merchandise. As such, global and regional production data represent general trends and are for illustrative purposes only.

²⁹ Data for 2007 are not yet available.

Table VII-16
Carbon steel welded pipes: Global production, by region, 2004-06

Region	2004	2005	2006
	Quantity (1,000 short tons)		
North America	4,892	6,662	7,019
European Union (15)	10,049	9,984	10,639
Asia, excluding China	15,200	14,601	15,807
China	14,344	17,274	22,254
Commonwealth of Independent States	—	—	—
South America	—	—	—
Other	2,088	2,146	1,565
Total	46,573	50,668	57,285

Note.—The data presented in this table are for all welded pipe and tube, and so are substantially overstated with respect to LWR pipe and tube subject to these investigations. Data were not published for the Commonwealth of Independent States in 2004-06 or for South America in 2004-06. The original data were published in metric tons, which were converted to short tons by multiplying by 1.1023. Because of rounding, figures may not add to the totals shown.

Source: International Iron and Steel Institute, *Steel Statistical Yearbook 2007*.

Global trade data also provide a measure of the trade flows in subject merchandise, although for international comparisons only the 6-digit level of the HTS is available. Table VII-17 presents data on trade in noncircular carbon steel pipe and tube, including both nonsubject structurals (heavy walled rectangular pipe and tube) as well as subject product.

Table VII-17
Noncircular welded steel pipe and tube: Global exports, by source, 2004-06

Reporting country	2004	2005	2006	2004	2005	2006
	Exports (short tons)			Unit value (per short ton)		
Italy	675,338	705,737	875,553	\$975	\$926	\$1,097
China	133,571	303,781	678,327	578	553	533
Turkey	551,872	545,741	365,110	514	537	515
Canada	385,721	378,016	348,825	866	867	909
Austria	342,211	302,078	347,711	893	1,085	1,035
Germany	232,780	235,108	284,807	981	1,113	1,141
Ukraine	180,390	150,810	236,112	424	499	525
Netherlands	198,017	196,058	230,635	725	781	757
United Kingdom	205,645	184,504	220,003	737	872	883
United States	122,778	159,867	191,461	928	961	932
Mexico	162,446	186,554	190,317	774	780	774
Korea	167,067	158,402	187,919	564	639	572

Note.— The data presented in this table are for HTS 730660 which covers all hollow structural sections, including LWR together with heavy-walled steel, and so are overstated with respect to LWR pipe and tube subject to these investigations.

Source: Compiled from *Global Trade Atlas*.

Canada

In the preliminary phase of these investigations, Canada was by and large the single largest source of nonsubject LWR pipe and tube in the U.S. market. In the final phase of these investigations, with Mexican producer Prolamsa's designation as a nonsubject source of LWR pipe and tube in the U.S. market, Canada and Mexico are the two largest nonsubject sources of LWR pipe and tube. Table VII-18 presents data on the foreign producers and exporters of LWR pipe and tube in Canada. According to Global Trade Atlas data, almost all of Canada's exports of noncircular welded steel pipes at the 6-digit HTS number (7306.60 in 2005 and 2006, and 7306.61 in 2007) was destined for the U.S. market (over 99 percent).

Table VII-18
LWR pipe and tube: Foreign producers/exporters of Canadian-origin LWR pipe and tube, 2005-07

* * * * *

Eight firms account for *** percent of U.S. imports of LWR pipe and tube from Canada. Four of these top eight Canadian exporters are petitioners in these investigations, including Atlas Tube, Bull Moose Tube, Copperweld (part of Atlas), and Welded Tube. Four of the Canadian firms contacted have provided the Commission with data on their operations including ArcelorMittal, which now owns Dofasco Tubular Products, Atlas Tube, Bull Moose Tube, and Welded Tube.³⁰ Table VII-19 presents data on the LWR pipe and tube operations of the four firms in Canada that submitted responses to the Commission's questionnaires. Table VII-20 presents data on the overall mill operations of the four Canadian firms that submitted data on their LWR pipe and tube operations.

Table VII-19
LWR pipe and tube: Data for producers in Canada, 2005-07, and projected 2008-09

* * * * *

Table VII-20
Steel products: Canadian producers' production of tubular and roll-form products on light-walled capable mills, 2005-07

* * * * *

Of the Canadian firms that responded to Commission inquiry, LWR pipe and tube was less than *** of their overall operations, which focused primarily on thicker-walled products, or hollow structural sections.

Nonsubject Korea³¹

Korean producer Nexteel is considered nonsubject due to its *de minimus* preliminary weighted average dumping margin. ***. Table VII-21 presents data on Nexteel's LWR pipe and tube operations, while table VII-22 presents data on its overall mill operations.

³⁰ These four firms account for *** percent of U.S. importers based on U.S. Customs data for the 2005-07 period.

³¹ Operations reported by Nexteel in the preliminary phase of these investigations.

Table VII-21

LWR pipe and tube: Operations for a nonsubject producer (Nexteel) in Korea, 2004-06, January-March 2006, January-March 2007, and projected 2007-08

* * * * *

Table VII-22

Overall light-walled steel pipe and tube: Nexteel's production of tubular and roll-form products on light-walled capable mills, 2004-06, January-March 2006, and January-March 2007

* * * * *

Over the period for which data were collected, ***. Therefore, **. Projections for 2007 ***, its 2008 projections were **. While **. Nexteel, **, also ** projected ** than in its most recent actual experience.

Nonsubject Mexico³²

Mexican producer Prolamsa is considered nonsubject due to its zero percent preliminary weighted-average dumping margin. Table VII-23 presents data on Prolamsa's LWR pipe and tube operations, while table VII-24 presents data on its overall mill operations.

Table VII-23

LWR pipe and tube: Operations for a nonsubject producer (Prolamsa) in Mexico, 2005-07, and projected 2008-09

* * * * *

Nonsubject Mexican producer Prolamsa **. Its exports to the United States enter through ** and **. ³³

Table VII-24

Steel products: Prolamsa's production of tubular and roll-form products on light-walled capable mills, 2005-07, and projected 2008-09

* * * * *

All Other Sources

All other sources of nonsubject LWR pipe and tube accounted for only ** percent of total U.S. imports over the 2005-07 period.

³² Operations reported by Prolamsa.

³³ U.S. importer Prolamsa reported that its shipped ** percent of its product in the **, ** percent in the **, and ** percent in the **.

APPENDIX A
FEDERAL REGISTER NOTICES

nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions. As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before September 17, 2007, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by § 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 §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

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

By order of the Commission.

Issued: August 22, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7-16962 Filed 8-27-07; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-449 and 731-TA-1118-1121 (Preliminary)]

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

Determination

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured² or threatened with material injury^{3,4} by reason of imports from China, Korea, Mexico, and Turkey of light-walled rectangular pipe and tube, provided for in subheading 7306.61.50 of the Harmonized Tariff Schedule of the United States,⁵ that are alleged to be subsidized by the Government of China and that are alleged to be sold in the United States at less than fair value (LTFV) from China, Korea, Mexico, and Turkey.⁶

Commencement of Final Phase Investigations

Pursuant to § 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as

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

² Commissioner Charlotte R. Lane determines that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of light-walled rectangular pipe and tube from China, Korea, Mexico, and Turkey.

³ Vice Chairman Shara L. Aranoff, Commissioner Deanna Tanner Okun, and Commissioner Irving A. Williamson determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of light-walled rectangular pipe and tube from China, Korea, Mexico, and Turkey.

⁴ Chairman Daniel R. Peason determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of light-walled rectangular pipe and tube from China, Korea, and Turkey, but that there is not a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of light-walled rectangular pipe and tube from Mexico.

⁵ Prior to February 3, 2007, the merchandise subject to these investigations was properly classified under subheading 7306.60.50 of the Harmonized Tariff Schedule of the United States.

⁶ Commissioner Dean A. Pinkert recused himself to avoid any conflict of interest or appearance of a conflict.

provided in § 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) and 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under section 705(a) and 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On June 27, 2007, a petition was filed with the Commission and Commerce by twelve U.S. producers,⁷ alleging that an industry in the United States is materially injured by reason of subsidized imports of light-walled rectangular pipe and tube from China and LTFV imports from China, Korea, Mexico, and Turkey. Accordingly, effective June 27, 2007, the Commission instituted countervailing duty investigation No. 701-TA-449 (Preliminary) and antidumping investigation Nos. 731-TA-1118-1121 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of July 3, 2007 (72 FR 36479). The conference was held in Washington, DC, on July 18, 2007, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on August

⁷ Allied Tube and Conduit, Harvey, IL; Atlas Tube, Plymouth, MI; California Steel and Tube, City of Industry, CA; EXLTUBE, Kansas City, MO; Hannibal Industries, Los Angeles, CA; Leavitt Tube Company LLC, Chicago, IL; Maruichi American Corporation, Sante Fe Springs, CA; Searing Industries, Rancho Cucamonga, CA; Southland Tube, Birmingham, AL; Vest Inc., Los Angeles, CA; Welded Tube, Concord, Ontario (Canada); and Western Tube and Conduit, Long Beach, CA.

13, 2007. The views of the Commission are contained in USITC Publication 3941 (August 2007), entitled *Light-Walled Rectangular Pipe and Tube From China, Korea, Mexico, and Turkey: Investigation Nos. 701-TA-449 and 731-TA-1118-1121 (Preliminary)*.

By order of the Commission.

Issued: August 22, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7-16964 Filed 8-27-07; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-583]

In the Matter of Certain Wireless Communication Devices, Components Thereof, and Products Containing the Same; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 38) of the presiding administrative law judge ("ALJ") terminating the above-captioned investigation under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The Commission has terminated the investigation based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT:

Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 6, 2006, based on a complaint filed by Ericsson, Inc., of Plano, Texas, and Telefonaktiebolaget LM Ericsson of Stockholm, Sweden (collectively "Ericsson"). 71 FR 52579-52580. The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain wireless communication devices, components thereof, and products containing same by reason of infringement of U.S. Patent No. 5,758,295 ("the '295 patent"); U.S. Patent No. 5,783,926 ("the '926 patent"); U.S. Patent No. 5,864,765; U.S. Patent No. 6,009,319; U.S. Patent No. 6,029,052; U.S. Patent No. 6,198,405; U.S. Patent No. 6,387,027 ("the '027 patent"); U.S. Patent No. 6,839,549; and U.S. Patent No. 6,975,686. The complaint further alleges the existence of a domestic industry. The Commission's notice of investigation named Samsung Telecommunications America, LLP of Richardson, Texas; Samsung Electronics America, Inc. of Ridgefield Park, New Jersey; and Samsung Electronics Co., Ltd. of Seoul, Korea as respondents (collectively "Samsung").

On December 8, 2006, Respondent Samsung moved to terminate part of the investigation as to certain products. On December 20, 2006, Complainant Ericsson filed an opposition to the motion, and the Commission investigative attorney (IA) filed a response in partial support of the motion. On February 12, 2007, the ALJ granted the motion insofar as it concerned Samsung's single mode CDMA/WCDMA cellular phones. The Commission determined on March 9, 2007, not to review this ID.

On March 14 and March 29, 2007, respectively, complainant Ericsson moved to terminate the investigation as to the '926 patent and claim 11 of the '295 patent. On May 1, 2007, the ALJ granted both motions in an ID (Order No. 30), and on May 17, 2007, the Commission determined not to review that ID. On May 4, 2007, complainant Ericsson moved to terminate the investigation as to the '027 patent. On May 22 and June 7, 2007, respectively, the ALJ granted the motion in an ID (Order No. 36), and the Commission determined not to review that ID.

On July 23, 2007, complainant Ericsson and respondent Samsung filed a joint motion to terminate the investigation on the basis of a settlement agreement. The Commission

investigative attorney filed a response in support of the motion on July 31, 2007.

The ALJ issued the subject ID on August 3, 2007, granting the joint motion for termination. No party petitioned for review of the ID pursuant to 19 CFR 210.43(a), and the Commission found no basis for ordering a review on its own initiative pursuant to 19 CFR 210.44. Accordingly, the Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in §§ 210.21(a)(2), (b) and 210.42(h)(3) of the Commission's Rules of Practice and Procedure.

By order of the Commission.

Issued: August 22, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7-16963 Filed 8-27-07; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

[OMB Number 1122-0008]

Office on Violence Against Women; Agency Information Collection Activities; Extension of a Currently Approved Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Semi-Annual Progress Report for the Enhanced Training and Services to End Violence and Abuse of Women Later in Life Program.

The Department of Justice, Office on Violence Against Women (OVW), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register**, Volume 72, Number 117, page 33772 on June 19, 2007, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until September 27, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of

that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 221.02 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These reviews and notice are in accordance with sections 751(a)(1), 751(a)(2) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: November 23, 2007.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E7-23287 Filed 11-29-07; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-915]

Light-walled Rectangular Pipe and Tube from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce preliminarily determines that countervailable subsidies are being provided to producers and exporters of light-walled rectangular pipe and tube from the People's Republic of China. For information on the estimated subsidy

rates, see the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: November 30, 2007.

FOR FURTHER INFORMATION CONTACT: Damian Felton or Shane Subler, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0133 and (202) 482-0189, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The following events have occurred since the publication of the Department of Commerce's (the Department) notice of initiation in the **Federal Register**. See *Notice of Initiation of Countervailing Duty Investigation: Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 72 FR 40281 (July 24, 2007) (*Initiation Notice*).

On August 7, 2007, the Department selected the two largest Chinese producers/exporters of light-walled rectangular pipe and tube (LWRP), Qingdao Xiangxing Steel Pipe Co., Ltd. (Qingdao) and Zhangjiagang Zhongyuan Pipe-Making Co., Ltd. (ZZPC), as mandatory respondents. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, "Respondent Selection" (August 4, 2007). This memorandum is on file in the Department's Central Records Unit in Room B-099 of the main Department building (CRU). On August 7, 2007, we issued the countervailing duty (CVD) questionnaire to the Government of the People's Republic of China (GOC), Qingdao and ZZPC.

On August 22, 2007, the International Trade Commission (ITC) issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports of LWRP from the People's Republic of China (PRC). See *Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico and Turkey*, Investigation Nos. 701-TA-449 and 731-TA-1118-1121, 72 FR 49310 (Preliminary) (August 28, 2007).

On August 24, 2007, we published a postponement of the preliminary determination of this investigation until November 26, 2007. See *Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Notice of Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 72 FR 48618 (August 24, 2007).

Petitioners¹ filed a new subsidy allegation on August 29, 2007. The GOC submitted comments responding to petitioners' new subsidy allegation on September 10, 2007. On September 20, 2007, the Department determined to investigate aspects of the newly alleged subsidy relating to currency retention. See Memorandum to Susan Kuhbach, Director, AD/CVD Operations, Office 1, "New Subsidy Allegation" (September 20, 2007). Questions regarding this newly alleged subsidy were sent to the GOC and the respondent companies on September 20, 2007.

We received responses to our CVD questionnaires from ZZPC, the GOC, and a voluntary respondent, Kunshan Lets Win Steel Machinery Co., Ltd. ("Lets Win") on September 27, 2007, September 28, 2007, October 1, 2007, October 2, 2007, and October 3, 2007. Qingdao, however, did not respond to the Department's CVD questionnaire. The petitioners filed comments on the responses from ZZPC and Lets Win on October 9, 2007, and comments on the GOC's responses on October 17, 2007.

On October 15, 2007, the Department accepted Lets Win as a voluntary respondent to the proceeding pursuant to 19 CFR 351.204(d). See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, "Voluntary Respondent Selection" (October 15, 2007). Then, on October 24, 2007, the Department issued a letter giving Qingdao a final opportunity to respond to the CVD questionnaire issued on August 7, 2007. We never received a CVD questionnaire response from Qingdao. We address the use of facts otherwise available for Qindago below.

We issued supplemental questionnaires as follows: the GOC on October 16, 2007, October 24, 2007, and November 19, 2007; Lets Win on October 17, 2007; and ZZPC on October 17 and October 18, 2007. We received responses to these supplemental questionnaires as follows: the GOC on October 23, 2007, November 7, 2007 and November 21, 2007; ZZPC on November 5, 2007, and November 14, 2007; and Lets Win on October 31, 2007. We received a corrected response from ZZPC on November 23, 2007, but are not considering this submission for the purposes of this preliminary determination. This submission came three days before the preliminary

¹ Allied Tube & Conduit; Atlas Tube; Bull Moose Tube Company; California Steel and Tube; EXLTUBE; Hannibal Industries; Levitt Tube Company LLC; Maruichi American Corporation; Searing Industries; Southland Tube; Vest Inc.; Welded Tube; and Western Tube and Conduit (collectively, petitioners).

determination and, thus, the Department was unable to complete the necessary analyses of ZZPC's submission. This data will be considered for the final determination.

The GOC and petitioners filed comments in advance of the preliminary determination on November 13 and 14, 2007, respectively. Finally, Lets Win submitted an updated questionnaire response on November 16, 2007, which was filed after the deadline originally set by the Department.

Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of time in our initiation notice for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice. See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323, (May 19, 1997) and *Initiation Notice*, 72 FR at 40281. We did not receive any comments.

Scope of the Investigation

The merchandise that is the subject of this investigation is certain welded carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section (LWR), having a wall thickness of less than 4mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States ("HTSUS") subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Use of Facts Otherwise Available

Sections 776(a)(1) and (2) of the Tariff Act of 1930, as amended (the Act), provide that the Department shall apply "facts otherwise available" if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

In this case, Qingdao did not provide information we requested that is necessary to determine a countervailing duty rate for this preliminary determination. Specifically, Qingdao did not respond to the Department's requests on August 7, 2007, and October 24, 2007, to respond to the CVD questionnaire. Thus, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A) and (C) of the Act, we have based Qingdao's countervailing duty rate on facts otherwise available.

We have also identified one program for which the GOC did not provide the requested information. Specifically, in our questionnaire, we asked the GOC to provide information about the hot-rolled steel industry in the PRC (including a description of the industry,

users of hot-rolled steel in the PRC, and whether hot-rolled steel producers are state-owned enterprises (SOEs)). The GOC limited its response to the "hot-rolled steel narrow strip" industry, claiming that LWRP is produced chiefly from this form of hot-rolled steel. In our supplemental questionnaire, we asked the GOC to provide the requested information for the hot-rolled steel industry as a whole. While some limited information was provided in the GOC's supplemental questionnaire response (November 7, 2007), the GOC did not provide a breakdown of the production accounted for by SOEs or that accounted for by private producers. Thus, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A) and (C) of the Act, we are relying on facts otherwise available to determine the countervailable subsidy conferred by the government's provision of hot-rolled steel for less than adequate remuneration.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as "[i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." See *Statement of Administrative Action* (SAA) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session (1994) at 870. Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the

selected facts available are the best alternative information. See SAA at 869.

In selecting from among the facts available for Qingdao, the Department has determined that an adverse inference is warranted, pursuant to section 776(b) of the Act. By failing to submit a response to the Department's CVD questionnaire, Qingdao did not cooperate to the best of its ability in this investigation. Accordingly, we find that an adverse inference is warranted to ensure that Qingdao will not obtain a more favorable result than had it fully complied with our request in this investigation.

Similarly, we are applying an adverse inference in selecting among the facts available for valuing the benefit conferred by the GOC's provision of hot-rolled steel for less than adequate remuneration. In its response, the GOC stated, "it is difficult to provide a definitive assessment" of the share of hot-rolled production accounted for by SOEs and private suppliers because there are so many producers in China. See GOC supplemental questionnaire response (November 7, 2007) at 9. The failure to provide this information within the established deadlines has impeded our investigation. Moreover, the GOC has not provided us with any plausible explanation as to why it cannot provide us with the information within the established deadlines. Thus, we preliminarily conclude that the GOC has failed to act to the best of its ability.

Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. It is the Department's practice to select, as AFA, the highest calculated rate in any segment of the proceeding. See, e.g., *Certain In-shell Roasted Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty Administrative Review*, 71 FR 66165 (November 13, 2006), and accompanying Issues and Decision Memorandum at "Analysis of Programs."

The Department's practice when selecting an adverse margin from among the possible sources of information is to ensure that the margin is sufficiently adverse "as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Notice of Final*

Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan; 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See SAA at 870. In choosing the appropriate balance between providing a respondent with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin "reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less." See *Rhone Poulenc, Inc. v. United States*, 899 F. 2d 1185, 1190 (Fed. Cir. 1990).

Because Qingdao failed to act to the best of its ability, as discussed above, for each program examined, we made the adverse inference that Qingdao benefitted from the program unless the record evidence made it clear that Qingdao could not have received benefits from the program because, for example, we have preliminarily found the program not countervailable. See, e.g., *Certain Cold-Rolled Carbon Steel Flat Products From Korea: Final Affirmative CVD Determination*, 67 FR 62102 (October 3, 2002) and accompanying Issues and Decision Memorandum at "Methodology and Background Information." To calculate the program rates, we have generally relied upon the highest program rate calculated for any responding company in this investigation as adverse facts available. See *Certain In-shell Roasted Pistachios from the Islamic Republic of Iran: Final Results of Countervailing Duty Administrative Review*, 71 FR 66165 (November 13, 2006) and accompanying Issues and Decision Memorandum at "Analysis of Programs."

Thus, for programs based on the provision of goods at less than adequate remuneration, we have used the ZZPC rate for the provision of hot-rolled steel for less than adequate remuneration. For value added tax (VAT) and grant programs, we are unable to utilize company-specific rates from this proceeding because neither Lets Win nor ZZPC received any countervailable subsidies from these subsidy programs. Therefore, for VAT and grant programs we are applying the highest subsidy rate for any program otherwise listed, which in this instance is ZZPC's rate for the

provision of hot-rolled steel for less than adequate remuneration.

Finally, for the seven alleged income tax programs pertaining to either the reduction of the income tax rates or the payment of no income tax, we have applied an adverse inference that Qingdao paid no income tax during the period of investigation (*i.e.*, calendar year 2006). The standard income tax rate for corporations in the PRC is 30 percent, plus a 3 percent provincial income tax rate. Therefore, the highest possible benefit for these seven income tax rate programs is 33 percent. We are applying the 33 percent AFA rate on a combined basis (*i.e.*, the seven programs combined provided a 33 percent benefit). This 33 percent AFA rate does not apply to income tax deduction or credit programs. For income tax deduction or credit programs we are applying the highest subsidy rate for any program otherwise listed, which in this instance is ZZPC's rate for the provision of hot-rolled steel at less than adequate remuneration. See Memorandum to the File, entitled Selection of the Adverse Facts Available Rate for Qingdao Xiangxing Steel Pipe Co., Ltd." (November 26, 2007) (this memorandum is on file in the Department's CRU).

We do not need to corroborate the calculated subsidy rates we are using as AFA because they are not considered secondary information as they are based on information obtained in the course of this investigation. See section 776(c) of the Act; see also the SAA at 870.

Regarding the GOC's failure to provide requested information regarding the hot-rolled steel industry in the PRC, the Department is preliminarily rejecting prices in the PRC as possible benchmarks for determining whether hot-rolled steel is being provided for less than adequate remuneration. Instead, as described in the *Programs Preliminarily Determined to be Countervailable/Provision of Inputs for Less than Adequate Remuneration/Hot-rolled Steel* section below, we are using a world market price as the benchmark to value this subsidy.

Because this information is taken from the petition, it is secondary information and must be corroborated to the extent practicable. We have compared the world-market prices being used to the prices of hot-rolled steel imports into the PRC during the POI, and find that the world-market prices are reliable and relevant. See Memorandum from Damian Felton to Susan Kuhbach Re: Preliminary Affirmative Countervailing Duty Determination: Light-walled Rectangular Pipe and Tube from the

People's Republic of China; Preliminary Results Calculation Memorandum for Zhangjiagang Zhongyuan Pipe-Making Co., Ltd.; Jiangsu Qiyuan Group Co., Ltd.; Jiangsu Zhongjia Steel Co., Ltd.; Zhangjiagang Zhongxin Steel Product Co., Ltd.; and Zhangjiagang Baoshuiqu Jiaqi International Business Co., Ltd. (November 26, 2007) (*ZZPC Calculation Memorandum*).

Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination

On July 24, 2007, the Department initiated the countervailing duty and antidumping duty investigations of LWRP from the PRC. See *Initiation Notice and Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People's Republic of China*, 72 FR 40274 (July 24, 2007). The countervailing duty investigation and the antidumping duty investigation have the same scope with regard to the merchandise covered.

On November 16, 2007, petitioners submitted a letter, in accordance with section 705(a)(1) of the Act, requesting alignment of the final countervailing duty determination with the final determination in the companion antidumping duty investigation of LWRP from the PRC. Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final countervailing duty determination with the final determination in the companion antidumping duty investigation of LWRP from the PRC. The final countervailing duty determination will be issued on the same date as the final antidumping duty determination, which is currently scheduled to be issued on April 7, 2008. See *Notice of Postponement of Preliminary Determination of Antidumping Duty Investigation: Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 72 FR 65564 (November 21, 2007).

Application of the Countervailing Duty Law to Imports from the PRC

On October 25, 2007, the Department published *Coated Free Sheet Paper from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from the PRC*). In that determination, the Department found, "... given the substantial differences between the Soviet-style economies and the PRC's economy in recent years, the Department's previous decision not to apply the CVD law to these Soviet-style

economies does not act as a bar to proceeding with a CVD investigation involving products from China." *CFS from the PRC*, and accompanying Issues and Decision Memorandum at Comment 6; see also Memorandum to David M. Spooner, "Countervailing Duty Investigation of Coated Free Sheet Paper from the People's Republic of China - Whether the Analytical Elements of the Georgetown Steel Opinion are Applicable to China's Present-day Economy," (March 29, 2007) at 2 (Georgetown Steel Memo).

More recently, the Department preliminarily determined that it is appropriate and administratively desirable to identify a uniform date from which the Department will identify and measure subsidies in the PRC for purposes of the CVD law. See *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances; and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 72 FR 63875 (November 13, 2007) (*CWP from the PRC*). In *CWP from the PRC*, we preliminarily determined that date to be December 11, 2001, the date on which the PRC became a member of the WTO. Therefore, for the reasons outlined in *CWP from the PRC*, we have limited our analysis to subsidies bestowed after December 11, 2001, for this preliminary determination.

Period of Investigation

The period for which we are measuring subsidies, or the period of investigation (POI), is calendar year 2006.

Subsidies Valuation Information

Allocation Period

The average useful life (AUL) period in this proceeding as described in 19 CFR 351.524(d)(2) is 15 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System for assets used to manufacture primary steel mill products. No party in this proceeding has disputed this allocation period.

Attribution of Subsidies

The Department's regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii) directs that the Department will attribute subsidies received by certain other companies to the combined sales

of those companies if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, produce an input that is primarily dedicated to the production of the downstream product, or transfer a subsidy to a cross-owned company. The Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits. See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d. 593, 604 (CIT 2001).

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations.

Lets Win: Lets Win responded on behalf of itself, a Taiwanese-owned "productive" foreign invested enterprise. Lets Win also named two affiliates involved in the company's export activities. These companies are located outside of the PRC and are not included in our analysis.

ZZPC: In its response, ZZPC identified numerous affiliated companies and responded on behalf of itself, a producer of the subject merchandise, and four of its affiliates: ZZPC's parent company, Jiangsu Qiyuan Group Co., Ltd. (Group); and three input suppliers to ZZPC, Jiangsu Zhongjia Steel Co., Ltd. (JZS), Zhangjiagang Zhongxin Steel Product Co., Ltd. (ZZSP), and Zhangjiagang Baoshuiqu Jiaqi International Business Co., Ltd. (Jiaqi). The remaining affiliates do not produce subject merchandise or otherwise fall within the situations described in 19 CFR 351.525(b)(6)(iii)-(v). Therefore, they are not addressed further here.

The details of the affiliations between ZZPC, Group, JZS, ZZSP, and Jiaqi are proprietary and, hence, addressed separately. See *ZZPC Calculation Memorandum*. Based on the reported information, we preliminarily determine that ZZPC, Group, JZS, ZZSP, and Jiaqi are cross-owned companies within the meaning of 19 CFR 351.525(b)(6)(vi).

Because they are cross-owned and because Group is the parent company of

ZZPC, we preliminarily determine that any subsidies bestowed on Group are properly attributed to Group's consolidated sales under 19 CFR 351.525(b)(6)(iii). With respect to Jiaqi, this company is a trading company and does not produce any merchandise. Instead, it purchased and provided inputs to ZZPC during the POI. Because it is not an input producer, we are not treating Jiaqi as an input supplier as described in 19 CFR 351.525(b)(6)(iv) (which refers to subsidies received by the input producer). Instead, for the preliminary determination, we are treating any subsidies conferred by the government's provision of hot-rolled steel for less than adequate remuneration as having been transferred to ZZPC through Jiaqi's resale of the hot-rolled steel to ZZPC, consistent with 19 CFR 351.525(b)(6)(v).

ZZPC's other input suppliers, JZS and ZZSP, provide ZZPC with steel strip. These companies are not trading companies: both produce cold-rolled steel. The types of inputs they provide to ZZPC are proprietary and are addressed separately. *See ZZPC Calculation Memorandum.*

In its November 13, 2007, submission, the GOC argues, *inter alia*, that any hot-rolled or cold-rolled products sold by JZS and ZZSP cannot be considered "primarily dedicated" to the production of LWRP or any particular downstream products, as that term is used in 19 CFR 351.525(b)(6)(iv). We agree that there is no evidence on the record to support a finding that these cold-rolled products are primarily dedicated to ZZPC's production of the downstream product and, therefore, for purposes of this preliminary determination we are not attributing any subsidies received by these cross-owned cold-rolled steel producers to LWRP produced by ZZPC.

However, for any hot-rolled steel products which ZZPC purchased from JZS or ZZSP, we preliminarily determine that these companies are not input suppliers as described in 19 CFR 351.525(b)(6)(iv). Instead, as with the trading company, Jiaqi, we are treating any subsidies conferred by the government's provision of hot-rolled steel for less than adequate remuneration as having been transferred to ZZPC through JZS' and ZZSP's sale of hot-rolled steel products to ZZPC, consistent with 19 CFR 351.525(b)(6)(v).

Creditworthiness

Petitioners alleged that Baosteel received countervailable loans and that it was uncreditworthy (*see Initiation Notice*, 72 FR at 36671). Because we did not select Baosteel as a mandatory respondent in this investigation, we are

making no finding regarding that company's creditworthiness.

Analysis of Programs

Based upon our analysis of the petition and the responses to our questionnaires, we determine the following:

I. Programs Preliminarily Determined to Be Countervailable

A. Income Tax Subsidies for Foreign Invested Enterprises (FIEs)

Reduced Income Tax Rates for FIEs Based on Location

FIEs are encouraged to locate in designated coastal economic zones, special economic zones, and economic and technical development zones in the PRC through preferential tax rates. This program was originally created in 1988 under the *Provisional Regulations of the Ministry of Finance of the People's Republic of China Concerning the Reduction and Exemption from Enterprise Income Tax and Consolidated Industrial and Commercial Tax for the Encouragement of Foreign Investment in Coastal Open Economic Zones* and is currently administered under the *Income Tax Law of the People's Republic of China for Enterprises with Foreign Investment and Foreign Enterprises (FIE Tax Law)*. Under Article 7 of the FIE Tax Law, "productive" FIEs located in the designated economic zones pay corporate income tax at a reduced rate of either 15 or 24 percent, depending on the zone. According to the GOC, the *FIE Tax Law* has been repealed effective January 1, 2008, and there are no provisions regarding this program in the new *Income Tax Law of the People's Republic of China for Enterprises*.

Lets Win is located in a coastal economic development zone and paid income tax at the reduced rate of 24 percent during the POI.

We preliminarily determine that the reduced income tax rate paid by "productive" FIEs under this program confers a countervailable subsidy. The reduced rate is a financial contribution in the form of revenue forgone by the GOC and it provides a benefit to the recipient in the amount of the tax savings. *See* section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1). We further determine preliminarily that the reduction afforded by this program is limited to enterprises located in designated geographic regions and, hence, is specific under section 771(5A)(D)(iv) of the Act.

To calculate the benefit, we treated the income tax savings enjoyed by Lets Win as a recurring benefit, consistent

with 19 CFR 351.524(c)(1), and divided the company's tax savings received during the POI by the company's total sales during that period. To compute the amount of the tax savings, we compared the rate Lets Win would have paid in the absence of the program (30 percent) with the rate it paid (24 percent).

On this basis, we preliminarily determine that Lets Win received a countervailable subsidy of 0.27 percent *ad valorem* under this program.

B. Provision of Inputs for Less than Adequate Remuneration

Hot-rolled Steel

Hot-rolled steel suppliers in the PRC have varying ownership structures including state ownership, joint stock companies with state and foreign ownership, collective ownership, and wholly private ownership. According to the GOC, prices for hot-rolled steel are not set by regulation. Instead, Chinese producers set prices taking into account their production costs and supply and demand considerations. The GOC further claims that prices are differentiated in the hot-rolled steel market, with both state-owned and private producers pricing at different levels for the same product and that, at any given point in time, pricing leaders can be private or state-owned producers.

During the POI, the ZZPC companies purchased from state-owned suppliers, collectives, and privately-owned companies. Lets Win provided information that it purchased hot-rolled steel only from privately-owned suppliers.

We preliminarily determine that the GOC provided hot-rolled steel to certain of the ZZPC companies during the POI for less than adequate remuneration through the GOC-owned steel companies. In its response, the GOC listed the industries that use hot-rolled steel: construction, machinery and equipment (including industrial boilers, internal combustion engines, machine tools, electrical tools, smelter equipment, chemical equipment, feedstock processing machinery, packaging machinery, tractors, pollution prevention and remediation equipment, electricity generators and electrical motors, among others), automotive, pipe and tube, shipbuilding, railway industries (including profiled bar for rail construction and locomotive engines), petrochemical (including oil country tubular goods), household appliances, and freight containers. *See* GOC supplemental questionnaire response (November 7, 2007) at 10. We preliminarily find that these industries

are “limited in number” and, hence, that the provision of hot-rolled steel is *de facto* specific under section 771(5A)(D)(iii)(I) of the Act. See also *Notice of Final Affirmative Countervailing Duty: Certain Cold-Rolled Carbon Flat Steel Products from the Republic of Korea*, 67 FR 62102 (October 3, 2002) and accompanying Issues and Decision Memorandum at Comment 1 and Comment 2, where the Department found that Posco’s provision of hot-rolled coil was countervailable.

We further determine preliminarily that the GOC’s provision of hot-rolled steel through its state-owned producers is a government financial contribution within the meaning of section 771(5)(D)(iii) of the Act and that it confers a benefit on ZZPC because the good is being sold for less than adequate remuneration as described in section 771(5)(E)(iv) of the Act. In determining what constitutes adequate remuneration, the Department is not relying on prices in the PRC, as explained in the *Selection of the Adverse Facts Available Rate* section, above. Instead, in accordance with 19 CFR 351.511(a)(2), we have used a world market price as a benchmark to compare to the respondent’s reported purchase prices from state-owned steel suppliers. Specifically, we used the “World Export Price” from *Steel Benchmark*, as provided in Exhibit 173, Attachment 2, Volume IV, of the Petition (July 6, 2007).

We have rejected internal prices in the PRC because we do not know the share of steel produced and sold by SOEs in the PRC. As explained in the preambular language addressing 19 CFR 351.511(a), “While we recognize that government involvement in a market may have some impact on the price of the good or service in that market, such distortion will normally be minimal unless the government provider constitutes a majority, or in certain circumstances, a substantial portion of the market.” See *Countervailing Duties; Final Rule*, 63 FR 65348, 65377 (November 25, 1998) (CVD Preamble). Because we are not able to gauge the extent of government involvement in the PRC hot-rolled steel market, we have made the adverse inference that the market is dominated by SOEs and that this distorts the prices for this product in the PRC.

To calculate the benefit, we compared the monthly weighted-average prices paid by the ZZPC companies for hot-rolled steel purchased from SOEs to the average monthly prices reported in *Steel Benchmark*. *Steel Benchmark* does not include prices for January - March

2006; therefore, we have used the April 2006 price as a surrogate. We treated the difference in the amounts that ZZPC would have paid using the *Steel Benchmark* prices to the amounts actually paid as the benefit, and divided the benefit by ZZPC’s total sales. On this basis, we preliminarily determine that ZZPC received a countervailable benefit of 2.99 percent *ad valorem*.

In its November 14, 2007 submission, ZZPC reported that the hot-rolled steel strip purchased by JZS from the SOE, Shanghai Baosteel Steel Products Trade Co., Ltd., Wuxi Branch is used to produce electronic pipe, which ZZPC claims is non-subject merchandise. ZZPC provided no evidence to support these claims. Therefore, for the preliminary determination, we are treating this steel as having been used as an input for LWRP.

Water

According to the GOC, water suppliers in the PRC are highly localized. Many suppliers are SOEs, particularly in cities, but there is also private ownership. Water prices generally are regulated by the local governments. See, e.g., the *Regulation on Administration of City Water Supply* (Decree 158 of the State Council, 1994), GOC response (September 28, 2007) at Exhibit 118.

The GOC has provided the water rate schedules in effect during the POI for Zhangjiagang, where ZZPC is located. Rate changes were effected during the POI and both sets of rates were submitted.

The GOC states that all users within a given rate category pay the same fixed rate per ton. However, based on our comparison, the rates actually paid by ZZPC are lower than the published rates for industrial users. In our supplemental questionnaire to ZZPC, we asked about this discrepancy and, while ZZPC claims it did not receive a discount, it did not adequately explain why its rates diverged from the published rates.

Based on this, we preliminarily determine that the GOC’s provision of water to ZZPC during the POI confers a countervailable subsidy. The provision of water to this company is *de facto* specific because ZZPC pays a different price from the price paid by all industrial users in this jurisdiction. See section 771(5A)(D)(iii)(I) of the Act.

We further determine preliminarily that the GOC’s provision of water is a financial contribution within the meaning of section 771(5)(D)(iii) of the Act and that it confers a benefit on ZZPC because the good is being sold for less than adequate remuneration as described in section 771(5)(E)(iv) of the

Act. In determining what constitutes adequate remuneration, the Department is relying on the schedules of prices paid by other industrial users in Zhangjiagang City during the POI. We are using this benchmark because no market-determined prices for water have been provided for this jurisdiction and we have no information indicating that there is a world-market price for water. See 19 CFR 351.511(a)(i) and (ii). Consequently, we are selecting a benchmark under 19 CFR 351.511(a)(iii). As stated in the preambular language discussing that section of our regulations, where the government is the sole provider of a good or service, including in the case of water, the Department may assess whether the government price was set in accordance with market principles, which may include an analysis of whether there is price discrimination among the users of the good or service that is provided and that “{w}e would only rely on a price discrimination analysis if the government good or service is provided to more than a specific enterprise or industry, or group thereof.” See CVD Preamble at 63 FR 65378. In the case of Zhangjiagang City, the GOC has reported that there are over 1,000 industrial users paying the published schedule rates for water. Therefore, we preliminarily determine that the published rate for industrial users of water in Zhangjiagang City is an appropriate benchmark for determining whether the GOC provided water to ZZPC for less than adequate remuneration.

To calculate the benefit, we compared the monthly weighted-average prices paid by ZZPC for water with the published rates for industrial users of water in Zhangjiagang City. We treated the difference in the amounts that ZZPC would have paid using the published rates to the amounts actually paid as the benefit, and divided the benefit by ZZPC’s total sales. On this basis, we preliminarily determine that ZZPC received a countervailable benefit of less than 0.005 percent *ad valorem*.

Where the countervailable subsidy rate for a program is less than .005 percent, the program is not included in the total countervailing duty rate. See, e.g., *Final Results of Countervailing Duty Administrative Review: Low Enriched Uranium from France*, 70 FR 39998 (July 12, 2005), and the accompanying Issues and Decision Memorandum, at “Purchases at Prices that Constitute ‘More than Adequate Remuneration’” (citing *Final Results of Administrative Review: Certain Softwood Lumber Products from Canada*, 69 FR 75917 (December 20,

2004), and the accompanying Issues and Decision Memorandum, "Other Programs Determined to Confer Subsidies").

Regarding Lets Win, the GOC provided the rate schedule that came into effect on September 10, 2006, for the water authority in Kunshan. Subsequent to that date, the rates actually paid by Lets Win were less than, equal to, or in excess of the newly established rates for industrial water users, suggesting that it took some time for the new rates to be reflected in the bills and payments. We intend to request an explanation from Lets Win and to request the rate schedule for the period prior to September 10, 2006, and will address whether the GOC provided water to Lets Win for less than adequate remuneration in our final determination.

II. Programs Preliminarily Determined to Be Not Countervailable

A. Government Policy Lending Program

In *CFS from the PRC*, the Department found Government Policy Lending to provide a countervailable subsidy because record evidence indicated that: (i) the GOC had a policy in place to encourage and support the growth and development of the forestry and paper industry through preferential financing initiatives as illustrated in the GOC's five-year plans and industrial policies; and (ii) the GOC's policy toward the paper industry was carried out by the central and local governments through the provision of loans extended by GOC Policy Banks and state-owned commercial banks. See *CFS from the PRC* and accompanying Issues and Decision Memorandum at Comment 8.

In this investigation, the evidence submitted to date does not support a finding that the LWRP industry in the PRC received preferential financing pursuant to the GOC's Iron and Steel Policy. Therefore, we preliminarily determine that producers and exporters of LWRP in the PRC did not receive government policy loans. We will, however, continue to investigate whether the GOC's Iron and Steel Policy or other plans apply to the LWRP industry, and, if so, the purpose of those policies and whether preferential lending was provided to the LWRP industry pursuant to those policies.

B. Provision of Inputs for Less than Adequate Remuneration

Electricity: According to the GOC, electricity in the PRC is produced by numerous power plants and it is transmitted for local distribution by two state-owned transmission companies,

State Grid and China South Power Grid. Generally, prices for uploading electricity to the grid and transmitting it are regulated by the GOC, as are the final sales prices. See, e.g., *Circular on Implementation Measures Regarding Reform of Electricity Prices*, (FAGAIJLAGE {2005} No. 514, National Development and Reform Commission) at Appendix 3, *Provisional Measures on Prices for Sales of Electricity* at Article 29 ("Government departments in charge of pricing at various levels shall be responsible for the administration and supervision of electricity sales prices."), GOC response (September 28, 2007) at Exhibit 114.

Electricity consumers are divided into broad categories such as residential, commercial, large-scale industry and agriculture. The rates charged vary across customer categories and within customer categories based on the amount of electricity consumed. Moreover, among industrial users, certain industries are specifically broken out and these industries receive special, discounted rates. Based on our review of the rate schedules submitted for Jiangsu Province (where both Lets Win and ZZPC are located), discounted rates are established for producers of calcium carbide, electrolyte caustic soda, synthetic ammonia, yellow phosphorus with electric furnace, chlorine alkali, electrolyzed aluminum, and fertilizer. Thus, there is not a discounted rate for LWRP producers and, according to the GOC, the types of industries in Jiangsu province that fall into the large-scale industry category (which includes the LWRP producers) cover virtually all economic sectors outside of agriculture and services.

Based on the record evidence, we preliminarily determine that the provision of electricity to large-scale enterprises in the PRC is neither *de jure* nor *de facto* specific. Although producers in a few particular industries are eligible for discounts under the law, all other large-scale enterprises within a locality pay the same rate for their electricity. Moreover, the absence of price discrimination among most users may also support a preliminary finding that electricity is not being provided to LWRP producers for less than adequate remuneration. See *Programs Preliminarily Determined to Be Countervailable/Provision of Goods for Less Than Adequate Remuneration/Water*, above.

On this basis, we preliminarily determine that the GOC's provision of electricity does not confer a countervailable subsidy.

C. VAT Rebates (originally referred to as "Export Incentive Payments Characterized as VAT Rebates")

According to the GOC, the "exemption, deduction and refund" of VAT applies if a manufacturer exports its self-produced goods by itself or via a trading company. See Article 1 of the *Circular on Further Promotion of Methodology of "Exemption, Deduction, and Refund" of Tax for Exported Goods* (CAISHUI (2002) No. 7), GOC response (September 28, 2007) at Exhibit 98. Under the "VAT refund system," when a producer/exporter purchases inputs (e.g., raw materials, components, fuel and power) it pays a VAT based on the purchase price of inputs. The GOC reported the VAT rates paid by LWRP producers/exports for inputs are as follows: raw materials and electricity - 17 percent; and, fuel and water - 13 percent. Once the exporter/producer exports subject merchandise, a VAT payment and tax exemption form is prepared and filed with the relevant state tax authority. LWRP exporters received a VAT refund of 13 percent of the export price during the POI.

The Department's regulations state that in the case of an exemption upon export of indirect taxes, a benefit exists only to the extent that the Department determines that the amount exempted "exceeds the amount levied with respect to the production and distribution of like products when sold for domestic consumption." 19 CFR 351.517(a); see also 19 CFR 351.102 (for a definition of "indirect tax"). Information in the companies' responses shows that Lets Win and ZZPC paid the VAT on their inputs, and applied for and received a VAT refund on their export sales.

To determine whether a benefit was provided under this program, the Department analyzed whether the amount of VAT exempted during the POI exceeded the amount levied with respect to the production and distribution of like products when sold for domestic consumption. Because the VAT rate levied on LWRP in the domestic market (17 percent) exceeded the amount of VAT exempted upon the export of LWRP (13 percent), the Department preliminarily determines that, for the purposes of this investigation, the VAT refund received upon the export of LWRP does not confer a countervailable benefit.

The GOC has additionally reported that effective July 1, 2007, the VAT refund rate for exports of LWRP was set at zero percent.

III. Post-POI Programs

E. Government Restraints on Exports

Hot-rolled Steel and Zinc: Petitioners alleged that the GOC restrains exports of hot-rolled steel and zinc by means of export taxes, which artificially suppress the price a producer in the PRC can charge for these inputs into LWRP.

In its response, the GOC provided the *Announcement on Adjustment of Provisional Import or Export Duty for Certain Merchandises* (PRC Customs Announcement No. 22, 2007) See GOC questionnaire response (September 28, 2007) at Exhibit 122. This document shows that on May 30, 2007, the GOC announced a provisional export duty rate for hot-rolled steel of five percent and an increase in the provisional export duty rate for zinc from five percent to ten percent. These changes were implemented retroactively to begin on July 1, 2006.

The POI for this investigation is January 1, 2006, through December 31, 2006, and the export restraints allegedly giving rise to a subsidy were announced on May 30, 2007, *i.e.*, after the POI. Although the export duties were implemented retroactively, there is no basis to conclude that the export duties affected the prices paid by the respondents for hot-rolled steel and zinc prior to May 30, 2007, because those purchases had already been made. Therefore, any subsidy conferred by the export duties on hot-rolled steel and zinc would properly be addressed under our Program-wide Change regulation, 19 CFR 351.526(a). That regulation states that the Department may take a program-wide change into account in establishing the estimated countervailing duty cash deposit rate if: (1) the Department determines that subsequent to the period of investigation or review, but before a preliminary determination in an investigation, a program-wide change has occurred; and (2) the Department is able to measure the change in the amount of countervailable subsidies provided under the program in question.

In this investigation, Lets Win submitted its monthly purchase prices for hot-rolled steel and zinc for periods prior to and following the May 30, 2007 announcement. ZZPC did not purchase zinc, but ZZPC submitted its purchase prices for hot-rolled steel. The data show fluctuations in the prices of these inputs both before and after the announcement of the export duties. Moreover, the data available for the months after the announcement are limited. For these reasons, we cannot measure the subsidy, if any, arising from

the imposition of the export duties, and we are not including these alleged subsidy programs in our cash-deposit rates.

IV. Programs Determined To Be Terminated

A. Exemption from Payment of Staff and Worker Benefits for Export-oriented Industries

The Department has determined that this program was terminated on January 1, 2002, with no residual benefits. See *CFS from the PRC* and accompanying Issues and Decision Memorandum at "Programs Determined to be Terminated."

V. Programs Preliminarily Determined To Be Not Used By Lets Win and ZZPC

We preliminarily determine that Lets Win and ZZPC did not apply for or receive benefits during the POI under the programs listed below.

- A. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program
- B. The "Two Free, Three Half" Program
- C. Local Income Tax Exemption and Reduction Program for "Productive" FIEs
- D. Income Tax Exemption Program for Export-oriented FIEs
- E. Corporate Income Tax Refund Program for Reinvestment of FIE Profits in Export-oriented Enterprises
- F. Reduced Income Tax Rate for Technology and Knowledge Intensive FIEs
- G. Reduced Income Tax Rate for High or New Technology FIEs
- H. Preferential Tax Policies for Research and Development at FIEs
- I. Income Tax Credits on Purchases of Domestically Produced Equipment by Domestically Owned Companies
- J. Income Tax Credits on Purchases of Domestically Produced Equipment by FIEs
- K. Program to Rebate Antidumping Legal Fees in Shenzhen and Zhejiang Provinces
- L. Funds for "Outward Expansion" of Industries in Guangdong Province
- M. Export Interest Subsidy Funds for Enterprises Located in Shenzhen and Zhejiang Provinces
- N. Loans Pursuant to Liaoning Province's Five-year Framework
- O. VAT and Tariff Exemptions on Imported Equipment
- P. VAT Rebates on Domestically Produced Equipment
- Q. The State Key Technologies Renovation Project Fund
- R. Grants to Loss-making State-owned Enterprises
- S. Provision of Inputs for Less Than Adequate Remuneration: Natural Gas

T. Foreign Currency Retention Program

For purposes of this preliminary determination, we have relied on the GOC's and responding companies' responses to preliminarily determine non-use of the programs listed above. During the course of verification, the Department will further investigate whether these programs were used by respondent companies during the POI.

VI. Programs for Which More Information is Required

A. Provision of Land for Less than Adequate Remuneration

Citing Article 29 of the *Implementation Rules of the Law on Administration of Land*, land-use rights can be obtained from the government in one of three ways: 1) purchase; 2) lease; and 3) as an equity investment. See GOC response (September 28, 2007) at Exhibit 121. The GOC further states that the price of land-use rights may be determined by means of public bidding, auction, independent appraisal, and negotiation. According to the GOC, no formal appraisal was conducted in connection with the sale of land use rights to Lets Win or ZZPC. Instead, the purchase prices for these companies' land use rights "were determined through arm's length negotiations, taking into consideration the prices of land in the neighboring area, local economic development level, and the specific conditions of the land under consideration." See GOC Supplemental Questionnaire Response (November 7, 2007) at 17.

Lets Win reported that it purchased its land use rights from its local county government in March 2001. ZZPC reported that it owns land use rights for three lots. For two lots, the land use rights were purchased prior to December 11, 2001. Because these purchases occurred prior to December 11, 2001, we preliminarily determine that the GOC's provision of these land use rights does not confer a countervailable subsidy. See *Application of the Countervailing Duty Law to Imports from the PRC* section, above.

ZZPC purchased its third lot from the Zhangjiagang Jingang Town Assets Management Company after December 11, 2001. According to ZZPC and the GOC, no appraisals or valuations of the land use rights were conducted to support this purchase.

It is difficult for the Department to reconcile the GOC's claim that the local land authority took into consideration "the prices of land in the neighboring area, local economic development level, and the specific conditions of the land"

with the fact that no appraisal or valuation was conducted. Neither the GOC nor ZZPC has provided any explanation of the process used by the Zhangjiagang Jingang Town Assets Management Company or ZZPC to establish the value of the land use rights, a description of the negotiation process, or the prices for land use rights for comparable plots. Without this information, we are not able to determine whether the provision of land to ZZPC should be considered specific within the meaning of section 771(5A) of the Act and, if so, how to determine what would constitute adequate remuneration for the land use rights.

We intend to seek further information on these questions and to issue an interim analysis describing our preliminary findings with respect to this program before the final determination so that parties will have the opportunity to comment on our findings before the final determination. In the meantime, we invite parties to submit information and argument on the basis for making a specificity determination with respect to the provision of land and how adequate remuneration should be determined. These submissions should be made no later than December 21, 2007.

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by the respondents prior to making our final determination.

Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each exporter/manufacturer of the subject merchandise. We preliminarily determine the total estimated net countervailable subsidy rates to be:

Exporter/Manufacturer	Net Subsidy Rate
Kunshan Lets Win Steel Machinery Co., Ltd.	0.27 percent
Qingdao Xiangxing Steel Pipe Co.	
Zhangjiagang Zhongyuan Pipe-making Co., Ltd., Jiangsu Qiyuan Group Co, Ltd.	77.85 percent
All-Others	2.99 percent
	2.99 percent

Sections 703(d) and 705(c)(5)(A) of the Act state that for companies not investigated, we will determine an all-others rate by weighting the individual company subsidy rate of each of the companies investigated by each company's exports of the subject merchandise to the United States. However, the all-others rate may not

include zero and *de minimis* rates or any rates based solely on the facts available. In this investigation, because we have only one rate that can be used to calculate the all-others rate, ZZPC's rate, we have assigned that rate to all-others.

In accordance with sections 703(d)(1)(B) and (2) of the Act, we are directing CBP to suspend liquidation of all entries of LWRP from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of merchandise in the amounts indicated above. Neither the suspension of liquidation nor the requirement for a cash deposit or bond will apply to merchandise produced and exported by Lets Win because the Department has preliminarily determined that Lets Win received *de minimis* subsidies.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Disclosure and Public Comment

In accordance with 19 CFR 351.224(b), we will disclose to the parties the calculations for this preliminary determination within five days of its announcement.

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. See 19 CFR 351.309(c) (for a further discussion of case briefs). Rebuttal briefs must be filed within five days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1). A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes.

Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, pursuant to 19 CFR 351.310(d), at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice, pursuant to 19 CFR 351.310(c). Requests should contain: (1) the party's name, address, and telephone; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to sections 703(f) and 777(i) of the Act.

Dated: November 26, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7-23283 Filed 11-29-07; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 07-00006]

Export Trade Certificate of Review

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Application for an Export Trade Certificate of Review from Glokle, Inc.

SUMMARY: Export Trading Company Affairs ("ETCA"), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review ("Certificate"). This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Export

FOR FURTHER INFORMATION CONTACT:

Ronald Gianella, Accountant, Office of the Deputy Chief Financial Officer, Policy and Internal Review Division, U.S. Department of Agriculture, STOP 33, P.O. Box 200011, St. Louis, MO 63120, Telephone: (314) 457-4298.

SUPPLEMENTARY INFORMATION:

Title: Form RD 1951-65, Customer Initiated Payments (CIP) Enrollment Form; Form RD 1951-66, FedWire Worksheet, and Form RD 3550-28, Authorization Agreement for Preauthorized Payments.

OMB Number: 0575-0184.

Expiration Date of Approval: June 30, 2008.

Type of Request: Revision of a currently approved information collection.

Abstract: Rural Development uses electronic methods (Customer Initiated Payments [CIP], FedWire, and Preauthorized Debits [PAD]) for receiving and processing loan payments and collections. These electronic collection methods provide a means for Rural Development borrowers to transmit loan payments from their financial institution (FI) accounts to Rural Development's Treasury Account and receive credit for their payments.

To administer these electronic loan collection methods, Rural Development collects the borrower's FI routing information (routing information includes the FI routing number and the borrower's account number). Rural Development uses Agency approved forms for collecting bank routing information for CIP, FedWire, and PAD.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .5 hours per response. Each Rural Development borrower who elects to participate in electronic loan payments will only prepare one response for the life of their loan unless they change financial institutions or accounts.

Respondents: Business or other for-profit; Not-for-profit institutions; and State, local, or tribal Government.

Estimated Number of Respondents: 23,520.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 23,520.

Estimated Total Annual Burden on Respondents: 11,760 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, at (202) 692-0043.

Comments are invited on: (1) The need for the information including whether the information has practical

utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents.

Comments should be submitted to Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division, Rural Development, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250-0742. All responses to this notice will be summarized, included in the request for Office of Management and Budget (OMB) approval, and will become a matter of public record.

Dated: January 24, 2008.

Russell T. Davis,

Administrator, Rural Housing Service.

[FR Doc. E8-1577 Filed 1-29-08; 8:45 am]

BILLING CODE 3410-XV-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-914]

Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People's Republic of China

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that light-walled rectangular pipe and tube (LWR) from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated dumping margins are shown in the "Preliminary Determination" section of this notice.

EFFECTIVE DATE: January 30, 2008.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen or Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-2769 or 482-4406, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 27, 2007, the Department received petitions concerning imports of LWR from the PRC, Mexico, Turkey, and the Republic of Korea (Korea) filed in proper form by Allied Tube and Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, EXLTUBE, Hannibal Industries, Leavitt Tube Company, Maruichi American Corporation, Searing Industries, Southland Tube, Vest Inc., Welded Tube, and Western Tube and Conduit (collectively, the petitioners). The Department initiated antidumping duty investigations of LWR from the above-mentioned countries on July 17, 2007. *See Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People's Republic of China*, 72 FR 40274 (July 24, 2007) (*Initiation Notice*). On August 22, 2007, the International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of LWR from the PRC, Mexico, Turkey, and Korea. *See Light-Walled Rectangular Pipe and Tube From China, Korea, Mexico, and Turkey, Investigation Nos. 701-TA-449 and 731-TA-1118-1121 (Preliminary)*, 72 FR 49310 (August 28, 2007).

On July 18, 2007, the Department requested quantity and value (Q&V) information from the 53 companies that were identified in the petition as potential producers or exporters of LWR from the PRC. *See Exhibit 10, Volume I, of the June 27, 2007, Petition for the Imposition of Antidumping and Countervailing Duties (the petition)*. The Department received timely responses to its Q&V questionnaire from the following 10 companies (three of which were identified in the petition): Zhangjiagang Zhongyuan Pipe-Making Co., Ltd. (ZZPC), Suns International Trading Limited (Suns), Liaoning Cold Forming Sectional Company Limited (Liaoning), Kunshan Lets Win Steel Machinery Co., Ltd. (Lets Win), Wuxi Baishun Steel Pipe Co., Ltd. (Baishun), Guangdong Walsall Steel Pipe Industrial Co., Ltd. (Walsall), Wuxi Worldunion Trading Co., Ltd. (Worldunion), Weifang East Steel Pipe Co., Ltd. (Weifang), Jiangyin Jianye Metal Products Co., Ltd. (Jiangyin), and Dalian Brollo Steel Tubes Ltd. (Dalian).

On August 16, 2007, the Department selected ZZPC and Lets Win as mandatory respondents. *See memorandum regarding "Selection of Respondents in the Antidumping*

Investigation of Light-Walled Rectangular Pipe and Tube from the People's Republic of China," dated August 16, 2007 (Respondent Selection Memorandum).

The Department received separate-rate applications from ZZPC, Lets Win, Baishun, Walsall, Worldunion, Weifang, Jiangyin, and Dalian. The Department did not receive separate-rate applications from Suns and Liaoning.

On August 17, 2007, the Department issued its antidumping questionnaire to the mandatory respondents. ZZPC and Lets Win submitted timely responses to the Department's questionnaire during September and October 2007. The Department issued supplemental questionnaires to, and received responses from, ZZPC and Lets Win in October, November, and December 2007 and January 2008. The petitioners submitted comments to the Department regarding ZZPC's and Lets Wins' questionnaire and supplemental questionnaire responses, and the separate rates response of Dalian in October and December 2007.

On September 21, 2007, the Department released to interested parties a memorandum which listed potential surrogate countries and invited interested parties to comment on surrogate country and factor value selection. No party responded to the Department's invitation to comment on surrogate country selection. However, in October, November, and December 2007 and January 2008, both the petitioners and the respondents submitted surrogate values, including surrogate financial statements, for use in this investigation. All of the submitted surrogate data are from India.

In August and September 2007, the petitioners and respondents submitted comments to the Department regarding the appropriate model matching criteria.

On November 1, 2007, the petitioners alleged targeted dumping by ZZPC and Lets Win. On December 10, 2007, the Department sent a letter to the petitioners requesting more information regarding both targeted dumping allegations. See Letter from Howard Smith, Program Manager, Office 4, to Petitioners, concerning, "Targeted Dumping Allegation," dated December 10, 2007. On December 17, 2007, the petitioners responded to the Department's December 10th request for additional information. See the "Targeted Dumping" section of this notice for additional information regarding these allegations.

On December 13, 2007, the petitioners requested that the Department make a finding that critical circumstances exist with respect to imports of LWR from the

PRC. The Department issued questionnaires regarding critical circumstances to Lets Win and ZZPC on December 18, 2007. Lets Win and ZZPC submitted their responses to those questionnaires on December 28, 2007, and January 2, 2008. See the "Critical Circumstances" section of this notice for additional information.

Period of Investigation

The period of investigation (POI) is October 1, 2006, through March 31, 2007. This period comprises the two most recently completed fiscal quarters as of the month preceding the month in which the petition was filed (*i.e.*, June 2007). See 19 CFR 351.204(b)(1).

Scope of the Investigation

The merchandise that is the subject of this investigation is certain welded carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of the investigation is dispositive.

Scope Comments

In accordance with the preamble to the Department's regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of that notice. See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323, (May 19,

1997) and *Initiation Notice*. The Department received no comments concerning the scope of the LWR antidumping and countervailing duty investigations. Accordingly, we have not made changes to the scope of this investigation.

Critical Circumstances

The Department preliminarily finds that there is reason to believe or suspect that critical circumstances exist for imports of subject merchandise from the PRC-wide entity because, in accordance with section 733(e)(1)(A)(ii) of the Act, importers of LWR produced by the PRC-wide entity knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales. See Memorandum from Abdelali Elouaradia, Director, Office 4, "Preliminary Affirmative Determination of Critical Circumstances, in Part," dated concurrently with this memorandum. In addition, the Department also preliminarily finds that imports from the PRC-wide entity satisfy section 733(e)(1)(B) of Act because these imports were massive during a relatively short period. See *id.*

However, with respect to Lets Win, ZZPC, and the separate-rate companies, the Department does not preliminarily find that there is reason to believe or suspect that critical circumstances exist for imports of subject merchandise from these companies because the record indicates that imports from these companies were not massive during a relatively short period. See section 733(e)(1)(B) of the Act; see also Memorandum from Abdelali Elouaradia, Director, Office 4, "Preliminary Affirmative Determination of Critical Circumstances, in Part," dated concurrently with this memorandum. Accordingly, for Lets Win, ZZPC, and the separate-rate companies, the statutory requirement imposed by section 733(e)(1)(B) of Act has not been satisfied and, therefore, we preliminarily determine that critical circumstances do not exist for these entities.

Targeted Dumping

Pursuant to section 777A(d)(1) of the Act, in calculating dumping margins in investigations the Department normally will compare U.S. prices and normal values using a weighted average-to-average or transaction-to-transaction comparison methodology. However, section 777A(d)(1)(B) of the Act allows the Department to compare transaction-specific export or constructed export prices to weighted-average normal

values if there is a pattern of export or constructed export prices for comparable merchandise that differ significantly among purchasers, regions, or periods of time and the Department explains why such differences cannot be taken into account using the weighted average-to-average or transaction-to-transaction methods. See sections 777A(d)(1)(B)(i) and 777A(d)(1)(B)(ii) of the Act. Further, 19 CFR 351.414(f)(1)(i) requires that a determination of targeted dumping be made “through the use of, among other things, standard and appropriate statistical techniques.” The regulations further elaborate that targeted dumping allegations “must include all supporting factual information, and an explanation as to why the average-to-average or transaction-to-transaction method could not take into account any alleged price differences.” See 19 CFR 351.414(f)(3).

On November 1, 2007, the petitioners alleged that Lets Win and ZZPC targeted certain sales of LWR for dumping. Specifically, the petitioners alleged that targeted dumping occurred where the average net price of all of the subject merchandise sold to a particular customer, entered into a particular port, or sold during a specific month, differed by more than two percent from the overall average net price of all of the subject merchandise sold by the respondent during the POI. The petitioners believe the two-percent price difference supports a finding of targeted dumping because: (1) This approach is consistent with the methodology used in the antidumping duty investigation of coated free sheet (CFS) paper from the Republic of South Korea; and (2) LWR is a commodity product sold in a competitive market and, thus, any price difference is critical. See *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the Republic of Korea*, 72 FR 60630 (October 25, 2007) (*CFS from Korea*) and accompanying Issues and Decision Memorandum at Comment 3; see also *Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey*, Investigation Nos. 701-TA-449 and 731-TA-1118-1121 (Preliminary) USITC Pub. 3941 at 10 (August 2007) (noting that the parties generally agree that LWR is a commodity-like product). Based on the price comparisons described above, the petitioners argue that Lets Win engaged in targeted dumping during a certain time period whereas ZZPC engaged in targeted dumping with respect to certain customers, regions, and time periods.

After reviewing the petitioners’ targeted dumping allegations, the Department determined that the

allegations lacked basic information and support, and informed the petitioners that they failed to: (1) Establish that the two-percent price variation is significant for the LWR market; (2) establish that the price differences are based on purchasers, regions, or time periods rather than other factors (*e.g.*, general price fluctuations in the market, product differences, differences in channels of distribution or quantities purchased); and (3) explain why the average-to-average or transaction-to-transaction comparison methodology cannot take into account the observed price differences. See the Department’s December 10, 2007, letter to the petitioners.

In response to the Department’s December 10, 2007, letter, the petitioners asserted that the ITC has already analyzed the LWR market and found the subject merchandise to be a commodity product. See the petitioners’ December 17, 2007, submission to the Department. The petitioners noted that the only stated reason for accepting a two-percent price variation as evidence of targeted dumping in the CFS paper investigation was the ITC’s finding that CFS paper is a commodity product. According to the petitioners, additional market analysis related to targeted dumping (beyond the ITC’s finding) was not engaged in by the petitioner in CFS paper, nor is such extensive market analysis required by the statute. Thus, the petitioners maintained that the ITC’s findings are more than adequate support for their proposed two-percent benchmark. Moreover, the petitioners argued that price differences in commodity-like products sold to different purchasers or regions or in different time periods can only be captured through an average-to-transaction comparison. Specifically, the petitioners stated that if the Department were to average prices to targeted and non-targeted groups the lower prices in the targeted groups would be offset by the prices in the non-targeted groups.

We have determined that in this case using an average-to-transaction comparison methodology results in the same overall antidumping margin for each of the respondents as using an average-to-average comparison methodology. See memoranda to the File from Jeff Pedersen for each respondent regarding “Dumping Margins Based on an Average-to-Transaction Comparison Methodology.” Thus, the petitioners’ claim that the observed price differences can only be taken into account using an average-to-transaction comparison is not supported by the facts in this case. See *id.*

Therefore, the requirement of section 777A(d)(1)(B)(ii) of the Act that the average-to-average or transaction-to-transaction methodology cannot account for the price differences is not met. See also “*Statement of Administrative Action*,” accompanying the Uruguay Round Agreements Act (“URAA”), H.R. Rep. No. 103-316, (1994) at 843 (SAA) (“{b}efore relying on {the average-to-transaction comparison} methodology, however, Commerce must establish and provide an explanation why it cannot account for such differences through the use of an average-to-average or transaction-to-transaction comparison.”).

Finally, the Department notes that the petitioners failed to adequately respond to the Department’s concerns regarding their targeted dumping allegations. Specifically, the petitioners failed to describe how the LWR market functions and did not adequately explain why a two-percent price difference should be considered to be significant for the “commodity-like product,” LWR, given the characteristics of the LWR market.¹ As provided in the SAA “the Administration intends that in determining whether a pattern of significant price differences exist, Commerce will proceed on a case-by-case basis, because small differences may be significant for one industry or one type of product, but not for another.” See SAA at 843. Moreover, the petitioners failed to address or take into consideration other possible reasons for the observed price differences (*e.g.*, general price fluctuations in the market, product differences (the petitioners did not compare prices of identical merchandise in their analysis), differences in channels of distribution or quantities purchased, *etc.*). Thus, the petitioners did not adequately establish price patterns based on purchasers, regions, or periods of time. We note that in the CFS paper investigation, a number of these other possible reasons for the observed price differences were taken into account by comparing prices for identical merchandise sold at the same level of trade on a month-to-month basis.

Given the foregoing, we find that the petitioners’ allegations do not contain sufficient information to conduct a targeted dumping analysis.

¹ Additionally, it is important to note that in the investigation of CFS paper from the Republic of Korea, rather than adopting a two-percent benchmark in analyzing targeted dumping the Department specifically noted that it “has not adopted any specific percentages suggested by both parties in their contentions regarding the definition of significance.” See *CFS from Korea* and accompanying “Issues and Decision Memorandum” at Comment 3.

Non-Market Economy Treatment

The Department considers the PRC to be a non-market economy (NME) country. In accordance with section 771(18)(c)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. See *Tapered Roller Bearings and Parts Thereof (TRBs), Finished and Unfinished, From the People's Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003), unchanged in *TRBs, Finished and Unfinished, From the People's Republic of China: Final Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 70488 (December 18, 2003). Therefore, in this preliminary determination, we have treated the PRC as an NME country and applied our current NME methodology.

Selection of a Surrogate Country

In antidumping proceedings involving NME countries, the Department, pursuant to section 773(c)(1) of the Act, will generally base normal value (NV) on the value of the NME producer's factors of production. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of merchandise comparable to the subject merchandise.

The Department has determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries that are at a level of economic development comparable to that of the PRC. See memorandum regarding "Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube (Pipe) from the People's Republic of China (PRC): Request for a List of Surrogate Countries," dated August 22, 2007 (Policy Memorandum). From among these economically comparable countries, the Department has preliminarily selected India as the surrogate country for this investigation because it determined that: (1) India is a significant producer of merchandise comparable to the subject merchandise and (2) reliable Indian data for valuing the factors of production are readily available. See memorandum regarding "Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from the People's Republic of China:

Selection of a Surrogate Country" dated November 13, 2007.

Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to investigation involving an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. ZZPC, Lets Win, Baishun, Walsall, Worldunion, Weifang, Jiangyin, and Dalian provided company-specific information to demonstrate that they operate independently of *de jure* and *de facto* government control, and therefore are entitled to a separate rate. Suns and Liaoning did not submit separate-rate applications. Accordingly, Suns and Liaoning have not provided company-specific information to demonstrate that they operate independently of *de jure* and *de facto* government control.

The Department's separate-rate test is not concerned, in general, with macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (December 31, 1998). The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754, 61758 (November 19, 1997), and *TRBs, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585

(May 2, 1994) (*Silicon Carbide*). In accordance with the separate-rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589. Information submitted by ZZPC, Lets Win, Baishun, Worldunion, Weifang, and Jiangyin indicates that there are no restrictive stipulations associated with their exporter and/or business licenses; and there are legislative enactments decentralizing control of the companies. Therefore, the Department has preliminarily found a *de jure* absence of government control over these companies' export activities.

Walsall reported that it is wholly foreign-owned by China Pacific Limited (CPL), which is incorporated in the Cayman Islands. CPL is in turn wholly owned by a Hong Kong citizen. Since there is no PRC ownership of Walsall, and we have no evidence indicating that this company is under the control of the PRC, a separate rates analysis is not necessary to determine whether Walsall is independent from government control. See *Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review*, 66 FR 1303, 1306 (January 8, 2001) (finding that no separate rates analysis for Hongfa was necessary because the company was wholly foreign owned), unchanged in the final determination; see also *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China*, 64 FR 71104 (December 20, 1999).

The Department determined that Dalian did not make a sale to the United States during the POI and thus should not be considered for a separate rate. See memorandum regarding "Dalian Brollo Steel Tubes Ltd.'s Eligibility for a Separate Rate" dated concurrently with this notice.

Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or are subject to the approval of, a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586–87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). The Department considers an analysis of *de facto* control to be critical in determining whether a respondent is, in fact, subject to a degree of governmental control that would preclude the Department from assigning the respondent a separate rate.

ZZPC, Lets Win, Baishun, Worldunion, Weifang, and Jiangyin have each provided information indicating that they: (1) Set export prices independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) have autonomy from the government regarding the selection of management; and (4) retain proceeds from sales and make independent decisions regarding the disposition of profits or financing of losses. Therefore, the Department has preliminarily found a *de facto* absence of government control over these companies' export activities.

Based on the foregoing, the Department has preliminarily granted ZZPC, Lets Win, Baishun, Walsall, Worldunion, Weifang, and Jiangyin, separate, company-specific dumping margins. The Department calculated company-specific dumping margins for ZZPC and Lets Win and assigned Baishun, Walsall, Worldunion, Weifang, and Jiangyin a dumping margin equal to the weighted-average of the dumping margins calculated for ZZPC and Lets Win. As noted above, Suns and Liaoning did not submit separate-rate applications. Accordingly, Suns and Liaoning have not provided company-specific information to demonstrate that they operate independently of *de jure* and *de facto* government control.

Therefore, the Department has not preliminarily granted Suns and Liaoning a separate rate.

The PRC-Wide Entity

Although PRC exporters of subject merchandise to the United States were given an opportunity to provide Q&V information to the Department, not all exporters responded to the Department's request for Q&V information.² Based upon our knowledge of the volume of imports of subject merchandise from the PRC, we have concluded that the companies that responded to the Q&V questionnaire do not account for all U.S. imports of subject merchandise from the PRC made during the POI. We have treated the non-responsive PRC producers/exporters as part of the PRC-wide entity because they did not qualify for a separate rate.

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information that has been requested by the Department, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

As noted above, the PRC-wide entity withheld information requested by the Department. As a result, pursuant to section 776(a)(2)(A) of the Act, we find it appropriate to base the PRC-wide dumping margin on facts available. See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam*, 68 FR 4986 (January 31, 2003), unchanged in *Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003).

Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. See

² The Department received only 10 timely responses to the requests for Q&V information that it sent to the 53 potential exporters identified in the petition, and there is no indication that any of these Q&V questionnaires were rejected or undeliverable.

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation, 65 FR 5510, 5518 (February 4, 2000); see also SAA at 870. Because the PRC-wide entity did not respond to the Department's request for information, the Department has concluded that the PRC-wide entity has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

Section 776(b) of the Act authorizes the Department to use, as adverse facts available (AFA), information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. In selecting a rate for AFA, the Department selects one that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909 (February 23, 1998). It is the Department's practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate for any respondent in the investigation. See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products From the People's Republic of China*, 65 FR 34660 (May 21, 2000) at the "Facts Available" section. Here, we assigned the PRC-wide entity the dumping margin calculated for ZZPC, which exceeds the highest margin alleged in the petition and is the highest rate calculated in this investigation. We do not need to corroborate this rate because it is based on information obtained during the course of this investigation rather than secondary information.³ The PRC-wide dumping margin applies to all entries of the merchandise under investigation except for entries of subject merchandise from ZZPC, Lets Win, Baishun, Walsall, Worldunion, Weifang, and Jiangyin.

³ Section 776(c) of the Act requires the Department to corroborate secondary information which the SAA describes as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise." See also SAA at 870.

Fair Value Comparisons

To determine whether ZZPC or Lets Win sold LWR to the United States at LTFV, we compared the weighted-average export price (EP) of the LWR to the NV of the LWR, as described in the "U.S. Price," and "NV" sections of this notice.

U.S. Price

EP

In accordance with section 772(a) of the Act, we based the U.S. price of sales on EP because the first sale to unaffiliated purchasers was made prior to importation and the use of constructed export price was not otherwise warranted. During the POI, Lets Win made certain sales of subject merchandise to the United States through an unaffiliated trading company located in the PRC. Lets Win claims that it established all of the essential terms of such U.S. sales through its negotiations with the first unaffiliated U.S. customers.⁴ Based on Lets Win's claims, the Department has determined that Lets Win's reportable sales should include the PRC trading company's sales of subject merchandise that were arranged and negotiated by Lets Win (using the price charged to the U.S. customer as the starting gross price for calculating EP). See *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303 (May 22, 2006) (*Diamond Sawblades*), and accompanying Issues and Decision Memorandum at Comment 17 (the Department concluded that the seller was the party that negotiated and executed all of the essential terms of sale). ZZPC reported that it made sales of subject merchandise to an unaffiliated PRC trading company with knowledge that the merchandise was destined for the United States. However, unlike Lets Win, ZZPC reported that the unaffiliated trading company directly and independently negotiated the terms of the sales with U.S. customers.⁵ In light of ZZPC's claims, and the fact that the Department ignores transactions between companies in an NME country, we have not considered these sales through the unaffiliated PRC trading company in our analysis because they are not ZZPC's reportable sales. This approach is consistent with that taken in the investigation of diamond

sawblades from the PRC. See *Diamond Saw Blades; see also Final Determination of Sales at Less Than Fair Value: Tetrahydrofurfuryl Alcohol From the People's Republic of China*, 69 FR 34130 (June 18, 2004) and accompanying Issues and Decision Memorandum at Comment 2 noting that " * * * the knowledge test applies only to exporters that have dealings with entities outside of the NME country. In an NME situation, the Department ignores transactions between producers and exporters that are both in-country, since we will not base export price on internal transactions between two companies located in the NME country").

In accordance with section 772(c) of the Act, we calculated EP by deducting, where applicable, the following expenses from the starting price (gross unit price) charged to the first unaffiliated customer in the United States: foreign movement expenses, marine insurance, international freight, and foreign brokerage and handling expenses.

We based these movement expenses on surrogate values where a PRC company provided the service and was paid in Renminbi (RMB). If market economy service providers, who were paid in a market economy currency, provided movement services for over 33 percent of subject merchandise shipments, by volume, we based the movement expenses on the actual price charged by the service provider. If market economy service providers, who were paid in a market economy currency, provided movement services for less than 33 percent of subject merchandise shipments, by volume, we calculated the movement expenses by weight-averaging surrogate values with the actual price charged by the service provider. See *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716 (October 19, 2006). For details regarding our EP calculation, see analysis memoranda for ZZPC and Lets Win dated concurrently with this notice.

NV

In accordance with section 773(c) of the Act, we constructed NV from the factors of production employed by the respondents to manufacture subject merchandise during the POI. Specifically, we calculated NV by adding together the value of the factors of production, general expenses, profit, and packing costs. We valued the factors of production using prices and financial statements from the surrogate country,

India. In selecting surrogate values, we followed, to the extent practicable, the Department's practice of choosing values which are non-export average values, contemporaneous with, or closest in time to, the POI, product-specific, and tax-exclusive. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004). We also considered the quality of the source of surrogate information in selecting surrogate values.

We valued material inputs and packing by multiplying the amount of the factor consumed in producing subject merchandise by the average unit value of the factor. We derived the average unit value of the factor from Indian import statistics. In addition, we added freight costs to the surrogate costs that we calculated for material inputs. We calculated freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1407 (Fed. Cir. 1997). Where we could only obtain surrogate values that were not contemporaneous with the POI, we inflated (or deflated) the surrogate values using the Indian Wholesale Price Index (WPI) as published in the International Financial Statistics of the International Monetary Fund.

Further, in calculating surrogate values from Indian imports, we disregarded imports from Indonesia, South Korea, and Thailand because in other proceedings the Department found that these countries maintain broadly available, non-industry-specific export subsidies. Therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields from the People's Republic of China*, 67 FR 11670 (March 15, 2002); see also *Notice of Final Determination of Sales at Less Than Fair Value and*

⁴ See Lets Win's November 6, 2007, supplemental response at C-1 through C-8 and SA-8.

⁵ See ZZPC's December 17, 2007, supplemental response at 5 through 8.

Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China, 69 FR 20594 (April 16, 2004).⁶ Thus, we have not used prices from these countries in calculating the Indian import-based surrogate values.

We valued raw materials and packing materials using Indian import statistics, except as noted below.

We valued electricity using rates from *Key World Energy Statistics 2003*, published by the International Energy Agency. Because these data were not contemporaneous with the POI, we inflated the values using the WPI. See the memoranda regarding "Investigation of Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Surrogate Values Selected" for ZZPC and Lets Win dated concurrently with this notice (Factor Value Memoranda).

Consistent with 19 CFR 351.408(c)(3), we valued direct, indirect, and packing labor, using the most recently calculated regression-based wage rate, which relies on 2004 data. This wage rate can currently be found on the Department's Web site on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in January 2007, <http://ia.ita.doc.gov/wages/index.html>. The source of these wage-rate data on the Import Administration's Web site is the Yearbook of Labour Statistics 2002, ILO (Geneva: 2002), Chapter 5B: Wages in Manufacturing. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by ZZPC and Lets Win. See Factor Value Memoranda.

We valued water using data from the Maharashtra Industrial Development Corporation (<http://www.midcindia.org>) because it includes a wide range of industrial water tariffs. This source provides 386 industrial water rates within the Maharashtra province from June 2003: 193 for the "inside industrial areas" usage category and 193 for the "outside industrial areas" usage category. Because the value was not contemporaneous with the POI, we inflated the rate using the WPI. See Factor Value Memoranda.

We valued truck freight expenses using a per-unit average rate from data obtained from the Web site of an Indian

transportation company, InFreight Technologies India Limited. See <http://www.infreight.com/>. This average rate was used by the Department in the antidumping duty administrative review of *Saccharin from the People's Republic of China: Preliminary Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 25247 (May 4, 2007). Because this value is not contemporaneous with the POI, we inflated the rate using the WPI. See Factor Value Memoranda.

We valued brokerage and handling using a simple average of the brokerage and handling costs that were reported in public submissions that were filed in two antidumping duty cases. Specifically, we averaged the public brokerage and handling expenses reported by Agro Dutch Industries Ltd. in the antidumping duty administrative review of certain preserved mushrooms from India and those reported by Kejirwal Paper Ltd. in the LTFV investigation of certain lined paper products from India. See *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 71 FR 10646 (March 2, 2006); see also *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products From India*, 71 FR 19706 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006).

Because the resulting value is not contemporaneous with the POI, we inflated the rate using the WPI. See Factor Value Memoranda.

ZZPC reported that all of its U.S. sales had international freight arranged by an NME freight forwarder. We valued international freight expenses using U.S. dollar freight quotes that the Department obtained from Maersk Sealand (Maersk), a market-economy shipper. We obtained quotes from Maersk for shipments from the PRC port of export and the U.S. port of import reported by ZZPC for its U.S. sales. Because these data were not contemporaneous to the POI, we adjusted them for inflation using the U.S. WPI. See Factor Value Memoranda.

We valued factory overhead, selling, general, and administrative (SG&A) expenses, and profit, using the 2006-2007 audited financial statements of Zenith Birla (India) Limited and Bihar Tubes Limited. Record evidence

indicates that these are Indian companies that produce subject merchandise. We did not rely upon a third company's financial statement that was placed on the record, namely the financial statement of Bhawani Industries Limited (Bhawani), because Bhawani's financial statement lists a "DEPB Premium" in "Other Income." India's DEPB Scheme has been found by the Department to provide a countervailable subsidy. See, e.g., *Certain Iron-Metal Castings From India: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review*, 64 FR 61592 (November 12, 1999) (unchanged in final results); see also <http://ia.ita.doc.gov/esel/eselframes.html>. In *Crawfish from the PRC*, the Department noted that where it has reason to believe or suspect that a company may have received subsidies, financial ratios derived from that company's financial statements do not constitute the best available information with which to value financial ratios. See *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results And Rescission, In Part, of 2004/2005 Antidumping Duty Administrative and New Shipper Reviews*, 72 FR 19174 (April 17, 2007) and accompanying Issues and Decision Memorandum at Comment 1. Given the record information regarding Bhawani's use of the DEPB program, and the fact that we have other acceptable financial statements to use as surrogates, consistent with the Department's decision in *Crawfish from the PRC*, we have not used Bhawani's financial data in our surrogate ratio calculations. See Factor Value Memoranda.

In accordance with 19 CFR 351.301(c)(3)(i), interested parties may submit publicly available information with which to value factors of production in the final determination within 40 days after the date of publication of the preliminary determination.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination.

Combination Rates

In the *Initiation Notice*, the Department stated that it would

⁶In addition, we note that legislative history explains that the Department is not required to conduct a formal investigation to ensure that such prices are not subsidized. See H.R. Rep. 100-576 at 590 (1988). As such, it is the Department's practice to base its decision on information that is available to it at the time it makes its determination.

calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. See *Initiation Notice*. This change in practice is described in *Policy Bulletin 05.1*, available at <http://ia.ita.doc.gov/>. *Policy Bulletin 05.1*, states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.

See *Policy Bulletin 05.1*, "Separate Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries."

Preliminary Determination

The weighted-average dumping margins are as follows:

Exporter & producer	Weighted-average Margin (percent)
Zhangjiagang Zhongyuan Pipe-Making Co., Ltd..	264.64
Kunshan Lets Win Steel Machinery Co., Ltd..	223.52
Wuxi Baishun Steel Pipe Co., Ltd..	247.75
Guangdong Walsall Steel Pipe Industrial Co., Ltd..	247.75
Wuxi Worldunion Trading Co., Ltd..	247.75
Weifang East Steel Pipe Co., Ltd..	247.75
Jiangyin Jianye Metal Products Co., Ltd..	247.75
PRC-Wide Rate	264.64

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

As noted above, the Department has found that critical circumstances exist with respect to imports of subject merchandise from the PRC-Wide entity.

Therefore, in accordance with section 733(d) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of LWR from the PRC-Wide entity as described in the "Scope of the Investigation" section of this notice, entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication of this notice in the **Federal Register**. For the mandatory respondents, Lets Win and ZZPC, and the separate rate applicants, Wuxi Baishun Steel Pipe Co., Ltd., Guangdong Walsall Steel Pipe Industrial Co., Ltd., Wuxi Worldunion Trading Co., Ltd., Weifang East Steel Pipe Co., Ltd., Jiangyin Jianye Metal Products Co., Ltd., we will instruct CBP to suspend liquidation of all entries of LWR from these companies as described in the "Scope of the Investigation" section of this notice, entered, or withdrawn from warehouse, for consumption upon the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds U.S. price, as indicated above. The suspension of liquidation will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of LWR, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of our final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, no later than five days after the deadline for submitting case briefs. See 19 CFR 351.309(c)(1)(i) and 19 CFR 351.309(d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an

opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we intend to hold the hearing three days after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on November 27, 2007, and December 10, 2007, Lets Win and ZZPC, respectively, requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, Lets Win and ZZPC requested that the Department extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a 4-month period to a 6-month period. In accordance with section 733(d) of the Act and 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) the requesting exporters account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: January 23, 2008.

David M. Spooner,
Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-489-815]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube From Turkey

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

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that light-walled rectangular pipe and tube from Turkey is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Tariff Act). The estimated margins of sales at LTFV are listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination. Accordingly, we will make our final determination not later than 75 days after the signature date of the preliminary determination, in accordance with 19 CFR 351.210.

EFFECTIVE DATE: January 30, 2008.

FOR FURTHER INFORMATION CONTACT: Fred Baker, Tyler Weinholt, or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0408, (202) 482-1121, or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On July 24, 2007, the Department initiated the antidumping duty investigation of light-walled rectangular pipe and tube from Turkey. See *Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People's Republic of China*, 72 FR 40274 (July 24, 2007) (*Initiation Notice*). The petitioners in this investigation are Allied Tube and Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, EXLTUBE, Hannibal Industries, Leavitt Tube Company, Maruichi American Corporation, Searing Industries, Southland Tube, Vest Inc., Welded Tube, and Western Tube and Conduit.

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments. See *Initiation Notice*, 72 FR 40274, (July 24,

2007). No party submitted comments on the scope.

On August 28, 2007, the United States International Trade Commission (the Commission) preliminarily determined there is a reasonable indication that imports of light-walled rectangular pipe and tube from the People's Republic of China, Korea, Mexico and Turkey are materially injuring the U.S. industry and notified the Department of its findings. See *Light-Walled Rectangular Pipe and Tube From China, Korea, Mexico, and Turkey Case Numbers. 701-TA-449 (Preliminary) and 731-TA-1118-1121 (Preliminary)*, 72 FR 49310, (August 28, 2007).

On October 19, 2007, the petitioners requested the Department postpone the preliminary determination by 50 days. The Department published an extension notice on November 14, 2007, which set the new deadline for the preliminary determination at January 23, 2008. See *Light-Walled Rectangular Pipe and Tube from Mexico, Turkey, and the Republic of Korea: Postponement of Preliminary Determination of Antidumping Duty Investigations*, 72 FR 64044, (November 14, 2007).

Section 777A(c)(1) of the Tariff Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. The Department identified a large number of producers and exporters of light-walled rectangular pipe and tube from Turkey and determined it was not practicable to examine each known producer or exporter of the subject merchandise, as provided in section 777A(c)(1) of the Tariff Act. On July 31, 2007, we sent quantity and value (Q&V) questionnaires to the following seventeen companies identified in the petition or through our own research: Anadolu Boru, Ayata Metal Industry, Borusan Mannesmann Boru, Erbosan Erciyas Boru Sanayii ve Ticaret A.S., Goktas Tube, Guven Boru Profil Sanayii ve Ticaret Limited Sirketi, Kalibre Boru Sanayi ve Ticaret A.S., Kerim Celik Mamulleri Imalat ve Ticaret, Noksel Steel Pipe Co., MMZ Onur Boru Profil Uretim San. ve Tic. A.S., Ozborsan Boru San. ve Tic. A.S., Ozgur Boru, Ozdemir Boru Sanayi ve Ticaret Ltd. Sti., Seamless Steel Tube and Pipe Co. (Celbor), Toscelik Profil ve Sac End. A.S., Umran Steel Pipe Inc., Yusan Industries, Ltd., and Yucel Boru ve Profil Endustrisi A.S.

The Department did not receive a response to the Q&V questionnaire from the following six companies: Anadolu Boru, Ayata Metal Industry, Goktas Tube, Seamless Steel Tube and Pipe Co. (Celbor), Umran Steel Pipe Inc., and

Yusan Industries, Ltd. Furthermore, Kalibre Boru Sanayi ve Ticaret A.S., Kerim Celik Mamulleri Imalat ve Ticaret and Ozgur Boru¹ submitted untimely, improperly filed, or incomplete responses. These nine companies that failed to respond, or provided an improperly filed and/or incomplete response, were given a second opportunity to file, but none of them did so in a timely manner.²

Nine other exporters/producers submitted proper responses to the Department's Q&V questionnaire: Borusan Mannesmann Boru, Erbosan Erciyas Boru Sanayii ve Ticaret A.S., Guven Boru Profil Sanayii ve Ticaret Limited Sirketi, Noksel Steel Pipe Co., MMZ Onur Boru Profil Uretim San. ve Tic. A.S., Ozborsan Boru San. ve Tic. A.S., Ozdemir Boru Sanayi ve Ticaret Ltd. Sti., Toscelik Profil ve Sac End. A.S., and Yucel Boru ve Profil Endustrisi A.S. Two respondents—Guven Boru Profil Sanayii ve Ticaret Limited Sirketi (Guven Boru) and MMZ Onur Boru Profil Uretim San. ve Tic. A.S. (MMZ)—accounted for the majority by volume of exports of subject merchandise to the United States during the period of investigation (POI) among those companies that responded to our quantity and value questionnaire. These two respondents accounted for 54 percent of the total exports reported by the responding companies. Pursuant to section 777A(c)(2)(1)(B) of the Tariff Act, we selected these two firms as mandatory respondents. See the September 7, 2007, Memorandum to Deputy Assistant Secretary Stephen J. Claeys, entitled "Antidumping Duty Investigation on Light-Walled Rectangular Pipe and Tube from Turkey (A-489-815), Respondent Selection" (Respondent Selection Memorandum).

We issued the antidumping questionnaires to Guven Boru and MMZ on September 7, 2007. The Department received a section A response from MMZ on October 4, 2007. The Department received a section A response from Guven Boru on October 5, 2007. However, the public versions of the Guven Boru response were not properly filed or served upon parties and the business proprietary version was not served to parties in a timely

¹ Ozmak Makina ve Elektrik Sanayi, which has been identified as another name for Ozgur Boru (see Memorandum to the File, "Communication from Ozgur Boru," dated August 22, 2007), submitted a response on behalf of Ozgur Boru. However, it was not filed properly, and has not been made part of the record.

² Kerim Celik Mamulleri Imalat ve Ticaret submitted an untimely second response on September 17, 2007, which was not made part of the record.

manner. Furthermore, the sales data Guven Boru submitted with its November 7, 2007, sections B and C responses were not in a useable format. For a complete discussion of these and other deficiencies in Guven Boru's submissions, see "Use of Facts Otherwise Available," *infra*.

Petitioners provided comments on MMZ's section A response on October 16, 2007. On October 23, 2007, the Department issued a supplemental questionnaire to MMZ regarding its section A response. On October 25, 2007, MMZ informed the Department that it was no longer participating in the antidumping proceeding.

Period of Investigation

The POI is April 1, 2006, to March 31, 2007.

Scope of Investigation

The merchandise that is the subject of this investigation is certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.15 percent of niobium, or 0.15 percent of vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Model Match

In accordance with section 771(16) of the Tariff Act, all products produced by the respondents covered by the description in the *Scope of Investigation* section, above, and sold in Turkey during the POI are considered to be foreign like products for purposes of

determining appropriate product comparisons to U.S. sales.

On August 16, 2007, the Department asked all parties in this investigation and in the concurrent antidumping duty investigations of light-walled rectangular pipe and tube from Korea, Mexico, and the People's Republic of China, for comments on the appropriate product characteristics for defining individual products. Parties in this investigation and in the concurrent antidumping duty investigations of light-walled rectangular pipe and tube from Korea and Mexico were also invited to comment on the appropriate model matching methodology. See Letter from Richard Weible, Office Director, AD/CVD Enforcement 7, dated August 16, 2007. The Department received comments from the Mexican company Perfiles y Herrajes LM on August 23, 2007; from the Mexican companies Productos Laminados de Monterrey S.A. de C.V. and Prolamsa USA, Inc. on August 24, 2007, August 27, 2007, and September 4, 2007; from the Turkish company Noksel Celik Boru Sanayi A.S. on August 24, 2007; from the Chinese producer/exporter Zhangjiagang Zhongyuan Pipe-Making Co., Ltd.; and from the petitioners on August 24, 2007. The Department has not made any changes to its proposed characteristics and model matching methodology as a result of the comments submitted by parties.

We would have relied on six criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: steel input type, whether metallic coated or not, whether painted or not, perimeter, wall thickness and shape. However, because we are basing the margins for the mandatory respondents upon adverse facts available, there was no need to match sales of respondents.

Use of Facts Otherwise Available

For the reasons discussed below, we determine the use of adverse facts available (AFA) is appropriate for the preliminary determination with respect to all companies that failed to respond (or to respond adequately) to the Q&V Questionnaire, and for both mandatory respondents (MMZ and Guven Boru). As noted in the Supplementary Information section above, the former failed to provide adequate responses to the Department's Q&V questionnaire and to the Department's follow-up letter of August 16, 2007, while the mandatory respondents failed to cooperate in this investigation.

Section 776(a)(2) of the Tariff Act provides that if an interested party withholds information requested by the

administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in 782(i), the administering authority shall use, subject to section 782(d) of the Tariff Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Tariff Act provides that if the administering authority determines a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Tariff Act states further the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In this case, the nine non-responding or improperly responding companies all failed to provide such information by the deadlines for submission of the information and/or in the form or manner requested. Thus, for these companies in reaching our preliminary determination, pursuant to sections 776(a)(2)(A), (B), and (C) of the Tariff Act, we have based the dumping margin on facts otherwise available.

MMZ

MMZ, one of the mandatory respondents, did not provide the information we requested necessary to calculate an antidumping margin for the preliminary determination. Specifically, MMZ failed to provide a complete response to our questionnaire, thereby withholding, among other things, home-market and U.S. sales information that is necessary for reaching the applicable determination, pursuant to section 776(a)(2)(A) of the Tariff Act. On October 25, 2007, MMZ informed the Department that it was no longer participating in the antidumping proceeding. See Letter from MMZ, "Request for Withdrawal of MMZ Onur Boru Profil Uretim San. Tic. A.S. ("MMZ") in the Anti-Dumping Investigation of Light Walled Rectangular Pipes from Turkey," dated

October 25, 2007. Thus, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A), (B), and (C) of the Tariff Act, we have based the dumping margin for MMZ on facts otherwise available.

Güven Boru

Güven Boru, the other mandatory respondent, failed to provide complete, timely, and properly filed responses to several of the Department's questionnaires. The Department received the initial section A response from Güven Boru on October 5, 2007. However, the public versions of the Güven Boru response were not properly filed or served upon parties and the business proprietary version was not served to parties in a timely manner. The public version submitted was not labeled "public version," as required by 19 CFR 351.303. Also, Güven Boru served on the petitioners a public version which differed from the public version submitted to the Department, where the bracketed proprietary information was not redacted on the Department's versions. Further, petitioners indicated, and Güven Boru later confirmed, that the company did not serve a copy of the business proprietary version of this response to the petitioners under administrative protective order (APO), as required. See Memorandum from Tyler Weinholt to the File, "Antidumping Investigation of Light-Walled Rectangular Pipes and Tubes from Turkey, Telephone Conversations with Mr. Mike Brown," dated December 27, 2007. See also Memorandum from Tyler Weinholt to the File, "Antidumping Investigation of Light-Walled Rectangular Pipes and Tubes from Turkey, Telephone conversation and E-mail Correspondence with Kemal Tureyen of Güven Boru," dated October 23, 2007, at Exhibit 1, page 3. Finally, Güven Boru filed a certificate of service with its business proprietary submissions which was inaccurate, because it indicated that copies of the business proprietary version of the response were served on the parties on the public service list. Because of improper labeling of proprietary information, the Department had petitioners return the October 5, 2007, submission on October 15, 2007.

On October 15, 2007, the Department contacted Mr. Kemal Tureyen of Güven Boru by electronic mail asking that Güven Boru re-submit the public version of its response and serve the business proprietary and public versions of the response on the petitioners and pointing out Güven Boru's filing and service obligations, specifically Güven Boru's obligation to

serve business proprietary versions of documents to those parties who have access to such information under APO, including counsel for petitioners. See Memorandum from Tyler Weinholt to the File, "Antidumping Investigation of Light-Walled Rectangular Pipes and Tubes from Turkey, Telephone Conversation and E-mail Correspondence with Kemal Tureyen of Güven Boru," dated October 23, 2007, at Exhibit 1, page 2. On October 18, 2007, the Department received Güven Boru's corrected public version of its section A response. In its response, Güven Boru reported it had no sales of the foreign like product in the home market, and would be reporting sales to its three largest third-country export markets instead.

On October 19, 2007, Mr. Tureyen sent an e-mail to the case analyst claiming Güven Boru had sent both a business proprietary and public version of its section A response to the petitioners. *Id.* at page 4. In an October 23, 2007, e-mail, Mr. Tureyen explained the company had sent both a public and proprietary version of its section A response "by post" on October 16, 2007, or eleven days after the initial filing with the Department. *Id.* at page 5. However, because petitioners indicated they still had not received the response (see Memorandum from Tyler Weinholt to the File, "Antidumping Investigation of Light-Walled Rectangular Pipes and Tubes from Turkey, Telephone Conversations with Mr. Michael Brown," dated December 27, 2007), on October 23, 2007, the case analyst sent an e-mail to Mr. Tureyen suggesting Güven Boru re-send the business proprietary and public versions of its section A response to petitioners as quickly as possible. See Memorandum from Tyler Weinholt to the File, "Antidumping Investigation of Light-Walled Rectangular Pipes and Tubes from Turkey, Telephone conversation and E-mail Correspondence with Kemal Tureyen of Güven Boru," dated October 23, 2007, at page 5. On October 26, 2007, counsel for the petitioners indicated he had received the corrected public version of Güven Boru's section A response, but had not received the business proprietary version. See Memorandum from Tyler Weinholt to the File, "Antidumping Investigation of Light-Walled Rectangular Pipes and Tubes from Turkey, Telephone Conversations with Mr. Michael Brown," dated December 27, 2007. On October 30, 2007, counsel for petitioners informed the case analyst by telephone that petitioners had received the business proprietary version of Güven

Boru's section A response, which was originally due to the Department October 5, 2007. *Id.*

We received sections B and C responses from Güven Boru on November 7, 2007. However, Güven Boru's sales databases were not submitted in a useable format. On November 9, 2007, the case analyst sent Mr. Tureyen an e-mail asking him to confirm what versions of Güven Boru's section B and C questionnaire response had been served on the petitioners. See Memorandum from Tyler Weinholt to the File, dated November 9, 2007, at Exhibit 1, page 6. On November 12, 2007, in response to an e-mail from the case analyst, Güven Boru explained that it had sent a public version of the sections B and C response to petitioners.

On November 13, 2007, the Department issued its first supplemental questionnaire regarding Güven Boru's section A response and its section B and C sales database. On November 19, 2007, in response to our first sections A, B, and C supplemental questionnaire, we received revised sections B and C databases from Güven Boru. On November 19, 2007, petitioners informed the Department by telephone that they had received a public version of Güven Boru's section B and C response, but no business proprietary version. See Memorandum from Tyler Weinholt to the File, "Antidumping Investigation of Light-Walled Rectangular Pipes and Tubes from Turkey, Telephone Conversations with Mr. Mike Brown," dated December 27, 2007.

On November 26, 2007, petitioners again informed the Department by telephone that they had received one public version of Güven Boru's November 8, 2007 section B and C response, no business proprietary version, and no public or proprietary copies of the corrected section B and C databases submitted November 19, 2007. See Memorandum from Tyler Weinholt to the File, "Antidumping Investigation of Light-Walled Rectangular Pipes and Tubes from Turkey, Telephone Conversations with Mr. Mike Brown," dated December 27, 2007. On November 26, 2007, we set a letter to Güven Boru reminding the company of its obligation to comply with the Department's filing and service regulations. On November 27, 2007, Mr. Tureyen sent an e-mail to the case analyst explaining that Güven Boru had not sent business proprietary versions of the company's section B and C responses to the petitioners, and stated it was unable to serve the petitioners the original section B and C sales databases because company officials had deleted

them. See Memorandum from Tyler Weinhold to the file, dated December 19, 2007, at exhibit 1, page 1. In doing so, Guven Boru had denied petitioners the opportunity to comment on the data contained in its original sales database. On November 28, 2007, we issued our second supplemental questionnaire to Guven Boru, which included questions regarding certain possible affiliations (our second section A supplemental questionnaire).

On November 29, 2007, we set a letter to Guven Boru giving the company a deadline by which to bring itself into compliance with the Department's filing and service regulations and warning it that further untimely or improperly filed submissions would not be accepted. On December 3, 2007, we issued our third supplemental questionnaire to Guven Boru (our second sections B and C supplemental questionnaire). Also, on December 3, 2007, Guven Boru failed to respond in a timely fashion to the our first section A supplemental questionnaire. Guven Boru's response was received the next day, on December 4, 2007.

In a telephone conversation on December 6, 2007, counsel for petitioners explained that petitioners had received a copy of the narrative portion of Guven Boru's business proprietary section B and C response and a copy of the November 19, 2007, section B and C sales database submission. See Memorandum from Tyler Weinhold to the File, "Antidumping Investigation of Light-Walled Rectangular Pipes and Tubes From Turkey, Telephone Conversations with Mr. Mike Brown," dated December 27, 2007. Therefore, Guven Boru had denied petitioners the opportunity to comment on the proprietary version of its section B and C response until nearly one month after those documents were due to the Department. On December 12, 2007, we issued our fourth supplemental questionnaire to Guven Boru, regarding certain possible sales in the home market (our third section A supplemental questionnaire). Guven Boru failed to provide a timely response to our second section A supplemental questionnaire, which was due December 13, 2007. On December 13, 2007, Guven Boru also submitted a request for an extension for its response to our second section B and C supplemental questionnaire, which was due December 13, 2007. We denied this request for additional time. See letter to Guven Boru, dated December 21, 2007.

On December 17, 2007, the petitioners submitted a sales-below cost allegation for Guven Boru. See Letter from Schagrin Associates, dated December

17, 2007. Also, on December 17, 2007, Guven Boru attempted to submit an untimely-filed response to our second section A supplemental questionnaire, which was due December 13, 2007. In addition, Guven Boru failed to file its response to the our second sections B and C supplemental questionnaire, which was due on December 17, 2007. On December 19, 2007, we received an untimely request for an extension for our second sections B and C supplemental questionnaire. Finally, on December 20, 2007, Guven Boru failed to respond to the December 12, 2007 section A supplemental questionnaire.

On December 21, 2007, we sent a letter to Guven Boru, rejecting its response to the second section A supplemental questionnaire, which was due December 13, 2007, and its request for an extension for the our second sections B and C supplemental questionnaire because these documents were untimely filed. In that letter, we also informed Guven Boru that we would not accept any further submissions and would use facts otherwise available in making our preliminary determination.

Guven Boru failed to respond in a timely manner to the our November 13, 2007, section A supplemental questionnaire and our second section A supplemental questionnaire and failed to respond entirely to the our December 3, 2007, sections B and C supplemental questionnaire and our December 12, 2007, section A supplemental questionnaire. Further, Guven Boru's untimely filings represented a continuance of a pattern of untimely and improperly filed submissions. Moreover, Guven Boru's failure on two occasions to timely serve petitioners with proprietary versions of its responses until weeks after those responses were due prevented the petitioners from meaningfully participating in this proceeding. Also, by its own admission, it destroyed its original sales databases prior to serving them on petitioners. Finally, Guven Boru's untimely responses prevented us from conducting a proper analysis within the statutorily imposed time limits of this investigation. For these reasons, in reaching our preliminary determination we have based the dumping margin for Guven Boru on facts otherwise available pursuant to sections 776(a)(2)(A), (B), and (C) of the Tariff Act.

Non-Responding Companies

As explained above, the Department did not receive a response to the Q&V questionnaire from Anadolu Boru, Ayata Metal Industry, Goktas Tube,

Seamless Steel Tube and Pipe Co. (Celbor), Umran Steel Pipe Inc., or Yusan Industries, Ltd., and Kalibre Boru Sanayi ve Ticaret A.S., and Kerim Celik Mamulleri Imalat ve Ticaret and Ozgur Boru submitted untimely, improperly-filed, or incomplete responses. Although the Department provided all respondents, including those that did not respond (or did not respond adequately) to the Q&V questionnaire, with notice informing them of the consequences of their failure to respond adequately to the Q&V questionnaire in this case, pursuant to section 782(d) of the Tariff Act, these companies did not respond as requested. Thus, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A), (B), and (C) of the Tariff Act, we have based the dumping margin for Anadolu Boru, Ayata Metal Industry, Goktas Tube, Seamless Steel Tube and Pipe Co. (Celbor), Umran Steel Pipe Inc., or Yusan Industries, Ltd., and Kalibre Boru Sanayi ve Ticaret A.S., and Kerim Celik Mamulleri Imalat ve Ticaret and Ozgur Boru on facts otherwise available.

Application of Adverse Inferences for Facts Available

According to section 776(b) of the Tariff Act, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. See also *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025-26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002). It is the Department's practice to apply adverse inferences to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully. See, e.g., *Certain Polyester Staple Fiber From Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663, December 10, 2007. Furthermore, "affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference." See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997); see also *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (Nippon). See also, *Certain Polyester Staple Fiber from Korea: Final Results of*

the 2005–2006 Antidumping Duty Administrative Review, 72 FR 69663 (December 10, 2007).

Although the Department provided all respondents, including those that did not respond (or did not respond adequately) to the Q&V questionnaire, with notice informing them of the consequences of their failure to respond adequately to the Q&V questionnaire in this case, pursuant to section 782(d) of the Tariff Act, these companies did not respond as requested. With respect to MMZ and Guven Boru, the former stated it would not continue to participate in the proceeding, and the latter failed to serve petitioners with proprietary versions of its questionnaire responses in a timely fashion, destroyed one sales database before providing it to petitioners, and failed to respond in a timely fashion to four of the Department's supplemental questionnaires. This constitutes a failure on the part of these companies to cooperate to the best of their ability to comply with a request for information by the Department within the meaning of section 776(b) of the Tariff Act. Because these companies did not provide the information requested, section 782(e) of the Tariff Act is not applicable.

Based on the above, the Department has preliminarily determined that the companies that failed to respond adequately to the Q&V questionnaire and the two mandatory respondents (MMZ and Guven Boru) failed to cooperate to the best of their ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted. *See, e.g., Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000) (the Department applied total AFA where the respondent failed to respond to the antidumping questionnaire).

Selection and Corroboration of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Tariff Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. *See also* 19 CFR 351.308(c) and the SAA at 829–831. It is the Department's practice to use the highest calculated rate from the petition in an investigation when a respondent fails to act to the best of its ability to provide the necessary

information and there are no other respondents. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From Finland*, 69 FR 77216 (December 27, 2004) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland*, 70 FR 28279 (May 17, 2005)). Therefore, because an adverse inference is warranted, we have assigned to each uncooperative respondent the highest margin alleged in the petition, as referenced in the *Initiation Notice*, of 41.71 percent. *See Initiation Notice* at 40278.

When using facts otherwise available, section 776(c) of the Tariff Act provides that when the Department relies on secondary information (such as the petition) rather than on information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal.

The SAA clarifies that “corroborate” means the Department will satisfy itself that the secondary information to be used has probative value. *See SAA* at 870. As stated in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825, 11843 (March 13, 1997)), to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used. The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See* 19 CFR 351.308(d) and the SAA at 870.

For the purposes of this investigation, to the extent appropriate information was available, we reviewed the

adequacy and accuracy of the information in the Petition during our pre-initiation analysis and for purposes of this preliminary determination. *See Initiation Checklist* at pages 9 and 10. *See also Initiation Notice* at 40277. We examined evidence supporting the calculations in the Petition to determine the probative value of the margins alleged in the Petition for use as AFA for purposes of this preliminary determination. During our pre-initiation analysis we examined the key elements of the export-price and normal-value calculations used in the Petition to derive margins. During our pre-initiation analysis we also examined information from various independent sources provided either in the Petition or in supplements to the Petition that corroborates key elements of the export-price and normal-value calculations used in the Petition to derive estimated margins. *Id.*

The petitioners calculated export price (EP) in two ways: by use of a price quote from a U.S. dealer and by use of the average unit values (AUVs) for import data from the Bureau of the Census IM145 import statistics.

When based on the price quote, the petitioners deducted an amount for international freight, and also a value of three percent of the U.S. price to cover inland freight from the U.S. port to the U. S. dealer, as well as the U.S. dealer's expenses and profit. *See* Volume II of the Supplement to the Petition, dated July 6, 2007, at Exhibit 4. The three percent figure is based on an affidavit from a U.S. producer of light-walled rectangular tubing, who stated that three percent is the standard mark-up in the industry. *See* Volume II of the Supplement to the Petition, dated July 6, 2007, at Exhibit 1. We then compared the U.S. price quote to the AUVs for this period and confirmed that the value of the U.S. price quote was consistent with the AUVs.

The petitioners also calculated EP based on AUVs. In the Petition of June 27, 2007, the petitioners included figures from January–March of 2006 in their calculation of AUV. *See* Volume II of the Petition at Exhibit I–3. The Department requested that Petitioner recalculate AUVs to exclude the January–March 2006 import figures. Additionally, the Department requested that the Petitioner exclude HTSUS number 7306.69.50.00 from the calculation of AUVs, as this number does not include LWR merchandise that would be subject to the investigation. The petitioners corrected the calculation as requested by the Department. *See* Volume II of the Supplement to the Petition, dated July 6, 2007, at pages 5–

6, and at Exhibit 3. The petitioners did not make an adjustment for international freight because they calculated the AUV prices on the FAS value of the merchandise. See Volume II of the Supplement to the Petition, dated July 6, 2007, at Exhibit 3.

U.S. official import statistics (e.g., AUVs from the Bureau of the Census IM145 import statistics) are sources that we consider reliable. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value: Superalloy Degassed Chromium from Japan*, 70 FR 48538, 48540 (August 18, 2005), (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Superalloy Degassed Chromium from Japan*, 70 FR 65886 (November 1, 2005)). Further, we obtained no other information that would make us question the reliability of the pricing information provided in the petition. Therefore, based on our examination of the aforementioned information, we consider the petitioner's calculation of net U.S. prices corroborated.

The petitioners based normal value on two price quotes from each of two Turkish producers of light-walled rectangular pipe and tube. See Volume II of the Petition at page II-11 and Exhibit II-27 and Volume II of the Supplement to the Petition, dated July 6, 2007, at Exhibit 2. The petitioners obtained these prices by engaging a consultant, who hired a research firm with an agent in Turkey. See Volume II of the Petition at II-12, Volume II of the Supplement to the Petition, and Memorandum to the File, "Telephone Call to Market Research Firm," dated July 17, 2007. In one case, this research firm obtained price quotations directly from the manufacturer. See Memorandum to the File, "Telephone Call to Market Research Firm," dated July 17, 2007. In another case, they were referred by the manufacturer to a distributor. *Id.* These price quotations identified specific products, terms of sales and payment terms. See Volume II of the Petition at II-12, Volume II of the Supplement to the Petition, and Memorandum to the File, "Telephone Call to Market Research Firm," dated July 17, 2007. Where appropriate, the petitioners made a deduction for freight, selling expenses, discount, and profit.

Based on our examination of the aforementioned, we consider the petitioner's calculation of normal value, based on price quotations, corroborated. Therefore, because we confirmed the accuracy and validity of the information underlying the derivation of margins in the Petition by examining source documents as well as publicly available

information, we preliminarily determine the margins in the Petition are reliable for the purposes of this investigation.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin as "best information available" (the predecessor to "facts available") because the margin was based on another company's uncharacteristic business expense that resulted in an unusually high dumping margin.

In *American Silicon Technologies v. United States*, 273 F. Supp. 2d 1342, 1346 (CIT 2003), the court found the adverse facts-available rate bore a "rational relationship" to the respondent's "commercial practices," and was, therefore, relevant. In the pre-initiation stage of this investigation, we confirmed the calculation of margins in the Petition (e.g., *prices, expenses, adjustments, etc.*) reflects the commercial practices of the particular industry during the period of investigation. See Memorandum to the File, "Telephone Call to Market Research Firm," dated July 17, 2007. Further, no information has been presented in the investigation that calls into question the relevance of this information. As such, we preliminarily determine the highest margin in the Petition, which we determined during our pre-initiation analysis, was based on adequate and accurate information and which we have corroborated for purposes of this preliminary determination. Therefore, it is relevant as the adverse facts-available rate for the uncooperative respondents in this investigation.

Similar to our position in *Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53405 (September 11, 2006) (unchanged in *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*, 72 FR 1982 (January 17, 2007)), because this is the first proceeding involving these companies, there are no probative alternatives. Accordingly, by using information that was corroborated in the

pre-initiation stage of this investigation and preliminarily determining it to be relevant for the uncooperative respondents in this investigation, we have corroborated the adverse facts-available rate "to the extent practicable." See section 776(c) of the Tariff Act, 19 CFR 351.308(d), and *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1336 (CIT 2004) (stating, "pursuant to the 'to the extent practicable' language * * * the corroboration requirement itself is not mandatory when not feasible"). Therefore, we find that the estimated margin of 41.71 percent in the *Initiation Notice* has probative value. Consequently, with respect to MMZ, Guven Boru, and the other uncooperative respondents (Anadolu Boru, Ayata Metal Industry, Goktas Tube, Kalibre Boru Sanayi ve Ticaret A.S., Kerim Celik Mamulleri Imalat ve Ticaret, Ozgur Boru, Ozmak Makina ve Elektrik Sanayi, Seamless Steel Tube and Pipe Co. (Celbor), Umran Steel Pipe Inc., and Yusan Industries, Ltd.), we have applied the margin rate of 41.71 percent, the highest estimated dumping margin set forth in the notice of initiation. See *Initiation Notice* at 40278.

All-Others Rate

Section 735(c)(5)(B) of the Tariff Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Tariff Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. Our recent practice under these circumstances has been to assign as the all-others rate the simple average of the margins in the petition. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Glycine from Japan*, 72 FR 67271, 67272 (November 28, 2007). See also *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Malaysia*, 69 FR 34128, 34129 (June 18, 2004). Consistent with our practice we used the rates in the Petition that were considered in the Department's initiation to calculate a simple average to be assigned as the all-others rate. That simple average, 27.04 percent, is derived from the following petition rates: 36.43 percent, 29.08 percent, 19.67 percent, 15.28 percent, 41.71 percent, 30.08 percent, 24.31 percent, and 19.75 percent. See Volume II of the

Supplement to the Petition dated July 6, 2007, at Exhibit 4.

This 27.04 percent rate will be applied to the following seven responsive firms that were not selected as mandatory respondents: Borusan Mannesmann Boru, Erbosan Erciyas Boru Sanayii ve Ticaret A.S., Noksel Steel Pipe Co., Ozborsan Boru San. Ve Tic. A.S., Ozdemir Boru Sanayi ve Ticaret Ltd. Sti., Toscelik Profil Ve Sac End. A.S, and Yucel Boru ve Profil Endustrisi A.S.

Preliminary Determination

We preliminarily determine the following weighted-average dumping margins exist for the period April 1, 2006 through March 31, 2007:

Producer/Exporter	Weighted-average margin (percentage)
Güven Boru Profil Sanayii ve Ticaret Limited Sirketi	41.71
MMZ Onur Boru Profil Üretim San. ve Tic. A.S	41.71
Anadolu Boru	41.71
Ayata Metal Industry	41.71
Goktas Tube	41.71
Kalibre Boru Sanayi ve Ticaret A.S	41.71
Kerim Celik Mamulleri Imalat ve Ticaret	41.71
Ozgur Boru	41.71
Ozimak Makina ve Elektrik Sanayi	41.71
Seamless Steel Tube and Pipe Co. (Celbor)	41.71
Umrans Steel Pipe Inc.	41.71
Yusan Industries, Ltd.	41.71
Borusan Mannesmann Boru Erbosan Erciyas Boru Sanayii ve Ticaret A.S	27.04
Noksel Steel Pipe Co	27.04
Ozborsan Boru San. ve Tic. A.S	27.04
Ozdemir Boru Sanayi ve Ticaret Ltd. Sti	27.04
Toscelik Profil ve Sac End. A.S	27.04
Yucel Boru ve Profil Endustrisi A.S	27.04
All Others	27.04

Suspension of Liquidation

In accordance with section 733(d)(2) of the Tariff Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of light-walled rectangular pipe and tube from Turkey that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margins, as indicated in the chart above, as follows: (1) The rate for the firms

listed above will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 27.04 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

Commission Notification

In accordance with section 733(f) of the Tariff Act, we have notified the Commission of the Department's preliminary affirmative determination. If the Department's final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of light-walled rectangular Pipe and tube from Turkey are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than fifty days after the date of publication of this notice. See 19 CFR 351.309(c)(1)(i). Rebuttal briefs, limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. See 19 CFR 351.309(d)(1) and (2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Tariff Act, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will be scheduled two days after the deadline for submitting rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date. Interested parties who wish to request a hearing, or to participate in a hearing if one is

requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. See 19 CFR 351.310(c). At the hearing oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Tariff Act.

Dated: January 23, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8-1665 Filed 1-29-08; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-803]

Heavy Forged Hand Tools From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review

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

SUMMARY: On January 18, 2008, the United States Court of International Trade ("CIT") sustained the remand redetermination issued by the Department of Commerce ("the Department") pursuant to the CIT's remand order in the final results of the thirteenth administrative review of the antidumping duty orders on heavy forged hand tools from the People's Republic of China. See *Ames True Temper v. United States*, Slip Op. 08-8 (CIT 2008) ("*Ames II*"). This case arises out of the Department's final results in the administrative review covering the period February 1, 2003, through January 31, 2004. See *Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews and Final Rescission and Partial Rescission of Antidumping Duty Administrative Reviews*, 70 FR 54897 (September 19, 2005) ("*Final Results*"). Consistent with the decision of the United States Court of Appeals for the Federal Circuit ("Federal Circuit") in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) ("*Timken*"), the Department is notifying the public that *Ames II* is not

in harmony with the Department's *Final Results*.

EFFECTIVE DATE: January 30, 2008.

FOR FURTHER INFORMATION CONTACT: Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482-0413.

SUPPLEMENTARY INFORMATION: On August 31, 2007, the CIT directed the Department to reopen the record and obtain additional evidence regarding Shandong Huarong Machinery Co., Ltd.'s ("Huarong") production of metal pallets. See *Ames True Temper v. United States*, 2007 Ct. Int'l Trade LEXIS 131, Slip Op. 2007-133 (CIT, 2007) ("*Ames I*"). Pursuant to the Court's remand instructions, we issued supplemental questionnaires on September 19, 2007, and October 19, 2007. Huarong responded to the questionnaires on October 17, 2007, and October 26, 2007, respectively. In the supplemental questionnaires the Department requested: (a) Consumption ratios for all factors of production ("FOPs") associated with the production of pallets used in packing and shipping heavy forged hand tools; (b) information to select surrogate values for any unreported pallet making FOPs; and, (c) supplier distances for any unreported pallet making FOPs.

The Department released the *Draft Results of Redetermination Pursuant to Court Remand* ("*Draft Redetermination*") to the petitioner, Ames True Temper ("*Ames*"), and Huarong for comment on November 16, 2007. No party submitted comments. On November 28, 2007, the Department filed its final results of redetermination pursuant to *Ames I* with the CIT. See *Final Results of Redetermination Pursuant to Court Remand*, Court No. 05-00581, (November 28, 2007) ("*Final Redetermination*"), found at <http://ia.ita.doc.gov/remands/07-133.pdf>. In the remand redetermination, the Department determined that welding wire was consumed in Huarong's pallet making process and that welding wire should have been reported by Huarong as a FOP during the thirteenth review. The Department valued welding wire using publicly available Indian import statistics for February 2003-January 2004 from the *World Trade Atlas* ("*WTA*").¹ Thus, the Department included the cost of welding wire in

Huarong's NV, including freight costs associated with Huarong's purchases of the welding wire. On January 18, 2008, the CIT sustained all aspects of the remand redetermination made by the Department pursuant to the CIT's remand of the *Final Results*.

In its decision in *Timken*, 893 F.2d at 341, the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended ("the Act"), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination, and must suspend liquidation of entries pending a "conclusive" court decision. As a result of the Department's addition of the welding wire consumed in making steel pallets in the remand redetermination, the CIT's decision in this case on January 18, 2008, constitutes a final decision of the court that is not in harmony with the Department's *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the CIT's ruling is not appealed or, if appealed, upheld by the Federal Circuit, the Department will instruct U.S. Customs and Border Protection to revise the cash deposit rates covering the subject merchandise.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: January 24, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. 08-404 Filed 1-29-08; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-836]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube From Mexico

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

EFFECTIVE DATE: January 30, 2008.

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that light-walled rectangular (LWR) pipe and tube from Mexico is being, or is likely to be,

sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Angelica Mendoza, Patrick Edwards (PROLAMSA), or Judy Lao (Maquilacero), AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3019, (202) 482-8029, or (202) 482-7924, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 17, 2007, the Department initiated the antidumping duty investigation of LWR pipe and tube pipe and tube from Mexico. See *Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People's Republic of China*, (*Initiation Notice*), 72 FR 40274 (July 24, 2007). The petitioners in this investigation are Allied Tube and Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, Hannibal Industries, Leavitt Tube Company, Maruichi American Corporation, Searing Industries, Southland Tube, Vest Inc., Welded Tube, and Western Tube and Conduit (collectively, petitioners).

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. See *Initiation Notice*, 72 FR 40274 (July 24, 2007). No parties submitted comments on the scope.

On August 28, 2007, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of LWR pipe and tube from Korea, Mexico, Turkey and the People's Republic of China are materially injuring the U.S. industry and the ITC notified the Department of its findings. See *Light-Walled Rectangular Pipe and Tube From China, Korea, Mexico, and Turkey Case Numbers: 701-TA-449 (Preliminary) and 731-TA-1118-1121 (Preliminary)*, 72 FR 49310, (August 28, 2007).

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known

¹ *WTA* is published by Global Trade Information Services, Inc., which is a secondary electronic source based upon the publication, *Monthly Statistics of the Foreign Trade of India, Volume II: Imports*. See <http://www.gtis.com/wta.htm>.

exporter and producer of the subject merchandise. The Department identified a large number of producers and exporters of LWR pipe and tube from Mexico and determined that it was not practicable to examine each known exporter/producer of the subject merchandise, as provided in section 777A(c)(1) of the Act. The Department sent quantity and value questionnaires to the companies identified in the petition along with any other companies identified during our research. The following 14 companies were sent quantity and value (Q&V) questionnaires on July 31, 2007: Arco Metal S.A. de C.V., Hylsa S.A. de C.V., Industrias Monterrey S.A. de C.V., Internacional de Aceros, S.A. de C.V., Maquilacero S.A. de C.V., Nacional de Acero S.A. de C.V., PEASA-Productos Especializados de Acero, Perfiles y Herrajes LM, S.A. de C.V., Productos Laminados de Monterrey S.A. de C.V., Regiomontana de Perfiles y Tubos, Talleres Acero Rey S.A. de C.V., Tuberias Aspe, Tuberia Laguna, S.A. de C.V., and Tuberias y Derivados S.A. de C.V.

The Department did not receive a response to the Q&V questionnaire (or received an improperly filed and/or incomplete response) from the following five companies: Industrias Monterrey S.A. de C.V., PEASA—Productos Especializados de Acero, Tuberias Aspe, Tuberias y Derivados S.A. de C.V., and Nacional de Acero S.A. de C.V. (Q&V Non-Responding Companies). These five companies that failed to respond, or provided an improperly filed and/or incomplete response, were given a second opportunity to file a response on August 16, 2007. We received no response from these companies.

The remaining nine exporters/producers responded to the Department's Q&V questionnaire: Arco Metal S.A. de C.V., Hylsa S.A. de C.V., Internacional de Aceros, S.A. de C.V., Maquilacero S.A. de C.V., Perfiles y Herrajes LM, S.A. de C.V., Productos Laminados de Monterrey S.A. de C.V., Regiomontana de Perfiles y Tubos, Talleres Acero Rey S.A. de C.V., and Tuberia Laguna S.A. de C.V. (Q&V Responding Companies). Two Q&V Responding Companies—Maquilacero S.A. de C.V. (Maquilacero) and Productos Laminados de Monterrey S.A. de C.V. (PROLAMSA)—accounted for the largest volume of subject merchandise exported to the United States during the POI. These two companies were selected as mandatory respondents pursuant to section 777A(c)(2)(1)(B) of the Act. *See* the September 6, 2007, Memorandum to Deputy Assistant Secretary Stephen J.

Claeys, titled “Antidumping Duty Investigation on Light-Walled Rectangular Pipe and Tube from Mexico (A–201–836); Respondent Selection” (Respondent Selection Memorandum). We issued antidumping duty questionnaires to Maquilacero and PROLAMSA on September 7, 2007.

Maquilacero

The Department received the Section A response from Maquilacero on October 9, 2007. Petitioners filed comments on Maquilacero's Section A response on October 16, 2007, and the Department subsequently issued a supplemental questionnaire regarding Maquilacero's Section A Response on October 23, 2007. We received the Sections B and C responses from Maquilacero on October 30, 2007. Petitioners filed comments on Maquilacero's Sections B and C responses on November 8, 2007. On November 19, 2007, Maquilacero filed its response to the Department's supplemental questionnaire regarding Section A. The Department issued a supplemental questionnaire to Maquilacero concerning the company's Sections B and C responses on November 20, 2007. Maquilacero replied to this supplemental questionnaire on December 4, 2007.

On December 5, 2007, based on an allegation timely filed by petitioners, the Department initiated a sales-below-cost investigation for Maquilacero, finding reasonable grounds to believe that Maquilacero made comparison market sales of LWR pipe and tube at prices below its cost of production. *See* “Cost of Production Analysis” section below for further information.

Consequently, the Department requested in a letter dated December 6, 2007, that Maquilacero respond to section D of the Department's antidumping duty questionnaire. We received Maquilacero's section D response on December 27, 2007. On January 4, 2008, the Department issued a supplemental questionnaire to Maquilacero regarding its section A through C supplemental responses. Maquilacero filed its response to the supplemental questionnaire on January 22, 2008. We were unable to analyze Maquilacero's response prior to the January 23, 2008, preliminary determination deadline. We will address any deficiencies in its responses for the final determination.

PROLAMSA

The Department received the section A response from PROLAMSA on October 9, 2007. Petitioners filed comments on PROLAMSA's section A

response on October 11, 2007, and the Department subsequently issued a supplemental questionnaire regarding PROLAMSA's section A Response on October 23, 2007. We received the sections B and C responses from PROLAMSA on October 29, 2007. On November 6, 2007, PROLAMSA filed its response to the Department's supplemental questionnaire regarding section A. Petitioners filed comments on PROLAMSA's sections B and C responses on November 8, 2007. The Department issued a supplemental questionnaire to PROLAMSA concerning the company's sections B and C responses on November 16, 2007. PROLAMSA replied to this supplemental questionnaire on December 7, 2007. The Department issued a second supplemental questionnaire with regard to PROLAMSA's supplemental responses for sections A, B and C of the questionnaire on December 20, 2007. PROLAMSA submitted its second supplemental response on January 7, 2008.

On December 4, 2007, based on an allegation timely filed by petitioners, the Department initiated a sales-below-cost investigation for PROLAMSA, finding reasonable grounds to believe that PROLAMSA made comparison market sales of LWR pipe and tube at prices below its cost of production. *See* “Cost of Production Analysis” Section below for further information. Consequently, the Department requested in a letter dated December 6, 2007, that PROLAMSA respond to Section D of the Department's antidumping duty questionnaire. We received PROLAMSA's Section D response on December 27, 2007.

Maquilacero and PROLAMSA

On December 26, 2007, petitioners timely filed with the Department separate allegations of targeted dumping for both Maquilacero and PROLAMSA. Maquilacero filed comments regarding petitioners' allegation of targeted dumping on January 7, 2008. Upon review of petitioners' allegations, the Department determined that further information was needed in order to adequately analyze petitioners' allegations. The Department issued a supplemental questionnaire to petitioners on January 11, 2008, requesting they address deficiencies identified by the Department. *See* Letter from Richard O. Weible, Office Director, to Petitioners, dated January 11, 2008. On January 15, 2008, PROLAMSA filed comments regarding petitioners' allegation of targeted dumping. Because there was a need for supplemental

information regarding these allegations, we do not have sufficient bases for making a finding of targeted dumping prior to the January 23, 2008, deadline for issuance of the preliminary determination. We intend to address these allegations in full upon receipt of a satisfactory response by petitioners to our request for additional information.

On January 18, 2008, two business days prior to the signature date for this preliminary determination, petitioners filed comments regarding the responses and data of Maquilacero and PROLAMSA for the Department's consideration for the preliminary determination. Petitioners' comments were specific to both companies' reported post-sale adjustments, and also, that the Department should not deduct negative margins from positive margins for the preliminary determination. Accordingly, the Department does not have sufficient time to address these comments for the preliminary determination.

Postponement of Preliminary Determination

On October 19, 2007, petitioners requested that the Department postpone the preliminary determination by 50 days. The Department published an extension notice on November 14, 2007, which set the new deadline for the preliminary determination at January 23, 2008. *See Light-Walled Rectangular Pipe and Tube from Mexico, Turkey, and the Republic of Korea: Postponement of Preliminary Determination of Antidumping Duty Investigations*, 72 FR 64044 (November 14, 2007).

Period of Investigation

The period of investigation (POI) is April 1, 2006, to March 31, 2007.

Scope of Investigation

The merchandise that is the subject of this investigation is certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated:

1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of

lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Model Match

In accordance with section 771(16) of the Act, all products produced by the respondents covered by the description in the "Scope of Investigation" section above, and sold in Mexico during the POI, are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales.

On August 16, 2007, the Department asked all parties in this investigation and in the concurrent antidumping duty investigations of LWR pipe and tube from the Republic of Korea, Turkey, and the People's Republic of China, for comments on the appropriate product characteristics for defining individual products. In addition, the Department requested that all parties in this investigation and in the concurrent antidumping duty investigations of LWR pipe and tube from the Republic of Korea and Turkey submit comments on the appropriate model matching methodology. *See* Letter from Richard Weible, Office Director, AD/CVD Enforcement 7, dated August 16, 2007. The Department received comments from the Mexican company Perfiles y Herrajes LM, S.A. de C.V. on August 23, 2007; from the Mexican companies PROLAMSA and Prolamsa USA, Inc. (PROLAMSA's U.S. sales affiliate) on August 27, 2007, and September 4, 2007; from the Turkish company Noksel Celik Boru Sanayi A.S. on August 24, 2007; from the Chinese producer/exporter Zhangjiagang Zhongyuan Pipe-Making Co., Ltd.; and from the petitioners on August 24, 2007. However, the Department has not made any changes to its proposed characteristics and model matching methodology as a result of the comments submitted by parties.

We have relied on six criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: steel input type,

whether metallic coated or not, whether painted or not, perimeter, wall thickness, and shape. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above. For both PROLAMSA and Maquilacero, it was necessary to rely on facts available in order to properly match U.S. sales of subject merchandise to comparison market sales of the foreign like product as discussed below.

Maquilacero's home market sales included sales of non-prime merchandise. As noted in Maquilacero's original and supplemental questionnaire responses, Maquilacero does not record certain product characteristics for its sales of non-prime merchandise. Specifically, Maquilacero does not document the perimeter, thickness, or shape of its non-prime sales on the documents produced in its ordinary course of trade. As such, these product characteristics for non-prime merchandise were not specifically identified in Maquilacero's home market database (in neither their respective field and nor in the control number (CONNUM) string). Section 776(a)(1) of the Act provides that the Department may use facts otherwise available if necessary information is not available on the record. Because the necessary product characteristic information needed to properly perform our margin calculations with respect to these sales is not on the record of this investigation, we must rely on facts otherwise available. In order for the Department to accurately compare Maquilacero's comparison market sales to its U.S. sales and its cost of production data, the Department applied, as neutral facts available, the product characteristics of the most common type of LWR pipe and tube (CONNUM) sold in the comparison market to the missing product characteristics of non-prime merchandise (*i.e.*, perimeter, thickness, and shape). For more details regarding the application of neutral facts available to Maquilacero's sales of non-prime LWR pipe and tube, *see* Memorandum to the File titled "Analysis of Data Submitted by Maquilacero S.A. de C.V. (Maquilacero) in the Preliminary Determination of the Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from Mexico," dated January 23, 2008 (Maquilacero Preliminary Analysis Memo).

With respect to PROLAMSA's reported steel input type (INPUTH/U), we note that the model matching criteria designated by the Department in its antidumping duty questionnaire requested that respondent report steel input type as either: hot-rolled steel or cold-rolled steel. In its initial and supplemental questionnaire responses, PROLAMSA reported a third designation in its fields for INPUTH/U as it claims to not know whether these coils were of hot-rolled or cold-rolled steel. As noted above, section 776(a)(1) of the Act provides that the Department may use facts otherwise available if necessary information is not available on the record. Because the necessary product characteristic information needed to properly perform our margin calculations with respect to these sales is not on the record of this investigation, we must rely on facts otherwise available. Therefore, for purposes of this preliminary determination, we have revised PROLAMSA's reported steel input type for those sales that PROLAMSA could not identify as hot-rolled or cold-rolled steel in both PROLAMSA's comparison market and U.S. sales databases. Specifically, based on neutral facts available, we re-coded the reported CONNUMH/U and INPUTH/U as either hot-rolled or cold-rolled steel depending upon the reported thickness (THICKH/U) for these products. Due to the proprietary nature of this issue, see Memorandum to the File titled "Analysis of Data Submitted by Productos Laminados de Monterrey S.A. de C.V. (PROLAMSA) in the Preliminary Determination of the Antidumping Duty Investigation of Light-Walled Rectangular Pipe and Tube from Mexico," dated January 23, 2008 (PROLAMSA Preliminary Analysis Memo) for further details.

Use of Facts Otherwise Available

For the reasons discussed below, we determine that the use of adverse facts available (AFA) is appropriate for the preliminary determination with respect to the Q&V Non-Responding Companies. As noted in the "Supplementary Information" section above, the Q&V Non-Responding Companies failed to respond (or to respond in a timely fashion) to the Department's Q&V questionnaire and to the Department's follow up letter dated August 16, 2007.

Section 776(a)(2) of the Act provides that, (1) if an interested party withholds information requested by the administering authority, (2) fails to provide such information by the deadlines for submission of the information and in the form or manner

requested, subject to subsections (c)(1) and (e) of section 782, (3) significantly impedes a proceeding under this title, or (4) provides such information but the information cannot be verified as provided in 782(i), the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that, if the administering authority determines that a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In this case, the Q&V Non-Responding Companies all failed to provide the information requested by the deadlines for submission of the information and/or in the form or manner requested. Specifically, the Q&V Non-Responding Companies did not respond to our Q&V questionnaires and, as such, they failed to provide pertinent information that we requested for our consideration and selection of mandatory respondents, thereby significantly impeding this proceeding. Thus, for these companies, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act, we have based their dumping margin on facts otherwise available.

Application of Adverse Inferences for Facts Available

According to section 776(b) of the Act, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. See, e.g., *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–54026 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and*

Certain Alloy Steel Wire Rod from Brazil, 67 FR 55792, 55794–55796 (August 30, 2002). The SAA explains that the Department may apply adverse inferences to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully. See *Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Rep. No. 103–316, Vol. 1, at 870 (1994) (SAA), reprinted in 1994 U.S.C.C.A.N. 4040, 4198–4199. Furthermore, "affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference." See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997); see also *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382–83 (Fed. Cir. 2003) (Nippon); and *Certain Polyester Staple Fiber from Korea: Final Results of the 2005–2006 Antidumping Duty Administrative Review*, 72 FR 69663 (December 10, 2007).

Although the Department provided the Q&V Non-Responding Companies with notice informing them of the consequences of their failure to respond adequately to the Q&V questionnaire in this case, pursuant to section 782(d) of the Act, these companies did not respond as requested. This constitutes a failure on the part of these companies to cooperate to the best of their ability to comply with a request for information by the Department within the meaning of section 776(b) of the Act. Because these companies did not provide the information requested, section 782(e) of the Act is not applicable. Based on the above, the Department has preliminarily determined that the Q&V Non-Responding Companies failed to cooperate to the best of their ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000) (the Department applied total AFA where the respondent failed to respond to the antidumping questionnaire).

Selection and Corroboration of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other

information placed on the record. See also, 19 CFR 351.308(c) and the SAA at 829–831. It is the Department's practice to use the highest calculated rate from the petition in an investigation when a respondent fails to act to the best of its ability to provide the necessary information. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From Finland*, 69 FR 77216 (December 27, 2004) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland*, 70 FR 28279 (May 17, 2005)). Therefore, because an adverse inference is warranted, we have assigned to the Q&V Non-Responding Companies the highest margin alleged in the petition, as referenced in the *Initiation Notice*, of 11.50 percent. (See *Initiation Notice* at 40278.)

When using facts otherwise available, section 776(c) of the Act provides that, when the Department relies on secondary information (such as the petition) rather than on information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably available at its disposal.

The SAA clarifies that "corroborate" means the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. As stated in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825, 11843 (March 13, 1997)), to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used. The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested

parties during the particular investigation. See 19 CFR 351.308(d) and the SAA at 870.

For the purposes of this investigation, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the Petition during our pre-initiation analysis and for purposes of this preliminary determination. See *Initiation Checklist*. We examined evidence supporting the calculations in the Petition to determine the probative value of the margins alleged in the Petition for use as AFA for purposes of this preliminary determination. During our pre-initiation analysis, we examined the key elements of the export-price and normal-value calculations used in the Petition to derive margins. During our pre-initiation analysis, we also examined information from various independent sources provided either voluntarily in the Petition or, based on our requests, in supplements to the Petition, that corroborates key elements of the export-price and normal-value calculations used in the Petition to derive estimated margins.

Specifically, the petitioners calculated a single export price using the average monthly Customs Unit Values (AUVs) ((Free Alongside Ship) (FAS)) of LWR pipe and tube from Mexico for consumption in the United States, classified under HTSUS numbers 7306.60.50.00 and 7306.61.50.00. As the IM145 data is considered direct import data from CBP, we consider petitioners' AUVs based on this data to be reliable. Further, we obtained no other information that would make us question the reliability of the pricing information provided in the Petition.

The petitioners adjusted export prices for inland freight from the plant to the port of importation, specifically, Laredo, Texas. The petitioners used inland freight charges obtained from inland freight price quotes from certain Mexican producers of LWR pipe and tube. See Petition at page II–10 and July 6, 2007 Supplement to the Petition at 7. This is a source of information that we consider reliable. See, e.g., *Notice of Preliminary Determination of Sales at Less than Fair Value: Superalloy Degassed Chromium from Japan*, 70 FR 48538 (August 18, 2005) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Superalloy Degassed Chromium from Japan*, 70 FR 65886 (November 1, 2005)). Further, we obtained no other information that would make us question the reliability of the adjusted information provided in the Petition, nor the July 6, 2007, deficiency response.

Based on our examination of the aforementioned information, we consider the petitioners' calculation of net U.S. prices corroborated.

With respect to normal value, petitioners derived Mexican comparison market prices by obtaining price quotations from certain Mexican manufacturers of LWR pipe and tube through an economic consultant, which identified specific terms of sale and payment terms. Petitioners made no adjustments to the quoted prices, as the terms of delivery for the quotations were "free on board" (FOB) at the respective manufacturing facilities. See Volume II of the Petition at 6–7, Exhibits II–14 and II–15, and Volume II of the Supplement to the Petition, dated July 6, 2007, at 1, 3–5 and Exhibits 4 and 5.

Based on our examination of the aforementioned information, we consider the petitioners' calculation of net comparison market prices corroborated.

We also examined information obtained from interested parties during this particular investigation to corroborate the home market and U.S. prices. Certain transaction-specific margin percentages calculated for Maquilacero and PROLAMSA exceeded those from the Petition.

Therefore, because we confirmed the accuracy and validity of the information underlying the derivation of margins in the Petition by examining source documents, publically available information and primary information submitted by respondents Maquilacero and PROLAMSA, we preliminarily determine that the margins in the Petition are reliable for the purposes of this investigation.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin as "best information available" (the predecessor to "facts available") because the margin was based on another company's uncharacteristic business expense that resulted in an unusually high dumping margin.

In *Am. Silicon Techs. v. United States*, 273 F. Supp. 2d 1342, 1346 (CIT 2003), the court found that the adverse

facts-available rate bore a "rational relationship" to the respondent's "commercial practices," and was, therefore, relevant. In the pre-initiation stage of this investigation, we confirmed that the calculation of margins in the Petition reflects commercial practices of the particular industry during the period of investigation. Further, no information has been presented in the investigation that calls into question the relevance of this information. As such, we preliminarily determine that the highest margin in the Petition, which we determined during our pre-initiation analysis was based on adequate and accurate information and which we have corroborated for purposes of this preliminary determination, is relevant as the adverse facts-available rate for the Q&V Non-Responding Companies in this investigation.

Similar to our position in *Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53405 (September 11, 2006) (unchanged in *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*, 72 FR 1982 (January 17, 2007)), because this is the first segment of this proceeding involving these companies, there are no probative alternatives. Accordingly, by using information that was corroborated for the initiation stage of this investigation and preliminarily determined to be relevant to the Q&V Non-Responding Companies in this investigation, we have corroborated the adverse facts-available rate "to the extent practicable." See section 776(c) of the Act, 19 CFR 351.308(d), and *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1336 (CIT 2004) (stating, "pursuant to the 'to the extent practicable' language, the corroboration requirement itself is not mandatory when not feasible"). Therefore, we find that the estimated margin of 11.50 percent in the *Initiation Notice* has probative value. Consequently, in selecting AFA with respect to the Q&V Non-Responding Companies, we have applied the margin rate of 11.50 percent, the highest estimated dumping margin set forth in the notice of initiation. See *Initiation Notice* at 40278.

Date of Sale

Section 351.401(i) of the Department's regulations states the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulations further provide that the Department may use a date other than

the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. See 19 CFR 351.401(i). Maquilacero reported the sales invoice date as the date of sale for all sales in the U.S. and in the comparison market. See Maquilacero's Section B and C Response at B-23 and C-19, respectively. PROLAMSA reported the sales invoice date as the date of sale for all sales in the comparison and U.S. markets. See PROLAMSA's Section B and C Response at B-18 and C-15, respectively. However, with regard to PROLAMSA, the company reported two invoice dates as all of its sales are back-to-back CEP sales. The first invoice date (which is identical to the date of shipment) is the date on which PROLAMSA invoices its U.S. affiliate, Prolamsa, Inc. The second reported invoice date is the date on which Prolamsa, Inc. invoices the unaffiliated U.S. customer. We have preliminarily determined that the date of PROLAMSA's invoice to Prolamsa, Inc. is the appropriate date to use as PROLAMSA's date of sale as it is the date that the material terms of sale are set.

Based on the responses of both companies, and having no record evidence that would indicate otherwise, we preliminarily determine that the sales invoice date is the appropriate date of sale in both markets for Maquilacero and PROLAMSA. For a further discussion of this issue, see Maquilacero Preliminary Analysis Memo; see also, PROLAMSA Preliminary Analysis Memo.

Fair Value Comparisons

To determine whether sales of LWR pipe and tube from Mexico were made in the United States at less than normal value (NV), we compared the export price (EP) or constructed export price (CEP) to the NV, as described in the "Export Price and Constructed Export Price" and "Normal Value" sections below. In accordance with section 777A(d)(1) of the Act, we calculated the weighted-average prices for NV and compared these to the weighted-average of EP (and CEP), when appropriate.

Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP, in accordance with sections 772(a) and (b) of the Act. Pursuant to section 772(a) of the Act, we used the EP methodology when the merchandise was sold by the producer or exporter outside the United States directly to the first unaffiliated

purchaser in the United States prior to importation and when CEP was not otherwise warranted based on the facts on the record. We calculated CEP for those sales where a person in the United States, affiliated with the foreign exporter or acting for the account of the exporter, made the sale to the first unaffiliated purchaser in the United States of the subject merchandise. See section 772(b) of the Act. We based EP and CEP on the packed prices charged to the first unaffiliated customer in the United States and the applicable terms of sale.

Maquilacero

Maquilacero classified its sales to the United States solely as EP sales, *i.e.*, sales to unaffiliated direct end user customers. Maquilacero's U.S. sales were made directly to unaffiliated customers in the United States prior to importation, and CEP is not otherwise warranted based on Maquilacero's questionnaire response. Therefore, for purposes of this preliminary determination, we have accepted Maquilacero's classification of its sales to the United States as EP sales.

Accordingly, we calculated EP based on prices charged to the first unaffiliated U.S. customer. We based EP on the packed and delivered (to port and/or to customer) prices to the first unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, including foreign inland freight, and foreign brokerage and handling. When appropriate, we adjusted prices to reflect deductions and/or increases to prices due to billing adjustments, early payment discounts and rebates. See Maquilacero Preliminary Analysis Memo.

PROLAMSA

PROLAMSA's U.S. sales were made by its U.S. affiliate, Prolamsa, Inc. We therefore based all of PROLAMSA's prices to the United States on CEP. When appropriate, we adjusted prices to reflect deductions and/or increases to price due to billing adjustments, early payment discounts and rebates. In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for movement expenses including inland freight, brokerage and handling in the country of manufacture, international freight, and U.S. brokerage and handling.

In its supplemental questionnaire responses, PROLAMSA explained that it was never invoiced for foreign inland freight services provided on certain U.S. sales. As such, PROLAMSA reported no

inland freight expense for these observations. See Prolamsa's Second Supplemental Response at 9. As a general matter, our calculations include the value of foreign inland freight services because these services are not provided on a gratuitous basis. Although Prolamsa claims that it was never invoiced for these services on certain U.S. sales, the suppliers of said services still could invoice Prolamsa for these services provided in connection with certain POI sales. There is no record evidence that the suppliers wrote off the value of these services from their accounts receivable. Section 776(a)(1) of the Act provides that the Department may use facts otherwise available if necessary information is not available on the record. Because the expenses needed to properly calculate net CEP for these sales are not on the record of this investigation, we must rely on facts otherwise available. Accordingly, based on neutral facts available, we revised Prolamsa's reported foreign inland freight to account for missing values for certain U.S. sales. Specifically, we used a weighted average of all observations where a positive value was reported under the inland freight field (DINLFTPU), and where those observations had an identical destination and customer code in Prolamsa's dataset, for the sales in question. For further details, see Prolamsa's Preliminary Analysis Memo dated January 23, 2008.

For CEP, in accordance with section 772(d)(1) of the Act, when appropriate, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (*i.e.*, commissions and imputed credit expenses). We also deducted from CEP an amount for profit in accordance with sections 772(d)(3) and (f) of the Act. See Prolamsa Preliminary Analysis Memo.

Normal Value

A. Home Market Viability and Comparison Market Selection

To determine whether there was a sufficient volume of sales in the home market (*i.e.*, Mexico) to serve as a viable basis for calculating NV, we compared the respondents' volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B)(I) of the Act, because each respondent had an aggregate volume of home market sales of the foreign like product that was

greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the respondents' sales of LWR pipe and tube in Mexico were sufficient to find the home market as viable for comparison purposes. Accordingly, we calculated NV for Maquilacero and Prolamsa based on sales prices to Mexican customers.

B. Arm's-Length Test

Maquilacero and Prolamsa reported sales of the foreign like product to affiliated and unaffiliated customers in the comparison market. The Department calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, *i.e.*, sales at "arm's-length." See 19 CFR 351.403(c). To test whether these sales were made at arm's-length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we considered the sales to be at arm's-length prices and included such sales in the calculation of NV. See 19 CFR 351.403(c). Conversely, where sales to the affiliated party did not pass the arm's-length test, all sales to that affiliated party were excluded from the NV calculation. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002); see also, Maquilacero Preliminary Analysis Memo and Prolamsa Preliminary Analysis Memo.

C. Cost of Production Analysis

Based on our analysis of petitioners' allegation, we found that there were reasonable grounds to believe or suspect that Maquilacero's and Prolamsa's sales of LWR pipe and tube in the comparison market were made at prices below their COP. Accordingly, pursuant to section 773(b) of the Act, we initiated a sales-below-cost investigation to determine whether these companies had sales that were made at prices below their respective COPs. See Memorandum to Richard O. Weible, Director, Office 7, titled "Petitioners' Allegation of Sales Below the Cost of Production for Maquilacero S.A. de C.V.," dated December 5, 2007

(Maquilacero Cost Initiation Memo); see also, Memorandum to Richard O. Weible, Director, Office 7, titled "Petitioners' Allegation of Sales Below the Cost of Production for Productos Laminados de Monterrey S.A. de C.V.," dated December 4, 2007 (Prolamsa Cost Initiation Memo).

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the respondents' COP based on the sum of their costs of materials and conversion for the foreign like product, plus an amount for home market selling expenses, general and administrative (G&A) expenses, interest expenses and packing costs. See the "Test of Comparison Market Sales Prices" section below for the treatment of comparison market selling expenses.

The Department relied on the COP data submitted by Maquilacero and Prolamsa, in their respective section D questionnaire responses for the COP calculation, except for the following instances:

Maquilacero: We adjusted Maquilacero's reported total cost of manufacturing (TOTCOM) to include certain rebates which Maquilacero received from its supplier of hot-rolled coils; rebates which Maquilacero had previously included as an adjustment to price. We adjusted Maquilacero's data to apply this ratio to the reported TOTCOM of each CONNUM.

Prolamsa: We adjusted Prolamsa's G&A expense ratio to include 2006 profit-sharing costs included in Prolamsa's 2006 audited financial statements and applied the adjusted G&A ratio to the revised TOTCOM of each CONNUM.

For a complete discussion of the changes made to the cost information submitted by Maquilacero and Prolamsa, see Memorandum to Neal M. Halper, Director, Office of Accounting, titled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination—Maquilacero, S.A. de C.V.," dated January 23, 2008 (Maquilacero COP Memo); see also, Memorandum to Neal M. Halper, Director, Office of Accounting, titled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination—Productos Laminados de Monterrey, S.A. de C.V. (Prolamsa)," dated January 23, 2008 (Prolamsa COP Memo).

2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-

average COP to the comparison market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. For purposes of this comparison, we used the COP exclusive of selling and packing expenses. The prices were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than COP, we determined that such sales have been made in "substantial quantities." See section 773(b)(2)(C) of the Act. Further, the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examined below-cost sales occurring during the entire POI. In such cases, because we compared prices to POI-average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that, for certain specific products, more than 20 percent of Maquilacero's and PROLAMSA's sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Calculation of Normal Value Based on Comparison Market Prices

Maquilacero: We calculated NV based on prices to unaffiliated customers (as well as those affiliated customers which passed the arm's length test) and matched U.S. sales to NV. We made deductions, where appropriate, for billing adjustments, discounts, rebates, movement expenses, and packing pursuant to section 773(a)(6)(B) of the Act. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411, as well as for differences in circumstances of sale (COS) as

appropriate (*i.e.*, commissions and credit), in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410.

PROLAMSA: We based comparison market prices on packed prices to unaffiliated customers (as well as those affiliated customers which passed the arm's length test) in Mexico. Starting with gross prices, we added or subtracted billing adjustments and rebates, where appropriate, and deducted early payment discounts. We adjusted the starting price for inland freight and insurance, where appropriate, pursuant to section 773(a)(6)(B)(ii) of the Act. In addition, as PROLAMSA's sales were all CEP sales, for comparisons made to those CEP sales, we only deducted Mexican credit expenses and commissions from comparison market prices, because U.S. credit expenses and commissions were deducted from U.S. price, as noted above and in accordance with section 772(c)(2) of the Act.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise. See 19 CFR 351.411(b).

E. Level of Trade/Constructed Export Price Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The LOT in the comparison market is the LOT of the starting-price sales in the comparison market or, when NV is based on CV, the LOT of the sales from which we derive SG&A expenses and profit. With respect to U.S. price for EP transactions, the LOT is also that of the starting-price sale, which is usually from the exporter to the importer. See section 351.412(c)(i) of the Department's regulations. For CEP, the LOT is that of the constructed sale from the exporter to the affiliated importer. See section 351.412(c)(ii) of the Department's regulations. See also *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

To determine whether comparison market sales are at a different LOT from U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated

customer. If the comparison market sales are at different LOTs, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, the Department makes an LOT adjustment in accordance with section 773(a)(7)(A) of the Act. For CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. We analyze whether different selling activities are performed, and whether any price differences (other than those for which other allowances are made under the Act) are shown to be wholly or partly due to a difference in LOT between the CEP and NV. Under section 773(a)(7)(A) of the Act, we make an upward or downward adjustment to NV for LOT if the difference in LOT involves the performance of different selling activities and is demonstrated to affect price comparability, based on a pattern of consistent price differences between sales at different LOTs in the country in which NV is determined. Finally, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP, but the data available do not provide an appropriate basis to determine a LOT adjustment, we reduce NV by the amount of indirect selling expenses incurred in the foreign comparison market on sales of the foreign like product, but by no more than the amount of the indirect selling expenses incurred for CEP sales.

See section 773(a)(7)(B) of the Act (the CEP offset provision).

In analyzing differences in selling functions, we determine whether the LOTs identified by the respondent are meaningful. See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27371 (May 19, 1997). If the claimed LOTs are the same, we expect that the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. See *Porcelain-on-Steel Cookware from Mexico: Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000) and accompanying Issues and Decision Memorandum at Comment 6.

Maquilacero: Maquilacero reported two channels of distribution in the comparison market (*i.e.*, Mexico): (1) Distributors and end-users. Maquilacero reported its selling functions to both distributors and end-users in the home market as: sales forecasting, strategic/economic planning, advertising, sales

promotion, packing, inventory maintenance, order input/processing, direct sales personnel, market research, providing cash and early payment discounts, providing warranty services, providing freight and delivery, travel to customer location, collections, and paying commissions. We examined the selling activities reported for each channel of distribution and organized the reported selling activities into the following four selling functions: sales process and marketing support, freight and delivery, inventory maintenance and warehousing, and warranty and technical services. We found that Maquilacero's level of selling functions to its home market customers for each of the four selling function categories did not vary significantly by channel of distribution. See Maquilacero's Supplemental Section A Response at Exhibit 16. Therefore, we preliminarily conclude that the selling functions for the reported channels of distribution constitute one LOT in the comparison market.

Maquilacero reported that all of its sales to the United States were EP sales made through two channels of distribution, *i.e.*, distributors and end-users. For EP sales, we examined the selling activities related to each of the selling functions between Maquilacero and its U.S. customers. Maquilacero reported its selling functions to both distributors and end-users in the United States as: sales forecasting, strategic/economic planning, engineering services, advertising, sales promotion, packing, inventory maintenance, order input/processing, direct sales personnel, market research, providing cash and early payment discounts, providing warranty services, providing freight and delivery, travel to customer location, collections, and paying commissions. We examined the four selling function categories and found that Maquilacero's selling functions for its U.S. sales did not vary significantly by channel of distribution. Therefore, we preliminary determine that Maquilacero's U.S. sales constitute a single LOT.

We then compared the selling functions Maquilacero provided in the comparison market LOT with the selling functions provided to the U.S. LOT. On this basis, we determined that the comparison market LOT is similar to Maquilacero's U.S. LOT. We made this determination based upon the minor differences that exist between Maquilacero's comparison and U.S. markets in terms of the selling functions that are provided to Maquilacero's customers in each market. Moreover, we find that the degree to which Maquilacero provides these identical

selling functions for its customers in both markets to be similar (*i.e.*, sales forecasting, strategic/economic planning, advertising and promotion, packing, order input/processing, market research, cash and early payment discounts, warranty service, sales and marketing support, technical assistance, and after-sales services). Therefore, we preliminarily determine that Maquilacero is not entitled to a LOT adjustment.

PROLAMSA: In the present investigation, PROLAMSA did not request a LOT adjustment. See PROLAMSA's Section B Response at B-27. In order to determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the "chain of distribution"),¹ including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

PROLAMSA reported one LOT in the comparison market, Mexico, with two channels of distribution to five classes of customers: (1) Direct sales to distributors, builders (construction), and industrial end-users (collectively, Channel 1), and (2) direct sales to automotive and original equipment manufacturers (OEMs) and furniture producers (collectively, Channel 2). PROLAMSA further identified its customer categories by those that typically order stock subject merchandise (*i.e.*, Channel 1 customers), and those that typically order non-stock (or "made to order") subject merchandise (*i.e.*, Channel 2 customers). See PROLAMSA's Section A Response at A-11 through A-12; *see also*, PROLAMSA's Section A Response at Exhibit A-5 and PROLAMSA's Supplemental A Response at Exhibit A-18.

Based on our review of the record evidence, we find that comparison market sales to both customer categories and through both channels of distribution were substantially similar with respect to selling functions and stages of marketing. See PROLAMSA's Supplemental A Response at Exhibit A-18 (*i.e.*, the revised selling functions chart). Specifically, PROLAMSA performed the same selling functions at a similar level of performance for sales

¹ The marketing process in the United States and comparison market begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered PROLAMSA's narrative response to properly determine where in the chain of distribution the sale occurs.

in both comparison market channels of distribution (*e.g.*, packing, order input/processing, direct sales personnel and marketing support, technical assistance, rebates, cash discounts, commissions, freight and delivery). *Id.* We find that the only meaningful difference between the two channels in terms of the services provided in the stages of marketing (and the degree of performance of those services) is that PROLAMSA provides inventory maintenance services at a higher degree for its Channel 1 customers. We do not find this difference alone to be sufficient for finding more than one LOT. Accordingly, we preliminarily find that PROLAMSA had only one LOT for its comparison market sales.

PROLAMSA reported one LOT with regard to its CEP sales through Prolamsa, Inc., with two channels of distribution in the United States, and with four classes of customers for those CEP sales: (1) Sales through U.S. affiliate (CEP sales) to other producers of LWR pipe and tube, distributors and service centers, and metal building and component manufacturers (collectively, Channel (1) and (2) sales through U.S. affiliates (CEP sales) to OEMs (Channel 2). Similar to its comparison market customers, PROLAMSA further identified its U.S. customer categories by those that typically order stock subject merchandise (*i.e.*, Channel 1 customers), and those that typically order non-stock (or "made to order") subject merchandise (*i.e.*, Channel 2 customers). See PROLAMSA's section A Response at A-11 through A-12; *see also*, PROLAMSA's Supplemental A Response at Exhibit A-18.

For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act. See *Micron Technology Inc. v. United States*, 243 F.3d 1301, 1314-1315 (Fed. Cir. 2001). We reviewed the selling functions and services performed by PROLAMSA on CEP sales for both channels of distribution relating to the CEP LOT, as described by PROLAMSA in its questionnaire responses, after these deductions. We have determined that the selling functions performed by PROLAMSA on its U.S. sales (all of which are CEP sales) are similar because for all U.S. sales, PROLAMSA provides almost no selling functions to its U.S. affiliate, Prolamsa, Inc., in support of either channel of distribution. PROLAMSA reported that the only services it provided for its CEP sales were packing, freight and delivery direct to the U.S. customer (which included documentation preparation related to packing and shipment of the

merchandise to the U.S. port of importation)² and very limited sales/marketing support services through customer visits.

See PROLAMSA's Supplemental A Response at A-9 and Exhibit A-18. Accordingly, because the selling functions provided by PROLAMSA for CEP sales are comparably minimal, and the selling functions provided by Prolamsa, Inc. to unaffiliated customers in the United States in both channels of distribution are substantially similar and provided at the same degree of service (*i.e.*, order input/processing, direct sales personnel, provide cash discounts, commissions, warranty service, visits to customers, calls and correspondence to U.S. customers), we preliminarily determine that there is one CEP LOT in the U.S. market. As PROLAMSA made no direct sales to unaffiliated customers in the United States during the POI, there is no additional analysis required to compare LOTs in the U.S. market.

According to section 773(a)(7)(B) of the Act, a CEP offset is appropriate when the LOT in the home market is at a more advanced stage than the LOT of the CEP sales and there are no data available to determine the existence of a pattern of price difference. PROLAMSA reported that it provided minimal selling functions and services for the one (CEP) LOT in the United States and that, therefore, the comparison market LOT is more advanced than the CEP LOT. Based on our analysis of the channels of distribution and selling functions performed by PROLAMSA for sales in the comparison market and CEP sales in the U.S. market, we preliminarily find that the comparison market LOT is at a more advanced stage of distribution when compared to CEP sales because PROLAMSA provides many more selling functions in the comparison market at a higher level of service as compared to selling functions performed for its CEP sales (*i.e.*, inventory maintenance, order input/processing, direct sales personnel, sales/marketing support, technical assistance, provide rebates, rebates, cash discounts, pay commissions, provide warranty service, provide freight and delivery, visit customers, and call and correspond with customers). Thus, we find that PROLAMSA's comparison market sales are at a more advanced LOT than its CEP sales. There was only one LOT in

the comparison market, and there are no data available to determine the existence of a pattern of price difference, and we do not have any other information that provides an appropriate basis for determining a LOT adjustment. Therefore, consistent with section 773(a)(7)(B) of the Act, we applied a CEP offset to NV for CEP comparisons.

To calculate the CEP offset, we deducted from NV the comparison market indirect selling expenses from NV for comparison market sales that were compared to U.S. CEP sales. As such, we limited the comparison market indirect selling expense deduction by the amount of the indirect selling expenses deducted in calculating the CEP as required under section 772(d)(1)(D) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on exchange rates in effect on the dates of the U.S. sales, as certified by the Dow Jones Reuters Business Interactive LLC (trading as "Factiva"). See Import Administration Web site at: <http://ia.ita.doc.gov/exchange/index.html>.

All-Others Rate

Pursuant to section 735(c)(5)(A) of the Act, the all-others rate is equal to the weighted average of the estimated weighted-average dumping margins of all respondents investigated, excluding zero or *de minimis* margins and any margins determined exclusively under section 776 of the Act. Maquilacero and PROLAMSA are the only respondents in this investigation for which the Department has calculated a company-specific rate. For PROLAMSA, we calculated a zero rate; however, for Maquilacero, we calculated a rate above *de minimis*. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the above *de minimis* rate calculated for Maquilacero as the all-others rate, as referenced in the "Suspension of Liquidation" section below.

Verification

As provided in section 782(i) of the Act, we intend to verify all information upon which we will rely in making our final determination.

Preliminary Determination

The weighted-average dumping margins are as follows:

Producer/exporter	Weighted-average margin (percentage)
Maquilacero S.A. de C.V.	4.96
Productos Laminados S.A. de C.V. (PROLAMSA)	0.00
Arco Metal S.A. de C.V.	4.96
Hylsa S.A. de C.V.	4.96
Industrias Monterrey S.A. de C.V.	11.50
Internacional de Aceros, S.A. de C.V.	4.96
Nacional de Acero S.A. de C.V.	11.50
PEASA-Productos Especializados de Acero ..	11.50
Perfiles y Herrajes LM, S.A. de C.V.	4.96
Regiomontana de Perfiles y Tubos	4.96
Talleres Acero Rey S.A. de C.V.	4.96
Tuberias Aspe	11.50
Tuberia Laguna, S.A. de C.V.	4.96
Tuberias y Derivados S.A. de C.V.	11.50
All Others	4.96

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of LWR pipe and tube from Mexico, with the exception of those produced and exported by PROLAMSA, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin, as indicated in the chart above, as follows: (1) The rate for the firms listed above (except for PROLAMSA, *see* below) will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 4.96 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

In accordance with 19 CFR 351.204(e)(2), because the weighted-average margin for PROLAMSA is zero, we will not instruct CBP to suspend liquidation of merchandise produced and exported by PROLAMSA.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the Department's final determination is affirmative, the ITC

²PROLAMSA explained in its questionnaire responses that the U.S. affiliate, Prolamsa, Inc., does not take physical possession of the merchandise when it arrives in the United States. See PROLAMSA's Supplemental A Response at A-8 through A-9.

will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of LWR pipe and tube from Mexico are materially injuring, or threaten material injury to, the U.S. industry. We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the final verification report in this proceeding. See 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. See 19 CFR 351.309(d)(1) and (2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette. In accordance with section 774 of the Act, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined.

Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. See 19 CFR 351.310(c). At the hearing, oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 733(f) and 777(I)(1) of the Act.

Dated: January 23, 2008.

David M. Spooner,
Assistant Secretary for Import Administration.

[FR Doc. E8-1654 Filed 1-29-08; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648-XF32

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

AGENCY: AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public workshop.

SUMMARY: The South Atlantic Fishery Management Council (Council), in partnership with Duke University, Nicholas School of the Environment and Earth Sciences and the University of North Carolina at Chapel Hill, is conducting a South Atlantic Ecosystem Tools and Model Development Workshop in Beaufort, NC.

DATES: The Ecosystem Modeling Workshop will take place from 8:30 a.m. - 5 p.m. on February 21, 2008, and from 8:30 a.m. - 1 p.m. on February 22, 2008.

ADDRESSES: The workshop will be held at the Duke Repass Center, Duke Marine Laboratory, 135 Duke Marine Lab Road, Beaufort, NC 28516; telephone: (252) 504-7501.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone (843) 571-4366 or toll free (866) SAFMC-10; fax: (843) 769-4520; email: kim.iverson@safmc.net.

SUPPLEMENTARY INFORMATION: The Workshop is designed to provide an understanding of regional data availability, partner capabilities, tool and model development status and funding mechanisms to support multiple task-based Ecosystem model development efforts in the South Atlantic region. The Workshop is designed to build on previous coordination meetings and model development efforts to establish short-term development and long-term development strategies necessary to

support ecosystem-based management, the South Atlantic Fishery Management Council's Fishery Ecosystem Plan and future Comprehensive Fishery Ecosystem Amendments.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the meetings.

Note: The times and sequence specified in this agenda are subject to change.

Dated: January 25, 2008.

Tracey L. Thompson,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. E8-1601 Filed 1-29-08; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648-XF36

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting on Aquaculture Amendment.

DATES: The meeting will convene at 6 p.m. on Tuesday, February 19, 2008 and conclude no later than 9 p.m.

ADDRESSES: This meeting will be held at The Islander, 82100 Overseas Highway, Islamorada, FL 33036; telephone: (305) 664-2031.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Wayne Swingle, Executive Director; telephone: (813) 348-1630.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) is preparing an amendment which will require persons to obtain a permit from NMFS to participate in aquaculture by constructing an aquaculture facility in the exclusive economic zone (EEZ) of the Gulf of Mexico. Each application for a permit must comply with many permit conditions related to record keeping and operation of the facility. These permit

DEPARTMENT OF COMMERCE**International Trade Administration**

A-570-922

Notice of Postponement of Preliminary Determination of Antidumping Duty Investigation: Raw Flexible Magnets from the People's Republic of China

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

EFFECTIVE DATE: January 31, 2008.

FOR FURTHER INFORMATION CONTACT:

Melissa Blackledge or Shawn Higgins, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone: (202) 482-3518 or (202) 482-0679, respectively.

SUPPLEMENTARY INFORMATION:**Postponement of Preliminary Determination**

On October 18, 2007, the Department of Commerce (the "Department") initiated the antidumping duty investigation of raw flexible magnets from the People's Republic of China. See *Notice of Initiation of Antidumping Duty Investigations: Raw Flexible Magnets from the People's Republic of China and Taiwan*, 72 FR 59071 (July 24, 2007) ("Initiation Notice"). The notice of initiation stated that, unless postponed, the Department would make its preliminary determination in these antidumping duty investigations no later than 140 days after the date of the initiation. See *Initiation Notice*.

On January 16, 2008, Magnum Magnetics Corporation ("Petitioner") made a timely request pursuant to 19 CFR 351.205(e) for a fifty-day postponement of the preliminary determination in this investigation. Petitioner requested postponement of the preliminary determination because of the complexity of the case, the Department's unfamiliarity with the industry, and the difficult time schedule ahead. For the reasons identified by the Petitioner, and because there are no compelling reasons to deny the request, the Department is postponing the preliminary determination under section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the "Act"), by fifty days from February 29, 2008 to April 19, 2008. However, as that date falls on a Saturday, the preliminary determination will be due no later than the next business day, Monday, April 21, 2008. The deadline for the final determination will continue to be 75 days after the

date of the preliminary determination, unless extended.

This notice is issued and published pursuant to sections 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: January 24, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8-1759 Filed 1-30-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-580-859]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Light-Walled Rectangular Pipe and Tube From the Republic of Korea

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

EFFECTIVE DATE: January 31, 2008.

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that light-walled rectangular pipe and tube from the Republic of Korea is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Tariff Act). The estimated margins of sales at LTFV are listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to a request from Nexteel Co., Ltd. (Nexteel), we are postponing for 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

FOR FURTHER INFORMATION CONTACT:

David Cordell, (Kukje Steel Co., Ltd.), Mark Flessner (Nexteel Co., Ltd.), or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0408, (202) 482-6312, or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On July 17, 2007, the Department initiated the antidumping duty

investigation of light-walled rectangular pipe and tube from the Republic of Korea. See *Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from the Republic of Korea, Mexico, Turkey, and the People's Republic of China*, (Initiation Notice), 72 FR 40274 (July 24, 2007). The Petitioners in this investigation are Allied Tube and Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, EXLTUBE, Hannibal Industries, Leavitt Tube Company, Maruichi American Corporation, Searing Industries, Southland Tube, Vest Inc., Welded Tube, and Western Tube and Conduit (Petitioners).

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments. See *Initiation Notice*, 72 FR 40274, 40275 (July 24, 2007). No party submitted comments on the scope.

On August 28, 2007, the United States International Trade Commission (the Commission) preliminarily determined there is a reasonable indication that imports of light-walled rectangular pipe and tube from Korea, Mexico and Turkey are materially injuring the U.S. industry and notified the Department of its findings. See *Light-Walled Rectangular Pipe and Tube From China, Korea, Mexico, and Turkey*, Investigation Nos. 701-TA-449 and 731-TA-1118-1121 (Preliminary), 72 FR 49310 (August 28, 2007).

Section 777A(c)(1) of the Tariff Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. The Department identified a large number of producers and exporters of light-walled rectangular pipe and tube from the Republic of Korea (Korea) and determined that it was not practicable to examine each known exporter/producer of the subject merchandise, as provided in section 777A(c)(2) of the Tariff Act. The Department sent quantity and value (Q&V) questionnaires to the companies identified in the petition, as well as to other companies identified during our analysis. On July 31, 2007, the Department sent Q&V questionnaires to the following companies: Ahshin Pipe & Tube, Dong-A Steel Pipe Co. Ltd., Han Gyu Rae Steel, Co., Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Kukje Steel Co. (Kukje), Ltd., Miju Steel Mfg. Co. Ltd., Nexteel, SeAH Steel Corporation, Ltd. (SeAH), and Yujin Steel Industry Co.

Ahshin Pipe & Tube mailed its response by first class mail dated August 20, 2007, but that letter was not

submitted as required through our Central Records Unit, did not include a complete response to the Department's Q&V questionnaire or include the required certifications, and was not served on all interested parties. Consequently, the response did not comport with 19 CFR 351.103, 351.302(d)(1), 351.303(f)(2) and 351.303(g), and was returned to Ahshin Pipe & Tube on September 7, 2007.

On August 27, 2007 and September 28, 2007, the Department requested that Han Gyu Rae Steel Co., Ltd., (Han Gyu Rae) resubmit its public version of its response to the Q&V questionnaire which it had submitted on August 17, 2007, because a proper public version was not provided. In its September 28, 2007, letter the Department warned Han Gyu Rae that it may not accept the response as currently filed and that the Department may apply facts available in accordance with section 776 of the Tariff Act, and pursuant to 19 CFR 351.308. The Department received no reply from Han Gyu Rae and thus returned its August 17, 2007, submission on November 9, 2007. Furthermore, the Department did not receive any response at all to either its July 31, 2007, quantity and value questionnaire or its August 16, 2007, follow-up letter from the following companies: Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., and Yujin Steel Industry Co.¹

Three respondents—SeAH, Kukje and Nexteel—responded to the Department's Q&V questionnaire. Kukje and Nexteel accounted for the largest volume of subject merchandise exported to the United States during the period of investigation (POI). Hence, these two firms were selected as mandatory respondents pursuant to section 777A(c)(2)(1)(B) of the Tariff Act. See the September 5, 2007, Memorandum to Deputy Assistant Secretary Stephen J. Claeys, entitled "Antidumping Duty Investigation on Light-Walled Rectangular Pipe and Tube from the Republic of Korea (Korea) (A-580-859), Respondent Selection" (Respondent Selection Memorandum). We issued antidumping questionnaires to Kukje and Nexteel on September 7, 2007.

The Department received the Section A response from Kukje on October 5, 2007, and from Nexteel on October 10, 2007. Petitioners provided comments on Kukje's and Nexteel's Section A

responses on October 16, 2007. On October 19, 2007, the Department issued Nexteel a supplemental questionnaire concerning its October 10, 2007, Section A response. On October 22, 2007, Kukje informed the Department that Kukje was unable to respond further to the antidumping questionnaire. We received the Sections B and C responses from Nexteel on October 29, 2007. Nexteel also responded voluntarily to Section D, Cost of Production, in this submission.

On November 9, 2007, Petitioners provided comments on Nexteel's Sections B and C response, and submitted a cost allegation with respect to Nexteel. On November 27, 2007, the Department issued a supplemental questionnaire to Nexteel concerning Nexteel's Sections B and C response, to which Nexteel responded on December 19, 2007.

On December 7, 2007, the Department initiated a cost investigation on Nexteel. See memorandum from Mark Flessner, Case Analyst, and Christopher J. Zimpo, Accountant, to Richard O. Weible, Director, Office 7, entitled "Petitioners' Allegation of Sales Below the Cost of Production for Nexteel Co. Ltd.," dated December 7, 2007 (Cost Allegation Memorandum). On December 21, 2007, the Department issued a supplemental questionnaire to Nexteel concerning Nexteel's Section D response, to which Nexteel responded on January 10, 2008.

On December 26, 2007, petitioners timely filed with the Department an allegation of targeted dumping for Nexteel. Nexteel filed comments regarding petitioners' allegation on January 3, 2008. Upon review of petitioners' allegation, the Department determined that further information was needed in order to adequately analyze petitioners' allegation. The Department issued a supplemental questionnaire to petitioners on January 14, 2008, requesting that they address deficiencies identified by the Department. See Letter from Richard O. Weible, Director, Office 7, to Petitioners, dated January 14, 2008. Because there was a need for supplemental information regarding the allegation, we do not have sufficient bases for making a finding of targeted dumping prior to the January 23, 2008, deadline for issuance of the preliminary determination. We intend to address the allegation in full upon receipt of a satisfactory response by Petitioners to our request for additional information.

On October 19, 2007, the Petitioners requested the Department postpone the preliminary determination by 50 days pursuant to 19 CFR 351.205(e). The Department published a notice of postponement on November 14, 2007,

which set the new deadline for the preliminary determination at January 23, 2008. See *Light-Walled Rectangular Pipe and Tube from Mexico, Turkey, and the Republic of Korea: Postponement of Preliminary Determination of Antidumping Duty Investigations*, 72 FR 64044 (November 14, 2007).

Period of Investigation

The POI is April 1, 2006, to March 31, 2007.

Scope of Investigation

The merchandise that is the subject of this investigation is certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Model Match

In accordance with section 771(16) of the Tariff Act, all products produced by the respondents covered by the description in the *Scope of Investigation* section, above, and sold in Korea during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales.

On August 16, 2007, the Department asked all parties in the investigation of light-walled rectangular pipe and tube from the Republic of Korea and in the concurrent antidumping duty investigations of light-walled

¹ The Department sent its questionnaires and its follow up letter via an international delivery service. Records show each of the companies in question received and signed for the July 31, 2007, quantity and value questionnaire and the August 16, 2007, follow-up letter.

rectangular pipe and tube from Mexico, Turkey, and the People's Republic of China, for comments on the appropriate product characteristics for defining individual products; parties in this investigation and in the concurrent antidumping duty investigations of light-walled rectangular pipe and tube from Mexico and Turkey were also invited to comment on the appropriate model matching methodology. *See* Letter from Richard Weible, Director, Office 7, dated August 16, 2007. The Department received comments from the Mexican company Perfiles y Herrajes LM on August 23, 2007; from the Mexican companies Productos Laminados de Monterrey S.A. de C.V. and Prolamsa USA, Inc. on August 24, 2007 August 27, 2007 and September 4, 2007; from the Turkish company Noksel Celik Boru Sanayi A.S. on August 24, 2007; from the Chinese producer/exporter Zhangjiagang Zhongyuan Pipe-Making Co., Ltd.; and from the Petitioners on August 24, 2007. The Department did not make any changes to its proposed characteristics and model matching methodology as a result of the comments submitted by parties.

We have relied on six criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: steel input type, whether metallic coated or not, whether painted or not, perimeter, wall thickness and shape. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

Use of Facts Otherwise Available

For the reasons discussed below, we determine the use of adverse facts available (AFA) is appropriate for the preliminary determination with respect to the following nine companies: Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, Han Gyu Rae, and Kukje. As noted in the Supplementary Information section above, the first six companies failed to respond to the Department's Q&V questionnaire and to the Department's follow up letter of August 16, 2007. Ahshin Pipe & Tube submitted an improper, incomplete, and untimely Q&V questionnaire response that the Department returned; Han Gyu Rae failed to resubmit its August 17, 2007 Q&V response and the Department returned Han Gyu Rae's Q&V submission on November 9, 2007. On October 22, 2007, Kukje informed the

Department that it was unable to respond further to the antidumping questionnaire.

Section 776(a)(2) of the Tariff Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in 782(I), the administering authority shall use, subject to section 782(d) of the Tariff Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Tariff Act provides that, if the administering authority determines a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Tariff Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In this case, Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, and Han Gyu Rae all failed to provide necessary information by the deadlines for submission of the information and/or in the form or manner requested. Thus, for these eight companies in reaching our preliminary determination, pursuant to sections 776(a)(2)(A), (B), and (C) of the Tariff Act, we have based the dumping margin on facts otherwise available.

Kukje, one of the mandatory respondents, did not provide pertinent information we requested that is necessary to calculate an antidumping margin for the preliminary determination. Specifically, Kukje failed to provide a complete response to our questionnaire, thereby withholding, among other things, home-market and U.S. sales information that is necessary for reaching the applicable determination, pursuant to section 776(a)(2)(A) of the Tariff Act. Thus, in

reaching our preliminary determination, pursuant to sections 776(a)(2)(A), (B), and (C) of the Tariff Act, we have based the dumping margin for Kukje on facts otherwise available.

Application of Adverse Inferences for Facts Available

According to section 776(b) of the Tariff Act, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. *See Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (September 13, 2005); *see also Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (August 30, 2002). It is the Department's practice to apply adverse inferences to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully. *See, e.g., id.* Furthermore, "affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference." *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997); *see also Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382–83 (Fed. Cir. 2003) (Nippon); *see also Certain Polyester Staple Fiber from Korea: Final Results of the 2005–2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

Although the Department provided all respondents, including Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, Han Gyu Rae and Kukje, with notice informing them of the consequences of their failure to respond adequately to the questionnaire in this case, pursuant to section 782(d) of the Tariff Act, the companies listed above did not respond as requested. This constitutes a failure on the part of these companies to cooperate to the best of their ability to comply with a request for information by the Department within the meaning of section 776(b) of the Tariff Act.² Based on the above, the

² As noted earlier, the Department sent its quantity and value questionnaires and its follow up letter via an international delivery service and records show that each of the companies in question received and signed for the July 31, 2007,

Department has preliminarily determined that Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, Han Gyu Rae and Kukje failed to cooperate to the best of their ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted. *See, e.g., Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985, 42986 (July 12, 2000) (the Department applied total AFA where the respondent failed to respond to the antidumping questionnaire).

Selection and Corroboration of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Tariff Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. *See also* 19 CFR 351.308(c). It is the Department's practice to use the highest rate from the petition in an investigation when a respondent fails to act to the best of its ability to provide the necessary information. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From Finland*, 69 FR 77216 (December 27, 2004) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland*, 70 FR 28279 (May 17, 2005)). Therefore, because an adverse inference is warranted, we have assigned to Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, Han Gyu Rae and Kukje the highest margin alleged in the petition, as referenced in the *Initiation Notice*, of 30.66 percent. *See Initiation Notice* at 40278.

When using facts otherwise available, section 776(c) of the Tariff Act provides that when the Department relies on secondary information (such as the petition) rather than on information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from

independent sources that are reasonably at its disposal.

To "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *See Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Doc. No. 103-316, vol. 1 (1994) at 870 (SAA), reprinted in 1994 U.S.C.C.A.N. 4040, 4198-4199. As stated in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825, 11843 (March 13, 1997)), to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used. The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See* 19 CFR 351.308(d).

For the purposes of this investigation, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the Petition during our pre-initiation analysis and for purposes of this preliminary determination. *See Initiation Checklist*. We examined evidence supporting the calculations in the Petition to determine the probative value of the margins alleged in the Petition for use as AFA for purposes of this preliminary determination. During our pre-initiation analysis we examined the key elements of the export price and normal value calculations used in the Petition to derive margins. During our pre-initiation analysis we also examined information from various independent sources provided either in the Petition or in supplements to the Petition that corroborates key elements of the export price and normal value calculations used in the Petition to derive estimated margins.

Specifically, the Petitioners calculated an export price using U.S. price quotes

it obtained for light-walled rectangular pipe and tube from Korea. These price quotes identify the price that the first U.S. purchaser unaffiliated with the foreign producer, *i.e.*, the international trader/importer, offered to its customer. The Petitioners also calculated a second export price using the average monthly Customs Unit Values (AUVs) ((Free Alongside Ship) (F.A.S.)) of light-walled rectangular pipe and tube from Korea for consumption in the United States, classified under HTSUS numbers 7306.60.50.00 and 7306.61.50.00, gathered from the Bureau of the Census IM145 import statistics. We then compared the U.S. price quote to the AUVs for this period and confirmed that the value of the U.S. price quote was consistent with the AUV's. Further, we obtained no other information that would make us question the reliability of the pricing information provided in the Petition.

The Petitioners adjusted export prices for international freight and dealer mark-up. The Petitioners used the difference between the F.A.S. and C.I.F. AUVs for imports from Korea to the United States to calculate international freight costs. *See* Petition at page II-10; *see also* July 6, 2007 Supplement to the Petition at 6. These data are from the U.S. Customs and Border Protection (CBP) and the U.S. Census Bureau, which are sources of information that we consider reliable. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Superalloy Degassed Chromium from Japan*, 70 FR 48538, 48540 (August 18, 2005), (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Superalloy Degassed Chromium from Japan*, 70 FR 65886 (November 1, 2005)). Further, we obtained no other information that would make us question the reliability of the adjusted information provided in the Petition. The Petitioners estimated the distributor mark-up based on Searing Industries sales personnel's knowledge of importer's mark-ups in the domestic light-walled rectangular tubing industry. The Petitioners provided an affidavit from persons attesting to the validity of the distributor mark-up value the Petitioners used in the calculation of net U.S. price. *See Initiation Checklist* at 9.

Based on our examination of the aforementioned information, we consider the Petitioners' calculation of net U.S. prices corroborated.

With respect to normal value, the Petitioners derived Korean home market prices from a January 2007 edition of the *Korean Metal Journal*, a recognized industry journal; no evidence on the

quantity and value questionnaire and the August 16, 2007, follow-up letter.

record questions the validity of this source. Two series of prices were listed: a "consumer" price (based on destination) and a "wholesale price." As a conservative measure, the lower-valued wholesale price was selected; this is more reflective of sales to distributors. Prices were quoted in won per meter and were converted into U.S. dollars using an average dollar weight for the proposed POI. The prices were also converted from meters to hundred-pound-weight (cwt), as cwt is the weight by which the subject merchandise is typically sold in the United States. Petitioners claim the delivery term for the wholesale price is ex-factory as demonstrated by the single price for all regions of the country, whereas consumer prices vary by different regions of the country suggesting the inclusion of freight. Petitioners note the products for which they obtained U.S. prices fall within the product category used for Normal Value (NV) from the *Korean Metal Journal*. See Volume II of the Petition at pages 9–10 and Exhibits II 21–23 and Volume II of the Supplement to the Petition dated July 6, 2007 at pages 1–2 and Exhibit 1.

Based on our examination of the aforementioned information, we consider the Petitioners' calculation of net home market prices corroborated.

We also examined information obtained from interested parties to corroborate the home market and U.S. prices. Margin percentages calculated for Nexteel exceeded those from the Petition.

Therefore, because we confirmed the accuracy and validity of the information underlying the derivation of margins in the Petition by examining source documents, publicly available information, and primary information submitted by respondent Nexteel, we preliminarily determine that the margins in the Petition are reliable for the purposes of this investigation.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin as "best information available" (the predecessor to "facts available") because the margin was based on another company's

uncharacteristic business expense that resulted in an unusually high dumping margin.

In *American Silicon Technologies v. United States*, 273 F. Supp. 2d 1342, 1346 (CIT 2003), the court affirmed Commerce's adverse facts-available rate, noting that it bore a "rational relationship" to the respondent's "commercial practices," and was, therefore, relevant. As described above, in the pre-initiation stage of this investigation, we confirmed the calculation of margins in the Petition reflects commercial practices of the particular industry during the period of investigation. Further, no information has been presented in the investigation that calls into question the relevance of this information. As such, we preliminarily determine the highest margin in the Petition, which we determined during our pre-initiation analysis was based on adequate and accurate information and which we have corroborated for purposes of this preliminary determination, is relevant as the adverse facts-available rate for Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, Han Gyu Rae and Kukje in this investigation.

Similar to our position in *Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53405, 53407 (September 11, 2006) (unchanged in *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*, 72 FR 1982 (January 17, 2007)), because this is the first proceeding involving these companies, there are no probative alternatives. Accordingly, by using information that was corroborated in the pre-initiation stage of this investigation and preliminarily determined to be relevant to Dong-A Steel Pipe Co. Ltd., HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, Han Gyu Rae and Kukje in this investigation, we have corroborated the adverse facts-available rate "to the extent practicable." See section 776(c) of the Tariff Act, 19 CFR 351.308(d), and *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1336 (CIT 2004) (stating, "pursuant to the 'to the extent practicable' language * * * the corroboration requirement itself is not mandatory when not feasible"). Therefore, we find that the estimated margin of 30.66 percent in the *Initiation Notice* has probative value. Consequently, in selecting AFA with respect to Dong-A Steel Pipe Co. Ltd.,

HiSteel Co. Ltd., Jinbang Steel Co. Ltd., Joong Won, Miju Steel Mfg. Co. Ltd., Yujin Steel Industry Co., Ahshin Pipe & Tube, Han Gyu Rae and Kukje, we have applied the margin rate of 30.66 percent, the highest estimated dumping margin set forth in the notice of initiation. See *Initiation Notice*, 72 FR at 40278.

Date of Sale

Section 351.401(i) of the Department's regulations states the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulations further provide that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. See 19 CFR 351.401(I). The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established. See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2; *Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products From Brazil*, 64 FR 38756, 38767 (July 19, 1999). Nexteel maintains the quantity is fixed on the date of shipment from its factory but that the price is only finalized when Nexteel issues the commercial and tax invoices. The issuance of commercial and tax invoices is frequently after shipment, but was not before shipment for any POI sales in both the home and U.S. markets. Therefore, Nexteel has reported the date of shipment from its factory as the date of sale under the field SALEDATH. See Nexteel's Section B response dated October 29, 2007, at pages B–14 to B–15. However, since the material terms of sale are not finalized until issuance of the commercial invoice, we have preliminarily determined to use date of invoice as the date of sale in both the home and U.S. markets. See Nexteel's supplemental Section B response dated December 26, 2007, at pages 17 to 18.

Fair Value Comparisons

To determine whether sales of subject merchandise from Korea were made in the United States at less than NV, we compared the export price (EP) to the NV, as described in the *U.S. Price* and *Normal Value* sections below. In accordance with section 777A(d)(1) of the Tariff Act, we calculated the weighted-average prices for NV and compared these to the weighted-average of EP.

U.S. Price

For the price to the United States, we used EP in accordance with section 772(a) of the Tariff Act. Pursuant to section 772(a) of the Tariff Act, we used the EP methodology when the merchandise was sold by the producer or exporter outside the United States directly to the first unaffiliated purchaser in the United States prior to importation and when constructed export price (CEP) was not otherwise warranted based on the facts on the record. Nexteel has no affiliate in the United States and reports all its sales as EP sales. See Nexteel's Section C response at page C-9. Nothing on the record indicates that Nexteel's U.S. market sales are CEP sales, so we did not use the CEP methodology. We based EP on the packed prices charged to the unaffiliated Korean trading companies (as Nexteel knew the merchandise it was selling to that trading company was destined for the United States). See Nexteel's Section A questionnaire response dated October 9, 2007, at page A-11; see also *Wonderful Chemical Industrial, Ltd., et al. v. United States*, 259 F. Supp. 2d 1273, 1279 (Ct. Intl. Trade 2003). There were no reported billing adjustments or duty drawback claims.

In accordance with section 772(c)(2) of the Tariff Act, we make deductions, where appropriate, for movement expenses including inland freight and brokerage expenses from plant to delivery. Due to the nature of Nexteel's U.S. sales (all were made to unaffiliated Korean trading companies who took possession at the Korean port), however, Nexteel had no expenses from plant to delivery other than transportation.

Normal Value

A. Home Market Viability and Comparison Market Selection

To determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Nexteel's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise.

Pursuant to section 773(a)(1)(B)(ii)(II) of the Tariff Act, because Nexteel had an aggregate volume of home market sales of the foreign like product that was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable.

B. Arm's-Length Test

Nexteel reported sales of the foreign like product to affiliated customers. The Department calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, *i.e.*, the sales were at "arm's length." See 19 CFR 351.403(c). To test whether these sales were made at arm's length, we compared the prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. *Id.* In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we considered the sales to be at arm's-length prices and included such sales in the calculation of NV. Conversely, where sales to the affiliated party did not pass the arm's-length test, all sales to that affiliated party would be excluded from the NV calculation. See 19 CFR 351.403(c) see also *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002), and memorandum from Mark Flessner, Case Analyst, to the file entitled, "Preliminary Determination of Sales at Less Than Fair Value of Light-Walled Rectangular Pipe and Tube from the Republic of Korea," dated January 23, 2008 (Analysis Memorandum). No such sales were excluded for Nexteel.

C. Cost of Production Analysis

Based on our analysis of the Petitioners' allegation, we found that there were reasonable grounds to believe or suspect that Nexteel's sales of light-walled rectangular pipe and tube in the home market were made at prices below their COP. Accordingly, pursuant to section 773(b) of the Tariff Act, we initiated a sales-below-cost investigation to determine whether Nexteel had sales that were made at prices below their respective COPs. See Cost Allegation Memorandum.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Tariff Act, we calculated Nexteel's COP based on the sum of its costs of materials and conversion for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses (see the *Test of Comparison Market Sales Prices* section below for the treatment of home market selling expenses).

The Department relied upon Nexteel's COP and CV information from the company's submission dated January 10, 2008. To determine COP, the reported cost of manufacturing data (TOTCOM) were adjusted by incorporating G&A expenses and financial expenses based on Nexteel's financial statements, and included in Nexteel's section D response at Exhibits D-9 and D-10, respectively.

2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product, as required under section 773(b) of the Tariff Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Tariff Act, whether, within an extended period of time, such sales were made in substantial quantities, and whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. Pursuant to section 773(b)(2)(c) of the Tariff Act, where less than 20 percent of the respondent's home market sales of a given model were at prices below the COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time in "substantial quantities." Where 20 percent or more of the respondent's home market sales of a given model were at prices less than COP, we disregarded the below-cost sales because: (1) They were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Tariff Act, and (2) based on our comparison of prices to the weighted-average COPs for the POR, they were at

prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act.

Our cost test indicated that for certain Nexteel models, 20 percent or more of the home market sales volume (by weight) were sold at prices below COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Tariff Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales in the calculation of NV.

D. Calculation of Normal Value Based on Comparison Market Prices

We based home market prices on packed prices to unaffiliated purchasers in Korea. We adjusted the starting price for inland freight, warehouse expense, and warehouse revenue, where appropriate, pursuant to section 773(a)(6)(B)(ii) of the Tariff Act. In addition, for comparisons made to EP sales, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Tariff Act. We made COS adjustments by deducting direct selling expenses incurred for home market sales (credit expense) and adding U.S. direct selling expenses (credit and other direct selling expenses), where appropriate. See 19 CFR 351.410(c).

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Tariff Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise. See 19 CFR 351.411(b).

E. Level of Trade/Constructed Export Price Offset

In accordance with section 773(a)(1)(B)(i) of the Tariff Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. In identifying LOTs for EP and comparison market sales (*i.e.*, NV based on home market), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Tariff Act. See *Micron*

Technology, Inc. v. United States, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

To determine whether NV sales are at a different LOT than EP or CEP transactions, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Tariff Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Tariff Act (the CEP offset provision). Nexteel reported sales through one LOT corresponding to two channels of distribution in the home market. In the U.S. market, Nexteel reported one LOT corresponding to one channel of distribution for the EP sales made through unaffiliated Korean trading companies (as stated above, there were no CEP sales during the POI). In our analysis, we determined that there is one LOT in the home market and one LOT in the U.S. market. Nexteel did not claim that there were differing LOTs in the home and U.S. markets. Our analysis of the various selling functions indicates no differing LOTs in the home and U.S. markets. See Nexteel's section A questionnaire response dated October 9, 2007, at Exhibit A-5; Nexteel's Selling Function Chart shows the same level of activity in each market for every function listed in this exhibit. We have therefore preliminarily determined that sales to the U.S. and home markets were made at the same LOT, and as a result, no LOT adjustment was warranted.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Tariff Act based on exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

All-Others Rate

Section 735(c)(5)(B) of the Tariff Act states: "If the estimated weighted average dumping margins established for all exporters and producers individually investigated are zero or *de minimis* margins, or are determined entirely under section 776, the administering authority may use any

reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated." Nexteel is the only respondent in this investigation for which the Department has calculated a company-specific rate. This rate, however, is *de minimis*. Nine remaining companies all received a margin based entirely on AFA under section 776 of the Tariff Act. One company, SeAH, will receive the all-others rate (*i.e.*, its rate was not calculated, as stated above). Therefore, for purposes of determining the all-others rate, because there are no other rates than *de minimis* or those based on AFA, we have reasonably determined to take a simple average of the AFA rate (30.66 percent) and the *de minimis* rate calculated for Nexteel (1.30 percent); therefore, 15.98 percent is the average to be assigned for the all-others rate, as referenced in the *Suspension of Liquidation* section, below.

Verification

As provided in section 782(i) of the Tariff Act, we intend to verify information upon which we will rely in making our final determination.

Preliminary Determination

We preliminarily determine the following weighted-average dumping margins exist for the period April 1, 2006 through March 31, 2007:

Producer/exporter	Weighted-average margin (percentage)
Nexteel Co., Ltd.	* 1.30
Dong-A Steel Pipe Co. Ltd. ..	30.66
HiSteel Co. Ltd.	30.66
Jinbang Steel Co. Ltd.	30.66
Joong Won	30.66
Miju Steel Mfg. Co., Ltd.	30.66
Yujin Steel Industry Co.	30.66
Ahshin Pipe & Tube	30.66
Han Gyu Rae Steel Co., Ltd.	30.66
Kukje Steel Co., Ltd.	30.66
SeAH Steel Corporation, Ltd.	15.98
All others	15.98

* (*de minimis*).

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of LWR pipe and tube from the Republic of Korea, with the exception of those produced by Nexteel Co., Ltd. and exported by Nexteel Co., Ltd. or either of the two exporters named in its questionnaire responses, that are

entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin, as indicated in the chart above, as follows: (1) The rate for the firms listed above (except for Nexteel, *see* below) will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 15.98 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

In accordance with 19 CFR 351.204(e)(2), because the weighted-average margin for Nexteel is *de minimis*, we will instruct CBP not to suspend liquidation of merchandise produced by Nexteel Co., Ltd. and exported by Nexteel Co., Ltd. or either of the two exporters named in its questionnaire responses.

Commission Notification

In accordance with section 733(f) of the Tariff Act, we have notified the Commission of the Department's preliminary affirmative determination. If the Department's final determination is affirmative, the Commission will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of light-walled rectangular pipe and tube from Korea are materially injuring, or threaten material injury to, the U.S. industry. Because we have postponed the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, the Commission will make its final determination within 45 days of our final determination.

Disclosure

In accordance with 19 CFR 351.224(b), the Department will disclose to interested parties the calculations performed in this preliminary determination within five days of the date of the public announcement.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the final verification report in this proceeding. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, limited

to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1) and (2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette. In accordance with section 774 of the Tariff Act, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and place to be determined. However, parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. *See* 19 CFR 351.310(c). At the hearing, oral presentations will be limited to issues raised in the briefs.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Tariff Act, on January 3, 2008, Nexteel, which accounted for a significant proportion of exports of light-walled rectangular pipe and tube, requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, Nexteel requested that the Department extend by 60 days the application of the provisional measures. *See* Section 735(a)(2) of the Tariff Act and 19 CFR 351.210(e)(2). In accordance with section 733(d) of the Tariff Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and

(3) no compelling reasons for denial exist, we are granting Nexteel's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Tariff Act.

Dated: January 23, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. 08-415 Filed 1-30-08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-916]

Laminated Woven Sacks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Determination of Critical Circumstances, and Postponement of Final Determination

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

DATES: *Effective Date:* January 31, 2008.

SUMMARY: We preliminarily determine that laminated woven sacks from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. We will make our final determination within 135 days after the publication of this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or Javier Barrientos, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202-482-3207 or 202-482-2243, respectively.

SUPPLEMENTARY INFORMATION:

Initiation

On June 28, 2007, the Department of Commerce ("Department") received a petition on imports of laminated woven sacks from the PRC from the Laminated Woven Sacks Committee and its individual members, Bancroft Bags, Inc., Coating Excellence International, LLC,

pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: January 31, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8-2053 Filed 2-4-08; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-449 and 731-TA-1118-1121 (Final)]

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

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping duty investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase countervailing duty investigation No. 701-TA-449 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of light-walled rectangular pipe and tube, currently provided for in subheading 7306.61.50 of the Harmonized Tariff Schedule of the United States,¹ that are alleged to be subsidized by the Government of the People's Republic of China. The Commission also hereby gives notice of the scheduling of the final phase antidumping investigation Nos. 731-TA-1118-1121 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China, Korea, Mexico, and Turkey of light-walled rectangular pipe and tube, currently provided for in subheading 7306.61.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value.

For further information concerning the conduct of this phase of the

investigations, hearing procedures, 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 and C (19 CFR part 207).

EFFECTIVE DATE: January 28, 2008.

FOR FURTHER INFORMATION CONTACT:

Russell Duncan (202-708-4727; russell.duncan@usitc.gov), 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 investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of light-walled rectangular pipe and tube, and that such products from China, Korea, Mexico, and Turkey are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on June 27, 2007, by the following firms: Allied Tube and Conduit, Harvey, IL; Atlas Tube, Plymouth, MI; California Steel and Tube, City of Industry, CA; Ex-L-Tube, Kansas City, MO; Hannibal Industries, Los Angeles, CA; Leavitt Tube Company LLC, Chicago, IL; Maruichi American Corporation, Sante Fe Springs, CA; Searing Industries, Rancho Cucamonga, CA; Southland Tube, Birmingham, AL; Vest Inc., Los Angeles, CA; Welded Tube, Concord, Ontario (Canada); and Western Tube and Conduit, Long Beach, CA.

Participation in the investigations 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 final phase of these investigations as parties must file an

entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on March 28, 2008, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Friday, April 11, 2008, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before April 4, 2008. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on April 9, 2008, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7

¹ Prior to February 3, 2007, the merchandise subject to these investigations was properly classified under subheading 7306.60.50 of the Harmonized Tariff Schedule of the United States.

business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is Friday, April 4, 2008. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is Friday, April 18, 2008; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before April 18, 2008. On May 6, 2008, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 8, 2008, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. In addition, comments on the Department of Commerce's final determinations with respect to subject imports from China and Korea will be permitted based on a schedule to be issued by the Commission no later than the publication in the **Federal Register** of such determinations by the Department of Commerce. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 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 Fed. Reg. 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for

accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

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

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: January 31, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8-2052 Filed 2-4-08; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-454 and 731-TA-1144 (Preliminary)]

Welded Stainless Steel Pressure Pipe From China

AGENCY: United States International Trade Commission.

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

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase countervailing duty investigation No. 701-TA-454 (Preliminary) and antidumping duty investigation No. 731-TA-1144 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of welded stainless steel pressure pipe, provided for in subheadings 7306.40.50 and 7306.40.10 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of China, and sold in the United States at less than fair value. Unless the Department of Commerce extends the time for

initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in these investigations in 45 days, or in this case by March 17, 2008. The Commission's views are due at Commerce within five business days thereafter, or by March 24, 2008.

For further information concerning the conduct of these investigations 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 and B (19 CFR part 207).

EFFECTIVE DATE: January 30, 2008.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202-205-3200), 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 investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on January 30, 2008, by Bristol Metals (Bristol, TN), Felker Brothers Corp. (Marshfield, WI), Marcegaglia USA Inc. (Munhall, PA), Outoukumpu Stainless Pipe, Inc. (Schaumburg, IL), and the United Steel Workers of America (Pittsburgh, PA).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty and antidumping duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation

meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to Yvette Springer at Yspringer@bis.doc.gov.

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at Yspringer@bis.doc.gov no later than March 6, 2008.

For more information, please contact Ms. Springer at 202-482-2813.

Dated: February 21, 2008.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. E8-3826 Filed 2-27-08; 8:45 am]

BILLING CODE 3510-JT-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-840]

Carbon and Certain Alloy Steel Wire Rod From Canada: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: February 28, 2008.

FOR FURTHER INFORMATION CONTACT: Steve Bezirgianian or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1131 or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 7, 2007, the Department published the preliminary results of this administrative review of the antidumping duty order on carbon and certain alloy steel wire rod from Canada. See *Notice of Preliminary Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod From Canada*, 72 FR 62816 (November 7, 2007) (Preliminary Results). This review covers Ivaco Rolling Mills 2004 L.P. and Sivaco Ontario (a division of Sivaco Wire Group 2004 L.P.) (collectively referred to as "Ivaco"), for the period October 1, 2005 to September 30, 2006. On November 29, 2007, we sent a supplemental questionnaire to Ivaco pertaining to the level of trade issue.

Ivaco submitted its response on December 13, 2007. Petitioners (Mittal Steel USA Inc.—Georgetown, Gerdau USA Inc., Nucor Steel Connecticut Inc., Keystone Consolidated Industries, Inc., and Rocky Mountain Steel Mills) provided comment on Ivaco's response on December 21, 2007. Ivaco responded to petitioners' comments on December 31, 2007. The Department extended the deadlines for case filing briefs and rebuttal briefs because of its request for new information after issuing its preliminary results. Ivaco and petitioners submitted their case briefs on January 23, 2008. Ivaco and petitioners submitted their rebuttal briefs on January 30, 2008. The final results are currently due not later than March 6, 2008.

Extension of Time Limit for Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the final results of an administrative review within 120 days after the date on which the preliminary results were published. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the final results up to 180 days from the date of publication of the preliminary results.

We determine that it is not practicable to complete the final results of this review within current statutory limits. The Department requires additional time to evaluate the information submitted by parties after the preliminary results were published. Therefore, we are extending the deadline for the final results of this review by 60 days, until no later than May 5, 2008, in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(1), 751(a)(3)(A), and 777(i)(1) of the Act.

Dated: February 21, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 08-870 Filed 2-27-08; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-836]

Notice of Postponement of Final Antidumping Duty Determination and Extension of Provisional Measures: Light-Walled Rectangular Pipe and Tube From Mexico

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

EFFECTIVE DATE: February 28, 2008.

FOR FURTHER INFORMATION CONTACT: Angelica Mendoza, Patrick Edwards (PROLAMSA) or Judy Lao (Maquilacero), AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3019, (202) 482-8029, or (202) 482-7924, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 2007, the Department of Commerce (the Department) published the initiation of the antidumping duty investigations on imports of light-walled rectangular (LWR) pipe and tube from the Republic of Korea, Mexico, Turkey, and the People's Republic of China. See *Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People's Republic of China*, 72 FR 40274 (July 24, 2007) (*Initiation Notice*). On January 30, 2008, the Department published its affirmative preliminary determination in this investigation. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube From Mexico*, 73 FR 5515 (January 30, 2008). This notice stated that the Department would issue its final determination no later than 75 days after the date on which the Department issued its preliminary determination.

Postponement of Final Determination

Section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) provide that a final determination may be postponed until no later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant portion of exports of the subject merchandise. Additionally, the Department's regulations, at 19 CFR

351.210(e)(2)(ii), require that a request by a respondent for postponement of a final determination be accompanied by a request for extension of the provisional measures from a four-month period to not more than six months.

On February 7, 2008, in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), one of the two mandatory respondents, Maquilacero S.A. de C.V. (Maquilacero), requested that the Department: ¹ (1) Postpone the final determination, and (2) extend the provisional measures period from four months to a period not longer than six months. Accordingly, pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporter accounts for a significant portion of exports of the subject merchandise in this investigation and it requested the extension of the provisional measures; and (3) no compelling reasons for denial exist, we are postponing the final determination until no later than 135 days after the publication of the preliminary determination in the **Federal Register** (*i.e.*, until no later than June 13, 2008). Suspension of liquidation will be extended accordingly.

This notice of postponement is published pursuant to sections 735(a)(2) and 777(i)(1) of the Act and 19 CFR 351.210(g).

Dated: February 22, 2008.

David M. Spooner,
Assistant Secretary for Import
Administration.

[FR Doc. E8-3786 Filed 2-27-08; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF56

Marine Mammals; File No. 605-1904

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Whale Center of New England (Mason Weinrich, Principal Investigator), P.O. Box 159, Gloucester, MA 01930 has

been issued a permit to conduct research on humpback (*Megaptera novaeangliae*), fin (*Balaenoptera physalus*), and sei (*Balaenoptera borealis*) whales.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521;

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298; phone (978)281-9300; fax (978)281-9394; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; phone (727) 824-5312; fax (727) 824-5309.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Jaclyn Daly, (301) 713-2289.

SUPPLEMENTARY INFORMATION: On March 7, 2007, notice was published in the **Federal Register** (72 FR 10170) that a request for a scientific research permit to take humpback, fin, and sei whales had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

Permit No. 605-1904, issued to The Whale Center of New England, allows for the harassment of humpback, fin, and sei whales along the U.S. Atlantic coast to: 1) continue population monitoring; 2) determine whether humpback whale life history parameters change with their population status; 3) determine the importance of Jeffrey's Ledge as an aggregation area; 4) determine how humpback and fin whales relate to their prey and use the environment; 5) develop an aging technique from biopsy samples; and 6) determine the effect that prey resources have on the distribution, behavior and social organization of whales. The permit authorizes the close approach of 400 humpback, 250 fin, and 100 sei whales for vessel surveys, photo-identification, tracking, and incidental harassment annually. The permit also authorizes the biopsy sampling of 115 humpback, 95 fin, and 25 sei whales annually during such approaches. For

humpback and fin whales, up to 20 samples for each species may be collected annually from young calves at least 3 months old. During approaches, researchers may suction-cup tag 40 humpback, 20 fin, and 25 sei whales greater than six months of age annually. The permit is issued for five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an environmental assessment was prepared analyzing the effects of the permitted activities. After a Finding of No Significant Impact, the determination was made that it was not necessary to prepare an environmental impact statement.

Issuance of this permit, as required by the ESA, was based on a finding that such permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: February 21, 2008.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8-3838 Filed 2-27-08; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648-XF86

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council's (Council) Observer Advisory Committee (OAC) will meet in Seattle, WA.

DATES: The meeting will be held on March 17, 2008, from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at the Alaska Fishery Science Center, 7600 Sand Point Way NE, Bldg 4, Room 1055, Seattle, WA 98115.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

FOR FURTHER INFORMATION CONTACT: Nicole Kimball, Council staff; telephone: (907) 271-2809.

¹ Maquilacero stated in its February 7, 2008, letter that its counsel consulted with counsel for Productos Laminados de Monterrey, S.A. de C.V. ("Prolamsa") and Prolamsa USA Inc., who consented to Maquilacero's request for postponement of the final determination.

Of these 82 entities, a consumer price index was unavailable for the following 13: Azerbaijan, Bermuda, China, Cuba, Gibraltar, Guam, Isle of Man, Jersey, Puerto Rico, San Marino, Taiwan, Ukraine, and the Virgin Islands.

Of the remaining 69 entities, there was no exchange rate available for Serbia and Montenegro.

Of the remaining 68 entities, there was no GNI data available for: Bahrain, Cyprus, and Macau.

Of the remaining 65 entities, the following four are currently or were NMEs designated by the Department in

2004 or 2005: Armenia, Georgia, Kyrgyzstan, and Moldova.

Accordingly, the Department ran its preliminary 2007 expected NME wage regression on the following 61 countries: Albania, Argentina, Australia, Austria, Belgium, Botswana, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Germany, Hong Kong, Hungary, Iceland, India, Ireland, Israel, Japan, Jordan, Kazakhstan, Korea, Latvia, Lithuania, Luxembourg, Macedonia the former

Yugoslav Republic of, Madagascar, Malta, Mauritius, Mexico, Mongolia, Netherlands, New Zealand, Nicaragua, Norway, Panama, Poland, Portugal, Romania, Russian Federation, Seychelles, Singapore, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, United Kingdom, United States, and West Bank and Gaza Strip.

Following the data compilation and regression methodology described in the Antidumping Methodologies notice, and using GNI and wage data for Base Year 2005, the regression results are: Wage = 0.284456 + 0.000447* GNI.

Country	Expected NME	
	2005 GNI (USD per annum)	Wage rate (USD per hour)
Armenia	1,470	0.94
Azerbaijan	1,270	0.85
Belarus	2,760	1.52
China	1,740	1.06
Georgia	1,300	0.87
Kyrgyz Republic	450	0.49
Moldova	960	0.71
Tajikistan	330	0.43
Uzbekistan	530	0.52
Vietnam	620	0.56

The World Bank did not publish a GNI for Turkmenistan.

As stated above, the full preliminary results and underlying data for the 2007 expected NME wages calculation have been posted on the Import Administration Web site (<http://ia.ita.doc.gov>).

[FR Doc. E8-7805 Filed 4-10-08; 8:45 am]
BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-489-815

Notice of Final Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube from Turkey

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

EFFECTIVE DATE: April 11, 2008.

SUMMARY: The Department of Commerce (the Department) determines that imports of light-walled rectangular pipe and tube from Turkey are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final dumping margins are listed below in the section

entitled "Final Determination of Investigation."

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold, Fred Baker, or Robert James, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1121, (202) 482-2924, or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 30, 2008, the Department published the preliminary determination of sales at less than fair value (LTFV) in the antidumping investigation of light-walled rectangular pipe and tube from Turkey. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube from Turkey*, 73 FR 5508 (January 30, 2008) (*Preliminary Determination*). We invited parties to comment on the *Preliminary Determination*. On March 10, 2008, we received a letter from Goktas Tube, a producer/exporter of light-walled rectangular pipe and tube from Turkey. We did not receive any case or rebuttal briefs from any other interested parties.

Period of Investigation

The period of investigation is April 1, 2006, through March 31, 2007.

Scope of Investigation

The merchandise subject to this investigation is certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our

written description of the scope of this investigation is dispositive.

Adverse Facts Available

For the final determination, we continue to find that by failing to respond to our July 31, 2007, abbreviated quantity and value questionnaire, and by failing to respond, or by failing to respond in a timely manner to our follow up letter dated August 16, 2007, Anadolu Boru, Ayata Metal Industry, Kalibre Boru Sanayi ve Ticaret A.S., Kerim Celik Mamulleri Imalat ve Ticaret¹, Ozgur Boru, Ozmak Makina ve Elektrik Sanayi, Seamless Steel Tube and Pipe Co. (Celbor), Umrans Steel Pipe Inc., and Yusan Industries, Ltd., producers and/or exporter of light-walled rectangular pipe and tube from Turkey, did not cooperate to the best of their ability in this investigation. See *Preliminary Determination*, at 5509–5513. Thus, the Department continues to find the use of adverse facts available is warranted for these companies in accordance with sections 776 (a)(2) and (b) of the Act.

Also, we continue to find that, by failing to provide information we requested, mandatory respondents MMZ Onur Boru Profil Uretim San. Ve Tic. A.S. (MMZ) and Guven Boru Profil Sanayii ve Ticaret Limited Sirketi (Guven Boru), did not act to the best of their ability in responding to our questionnaires. Thus, the Department continues to find the use of adverse facts available is warranted for these companies under sections 776 (a)(2) and (b) of the Act. See *id.*

Because Goktas Tube did not respond to our abbreviated quantity and value questionnaire or to our follow up letter, we applied adverse facts available to the company in the *Preliminary Determination*. See *id.* On March 10, 2008, we received a letter from Goktas Tube claiming that it did not receive our quantity and value questionnaire until January 28, 2008, because it had changed locations and the questionnaire and other correspondence was sent to its old address. The company explained that it had been sending an employee to the old location on a weekly basis to collect mail that had been sent to that facility. In its letter, the company insisted that despite this, it only received our quantity and value questionnaire on January 28, 2008. The company also explained that it received a copy of the *Preliminary Determination* on January 30, 2008.

¹ Kerim Celik Mamulleri Imalat ve Ticaret responded to our follow up letter, but its response was untimely.

The Department's records in this case indicate that Goktas Tube received a copy of our abbreviated quantity and value questionnaire at its original location on August 2, 2008. Also, in addition to our abbreviated quantity and value questionnaire and a copy of the *Preliminary Determination*, Goktas Tube received a copy of our follow up letter, a copy of our August 17, 2007 letter to all interested parties (the proposed model match letter), a copy of the September 7, 2007, Memorandum to Stephen Claeys from Fred Baker (the respondent selection memorandum), and our September 7, 2007, letter to all interested parties (the public service list letter)² at its previous location. Our records indicate that our follow up letter, the proposed model match letter, the respondent selection memorandum, and the public service list letter were received at Goktas Tube's original location on August 20, 2007, August 20, 2007, September 10, 2007, and September 10, 2007, respectively. See Memorandum to the File, dated March 28, 2008. Goktas Tube made no mention of any of these other documents in its March 10, 2008, letter.

Despite Goktas Tube's claim that it did not receive our quantity and value questionnaire until January 28, 2008, we note that, according to its own account, the company did have a copy of our quantity and value questionnaire in its possession for six weeks before it notified the Department of the situation. Further, the company gave no explanation for this delay in its March 10, 2008, letter. On this basis, we conclude that Goktas Tube had the opportunity to contact the Department immediately when it realized the situation, but failed to do so. Therefore, we continue to conclude that Goktas Tube has failed to cooperate to the best of its ability, and accordingly, that the use of adverse facts available is warranted for Goktas Tube under sections 776 (a)(2) and (b) of the Act.

As we explained in the *Preliminary Determination*, the rate of 41.07 percent we selected as the adverse facts–available rate is the highest margin alleged in the petition. As discussed in the *Preliminary Determination*, we corroborated the adverse facts–available rate pursuant to section 776(c) of the Act.

All–Others Rate

As explained in the *Preliminary Determination*, we continue to assign as the all–others rate a simple average of the rates in the petition, that is, 27.04

² See Memorandum to the File, dated August 17, 2007.

percent. See *Preliminary Determination*, at 5513 and 5514.

Final Determination of Investigation

We determine that the following weighted–average dumping margins exist for the period April 1, 2006, through March 31, 2007:

Weighted–Average Producer/Exporter	Margin (Percentage)
Guven Boru Profil Sanayii ve Ticaret Limited Sirketi	41.71
MMZ Onur Boru Profil Uretim San. ve Tic. A.S.	41.71
Anadolu Boru	41.71
Ayata Metal Industry	41.71
Goktas Tube/Goktas Metal	41.71
Kalibre Boru Sanayi ve Ticaret A.S.	41.71
Kerim Celik Mamulleri Imalat ve Ticaret	41.71
Ozgur Boru	41.71
Ozbek Makina ve Elektrik Sanayi	41.71
Seamless Steel Tube and Pipe Co. (Celbor)	41.71
Umrans Steel Pipe Inc. ..	41.71
Yusan Industries, Ltd.	41.71
Borusan Mannesmann Boru	27.04
Erbosan Erciyas Boru Sanayii ve Ticaret A.S.	27.04
Noksel Steel Pipe Co. ..	27.04
Ozborsan Boru San. ve Tic. A.S.	27.04
Ozdemir Boru Sanayi ve Ticaret Ltd. Sti.	27.04
Toscelik Profil ve Sac End. A.S.	27.04
Yucel Boru ve Profil Endustrisi A.S.	27.04
All Others	27.04

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act and 19 CFR 351.211(b)(1), we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Turkey entered, or withdrawn from warehouse, for consumption on or after January 30, 2008, the date of the publication of the *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted–average margin, as indicated in the chart above, as follows: (1) the rate for the mandatory respondents will be the rate we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3)

the rate for all other producers or exporters will be 27.04 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative, and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

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

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: April 7, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8-7833 Filed 4-10-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration (C-570-926)

Sodium Nitrite from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of sodium nitrite from the People's Republic of China (PRC). For information on the countervailable subsidy rates, see the "Suspension of Liquidation" section of this notice. See the "Disclosure and Public Comment" section below for procedures on filing comments regarding this preliminary determination.

EFFECTIVE DATE: April 11, 2008.

FOR FURTHER INFORMATION CONTACT: Sean Carey or Gene Calvert, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-3964 and (202) 482-3586, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On November 28, 2007, the Department initiated a countervailing duty (CVD) investigation of sodium nitrite from the PRC. See *Sodium Nitrite from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 72 FR 68568 (December 5, 2007) (*Initiation Notice*). On December 26, 2007, the Department selected, as mandatory company respondents, the two largest publicly identifiable Chinese producers/exporters of sodium nitrite to the United States: Shanxi Jiaocheng Hongxing Chemical Co., Ltd. (Shanxi Jiaocheng) and Tianjin Soda Plant, together with its subsidiary company, Tianjin Port Free Trade Zone Pan Bohai International Trading Co., Ltd. (Tianjin Soda Plant). See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, "Respondent Selection," dated December 26, 2007. A public version of this memorandum is on file in Import Administration's Central Records Unit (CRU), Room 1117 of the main Department of Commerce building. On that same day, the Department issued a

CVD investigation questionnaire to the Government of the People's Republic of China (GOC). The letter accompanying this questionnaire informed the GOC that it was responsible for completing and submitting a response to certain sections of this questionnaire and that it was also responsible for forwarding copies of the questionnaire to the two mandatory respondents subject to this CVD investigation. Questionnaire responses were not submitted in this investigation by either the GOC or the two mandatory company respondents.

On December 21, 2007, General Chemical LLC (petitioner) submitted two new subsidy allegations concerning preferential tax and loan policies for the coal chemical industry, which petitioner alleged benefited the production of sodium nitrite. On January 24, 2008, petitioner submitted additional information regarding these new subsidy allegations. On March 24, 2008, the Department determined that the requirements of section 702 of the Tariff Act of 1930, as amended (the Act) were not met, and did not initiate an investigation of these newly alleged subsidies. For a complete discussion on the Department's decision not to initiate an investigation on these newly alleged programs, see Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, "Countervailing Duty Investigation of Sodium Nitrite from the People's Republic of China: Analysis of New Subsidy Allegations," dated March 24, 2008, available in the CRU.

Scope of the Investigation

The merchandise covered by this investigation is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by this investigation may or may not contain an anti-caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. The chemical composition of sodium nitrite is NaNO₂ and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name "sodium nitrite" to sodium nitrite. The CAS registry number is 7632-00-0. For purposes of the scope of this investigation, the narrative description is dispositive, not the tariff heading, CAS registry number or CAS name, which are provided for convenience and customs purposes.

APPENDIX B
HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject: Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey

Inv. Nos.: 701-TA-449 and 731-TA-1118-1121 (Final)

Date and Time: April 11, 2008 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, D.C.

EMBASSY APPEARANCE:

**Embassy of Mexico
Washington, D.C.**

Salvador Behar, Legal Counsel for International Trade

**Isabel Paras, Chief of the Department of International Assistance of the Unit for
International Trade Practices, Ministry of Economy**

OPENING REMARKS:

Petitioner (**Roger B. Schagrin**, Schagrin Associates)
Respondents (**Kenneth J. Pierce**, Vinson & Elkins LLP)

**In Support of the Imposition of
Antidumping and Countervailing Duties:**

Schagrin Associates
Washington, D.C.
on behalf of

Allied Tube & Conduit; Atlas Tube; Bull Moose Tube Company; California Steel and Tube;
EXLTUBE; Hannibal Industries; Leavitt Tube; Company LLC; Maruichi American Corporation;
Searing Industries; Southland Tube; Vest, Inc.; Welded Tube; Western Tube and Conduit.

Parry D. Katsafanas, President, Leavitt Tube Company LLC

Jim Searing, Executive Vice President, Searing Industries

Glenn Baker, Vice President, Sales and Marketing, Searing Industries

Ed Kurasz, Vice President and General Manager, Mechanical Tube Division,
Allied Tube & Conduit

Jack Meyer, Chief Executive Officer, Bull Moose Tube Company

Mike Dustmann, Vice President, Business Development, Bull Moose Tube Company

Richard N. Lind, Vice President, Sales and Marketing, Hannibal Industries

John R. Montgomery, Jr., Vice President and General Manager, Southland Tube, Inc.

Chris Knox, Vice President, Sales, Vest, Inc.

Butch Mandel, Executive Vice President, Welded Tube

Ed Rachel, President and Chief Executive Officer,
U.S. Wholesale Pipe and Tube Company

Roger B. Schagrin)
) – OF COUNSEL
John W. Bohn)

**In Opposition to the Imposition of
Antidumping and Countervailing Duties:**

Vinson & Elkins LLP
Washington, D.C.
on behalf of

Nacional de Acero, S.A. de C.V.

Neil Psooy, Purchasing and Sales Manager, Mueller Metals, Inc.
Francisco Javier Espinosa Sifuentes, Export Sales Manager, Nacional de Acero

Kenneth J. Pierce)
Victor S. Mroczka) – OF COUNSEL
Andres A. Castrillon

McKenna Long & Aldridge
Washington, DC.
on behalf of

Hylsa, S.A. de C.V. (“Hylsa”)

Jeffrey M. Winton)
) – OF COUNSEL
Elisabeth Carrigan

REBUTTAL/CLOSING REMARKS:

Petitioners (**Roger B. Schagrin**, Schagrin Associates)
Respondents (**Kenneth J. Pierce**, Vinson & Elkins LLP)

APPENDIX C
SUMMARY DATA

Table C-1

LWR pipe & tube: Summary data concerning the U.S. market, 2005-07

(Quantity=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		
	2005	2006	2007	2005-07	2005-06	2006-07
U.S. consumption quantity:						
Amount	962,225	1,025,684	894,973	-7.0	6.6	-12.7
Producers' share (1)	65.1	60.8	64.8	-0.3	-4.3	4.0
Importers' share (1):						
China	4.2	8.0	9.9	5.8	3.8	2.0
Korea (subject)	***	***	***	***	***	***
Mexico (subject)	***	***	***	***	***	***
Turkey	3.2	5.5	1.6	-1.6	2.3	-3.8
Subtotal (subject)	***	***	***	***	***	***
Canada	7.9	6.9	5.5	-2.5	-1.0	-1.5
Korea (nonsubject)	***	***	***	***	***	***
Mexico (nonsubject)	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Subtotal (nonsubject)	***	***	***	***	***	***
Total imports	34.9	39.2	35.2	0.3	4.3	-4.0
U.S. consumption value:						
Amount	834,193	869,323	730,480	-12.4	4.2	-16.0
Producers' share (1)	68.2	66.1	69.0	0.8	-2.2	2.9
Importers' share (1):						
China	3.2	5.5	7.2	4.0	2.2	1.8
Korea (subject)	***	***	***	***	***	***
Mexico (subject)	***	***	***	***	***	***
Turkey	2.8	4.1	1.3	-1.5	1.3	-2.8
Subtotal (subject)	***	***	***	***	***	***
Canada	8.3	7.5	5.9	-2.4	-0.7	-1.6
Korea (nonsubject)	***	***	***	***	***	***
Mexico (nonsubject)	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Subtotal (nonsubject)	***	***	***	***	***	***
Total imports	31.8	33.9	31.0	-0.8	2.2	-2.9
U.S. imports from:						
China:						
Quantity	39,945	81,657	88,879	122.5	104.4	8.8
Value	27,040	47,605	52,939	95.8	76.1	11.2
Unit value	\$677	\$583	\$596	-12.0	-13.9	2.2
Ending inventory quantity	***	***	***	***	***	***
Korea (subject):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Mexico (subject):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Turkey:						
Quantity	30,517	55,952	14,511	-52.4	83.3	-74.1
Value	23,264	35,584	9,192	-60.5	53.0	-74.2
Unit value	\$762	\$636	\$633	-16.9	-16.6	-0.4
Ending inventory quantity	***	***	***	***	***	***
Subtotal (subject):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***

Table continued on next page.

Table C-1--Continued

LWR pipe & tube: Summary data concerning the U.S. market, 2005-07

(Quantity=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		
	2005	2006	2007	2005-07	2005-06	2006-07
U.S. imports from:						
Canada:						
Quantity	76,231	71,142	48,899	-35.9	-6.7	-31.3
Value	69,074	65,584	43,262	-37.4	-5.1	-34.0
Unit value	\$906	\$922	\$885	-2.4	1.7	-4.0
Ending inventory quantity	***	***	***	***	***	***
Korea (nonsubject):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Mexico (nonsubject):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All other sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Subtotal (nonsubject):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All sources:						
Quantity	336,259	402,295	315,413	-6.2	19.6	-21.6
Value	264,904	294,805	226,400	-14.5	11.3	-23.2
Unit value	\$788	\$733	\$718	-8.9	-7.0	-2.0
Ending inventory quantity	10,641	15,429	16,529	55.3	45.0	7.1
U.S. producers:						
Average capacity quantity	964,957	947,858	902,385	-6.5	-1.8	-4.8
Production quantity	625,933	631,842	580,847	-7.2	0.9	-8.1
Capacity utilization (1)	64.9	66.7	64.4	-0.5	1.8	-2.3
U.S. shipments:						
Quantity	625,967	623,389	579,559	-7.4	-0.4	-7.0
Value	569,288	574,517	504,081	-11.5	0.9	-12.3
Unit value	\$909	\$922	\$870	-4.4	1.3	-5.6
Export shipments:						
Quantity	4,635	7,547	9,241	99.4	62.8	22.4
Value	4,596	8,367	8,863	92.8	82.0	5.9
Unit value	\$992	\$1,109	\$959	-3.3	11.8	-13.5
Ending inventory quantity	64,764	65,118	56,366	-13.0	0.5	-13.4
Inventories/total shipments (1)	10.3	10.3	9.6	-0.7	0.1	-0.7
Production workers	1,114	1,023	973	-12.7	-8.2	-4.9
Hours worked (1,000s)	1,993	1,822	1,682	-15.6	-8.6	-7.6
Wages paid (\$1,000s)	33,854	33,343	31,485	-7.0	-1.5	-5.6
Hourly wages	\$16.99	\$18.30	\$18.71	10.2	7.8	2.2
Productivity (tons/1,000 hours)	314.1	346.9	345.3	9.9	10.4	-0.5
Unit labor costs	\$54.08	\$52.77	\$54.20	0.2	-2.4	2.7
Net sales:						
Quantity	591,721	586,896	549,260	-7.2	-0.8	-6.4
Value	539,809	542,437	481,378	-10.8	0.5	-11.3
Unit value	\$912	\$924	\$876	-3.9	1.3	-5.2
Cost of goods sold (COGS)	452,240	444,888	418,199	-7.5	-1.6	-6.0
Gross profit or (loss)	87,569	97,549	63,179	-27.9	11.4	-35.2
SG&A expenses	33,990	35,853	32,310	-4.9	5.5	-9.9
Operating income or (loss)	53,579	61,696	30,869	-42.4	15.1	-50.0
Capital expenditures	12,015	8,738	9,281	-22.8	-27.3	6.2
Unit COGS	\$764	\$758	\$761	-0.4	-0.8	0.4
Unit SG&A expenses	\$57	\$61	\$59	2.4	6.3	-3.7
Unit operating income or (loss)	\$91	\$105	\$56	-37.9	16.1	-46.5
COGS/sales (1)	83.8	82.0	86.9	3.1	-1.8	4.9
Operating income or (loss)/ sales (1)	9.9	11.4	6.4	-3.5	1.4	-5.0

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

(2) Not applicable.

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 not 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 and official Commerce statistics with modifications.

APPENDIX D
NONSUBJECT PRICING

Table D-1

LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 1, 2005-07

* * * * *

Table D-2

LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 2, 2005-07

* * * * *

Table D-3

LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 3, 2005-07

* * * * *

Table D-4

**LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for products 4 and 5
2005-07**

* * * * *

APPENDIX E

**ALLEGED EFFECTS OF SUBJECT IMPORTS ON U.S. PRODUCERS'
EXISTING DEVELOPMENT AND PRODUCTION EFFORTS,
GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL**

Responses of U.S. producers to the following questions:

1. Since January 1, 2005 has your firm experienced any actual negative effects on its return on investment or its growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of LWR pipe and tube from China, Korea, Mexico, or Turkey?

AK Tube, LLC, Walbridge, OH

Allied Tube & Conduit, Harvey, IL

Atlas Tube, Chicago, IL

Bull Moose Tube Co., Chesterfield, MO

Evrax Oregon Steel Mills, Portland, OR

EXL Tube, North Kansas City, MO

Hanna Steel Corp., Fairfield, AL

Hannibal Industries, Inc., Los Angeles, CA

Leavitt Tube Co., Chicago, IL

Leggett & Platt, LaVergne, TN

Longhorn Tube, Dallas, TX

Maruichi American Corp., Santa Fe Springs, CA

Mid-States, Kenosha, WI

Northwest Pipe Co., Portland, OR

Paragon, Fort Wayne, IN

Southeast Tube, Inc., Cadiz, KY

Shearing Industries, Rancho Cucamonga, CA

Southland Tube, Birmingham, AL

Vest Inc., Vernon, CA

Welded Tube of Canada, Inc., Delta, OH

Western Tube & Conduit Corp., Long Beach, CA

2. Does your firm anticipate any negative impact of imports of LWR pipe and tube from China, Korea, Mexico, or Turkey?

AK Tube, LLC, Walbridge, OH

Allied Tube & Conduit, Harvey, IL

Atlas Tube, Chicago, IL

Bull Moose Tube Co., Chesterfield, MO

California Steel & Tube, City of Industry, CA

Evrax Oregon Steel Mills, Portland, OR

EXL Tube, North Kansas City, MO

Hanna Steel Corp., Fairfield, AL

Hannibal Industries, Inc., Los Angeles, CA

Leavitt Tube Co., Chicago, IL

Leggett & Platt, LaVergne, TN

Longhorn Tube, Dallas, TX

Maruichi American Corp., Santa Fe Springs, CA

Mid-States, Kenosha, WI

Northwest Pipe Co., Portland, OR

Paragon, Fort Wayne, IN

Shearing Industries, Rancho Cucamonga, CA

Southeast Tube, Inc., Cadiz, KY

Southland Tube, Birmingham, AL

Vest Inc., Vernon, CA

Welded Tube of Canada, Inc., Delta, OH

Western Tube & Conduit Corp., Long Beach, CA
