Stainless Steel Angle from Japan

Investigation No. 731-TA-699 (Final)

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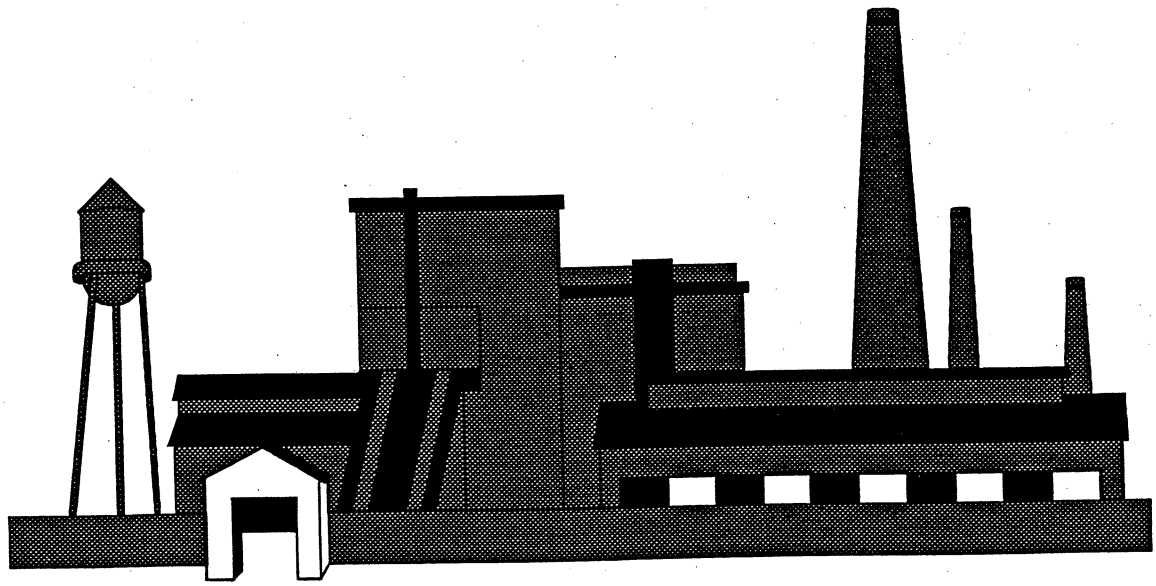
U.S. International Trade Commission



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Glossary of Abbreviations

Aichi	Aichi Steel Works, Ltd.
ASTM	American Society for Testing and Materials
CNIF	Customs' Net Import File
COGS	Cost of goods sold
Commission	U.S. International Trade Commission
Commerce	U.S. Department of Commerce
Conference transcript	Transcript of the conference in the preliminary investigation
Daido	Daido Steel Co., Ltd.
Distributor Metals	Distributor Metals Corporation
EAF	Electric arc furnace
EOP	End-of-period
FMV	Foreign market value
FOB	Free on Board
GATT	General Agreement on Tariffs and Trade
Gerber	Gerber Steel Company, Inc.
Hearing transcript	Transcript of the hearing in the final investigation
HTS	Harmonized Tariff Schedule of the United States
KG	KG Specialty Steel, Inc.
IMF	International Monetary Fund
LTFV	Less than fair value
Mitsui	Mitsui & Company (USA), Inc.
Nissho	Nissho Iwai American Corporation
Okaya	Okaya & Company (U.S.A.), Inc.
Okura	Okura & Company (America), Inc.
PRW	Production and related workers
SG&A expenses	Selling, general, and administrative expenses
Slater	Slater Steels
Sumitomo	Sumitomo Corporation of America
Sumitomo Metal	Sumitomo Metal Industries, Ltd.
Tomen	Tomen America, Inc.
Toyota	Toyota Tsusho American, Inc.
USP	U.S. price
VRA	Voluntary restraint agreement

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

PART I

DETERMINATION AND VIEWS OF THE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-699 (Final)
Stainless Steel Angle From Japan

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines, 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 not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Japan of stainless steel angle, provided for in subheading 7222.40.30 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective November 10, 1994, following a preliminary determination by the Department of Commerce that imports of stainless steel angle from Japan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the institution 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 December 7 (59 FR 63106). The hearing was held in Washington, DC, on March 30, 1995, 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)).

VIEWS OF THE COMMISSION

Based on the record in this final investigation, we determine that the industry in the United States producing stainless steel angle is neither materially injured, nor threatened with material injury, by reason of imports of stainless steel angle from Japan that are sold in the United States at less than fair value ("LTFV").[1]

I. LIKE PRODUCT AND DOMESTIC INDUSTRY

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of the subject imports, the Commission first defines the "like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930, as amended (the "Act"), defines the relevant domestic industry as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[2] In turn, the statute defines "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."[3] The Commission's decision regarding the appropriate like product or products is essentially 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.[4] No single factor is dispositive, and the Commission may consider factors it deems relevant based upon the facts of a particular investigation. The Commission looks for "clear dividing lines among possible like products" and disregards minor variations.[5]

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[1] The petition in this investigation was filed prior to the effective date of the Uruguay Round Agreements Act. This investigation thus remains subject to the substantive and procedural rules of the pre-existing law. See Pub. L. 103-465, 108 Stat. 4809 (1994) at § 291.

Whether the establishment of an industry in the United States is materially retarded is not an issue in this investigation.

[2] 19 U.S.C. § 1677(4)(A).

[3] 19 U.S.C. § 1677(10). In analyzing like product issues, the Commission generally considers a number of factors including: (1) physical characteristics and uses, (2) interchangeability of the products, (3) channels of distribution, (4) customer and producer perceptions of the products, (5) the use of common manufacturing facilities and production employees, and (6) where appropriate, price. Calabrian Corp. v. United States, 794 F. Supp. 377, 382, n.4 (Ct. Int'l Trade 1992).

[4] See 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).

[5] Torrington Co. v. United States, 747 F. Supp. at 748-49.

The merchandise subject to investigation is "hot-rolled, whether or not annealed or descaled, stainless steel products of equal leg length angled at 90 degrees, that are not otherwise advanced."[6]

In our preliminary determination, we found that hot-rolled stainless steel angle of equal leg length constituted a single like product.[7] Based on the evidence gathered in the preliminary investigation, we concluded that, inter alia, there was no basis for expanding the like product to include carbon steel angle, extruded angle of unequal leg length, or other stainless steel products.[8] No party has requested that the Commission define the like product differently than it did in the preliminary determination,[9] and no new information has been obtained in this final investigation indicating that our like product definition should be changed. Accordingly, we determine that there is one like product in this investigation, hot-rolled stainless steel angle of equal leg length, for the reasons stated in the preliminary determination. We further determine that the domestic industry is composed of petitioner, the only domestic producer of the like product.[10]

II. CONDITION OF THE DOMESTIC INDUSTRY

In assessing whether the domestic industry is materially injured or threatened with material injury by reason of LTFV and subsidized imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[11] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research

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[6] 60 Fed. Reg. 16608, 16609, Mar. 31, 1995 (Final Determination of Sales at LTFV). The angle subject to this investigation is currently classifiable under subheadings 7222.40.30.20, and 7222.40.30.60 of the Harmonized Tariff Schedules of the United States ("HTSUS"). Id.

[7] Stainless Steel Angles from Japan, Inv. No. 731-TA-699 (Preliminary), USITC Pub. 2777 at I-6 (May 1994) ("Preliminary Determination").

[8] See Preliminary Determination, USITC Pub. 2777 at I-6 & nn.15-18.

[9] See Petitioner's Prehearing Brief at 5-13.

[10] Because there is only one domestic producer, most empirical information pertaining to the domestic industry may not be discussed in a public opinion. We have been granted permission by petitioner to discuss in the public opinion general trends pertaining to the domestic industry.

[11] 19 U.S.C. § 1677(7)(C)(iii).

and development.[12] 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."[13]

There are several conditions of competition distinctive to the domestic industry. First, stainless steel angle is a commodity product and subject imported and domestic stainless steel angle are substitutable.[14] Second, the cost of the raw materials used to produce stainless steel angle significantly affects prices of the angle.[15]

Third, subject imported angle is sold through distribution channels distinct from those for domestically-produced angle.[16] Japanese mills sell *** percent of their U.S. stainless steel angle shipments mill direct to U.S. service centers (mill direct sales), while the remainder of their U.S. shipments are sold through mill depots in the United States (mill depot sales).[17] Mill depots maintain inventories of imports for sale to steel service centers

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[12] Petitioner urges us to include a fourth year, 1991, in the period of data we consider because, it argues, the additional year would better enable us to consider the business cycle it alleges. See Petitioner's Prehearing Brief at 20-21. We typically consider only a three-calendar-year period, plus any interim data. Data for 1991 are part of this final investigation record (e.g., Confidential Report ("CR") at A-5-6, Public Report ("PR") at A-5-6, Table A-2); however, focusing on 1991 data would not enhance our ability to assess any such "business cycle" alleged by petitioner. We do not need 1991 data to assess whether, if a cycle exists at all, the market is in the upswing of such a cycle as alleged by petitioner. We also find that focusing on the last three calendar years of data enables us to more accurately consider whether the domestic industry is "presently" materially injured by reason of LTFV imports. Therefore, we see no basis for deviating from our normal practice. Compare CR at A-3-4, PR at A-3-4, Table A-2 (1992-94 data) with CR at A-5-6, PR at A-5-6, Table A-2 (1991-94 data).

[13] 19 U.S.C. § 1677(7)(C)(iii).

[14] CR I-4-6, I-33-35, I-47-48, PR at II-4-5, II-20, II-27; Economics Memorandum, EC-S-050 at 18-22, 33-34 (Apr. 28, 1995); Hearing Tr. at 22, 23, 117-118; Petitioner's Prehearing Brief at 14-15 (relying on, inter alia, purchaser questionnaire responses). There is some limit to substitutability because Slater does not produce certain large size angle that is imported from Japan. Mill depots generally offer a broader product range of subject imported products than Slater, which does not offer angle over 3 inches. CR at I-5-6, I-33-35, PR at II-4-5; Hearing Tr. at 44-45, 125, 126, 128, 157.

[15] See CR at I-20-22, PR at II-12-13, Figure 2 & Table 8, CR at I-41-42, PR at II-13, Figure 8; Verification Report at 4; Economics Memorandum, EC-S-050 at 11 & Figure 8 (Apr. 28, 1995); Hearing Tr. at 53-54; Respondent's Prehearing Brief at 50-53 & Exhibits 19-21; accord Slater Prospectus at 18 (Mar. 15, 1994) (provided as Exhibit 7 to Respondent's Prehearing Brief); Slater 1992 Annual Report at 9 (provided as Exhibit 4 to Respondent's Prehearing Brief).

[16] CR at I-6-7, I-26, I-32-35, PR at II-5-6, II-14, II-19-20; Hearing Tr. at 48-49, 51-52.

[17] CR at I-6-7, I-33-35, I-32 n.85, PR at II-5-6, II-20, II-19 n.85. Respondents claim that *** percent of imports are sold through mill depots. See Respondent's Prehearing Brief at 7. Mill depots are independent companies that meet the inventory needs of service centers by supplying a full product line and next-week deliveries. CR at I-7, PR at II-6. Prices from mill depots typically include a small price mark up. Prelim. Conf. Tr. at 65.

and eliminate the long lead times required for direct sales from Japan.[18] The domestic producer does not sell through mill depots, but rather sells all of its angle directly to service centers either from its mill or from inventory.[19]

Fourth, imports of stainless steel angle from Japan have had a long-standing and substantial presence in the United States market.[20] Indeed, the domestic producer's capacity alone cannot satisfy domestic demand, and it is not able to produce the full range of angle sizes imported from Japan -- necessitating imports.[21] During October 1993, this sole domestic producer reported a five-week disruption of its production of stainless steel angle due to a labor strike.[22]

Apparent U.S. consumption of hot-rolled stainless steel angle by quantity increased each year during the period, resulting in an overall increase of 17.5 percent over the period.[23] Although the value of apparent consumption of stainless steel angle declined from 1992 to 1993, it rebounded from 1993 to 1994, resulting in an overall increase of 10.4 percent over the period.[24] These increases result from increased demand for stainless steel products in the United States due, at least in part, to the enactment of more stringent environmental regulations that require corrosive materials to be stored in stainless steel containers.[25]

Domestic production of hot-rolled stainless steel angle decreased from 1992 to 1993, but increased by a larger amount in 1994, resulting in an overall increase of 4.8 percent over

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[18] CR at I-7, PR at II-6; Hearing Tr. at 48-49.

[19] CR at I-6-7, I-32-33, PR at II-5-6, II-19.

[20] CR at I-29-31, PR at II-15-16, Tables 12-13, CR at A-5, PR at A-5, Table A-2; Hearing Tr. 43-45, 124; Prelim. Conf. Tr. at 63-4.

[21] CR at I-4-6, I-33-35, I-47, PR at II-4-5, II-20-21, II-27; Hearing Tr. at 43-45, 48-49, 124-25, 126, 128, 131; compare CR at I-15, PR at II-10, Table 2 (domestic producer's capacity) with CR at I-11-12, PR at II-9, Table 1 & Figure 1 (domestic consumption).

[22] CR at I-15-16, PR at II-10-11; Verification Report at 7-8.

[23] Data referred to in this paragraph are summarized in CR at I-11, PR at II-9, Table 1 and CR at A-3, PR at A-3, Table A-1. U.S. consumption by quantity was *** short tons in 1992, *** short tons in 1993, and *** short tons in 1994.

[24] U.S. consumption by value was roughly *** in 1992, *** in 1993, and *** in 1994.

[25] Hearing Tr. at 25; CR at I-10-11, PR at II-9, Table 1, CR at I-32, PR at II-19; Petitioner's Prehearing Brief at 22; Economics Memorandum, EC-S-050 at 9 (Apr. 28, 1995).

the period.[26] Domestic capacity to produce hot-rolled stainless steel angle remained constant throughout the period of investigation.[27] Capacity utilization rates for stainless steel angle decreased from 1992 to 1993, then increased in 1994 to a very high level, resulting in an overall increase from 1992-94 of 4.6 percent.[28]

The domestic industry's U.S. shipments of stainless steel angle by quantity decreased from 1992 to 1993, but increased by a greater amount in 1994, resulting in an overall increase of 19.4 percent over the period.[29] Domestic shipments measured by value followed the same pattern, increasing 13.1 percent over the period.[30]

The domestic industry's end-of-period inventories of stainless steel angle decreased each year, resulting in an overall decrease of 47.9 percent over the period.[31] Inventories as a share of U.S. shipments also declined each year, resulting in an overall decrease of 11.5 percentage points.[32]

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[26] Data referred to in this paragraph are summarized in CR at I-15, PR at II-10, Table 2 and CR at A-3, PR at A-3, Table A-1. Domestic production was *** short tons in 1992, *** short tons in 1993, and *** short tons in 1994. Id. We note that a strike during 1993 affected domestic production during that year.

[27] Petitioner and respondent have disagreed about domestic industry capacity, with petitioner arguing its capacity is *** short tons (CR at I-15, PR at II-10 (n.1 Table 2)) and respondent arguing that it is *** short tons (Respondent's Prehearing Brief at 24; Hearing Tr. at 124, 131). However, Commission staff verified Slater's operations. Staff reported that the most Slater has been able to produce in the last several years was *** short tons. See Verification Report at 6; CR at I-15, PR at II-10 (Note to Table 2). This capacity is consistent with Slater's production for the first three months of 1995 because over the course of the year any short-run peaks in production will even out and the plant will be shut down for periodic maintenance and vacations. See Petitioner's Posthearing Brief at 4, 14; Hearing Tr. at 105.

[28] Capacity utilization was *** percent in 1992, *** percent in 1993, and *** percent in 1994. CR at I-15, A-3, PR at II-10, A-3, Table 2, Table A-1. Capacity utilization during the first three months of 1995 was also very high. Based on the data Slater reported for production during Jan.-Mar. 1995, capacity utilization, on an annualized basis, was *** percent. See, e.g., Petitioner's Posthearing Brief at 4 n.8; CR at I-15, PR at II-10, Table 2. These are based on data as adjusted by staff for the reasons discussed, supra, n.27.

[29] Data referred to in this paragraph are summarized in CR at I-16, PR at II-11, Table 3 and CR at A-3, PR at A-3, Tables A-1. Shipments by quantity were *** short tons in 1992, *** short tons in 1993, and *** short tons in 1994. Id.

[30] Shipments by value were *** in 1992, *** in 1993, and *** short tons in 1994. Id.

[31] Data referred to in this paragraph are summarized in CR at I-17, PR at II-11, Table 4 and CR at A-4, PR at A-4, Table A-1. Ending inventory quantities were *** short tons in 1992, *** short tons in 1993, and *** short tons in 1994. Id.

[32] We note that the decline in 1993 and 1994 is likely due in part to the five-week strike in 1993, during which Slater sold from inventory, which it built up in anticipation of the strike. Inventories as a share of U.S. shipments were *** percent in 1992, *** percent in 1993, and *** percent in 1994. Id.

Employment data in the domestic stainless steel angle industry follow production data.[33] The number of production and related workers (PRWs) producing stainless steel angle decreased from 1992 to 1993, then increased by a larger number from 1993 to 1994, resulting in an overall increase of 4.4 percent over the period. The number of hours worked by PRWs producing stainless steel angle increased by 2.0 percent, wages paid to PRWs increased by 5.4 percent, and hourly total compensation paid to PRWs increased by 3.3 percent over the period. Finally, productivity of PRWs increased by 2.8 short tons per 1,000 hours during the period.

The domestic industry's financial performance improved over the period.[34] The value of net sales decreased between 1992 and 1993, then increased in 1994, for an overall increase of 15.6 percent over the period. At the same time, the cost of goods sold (COGS) on a per ton basis, decreased by 21.3 percent over the period.[35] We note that estimated unit raw materials costs accounted for a large part of the fluctuation in unit COGS; such costs represented *** percent of total COGS sold during 1992, 1993, and 1994, respectively.[36] Raw material costs on a per-ton basis declined from 1992 to 1993, then increased in 1994.[37] Gross profits increased by 141.3 percent over the period, remaining constant from 1992 to 1993, then increasing in 1994.[38]

Selling, general and administrative expenses (SG&A) decreased between 1992 and 1993, then increased in 1994, but not to their 1992 level, resulting in an overall decrease of 26.0 percent during the period. The domestic industry experienced operating losses in 1992

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[33] Data referred to in this paragraph are summarized in CR at I-18, PR at II-11, Table 5 and CR at A-4, PR at A-4, Table A-1. There were *** PRWs in 1992, *** in 1993, and *** in 1994. Id.

[34] Data referring to the domestic industry's financial performance in the following paragraphs are summarized in CR at I-21-25, PR at II-12-13, Tables 7-10, Figure 2, and CR at A-4, PR at A-4, Table A-1.

[35] CR at I-22, PR at II-13, Table 8 & Figure 2. Again, declining raw material costs played a large part in this decline.

Cost of goods sold (COGS) increased by only 5.4 percent over the period, decreasing from 1992 to 1993, then increasing in 1994.. See CR at I-21, PR at II-13, Table 7; Verification Report at 4; Hearing Tr. at 53-54.

[36] CR at I-42 n.96, PR at II-25 n.96.

[37] CR at I-22, PR at II-13, Table 8.

[38] Gross profits were *** in 1992, *** in 1993, and *** in 1994.

but operating profits in 1993 and 1994.[39] Finally, capital expenditures increased by 33.6 percent over the period, increasing each year over the period.

Virtually all of the indicators discussed above show the industry experienced improvement during 1992-94. There was disagreement concerning the impact of the pendency of this investigation on the condition of the domestic industry. We do not find a clear correlation between the pendency of this investigation and the improvement in the condition of the domestic industry.[40] Indeed, the condition of the domestic industry began to improve before the filing of the petition.[41] The domestic industry was operating at nearly full capacity in 1992, the year preceding the strike and two years prior to the filing of the petition.[42] [43]

III. NO MATERIAL INJURY BY REASON OF LTFV IMPORTS[44]

A. Legal Standard

In final antidumping investigations, the Commission determines whether an industry in the United States is materially injured by reason of imports subject to investigation that Commerce has determined to be sold at LTFV.[45] In making this determination, the Commission must consider the volume of imports, their effect on prices for the like product, and their impact on domestic producers of the like product, but only in the context of U.S.

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[39] Slater *** in 1992, but had *** in 1993, and *** in 1994.

[40] See CR at D-3, PR at D-3, Table D-1 (showing the domestic producer's monthly shipments by quantity and value for 1993 and 1994); Stainless Steel Angle: Monthly Imports (tables prepared by staff based on census data) (showing monthly imports of subject and nonsubject imports for 1991-94 by quantity, value, and unit value).

[41] CR at D-3, PR at D-3, Table D-1 (showing shipments increased monthly before the filing of the petition in April and did not increase dramatically after the filing of the petition); CR at I-21, I-22, PR at II-13, Table 7 & 8 (showing raw material costs/ton and COGS/sales declining and operating income/sales increasing before the filing of the petition in April 1994).

[42] Other circumstances also significantly benefitted the industry over the period of investigation. For example, demand for stainless steel angle increased over the period examined and changes in foreign exchange rates, discussed more fully below, made domestic products less costly in the U.S. market relative to subject imports.

Commissioner Newquist does not join this discussion.

[43] Based on the foregoing, Commissioner Rohr and Commissioner Newquist find that the domestic industry producing stainless steel angle is not experiencing material injury.

[44] Because Commissioner Rohr and Commissioner Newquist find that the domestic industry is not experiencing material injury, they proceed directly to a threat analysis and do not join the following discussion except as noted in section IV.

[45] 19 U.S.C. § 1673d(b).

production operations.[46] Although the Commission may consider alternative causes of injury to the domestic industry other than the LTFV imports, it is not to weigh causes.[47] [48] [49]

For the reasons discussed below, we determine that the domestic industry producing stainless steel angle is not materially injured by reason of LTFV imports from Japan.

B. Volume of LTFV Imports

The volume of LTFV imports from Japan decreased 27.1 percent over the period, increasing from 7,774 short tons in 1992 to 8,135 short tons in 1993, then declining to 5,668 short tons in 1994.[50] The value of subject imports decreased 30.7 percent over the period, declining from $20.1 million in 1992 to $19.4 million in 1993, and to $13.9 million in 1994.[51]

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[46] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each [such] factor . . . and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[47] See, e.g., Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988). Alternative causes may include the following:

> [T]he volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry.

S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979). Similar language is contained in the House Report. H.R. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).

[48] For Chairman Watson's interpretation of the statutory requirement regarding causation, see Certain Calcium Aluminate Cement and Cement Clinker from France, Inv. No. 731-TA-645 (Final), USITC Pub. 2772 at I-14 n.68 (May 1994).

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

[50] CR at I-30, PR at II-18, Table 12, CR at A-3, PR at A-3, Table A-1.

[51] Id.

The market share of subject imports similarly declined overall by quantity and value over the period.[52] Subject imports by quantity increased in market share from *** percent in 1992 to *** percent in 1993, but declined in 1994 to ***.[53] Subject imports by value increased in market share from *** percent in 1992 to *** percent in 1993, but declined in 1994 to *** percent.[54]

We discount the significance of the subject import volume and market share for a number of reasons. First, imports declined over the period of investigation.[55] As noted above, we do not believe the improvement in the condition of the domestic industry (particularly the increase in domestic shipments and market share) was a result of the pendency of this investigation.[56] Second, this decline occurred despite rising U.S. consumption[57] and despite the long-standing presence of Japanese imports in the market.[58]

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[52] CR at I-31, PR at II-19, Table 13, CR at A-3, PR at A-3, Table A-1. The exact percentages are confidential.

[53] Id.

[54] Id.

[55] Subject import volumes were declining well in advance of Commerce's preliminary LTFV determination. January-September 1994 subject imports from Japan totalled 5,604 tons, compared with 5,888 tons during the same period of 1993. See Stainless Steel Angle: Monthly Imports, by Source (showing monthly imports of subject and nonsubject imports for 1991-94 by quantity and unit value) This represents a decline in subject import volumes of 4.8 percent.

Imports from Japan for the period of 1994 preceding the filing of the petition also show a decline compared with the comparable periods of both 1992 and 1993. January-March 1994 subject imports from Japan totalled 1,625 tons, compared with 1,834 tons during the same period of 1993, and 1,748 tons for the same period of 1992. Id. This represents subject import declines in the first quarter of 1994 of 11.4 percent from January-March 1993 and 7.0 percent from January-March 1992.

We do not find that declines in subject import volumes prior to the Commerce preliminary determination reflect post-petition behavior. Monthly imports of stainless steel angle from Japan through the third quarter of 1994 generally fell within the range of comparable monthly import volumes during 1991-93. The one exception was a peak import volume in August 1994. Id.

[56] Domestic shipments that preceded the filing of the petition in 1994 already showed a significant increase over shipments during the comparable period of 1993. The domestic producer's shipments during January-March 1994 totaled *** tons, exceeding its shipments during January-March 1993 of *** tons by *** percent. CR at D-3, PR at D-3, Table D-1. Indeed, the highest 1994 monthly shipment volume (*** tons) was in ***. The second highest 1994 monthly shipment volume (*** tons) was in ***. Id. The petitioner continued to show increased shipment volumes for the period preceding the drop-off in imports. The domestic producer's shipments during January-September 1994 totaled *** tons, exceeding its shipments during January-September 1993 of *** tons by *** percent. Id. This rate of increase is consistent with the *** percent increase in shipments for full-year 1994. CR at I-16, PR at II-11, Table 3. In contrast, the period after subject import volumes fell off was characterized by lower-than-average monthly shipment volumes. Shipments in *** 1994 totalled ***, respectively. Shipments in *** 1994 were at slightly lower levels of ***, respectively. CR at D-3, PR at D-3, Table D-1.

[57] CR at I-10-11, PR at II-9, Table 1; CR at I-31, PR at II-19, Table 13.

Third, the domestic industry has been unable to fully satisfy demand in the market, particularly for certain large size angle that comprise a significant percentage of the subject imports.[59] Indeed, the domestic industry was operating at very high capacity in 1994. Fourth, changes in the relative exchange rates of nonsubject and subject currencies against the dollar over the period make nonsubject imports relatively more competitive and Japanese subject imports relatively less competitive.[60] [61] The volume and market share of nonsubject imports increased in correlation with the decline in subject imports.[62] [63] Finally, the domestic producer follows certain marketing strategies that prevent it from directly competing for sales in a segment of the domestic market.[64]

Accordingly, based on the discussion above, we do not find the volume of the LTFV angle imports to be significant whether viewed in absolute terms or relative to domestic consumption.[65]

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[58] (...continued)

[58] CR at I-31, PR at II-18; see also CR at A-5, PR at II-5, Table A-2 (showing subject import volumes, values, and market share for 1991).

[59] CR at I-5 n.21, PR at II-5 n.21 (*** percent of Japanese exports to the United States were products that the domestic industry does not produce); CR at I-34 n.89, PR at II-20 n.89 (large size angle accounted for *** percent of the total U.S. stainless steel angle market in 1992, 1993, and 1994, respectively, in value terms). KG Specialty Steel, Inc., the largest mill depot, offers 28 different sizes of imported Japanese stainless steel angle, as opposed to only 22 offered by Slater. CR at I-34, PR at II-20.

[60] CR at I-46, PR at II-26, Figure 9; Economics Memorandum, EC-S-050 at 16 Figure 6 (Apr. 28, 1995).

[61] Vice Chairman Nuzum does not place great weight on changes in relative exchange rates affecting nonsubject imports in arriving at her negative determination in this investigation.

[62] CR at I-30-31, PR at II-18-19, Tables 12 & 13; Stainless Steel Angle: Monthly Imports, by Source (showing monthly imports of subject and nonsubject imports for 1991-94 by quantity, value and unit value).

[63] Vice Chairman Nuzum does not place great weight on the volume and market share of nonsubject imports in arriving at her negative determination in this investigation.

[64] See CR at I-32-34, PR at II-19-20. ***. See CR at I-6-7, I-32-34, PR at II-5-6, II-19-20; Hearing Tr. at 45, 49, 74-76, 97-98, 124. To minimize high inventory carrying costs, certain customers rely on imports sold through mill depots. Approximately *** percent of the number of KG's sales of imports (i.e., shipments) in 1994 were of quantities totalling less than ***. CR at I-34, PR at II-20.

[65] Vice Chairman Nuzum notes that the volume of the subject imports is significant in size. The significance of the volume of imports is diminished, however, by the lack of significant adverse effect on the domestic industry from these import volumes. She notes in particular increased domestic production, shipments, market share, and very high capacity utilization.

C. Effect of LTFV Imports on Domestic Prices

In evaluating the effect of LTFV imports on domestic prices, the Commission considers whether there has been significant price underselling by subject imports and whether the imports depress prices to a significant degree or prevent price increases that otherwise would have occurred, to a significant degree.[66]

Although the subject imports are substitutable with the domestic product, price is not the only factor in many purchasing decisions.[67] Any impact of subject import prices would be lessened by the differences in channels of distribution (with corresponding differences in terms and circumstances of sale, handling charges, delivery lead times, and mark-ups charged) in which subject imports and domestic like products are sold.[68] Japanese mills sell *** percent of their U.S. shipments through mill depots in the United States to customers (many of whom cannot purchase large quantities or maintain large inventories), whereas no domestic product is sold through mill depots.[69] *** percent of Slater's stainless steel angle sales were shipped mill-direct, while the remaining were sold from inventory.[70] Some purchasers may also be reluctant to purchase from only one source of supply and, thus, will diversify their purchases even though the prices from one may be somewhat lower.[71]

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[66] 19 U.S.C. § 1677(7)(C)(ii).

[67] CR at I-32-35, PR at II-19-21; Economics Memorandum, EC-S-050 at 18-23 (Apr. 28, 1995).

[68] Purchasers buy mill-direct when they are able to purchase volumes large enough to meet producers' minimum purchase order requirements, can predict future demand for angle, can accept lengthy delivery lead times and high inventory carrying costs, and desire to hedge against future angle prices. See Hearing Tr. at 51. Purchasers who cannot carry large inventories due to high inventory carrying costs or otherwise are unable to purchase large amounts, cannot buy mill-direct due to minimum purchase requirements, regardless of price considerations. Id. at 51-52; CR at I-33-34, PR at II-19-20.

We consider these factors in light of the marketing strategies of the domestic producer. See, supra, note 64 and accompanying text. These marketing strategies prevent Slater from directly competing for sales in a segment of the domestic market. Certain customers rely on imports sold through mill depots irrespective of any price differences that may exist. See CR at I-33-34, PR at II-19-20.

[69] CR at I-6-7, I-33-35, I-32 n.85, PR at II-5-6, II-19, II-19 n.85; see also, supra, nn.16-19.

[70] CR at I-32 n.84, PR at II-19 n.84; Economics Memorandum, EC-S-050 at 5 n.4 (Apr. 28, 1995).

[71] Hearing Tr. at 52; see CR at I-32 n.85, PR at II-19 n.85; Respondent's Prehearing Brief at 7.

Further, the domestic producer does not produce the same range of angle sizes as that offered by importers of the Japanese product, thereby limiting the competition (and thus price competition) between subject imports and the domestic like product.[72]

The record indicates mixed evidence of underselling and overselling. When comparing subject imports that are sold mill-direct to purchasers with U.S. product that is sold mill-direct to purchasers, the subject imports *** the domestic product in *** instances, and *** the domestic product in the remaining *** instances.[73] We note that *** percent of imports are sold mill direct.[74] When comparing subject imports sold through mill depots to purchasers with U.S. products sold mill-direct to purchasers, the subject imports *** the domestic product in *** instances, were *** instances, and *** the domestic product in *** instances.[75] We note that *** percent of subject imports are sold through mill depots.[76] We do not find this evidence to indicate significant underselling by the subject imports in light of the factors discussed above.

Although prices for domestic products generally declined during 1992 and 1993, they increased by a greater amount in 1994.[77] Prices for subject imports sold from mill depots also declined in 1992 and 1993, and increased in 1994 at a greater rate than prices for the domestic product. Prices of subject imports sold mill-direct followed a different pattern than domestic product prices, declining overall during the period. Subject imports sold from mill depots were at higher prices than subject imports sold mill-direct.[78]

Rather than showing a correlation with subject import prices, domestic prices seem to be affected by a variety of other factors, such as aggregate demand in the U.S. market, costs of goods sold (particularly raw material costs), SG&A expenses, and the increasing

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[72] See, supra, subsection B. on the Volume of LTFV Imports.
[73] CR at I-43, I-44, PR at II-25, II-26, Table 18 (providing conclusions from pricing data).
[74] CR at I-32 n.85, PR at II-19 n.85.
[75] CR at I-43, I-44, PR at II-25, II-26, Table 18 (providing conclusions from pricing data).
[76] CR at I-32 n.85, PR at II-19 n.85.
[77] CR at I-36-41, PR at II-21-26, Tables 14-17 & Figures 4-7.
[78] Id.

availability of nonsubject imports.[79] Moreover, import prices of Japanese products did not rise as a result of the pendency of the investigation but, more likely, as a result of the appreciating yen relative to the dollar.[80] Changes in relative exchange rates over the period made nonsubject imports relatively less expensive than subject imports and domestic products, and the declining prices of nonsubject imports together with increasing volumes and market share limited price increases by the domestic industry.[81] [82]

We find that subject imports have not depressed domestic prices. Indeed, prices and market share of the domestic industry generally rose over the period.[83] We also find that subject imports have not suppressed domestic prices to a significant degree. Both unit costs of goods sold (COGS) and unit SG&A expenses declined each year during the period,[84] while

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[79] CR at I-11-12, PR at II-9, Table 1 & Figure 1; CR at I-36-40, PR at II-21-26, Tables 14-17 & Figures 4-7; CR at I-21-22, PR at II-13, Tables 7 & 8, Figure 2; CR at A-3-6, PR at A-3-6, Tables A-1 & A-2; Stainless Steel Angle: Monthly Imports, by Source (showing monthly imports of subject and nonsubject imports for 1991-94 by quantity and unit value); Accord Slater Prospectus at 18 (March 15, 1994) (provided as Exhibit 7 to Respondent's Prehearing Brief). We find that price increases by the domestic industry did not occur solely because of the pendency of this investigation. Rather, the pricing data indicate that domestic prices either increased (for two products) or remained the same (for two products) during the quarter in which the investigation was initiated and show that domestic prices of only one product out of four increased in the quarter immediately following the initiation of the investigation. CR at I-36-40, PR at II-21-26, Tables 14-17 & Figures 4-7.

[80] CR at I-45-46, PR at II-26-27, Figure 9 (exchange rates); Economics Memorandum, EC-S-050 at 16 (Apr. 28, 1995) (exchange rates).

There is also evidence that Japanese prices rose due to increasing costs of production, particularly raw material costs. Hearing Tr. at 134-35 (raw material costs increased) 53-54 (raw material costs explain price changes); Respondent's Prehearing Brief at 51-53 & Exhibits 19-21; accord CR at I-21-22, PR at II-13, Tables 7 & 8, Figure 2; Hearing Tr. at 156 (Petitioner's Witness -- "Raw materials are dollar denominated. Essentially everybody in the world pays the same prices for nickel and chrome, and scrap is traded internationally. There are not wide differences in input costs to make these products."); Slater Prospectus at 18 (Mar. 15, 1994) (provided as Exh. 7 to Respondent's Prehearing Brief).

[81] See Stainless Steel Angle: Monthly Imports, by Source (showing monthly imports of subject and nonsubject imports for 1991-94 by quantity and unit value); Economics Memorandum, EC-S-050 at 16 Figure 6 (Apr. 28, 1995). We note that nonsubject imports are good substitutes for both domestic and subject imported products. See Economics Memorandum, EC-S-050 at 22-23 (Apr. 28, 1995).

[82] Vice Chairman Nuzum and Commissioner Bragg do not place great weight on the prices of nonsubject imports or their effect on prices for the like product in arriving at their negative determination in this investigation.

[83] CR at I-32-40, PR at II-19-24, Tables 14-17, Figures 4-7; Economics Memorandum, EC-S-050 at 11-14, Figures 8, 2-5 (Apr. 28, 1995). Prices for three out of four products increased. Prices for the fourth product generally remained stable, fluctuating within a narrow range. Id.

[84] CR at I-22, PR at II-13, Table 8; CR at A-4, PR at A-4, Table A-1.

prices generally increased from 1993 to 1994, indicating that prices have not been suppressed relative to costs.[85]

Finally, we note that the financial performance of the domestic industry does not support a finding of significant adverse price effects. Net sales increased considerably over the period, as did gross profits and operating income (in absolute terms and relative to sales).[86] Data do not show that the domestic industry had to decrease prices or limit its price increases to increase sales or market share. Indeed, the converse is true -- the domestic industry was increasing its sales and market share, while costs and expenses as a percentage of sales were declining and prices were increasing.[87]

In view of the foregoing, we conclude that the subject imports have not adversely affected prices of the domestic like product.[88]

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[85] CR at I-32-40, PR at 19-24, Tables 14-17, Figures 4-7; Economics Memorandum, EC-S-050 at 11-14, Figures 8, 2-5 (Apr. 28, 1995).

[86] CR at I-21, PR at II-13, Table 7.

[87] CR at I-22, PR at II-13, 2, Table 7, (COGS & SG&A expenses relative to sales); CR at I-31, PR at II-19, Table 13 (market share); see also CR at A-4, PR at A-4, Table A-1 (unit COGS and unit SG&A).

[88] To evaluate the effects of the dumping on domestic prices, Commissioner Crawford compares domestic prices that existed when the imports allegedly were dumped with what domestic prices would have been if the imports had been fairly traded. In most cases, if the subject imports had not been traded unfairly, their prices in the U.S. market would have increased. In these investigations, the dumping margins for Japanese subject imports are somewhat high. Thus, prices for the subject imports would have risen by a significant amount if they had been priced fairly. The ability of domestic producers to have raised prices under these circumstances depends on competitive conditions in the market for stainless steel angle ("angle") involving both supply and demand side considerations.

A significant factor in determining what the effects of higher subject import prices would have been on domestic prices is the overall demand elasticity for angle in the U.S. market. This elasticity is determined primarily by the share of downstream product cost that the angle represent and the availability of alternative products. Angle account for a small portion of the final product cost in all significant applications. When the price of an input is a small part of the final product cost, changes in the price of the input are less likely to alter demand for the downstream product, and by extension, for the input product. Also, it appears that there are few if any commercially viable alternative products for angle. In sum, the angle market is characterized by a relatively low elasticity of demand. That is, purchasers will not change their consumption as rapidly, in response to changes in price.

Even in a market characterized by relatively low demand elasticity, the composition of overall demand can be sensitive to the relative prices of the alternative sources of the product, i.e., subject imports, domestic product and nonsubject imports. If subject imports had been fairly priced, they would have become more expensive relative to domestic products and nonsubject imports. In such case, there would have been a shift in the composition of demand toward the relatively less expensive products. The magnitude of this shift depends on the substitutability of subject imports for products from alternative sources. As has been discussed, subject imports and the domestic like product are good substitutes. Nonsubject imports are also good substitutes for subject imports and the domestic like product. Because they are good substitutes, many purchasers that would have been unwilling to pay a higher price for the subject imports would have attempted to switch to the relatively less

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D. Impact on the Domestic Industry

We find that the subject imports have had no significant adverse impact on the domestic industry. The domestic industry increased its production and sales, and experienced improved financial performance over the period.[89] Domestic shipments rose significantly by quantity and value over the period and outpaced the increase in overall demand, thereby capturing an increasing portion of market share over the period.[90] Moreover, Slater was producing at close to full capacity in 1992, would have been much closer to full capacity in 1993 but for its labor strike, was at full capacity in 1994, and was producing at similar or higher levels in the first three months of 1995.[91] Thus, it is unlikely that Slater could have

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[88] (...continued)
expensive domestic and nonsubject import products.

Whether domestic producers would have been able to increase prices if subject imports had been priced fairly is also affected by supply side considerations, including the amount of available domestic capacity, the ability of domestic producers to divert exports to the domestic market, and the level of competition in the market. Since the domestic industry operated at a high rate of capacity utilization, production capacity would not have been available to meet the shift in demand to the domestic product by purchasers unwilling to pay substantially higher prices for subject imports. Moreover, the domestic industry does not export any of its production. Thus, it could not have diverted any shipments to the U.S. market. These factors suggest the domestic industry could have raised prices, if subject imports had been traded fairly. However, there is a significant degree of competition in this industry. Although the domestic industry consists of only one producer, nonsubject imports are readily available from several different sources. Nonsubject imports have had a significant and increasing presence in the angle market over the period of investigation. Moreover, the depreciation of the nonsubject currencies against the U.S. dollar and the increase in nonsubject imports over the period of investigation indicates that they could have increased readily, if subject imports had been priced fairly. Thus, there appears to be sufficient price discipline in the market to prevent any attempt to increase prices by the domestic industry.

In sum, despite the dumping margins for the subject imports, the low demand elasticity, the level of substitutability between the domestic product and subject imports, and the high level of domestic capacity utilization, the significant presence and availability of nonsubject imports would have prevented domestic producers from increasing prices. Thus, even if subject imports had been fairly priced, the domestic industry would not have been able to raise prices significantly. Accordingly, Commissioner Crawford finds that subject imports did not have significant price effects on the domestic industry.

[89] CR at I-31, PR at II-19, Table 13 (market share); CR at I-15, PR at II-10, Table 2 (production); CR at I-21-22, PR at II-13, Tables 7-8 & Figure 2 (profits, operating income, net sales, and COGS and SG&A expenses relative to sales); see also, supra, section II on the condition of the domestic industry (discussing increases in production, capacity utilization, shipments quantity and value, employment and productivity, net sales quantity and value, gross profits, and operating income, and declines in inventories and COGS and SG&A expenses relative to sales); see also, e.g., CR at I-23-24, PR at II-13-14 (showing no adverse impact on investments); CR at I-24, PR at II-14, Table 10 (showing increasing capital expenditures); Verification Report at 5 (same); CR at I-24, PR at II-14 (Slater indicated ***).

[90] CR at I-11, I-16, and I-31, PR at II-9, II-11, II-19, Tables 1, 3, and 13.

[91] CR at I-15-16, PR at II-10, Table 2 & accompanying notes; see also, supra, section II on the condition of domestic industry (discussing capacity and capacity utilization).

supplied much more angle than it did over the period, demonstrating that imports did not achieve their volumes and market share at the expense of the domestic industry.

As discussed above, we have not found the pendency of the investigation to have been the reason for the domestic industry's improved condition.[92] Rather, decreases and then increases in overall demand in the market and declining costs and expenses relative to sales explain the domestic producer's increasingly strong performance from 1992 to 1994. In addition, effects of the labor strike Slater experienced in 1993 mask some of the improvement the domestic industry experienced toward the end of that year.[93] Further, when subject imports began to decline before the filing of the petition, and continued to decline, nonsubject imports, not domestic like products, captured the bulk of the sales generated by the departure of the subject imports as they became relatively less expensive due to the depreciation of nonsubject currencies and the appreciation of the Japanese currency relative to the dollar.[94] [95] This may indicate a degree of competition between subject and nonsubject imports, but no causal nexus between the subject imports and the condition of the domestic industry.[96]

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[92] See, supra, nn. 40-42, 55-56, 79-80, and accompanying text (record evidence indicates no correlation between the pendency of the investigation and subject imports and the domestic industry's improved performance over the period).

[93] CR at I-20, PR at II-12; Verification Report at 3-4.

[94] CR at I-31, PR at II-19, Table 13, CR at A-3, PR at A-3, Table A-1, CR at D-3, PR at D-3, Table D-1. When subject imports lost *** percent of their market share by quantity from 1992 to 1994, nonsubject imports increased their market share by *** percent (due to relatively declining exchange rates, as discussed above), while the domestic industry increased its market share by *** percent. CR at I-31, PR at II-19, Table 13, CR at A-3, PR at A-3, Table A-1; see also Stainless Steel Angle: Monthly Imports, by Source (showing monthly imports of subject and nonsubject imports for 1991-94 by quantity, value and unit value); see also, e.g., supra, nn.55-56, 79-80 (discussing the lack of correlation between the pendency of the investigation and the impact of the subject imports on domestic industry volumes and market share and prices).

[95] See, supra, nn.61, 63 & 82.

[96] In her analysis of material injury by reason of subject imports, Commissioner Crawford evaluates the impact on the domestic industry by comparing the state of the industry when the imports allegedly were dumped with what the state of the industry would have been had imports been fairly traded. In assessing the impact of subject imports on the domestic industry, she considers, among other relevant factors, output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital and research and development as required by 19 U.S.C. § 1677(C)(iii). These factors either encompass or reflect the volume and price effects of the allegedly dumped imports, and so she gauges the impact of the dumping through those effects. In this regard, the impact on the domestic industry's prices and sales is critical, because the impact on other industry indicators (e.g. employment, wages, etc.) is derived from this impact.

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IV. NO THREAT OF MATERIAL INJURY BY REASON OF LTFV IMPORTS

A. Legal Standard

Section 771(7)(F) of the Act directs the Commission to determine whether a U.S. industry is threatened with material injury by reason of imports "on the basis of evidence that the threat of material injury is real and actual injury is imminent." The Commission is not to make such a determination "on the basis of mere conjecture or supposition."[97]

We have considered all the statutory factors that are relevant to this investigation.[98] The presence or absence of any single factor is not dispositive.[99] We do not find that there is a threat of material injury to the domestic industry by reason of the subject imports.

Production of stainless steel angle in Japan declined slightly during the period.[100] Production capacity of the Japanese producers of stainless steel angle remained stable over the period and is projected to remain so in 1995.[101] Moreover, capacity utilization rates remained above 100 percent in each annual period.[102] Traditionally, the Japanese market has been the major target of Japanese angle producers' shipments, accounting for thirty percent

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[96] (...continued)
As noted earlier, Commissioner Crawford finds that the domestic industry would not have been able to increase its prices significantly, had subject imports been priced fairly. The domestic industry was at full capacity so it would not have been able to increase the quantity of its production and sales. Absent any significant increase in prices or sales, the domestic industry clearly would not have been materially better off if the subject imports had been fairly traded. Accordingly, Commissioner Crawford concludes that there is no material injury to the domestic industry by reason of the LTFV imports from Japan.

[97] 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallverken Nederland B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing American Spring Wire Corp. v. United States, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984), aff'd, 760 F.2d 249 (Fed. Cir. 1985).

[98] 19 U.S.C. § 1677(7)(F)(i)(I)-(X). Factor I is not relevant because no subsidy is involved. Factor VIII is not applicable as none of the foreign producers' angle is used to produce other products subject to final antidumping or countervailing duty orders. Because this investigation does not involve an agricultural product, Factor IX is not applicable. In addition, the Commission must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. 19 U.S.C. § 1677(7)(F)(iii)(I). We are aware of no such findings or remedies.

[99] See, e.g., Rhone Poulenc, S.A. v. United States, 592 F. Supp. 1318, 1324 n.18 (Ct. Int'l Trade 1984).

[100] CR at I-28, PR at II-16, Table 11.

[101] CR at I-27-29, PR at II-16-17, Table 11 & Figure 3.

[102] Id.

or more of such shipments in each annual period.[103] Export markets other than the United States have historically accounted for more shipments from Japanese producers than the U.S. market[104] and, recently, angle shipments from Japanese producers have been increasingly directed to these markets rather than the United States.[105] As noted above, Japanese imports have declined over the period both in absolute volumes and relative to overall U.S. consumption. We find no likelihood that imports of these products will imminently rise to an injurious level.

As discussed above, Japanese imports do not significantly undersell the domestic product and prices of the Japanese imports have risen over the period. In light of this evidence and the evidence upon which we found that subject imports have not significantly depressed or suppressed domestic prices,[106] we find that there is no likelihood that the subject imports will enter at prices that will have a depressing or suppressing effect on the domestic like product.[107]

Beginning inventories of stainless steel angle from Japan rose from 5,440 short tons in 1992 to 6,470 short tons in 1993, but fell slightly to 6,430 short tons in 1994, and are expected to decline further to 5,280 short tons in 1995.[108] End of period inventories as a percentage of production and as a percentage of total shipments declined over this period and are expected to decline further in 1995.[109] These data do not indicate any substantial increase in inventories of the Japanese merchandise in the United States and, in light of the declining imports, do not support an affirmative finding of threat of material injury.

We see no demonstrable adverse trends that indicate the probability that importation of the subject merchandise will be the cause of actual injury. Indeed, the industry's

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[103] CR at I-29, PR at II-17, Figure 3 (showing 1992-1994 data and projected 1995 data).

[104] Id.

[105] Id.

[106] See, supra, nn.73-78 and accompanying text.

[107] Although Commissioner Rohr and Commissioner Newquist do not join the discussion referred to, supra, in note 106, they adopt here, for purposes of their threat of material injury analysis, that discussion to the extent it demonstrates that the subject imports will not imminently depress or suppress domestic prices to a significant degree.

[108] CR at I-28, PR at II-16, Table 11.

[109] Id.

condition has improved.[110] As noted above, the domestic industry gained an increasing share of an expanding overall market, was able to increase its production and sales, experience improved financial conditions, and produce at full capacity in the most recent year of the period.[111]

We see no evidence to suggest that the recently imposed antidumping order on stainless steel bar from Japan presents a real likelihood for Japanese producers to shift from producing stainless steel bar to producing stainless steel angle. We have evidence of only three Japanese stainless steel bar producers who also produce hot-rolled stainless steel angle, and one, Sumitomo, is not a significant exporter to the United States of stainless steel bar. Thus, there is very little bar capacity to shift to the production of angle for export to the United States.[112] Evidence indicates that these three producers will not likely shift whatever capacity is available from producing bar to producing angle to export to the United States.[113] Differences in the production processes, facilities and machinery for angle and bar do not permit (or limit considerably) the ease of conversion to production of the other product.[114] Because bar is a much higher value product than angle, commercial reasons also limit the likelihood that Japanese producers will shift from production of bar to production of angle.[115] Finally, the evidence shows that growth in the Japanese market and third-country markets for bar make shifting to production of angle commercially unattractive.[116]

There also are no actual or potential negative effects from subject imports on the domestic producer's existing development and production efforts as the domestic producer's growth, investment, ability to raise capital, and research and development efforts are not

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[110] See, supra, section II on the condition of the domestic industry.

[111] CR at I-31, PR at II-19, Table 13 (market share); CR at I-15, PR at II-10, Table 2 (production and capacity utilization); CR at I-21-22, PR at II-13, Tables 7-8 & Figure 2 (profits, operating income, net sales, and COGS and SG&A expenses relative to sales); see also, supra, section II on the condition of the domestic industry (discussing increases in production, capacity utilization, shipment quantity and value, employment and productivity, net sales quantity and value, gross profits, and operating income, and declines in inventories and COGS and SG&A expenses relative to sales).

[112] CR at I-27 & nn.74, 77, PR at II-15 & nn.74, 77.

[113] CR at I-27 & n.74, 77, I-28-29, PR at II-15 & n.74, 77, II-16-17, Table 11, Figure 3; Respondent's Posthearing Brief, Exhibit 8.

[114] See Respondent's Posthearing Brief, Exhibit 8.

[115] See id.

[116] See id.

being hindered.[117] Moreover, because stainless steel angle is a commodity product, which comes in only two alloy grades, about 24 dimensional sizes, and only one shape, and because it is not cold-finished or polished to obtain surface finishes and dimensional tolerances that are of greater importance for other stainless steel products, there are no efforts to develop a derivative or more advanced version of the like product that could be negatively affected.[118]

Accordingly, for all the reasons stated above, we find that the domestic industry is not threatened with material injury by reason of subject imports from Japan.

CONCLUSION

In light of the foregoing, we determine that the domestic industry is not materially injured or threatened with material injury by reason of LTFV imports of stainless steel angle from Japan.

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[117] CR at I-23-24, PR at II-13-14 (showing no adverse impact on investments); CR at I-24, PR at II-14, Table 10 (showing increasing capital expenditures); Verification Report at 5 (same); CR at I-24, PR at II-14 (Slater indicated ***).

[118] See CR I-4-6, I-33-35, I-47-48, PR at II-4-6, II-20, II-27; Economics Memorandum, EC-S-050 at 18-22, 33-34 (Apr. 28, 1995); Hearing Tr. at 22, 23, 117-118; Petitioner's Prehearing Brief at 14-15.

PART II

INFORMATION OBTAINED IN THE INVESTIGATION

INTRODUCTION

This investigation results from a petition filed by Slater, Fort Wayne, IN,[1] on April 8, 1994, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of stainless steel angle[2] from Japan.[3] Information relating to the background of the investigation is provided below.[4]

Date	*Action*
April 8, 1994	Petition filed with Commerce and the Commission; institution of Commission preliminary investigation
May 4	Commerce's notice of initiation
May 23	Commission's preliminary determination
November 10	Commerce's preliminary determination;[5] institution of Commission final investigation (59 FR 63106, Dec. 7, 1994)
March 29, 1995 . .	Commerce's final determination (60 FR 16608, Mar. 31, 1995)[6]
March 30	Commission's hearing[7]
May 2	Commission's vote
May 10, 1995 . . .	Commission's determination transmitted to Commerce

[1] Slater was also a petitioner in the recent stainless steel bar antidumping investigations, Stainless Steel Bar from Brazil, India, Japan, and Spain, Invs. Nos. 731-TA-678, 679, 681, and 682 (Final), USITC Pub. 2856 (Feb. 1995).

[2] For purposes of this investigation, *stainless steel angle* includes hot-rolled, whether or not annealed or descaled, stainless steel products of equal leg length, angled at 90 degrees, that are not otherwise advanced. Stainless steel angle is provided for in subheading 7222.40.30 of the HTS with a 1995 column 1 general tariff rate of 1.9 percent ad valorem, applicable to imports from Japan; this duty rate is being eliminated in annual reductions.

[3] A summary of the data collected in the investigation is presented in app. A. Data for 1992-94 are presented in table A-1 and data for 1991-94 are presented in table A-2.

[4] *Federal Register* notices cited in the tabulation are presented in app. B.

[5] Commerce calculated preliminary LTFV margins to be as follows: Aichi, 14.92 percent; and all others, 14.92 percent.

[6] Commerce calculated final LTFV margins to be as follows: Aichi, 23.02 percent; and all others, 23.02 percent. A copy of Commerce's letter correcting its calculations is presented in app. B.

[7] A list of witnesses at the hearing is presented in app. C.

THE PRODUCT[8]

Physical Characteristics and Uses

Stainless steel angle is an "L"-shaped, hot-finished, stainless steel product.[9] Its most salient physical characteristic is its shape, a distinctive length of stainless steel uniquely angled at 90 degrees. Angle subject to this investigation does not include angle produced by processes other than hot-rolling; angle produced by extrusion[10] is not subject to this investigation.

Stainless steel angle is produced according to specifications of the ASTM in a limited number of grades.[11] Virtually all stainless steel angle is made of "austenitic," or chromium nickel-bearing, stainless steel, commonly referred to as "300 series" stainless steel, principally of grades 304 and 316.[12] The vast majority of stainless steel angle is reportedly between one and three inches in leg length.[13]

Unlike many other stainless steel products, neither appearance nor precise surface tolerances are important characteristics of stainless steel angle. According to petitioner, there is virtually no market for stainless steel angle further worked than hot-rolling, annealing, and descaling.[14]

Stainless steel angle is produced for very specific end uses. The most common use for stainless steel angle is in internal applications for industrial products. For example, stainless steel angle is used most frequently as a support or brace in the construction of stainless steel tanks for the food and beverage and chemical processing industries.[15] The nature of the support may be as a flange in a pipe, as a corner brace, or as a support girdle in a tank.[16]

Interchangeability and Customer and Producer Perceptions

Stainless steel angle is used for distinct end uses and, according to petitioner,[17] is not interchangeable with any other stainless steel product, including other stainless steel structural shapes.[18] Petitioner asserts that because stainless steel is at the apex of the steel angle price chain, it would not be economically feasible to substitute stainless steel angle for carbon steel angle in

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[8] The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products has been based on a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities and production employees; and, where appropriate, (6) price. In the preliminary investigation petitioners argued, and the Commission agreed, that the appropriate like product consists of stainless steel angle. Respondents, importers, and purchasers have taken no position on the question of like product.

[9] Stainless steel is distinguished from carbon and other alloy steel chiefly by stainless steel's superior resistance to corrosion, brought about primarily by the addition of chromium in any amount equal to 10.5 percent or more by weight.

[10] Extruded stainless steel angle looks similar to hot-rolled but is used where the structural design engineer has written into the design the use of uneven leg length structural stainless steel angle. Further details of extruded stainless steel angle are in the section titled *Common Manufacturing Facilities and Production Employees*.

[11] Grade numbers indicate the chemical content.

[12] Grade 316 contains molybdenum.

[13] Petition, p. 9.

[14] Ibid.

[15] Petition, p. 10.

[16] Petitioner's postconference brief, p. 4.

[17] Petition, p. 10.

[18] Petitioner's postconference brief, p. 8.

applications for which the latter is sufficient; conversely, because carbon steel angle lacks enhanced corrosion resistance, carbon steel angle is not interchangeable with stainless steel angle.[19]

Respondents argue that approximately 14-16 percent of total subject imports were of sizes that cannot be made by the domestic industry.[20] [21] Slater does not manufacture angle over 3 inches in leg length, nor 3-inch angle with thickness of 3/16 or 1/2 inch. Since the size of the angle is determined by the finished product's structural requirements, counsel for Japanese producers argue that there is no substitutability between angle of different cross dimensions or thicknesses. Respondents argue that imports of these products did not compete with the U.S. product and could not be the source of any injury to the U.S. industry.[22] Petitioner argues that the statute does not require that imports and the domestic product be competitive and substitutable across the full product line. Petitioner notes that by respondents claiming 15 percent of Japanese imports do not compete with the domestic product, they have conceded that the remaining 85 percent of Japanese imports compete directly with the U.S. product, and that amount is sufficient by any standard of competition.[23] [24] Respondents note that Slater's strength lies with supplying the mid-size angle market, which constitutes over half of total stainless steel angle demand. Because Slater does not compete in the large and very small angle market, where Japanese production has traditionally been significant, the respondent anticipates that imports from other countries, particularly Spain, Italy and Korea, will continue to fill any gap left by a decrease in Japanese angle production.[25]

For certain applications, stainless steel angle of unequal leg length may be substitutable for that of equal leg length. However, the extrusion process is generally more costly than hot-rolling, minimizing substitution between products produced using the two different processes.[26]

There may be some limited substitutability between angle of stainless steel and fiberglass. Fiberglass angle is produced in a size range overlapping that of the stainless steel angle subject to this investigation. Similar to stainless steel angle, fiberglass angle is sold almost exclusively through distributors, generally service centers that also stock stainless steel angle. Fiberglass angle is primarily used as support braces in the chemicals industry.[27] For more information concerning interchangeability and customer perceptions see the *Prices* section of the report.

Channels of Distribution

In the U.S. market, sales of stainless steel angle are made exclusively through the steel service center distributor network or mill depots. In 1994, none of the U.S. producer's reported U.S. shipments and none of the reported imports from Japan were sold directly to end users. Rather, *** of reported imports were sold through steel service centers. Slater has determined that the best way to market its angle to small distributors and end users is through a system of about 20 large nationally-known service centers. When small distributors contact Slater for a quote, they are referred to these recognized service centers.[28] In this market, steel service centers do not perform any further processing; they primarily act as distributors by buying and inventorying products that

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[19] Petition, p. 10.

[20] Conference transcript, p. 64.

[21] Foreign producer questionnaires show that *** percent of Japanese exports to the United States were products that Slater does not produce.

[22] Conference transcript, p. 76.

[23] Petitioner's postconference brief, pp. 23-24.

[24] Petitioner reports that an investment totalling *** would be required to produce stainless steel angle over 3 inches in leg length. (Petitioner's postconference brief, exh. 1)

[25] Hearing transcript, p. 45.

[26] Petitioner's postconference brief, p. 9.

[27] Company official, Morrison Molded Fiber Glass Company (Bristol, VA), telephone conversation, Apr. 21, 1994.

[28] Hearing transcript, pp. 75-76.

are typically of commercial quality and reselling them to U.S. customers.[29] Petitioner estimates that over three-fourths of the U.S. sales of angle, both imported and domestic material, flows through large national service centers.[30]

While all Japanese stainless steel angle is ultimately sold through service centers, about 15 percent is first sold by the importer of record to mill depots.[31] Mill depots maintain large inventories and stock specialty products for sale to service centers. With few exceptions, such as KG, mill depots are not the importer of record. The role of the mill depots is to meet the inventory needs of service centers by supplying a full product line and next-week deliveries. They essentially act as a bridge between the long lead times associated with importing product from Japan and the commercial requirements of customers who need product in a short time period. According to respondents, the large percentage of volume sold through mill depot inventories reflects the increasing market demand for just-in-time deliveries.[32] Three mill depots are known to sell Japanese stainless steel angle: KG,[33] Distributor Metals,[34] and Amcan.[35] KG, of North Brunswick, NJ, is the largest, with seven warehouses throughout the United States. Distributor Metals, of Santa Fe Springs, CA, and Amcan, of Hermitage, PA, operate two and five warehouses, respectively.[36]

Common Manufacturing Facilities and Production Employees

As described below, the manufacturing process for stainless steel angle consists of three major stages: (1) melting, (2) casting, and (3) hot-rolling or extrusion.

Most stainless steel produced, including that produced by the petitioner, is melted from scrap in an EAF. The scrap charge may consist solely of stainless steel scrap, or may be combined with high-grade carbon steel scrap; additions of alloying agents (including chromium, nickel, and molybdenum), fluorspar, and lime or limestone are made to the liquid steel to impart specific properties to finished steel products or to serve as fluxing agents.

Molten stainless steel is typically passed through a ladle metallurgy station, where its chemistry is refined to embody the steel with properties required for specific applications. Once molten steel with the correct properties has been produced, it is cast into a form that can enter the rolling or extrusion process. Stainless steels may be cast into ingots or continuously cast[37] directly into blooms or billets. Petitioner casts ingots for angle production;[38] respondents use both the cast ingot and continuous cast methods.[39]

In ingot casting, molten steel is poured from the ladle into ingot molds; in general, stainless steel ingots are bottom-poured to improve finished steel quality. As the steel begins to solidify, the mold is stripped from the ingot and the ingot is transferred to a soaking pit, then on to a specialized heating furnace that equalizes the temperature within the ingot. Following removal from the soaking

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[29] Conversation with Randall Oertel, VP Commercial, Slater, Feb. 16, 1995.

[30] Hearing transcript, p. 74.

[31] Based on information reported in importers' questionnaires submitted to the Commission.

[32] Hearing transcript, p. 48.

[33] ***.

[34] ***.

[35] Amcan, a mill depot that markets stainless steel angle from ***.

[36] Respondents' postconference brief, exh. 19.

[37] In continuous strand casting, molten steel is poured from the ladle into a tundish, which controls the rate of flow into the caster's mold. Strand casters are designed to produce blooms and billets in desired cross-sectional dimensions. Billets may be charged directly into the next stage of production, or they may be subjected to one or several conditioning operations to prepare them for further processing.

[38] Fieldwork, Feb. 16, 1995.

[39] Telephone conversation with Chris Stokes, Willkie, Farr, and Gallagher, Mar. 1, 1995.

pit, the ingots are hot-rolled on a roughing or breakdown mill to intermediate sized blooms and billets.

Stainless steel angle may be produced using either of two distinct production processes: hot-rolling or extrusion.[40] [41] Only stainless steel angle produced by hot-rolling is subject to this investigation. According to petitioner, only angle of equal leg length can be produced using the hot-rolling process.[42] ***.[43] Petitioner expressed concern that because stainless steel bar from Japan is now subject to a 61.97 percent anti-dumping duty, there exists a clear and substantial threat of product shifting by Japan to angle production to avoid the duties on stainless steel bar.[44] Respondents produce unequal leg length products ***.

Billets to be hot-rolled into angle are channeled through a reheat furnace before being rolled on a bar mill. Most modern rolling mills are in-line. In order to produce the distinctive angle shape, the bar mill must be equipped with specially tooled rolls. As the billet passes through each successive roll stand, it is slowly deformed into an angular shape. After hot-rolling, the angle is cut to final specification, annealed,[45] descaled, and straightened.

The initial stages of manufacturing stainless steel angle (melting and casting) are similar to those for other hot-rolled steel products.[46] However, the rolling line for stainless steel angle must be configured and equipped with specially tooled rolls. Additionally, both the domestic and foreign producers perform the straightening of the stainless steel angle at ambient temperatures on a line that is dedicated solely to stainless steel angle production. Production employees on all lines of production, except the straightening line, produce all stainless steel products manufactured at that plant.

Price

Stainless steel angle prices vary by grade, size, and whether it is equal- or unequal-leg length.[47] In general, weighted-average f.o.b. prices for U.S.-produced stainless steel angle and the imported Japanese subject product sold by mill depots declined during 1992-93, then increased significantly during 1994. Prices for mill-direct sales of imported Japanese stainless steel angle tended to decline during the period of investigation. In most cases, price comparisons between sales of U.S.-produced stainless steel angle and mill-direct sales of the imported Japanese product showed underselling, whereas price comparisons with mill depot sales of the imported Japanese product generally indicated overselling. For more information concerning price comparisons between domestic and Japanese stainless steel angle, see the *Prices* section of this report.

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[40] In extrusion, reheated billets are forced through a die that has been cut to produce the desired size angle. Angle produced by extrusion may be substitutable for that produced by hot-rolling from a physical property standpoint according to the petitioner, but because extruded angles are significantly more expensive than rolled angles, close substitutability is questionable.

[41] Three firms are known to produce stainless steel angle by extrusion. Al Tech Specialty Steel, of Watervliet, NY, produced about *** of structural steel during 1994 (Glen McConkey, Al Tech Specialty Steel, telephone conversation, Mar. 1, 1995); Plymouth Tube, of Hopkinsville, KY, produced about *** of stainless steel angle during 1994 (Allen Palmeter, Production Manager, Plymouth Tube, telephone conversation, Mar. 2, 1995); and American Extruded Products of Beaver Falls, PA, had no listed telephone number and therefore could not be contacted. No known U.S. producer produces stainless steel angle using both hot-rolling and extrusion and no known Japanese producer produces stainless steel angle by extrusion.

[42] Fieldwork, Feb. 16, 1995.

[43] Respondents' postconference brief, p. 6.

[44] Hearing transcript, pp. 28-29.

[45] Annealing is a process by which ductility is restored to steel through controlled heating and cooling.

[46] However, if the stainless steel is to become bar, sulphur must be added to improve machinability.

[47] For example, grade 316 (higher nickel content) stainless steel angle typically costs more than standard grade 304 stainless steel angle and equal-legged stainless steel is generally less expensive than angle of unequal length. Petition, p. 11.

THE DOMESTIC MARKET

Apparent U.S. Consumption

Data on apparent consumption of stainless steel angle are presented in table 1 and figure 1. Total U.S. consumption, by quantity, increased by 17.5 percent from 1992 to 1994. In terms of value, total U.S. consumption rose by 10.4 percent from 1992 to 1994. The increase in stainless steel angle consumption reflects a larger trend in the stainless steel industry. U.S. stainless steel consumption rose to an estimated 17.2 pounds per capita in 1994 from 14.8 pounds per capita during 1992 (a 16-percent increase). Even with higher initial costs, stainless steel products are becoming increasingly popular due to their lower maintenance costs. The United States has traditionally ranked low in per capita use of stainless steel products, but as more U.S. companies compare the cost savings over the life span of their products, many are opting to purchase stainless steel.[48] In addition, growing concern about the environment has caused the U.S. Government to implement more stringent regulations that demand corrosive materials be treated in facilities made of stainless steel to prevent corrosion and leakage.[49] Total domestic consumption of stainless steel angle is expected to continue to increase as the economy continues to improve and new applications for stainless steel products proliferate.[50]

U.S. Producer

Slater[51] is the sole U.S. producer of hot-rolled stainless steel angle. Its operations, which consist of a melt facility, two rolling mills, finishing equipment, and a distribution warehouse, are located in Fort Wayne, IN. The minimill was purchased by Slater Industries in 1981 from Joslyn Manufacturing Co., which had been running the mill since 1903. In addition to stainless steel angle, Slater produces a variety of bar products from stainless steel, special corrosion- and heat-resistant alloy steel, valve steel, and low-alloy steel for use in industrial products, capital goods, and automotive industries. These bar products are manufactured in a variety of sizes and shapes, including rounds, flats, hexagons, and squares. Stainless steel angle accounted for about *** of Slater's net sales during 1994, while stainless steel bar products accounted for about ***. Additional products manufactured at Slater include electroslag remelted steels and automotive exhaust-valve steel.

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[48] "Market Development Proves an Uphill Battle," *American Metal Market*, Apr. 12, 1994, p. 18A.

[49] Conference transcript, p. 41.

[50] Petitioner's prehearing brief, p. 22.

[51] In addition to the Fort Wayne facility, Slater Industries operates two Canadian minimills located in Hamilton, Ontario and Sorel, Quebec. The company also operates a flat-rolled steel service center (Renown Steel), produces hardware for the utility and telecommunications industries (SLACAN), and operates a transport truck service center (Melburn Truck Lines, Inc.). Stainless steel angle is produced only at the Fort Wayne facility.

TABLE 1
STAINLESS STEEL ANGLE: U.S. SHIPMENTS OF DOMESTIC PRODUCT, U.S. IMPORTS, BY SOURCES, AND APPARENT U.S. CONSUMPTION, 1992-94

Item	1992	1993	1994
	Quantity (*short tons*)		
Producer's U.S. shipments	***	***	***
U.S. imports from--			
Japan	7,774	8,135	5,668
Other sources	3,570	4,589	7,546
Total	11,343	12,724	13,214
Apparent consumption	***	***	***
	Value (*1,000 dollars*)		
Producer's U.S. shipments	***	***	***
U.S. imports from--			
Japan	20,097	19,431	13,922
Other sources	8,312	10,371	16,983
Total	28,409	29,801	30,904
Apparent consumption	***	***	***
	Unit value (*per ton*)		
Producer's U.S. shipments	$***	$***	$***
U.S. imports from--			
Japan	2,585	2,389	2,456
Other sources	2,328	2,260	2,251
Average	2,504	2,342	2,339
Average	***	***	***

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

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

FIGURE 1
STAINLESS STEEL ANGLE: U.S. SHIPMENTS OF DOMESTIC PRODUCT, U.S. IMPORTS, BY SOURCES, AND APPARENT U.S. CONSUMPTION, 1992-94

* * * * * * *

U.S. Importers

Questionnaires were sent to 14 firms named in the petition and in the CNIF as importing stainless steel angle from Japan. Of the 14 firms, 13 responded to the Commission's request for information, accounting for all U.S. imports from Japan during 1994.[52] Four firms stated they did not import stainless steel angle.[53] One of these firms, Distributor Metals, is a consignee for Sumitomo.[54] In addition, *** all stated they had stopped importing the subject product by the close of 1993. The largest importer of stainless steel angle from Japan is KG, a wholly owned subsidiary of Kanematsu USA, which in turn is wholly owned by Kanematsu Japan. KG is the exclusive importer and distributor of stainless steel angle produced by Aichi Steel Works, the largest Japanese producer of the subject product.[55] The remaining U.S. importers of stainless steel angle from Japan are primarily large trading companies that import a broad range of steel products. The following tabulation shows reporting importers and their parent companies:[56]

U.S. importer	*Parent company*	*Percent ownership*
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***
***	***	***

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

The information provided in this section of the report is based on the questionnaire response of Slater, which accounted for all known U.S. production of hot-rolled stainless steel angle during 1992-94.

U.S. Capacity, Production, and Capacity Utilization

As indicated in table 2, Slater's average-of-period capacity to produce stainless steel angle ***.[57] ***.[58]

TABLE 2
STAINLESS STEEL ANGLE: U.S. CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION, 1992-94

* * * * * * *

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[52] None of the responding importers had imports from non-subject countries.

[53] Slater also indicated that it did not import the subject product.

[54] ***. Telephone conversations with Chris Stokes, Willkie, Farr & Gallagher, Mar. 1, 1995.

[55] Hearing transcript, p. 43.

[56] Based on submitted responses to the Commission's importer questionnaires.

[57] Hearing transcript, p. 78.

[58] ***. Fieldwork, Feb. 16, 1995, and telephone conversations, Mar. 14 and 15, 1995.

Slater reported a five-week disruption of its production of stainless steel angle during 1993 due to a labor strike. During the strike, Slater continued to fill orders and service accounts with the inventory it had on hand.[59] ***.[60]
***.[61]

U.S. Producer's Shipments[62]

Slater's total U.S. shipments of stainless steel angle are shown in table 3 and figure 1. Slater reported *** of stainless steel angle during the period for which data were collected.

TABLE 3
STAINLESS STEEL ANGLE: TOTAL SHIPMENTS BY THE U.S. PRODUCER, 1992-94

* * * * * * *

U.S. Producer's Inventories

Slater's end-of-period inventories of stainless steel angle are presented in table 4. During 1991, Slater reengineered its information system and implemented a plant-wide computer-integrated manufacturing system. In addition, Slater updated its warehouse facility to accommodate a larger stock of inventory. With these investments, Slater increased inventory, enabling it to improve its on-time delivery rating from an industry average of about 50 percent to nearly 90 percent.[63] ***.

TABLE 4
STAINLESS STEEL ANGLE: END-OF-PERIOD INVENTORIES OF THE U.S. PRODUCER, 1992-94

* * * * * * *

Employment, Wages, and Productivity

Slater's employment and productivity data are presented in table 5. Slater reported *** of PRWs during the period for which data were collected because of *** demand. However, the reported ***. All of Slater's PRWs are represented by the United Steelworkers of America. During the fall of 1993, all of Slater's PRWs went on strike for five weeks, causing a ***. The strike ended with the signing of a collective bargaining agreement with the union employees in November 1993. The agreement, which covers about 545 employees, expires in May 1995.

TABLE 5
AVERAGE NUMBER OF PRODUCTION AND RELATED WORKERS IN THE U.S. ESTABLISHMENT WHEREIN STAINLESS STEEL ANGLE IS PRODUCED, HOURS WORKED, WAGES AND TOTAL COMPENSATION PAID TO SUCH EMPLOYEES, AND HOURLY WAGES, PRODUCTIVITY, AND UNIT PRODUCTION COSTS, BY PRODUCTS, 1992-94

* * * * * * *

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[59] Petition, p. 14.

[60] Hearing transcript, p. 77.

[61] Verification report, p. 7.

[62] Monthly shipment and inventory data for Slater's stainless steel angle and Ft. Wayne establishment operations are presented in app. D.

[63] *Slater Industries, Inc., Preliminary Prospectus*, Mar. 25, 1994.

Financial Experience of the U.S. Producer

Financial information was provided on stainless steel angle operations in addition to overall establishment operations by Slater, the sole U.S. producer. These data, representing 100 percent of 1994 production of hot-rolled stainless steel angle, are presented in this section.

Overall Establishment Operations

Income-and-loss data on Slater's overall establishment operations are presented in table 6. In addition to stainless steel angle, the Fort Wayne operation produces a variety of bar products. Slater's net sales of U.S.-produced stainless steel angle were *** percent of 1994 overall net sales.

TABLE 6
INCOME-AND-LOSS EXPERIENCE OF THE U.S. PRODUCER ON THE OVERALL OPERATIONS OF ITS ESTABLISHMENT WHEREIN STAINLESS STEEL ANGLE IS PRODUCED, CALENDAR YEARS 1992-94

* * * * * * *

Operations on Stainless Steel Angle

Income-and-loss data for Slater's stainless steel angle operations are presented in table 7 and figure 2. Although Slater experienced *** in net sales in 1993 compared to the 1992 level, the ***. According to the 1993 Annual Report, the majority of Fort Wayne's sales growth in 1994 was projected to be achieved as a result of the antidumping suits filed by the stainless steel bar industry.[64] [65] The *** in the *** is also due to the ***.

According to Slater's 1992 Annual Report, the downward pressure on selling prices caused by the effects of the recession and increased import penetration due to the removal of the VRAs resulted in a large downturn in earnings and cash flow at Fort Wayne in 1992.[66] Although average ***. The per-unit values of the major components of the cost of goods sold are presented in table 8.

Additionally, Slater's 1993 Annual Report states:

> "In 1993, Fort Wayne Specialty Alloy's financial results were negatively affected by two significant events; a costly five week labour disruption and a dramatic increase in foreign competition."

However, Slater indicated that the labor action had no material impact on the firm's operating or financial data for 1993.[67] [68]

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[64] *Slater Industries 1993 Annual Report*, p. 7.

[65] Regarding stainless steel angle, petitioner claims that the 97-percent decrease of subject imports from Japan (Japan imported an average of 623 tons per month during the first nine months of 1994 and an average of 21 tons per month in the last three months of 1994) reflects a reaction to the initiation of this investigation (hearing transcript, p. 26). Respondents claim the apparent withdrawal of the Japanese companies from the U.S. market resulted because exchange rate fluctuations have made the market less attractive for Japanese exports. On the other hand, exchange rate fluctuations have benefitted exporters of the subject product in countries such as Spain, Korea and Italy (hearing transcript, p. 46). Petitioner disputes this claim, charging that a comparison of exchange rate fluctuation and angle exports demonstrates that the two do not move in tandem (i.e. that exports do not increase as the yen depreciates). The petitioner maintains that, although this appears to be logical in theory, yen appreciation has not curtailed Japanese exports (hearing transcript, pp. 30-31, 38-39, 99).

[66] *Slater Industries 1992 Annual Report*, p. 6.

[67] Petition, p. 14, hearing transcript, pp 77, 83-84.

TABLE 7
INCOME-AND-LOSS EXPERIENCE OF THE U.S. PRODUCER ON ITS OPERATIONS PRODUCING STAINLESS STEEL ANGLE, CALENDAR YEARS 1992-94

* * * * * * *

FIGURE 2
STAINLESS STEEL ANGLE: INCOME AND LOSS, 1992-94

* * * * * * *

TABLE 8
COGS (*ON A PER-TON BASIS*) OF THE U.S. PRODUCER ON ITS OPERATIONS PRODUCING STAINLESS STEEL ANGLE, CALENDAR YEARS 1992-94

* * * * * * *

Investment in Productive Facilities

The value of property, plant, and equipment and total assets for Slater, in addition to the return on total assets, are presented in table 9.

TABLE 9
VALUE OF ASSETS AND RETURN ON ASSETS OF THE U.S. PRODUCER'S ESTABLISHMENT WHEREIN STAINLESS STEEL ANGLE IS PRODUCED, CALENDAR YEARS 1992-94

* * * * * * *

Capital Expenditures

The capital expenditures reported by Slater are presented in table 10. Contrary to Slater's assertion that planned capital expenditures are down because of the negative impact of imports on profitability, the respondents believe that the decrease is due to tightened debt requirements by Slater's bankers, largely as the result of ill-advised capital investments made prior to the period of investigation.[69] Slater's 1992 Annual Report indicates that the loan agreement with the company's principal banker was amended to reduce the revolving term facility from $25 million to $20 million. The amendment also included a temporary one-quarter percent add-on to the interest rates.[70]

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[68] (...continued)
[68] See *U.S. Capacity, Production, and Capacity Utilization* section for a more detailed discussion.

[69] Hearing transcript, p. 137.

[70] *Slater Industries, Inc., 1992 Annual Report*, p. 15.

TABLE 10
CAPITAL EXPENDITURES BY THE U.S. PRODUCER, BY PRODUCTS, CALENDAR YEARS 1992-94

* * * * * * *

Research and Development Expenses

Slater indicated ***.

Capital and Investment

The Commission requested Slater to describe any actual or potential negative effects of imports of stainless steel angle from Japan on its existing development and production efforts (including efforts to develop a derivative or improved version of stainless steel angle). Slater's response is presented below.

"***."

"***."

"***."

"***."

Additionally, at the hearing petitioner stated that, ***.[71] ***.[72]

CONSIDERATION OF THE QUESTION OF THREAT OF MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise is presented in the section entitled *Consideration of the Causal Relationship Between Imports of the Subject Merchandise and the Alleged Material Injury* and information on the effects of imports of the subject merchandise on the U.S. producer's existing development and production efforts is presented in the section entitled *Consideration of Alleged Material Injury to an Industry in the United States*. Available information on U.S. inventories of subject products; foreign producers' operations; and any other threat indicators, if applicable, follows. Other threat indicators have not been alleged or are otherwise not applicable.

Mill Depots' Inventories

Of the responding importers, KG and Sumitomo's Distributor Metals were the only firms to report any inventories of stainless steel angle from Japan. The other importers are large trading companies that are the importers of record for either the mill depots or steel service centers and do not maintain inventories. KG and Distributor Metals provided the following information regarding end-of-period inventories. The two companies inventoried *** short tons of Japanese stainless steel angle in 1992, *** tons in 1993, and *** tons in 1994.

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[71] Hearing transcript, pp. 78-79.

[72] Hearing transcript, pp. 110-111.

U.S. Importers' Current Orders

There were no reported orders for Japanese stainless steel angle that U.S. importers have placed for delivery after December 31, 1994.[73]

Ability of Foreign Producers to Generate Exports and the Availability of Export Markets Other Than the United States[74]

The three Japanese producers, Aichi, Daido, and Sumitomo, provided the Commission with complete responses regarding their capacity, production, and shipment data. As indicated in table 11 and figure 3, reported capacity remained stable throughout the period for which data were collected. In response to petitioner's allegation that Sumitomo was planning to increase capacity,[75] ***.[76] Capacity utilization rates remained high during the period of investigation; in fact, they were above 100 percent in every period reported. ***.[77] Counsel for Japanese producers argue that recent increases in home market shipments reflect a rebounding Japanese economy. As the economy continues to improve, home market shipments are expected to increase even more, displacing some exports to the United States.[78]

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

U.S. Imports

U.S. imports of stainless steel angle are presented in table 12. Imports from Japan accounted for 42.9 percent (by quantity) of total imports in 1994. The remaining imports came primarily from Italy (25.3 percent), Korea (20.9 percent), and Spain (7.1 percent). The Commission sent importers' questionnaires to 14 firms believed to be importing stainless steel angle from Japan. Responses with usable data were received from 9 U.S. importers, which accounted for virtually all of the quantity of imports from Japan in 1994 as reported in the official U.S. import statistics. Since the HTS subheadings are precise, data in this section regarding the quantity and value of U.S. imports of stainless steel angle are based on the official U.S. import statistics.[79] There were no reported imports of stainless steel angle from Japan by the U.S. producer during the period for which data were collected.

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[73] Responses to Commission questionnaires.

[74] Of the eight reporting Japanese producers of stainless steel bar in the Commission's investigation of *Stainless Steel Bar from Brazil, India, Japan, and Spain* (Invs. Nos. 731-TA-678, 679, 681, and 682 (Final)), three (Abe Bright Shaft Manufacturing Co., Ltd.; Kansai Metal Industry Co., Ltd.; and Yamashin Steel Co., Inc.) were cold-finishers (i.e., their production activities were limited to purchasing the hot-rolled product and performing finishing operations in their mills) and could not produce stainless steel angle. The remaining five firms (Aichi; Daido; Pacific Metals Co., Ltd.; Sanyo Special Steel Co., Ltd.; and Tohoku Steel Co., Ltd.) produce hot-rolled stainless steel bar. Of these, only Aichi and Daido produce stainless steel angle. There was no indication on the record that Sumitomo is a significant exporter of stainless steel bar. USITC Pub. 2856, pp. II-17, II-70, and II-71 and respondents' posthearing brief, exh. 8, pp. 1-7.

[75] Petition, p. 23.

[76] Respondents' postconference brief, p. 62.

[77] ***. (Respondents' postconference brief, p. 61.)

[78] Respondents' postconference brief, p. 60.

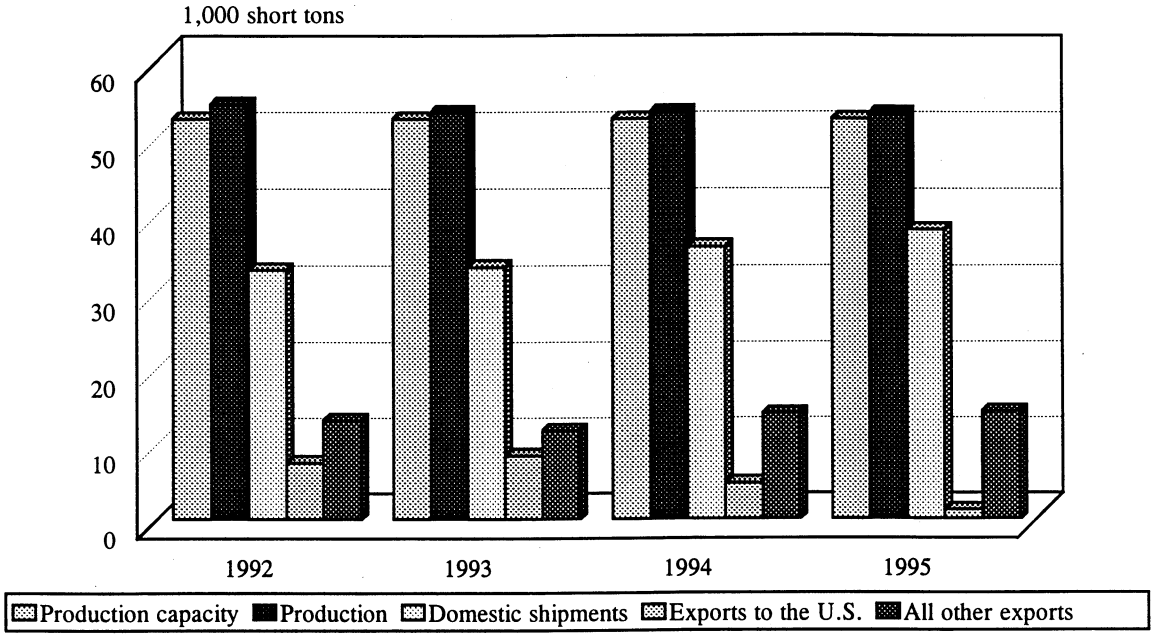
[79] Both petitioner and respondents agree that the official U.S. import statistics provide a reliable source of import data for stainless steel angle from Japan.

TABLE 11
STAINLESS STEEL ANGLE: JAPAN'S CAPACITY, PRODUCTION, INVENTORIES, CAPACITY UTILIZATION, AND SHIPMENTS, 1992-94 AND PROJECTED 1995

Item	1992	1993	1994	Projected--1995
	Quantity (*short tons*)			
Production capacity	52,440	52,440	52,440	52,440
Beginning inventories	5,440	6,470	6,430	5,280
Production	54,360	53,250	53,350	53,200
Shipments:				
Home market	32,790	33,190	35,820	38,000
Exports to--				
The United States	7,480	8,410	4,770	1,200
All other markets	13,060	11,690	13,910	14,200
Total exports	20,540	20,100	18,680	15,400
Total shipments	53,330	53,290	54,500	53,400
EOP inventories	6,470	6,430	5,280	5,080
	Ratios and shares (*percent*)			
Capacity utilization	103.7	101.5	101.7	101.4
EOP inventories to production	11.9	12.1	9.9	9.5
EOP inventories to total shipments	12.1	12.1	9.7	9.5
Share of total quantity of shipments:				
Home market	61.5	62.3	65.7	71.2
Exports to--				
The United States	14.0	15.8	8.8	2.2
All other markets	24.5	21.9	25.5	26.6
Total exports	38.5	37.7	34.3	28.8

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

FIGURE 3
STAINLESS STEEL ANGLE: JAPANESE PRODUCTION CAPACITY, PRODUCTION, DOMESTIC SHIPMENTS, EXPORTS TO THE UNITED STATES, AND ALL OTHER EXPORTS, 1992-94 AND PROJECTED 1995



Source: Response to Commission's foreign producers' questionnaires.

TABLE 12
STAINLESS STEEL ANGLE: U.S. IMPORTS, BY SOURCES, 1992-94

Item	1992	1993	1994
	Quantity (*short tons*)		
Japan	7,774	8,135	5,668
Other sources	3,570	4,589	7,546
Total	11,343	12,724	13,214
	Value (*1,000 dollars*)		
Japan	20,097	19,431	13,922
Other sources	8,312	10,371	16,983
Total	28,409	29,801	30,904
	Unit value (*per short ton*)		
Japan	$2,585	$2,389	$2,456
Other sources	2,328	2,260	2,251
Average	2,504	2,342	2,339
	Share of total quantity (*percent*)		
Japan	68.5	63.9	42.9
Other sources	31.5	36.1	57.1
Total	100.0	100.0	100.0
	Share of total value (*percent*)		
Japan	70.7	65.2	45.0
Other sources	29.3	34.8	55.0
Total	100.0	100.0	100.0

Note.--Because of rounding, figures may not add to the totals shown; unit values are calculated from unrounded figures.

Source: Compiled from official statistics of Commerce.

Market Penetration by the Subject Imports

Market shares based on the U.S. producer's shipments and U.S. imports are presented in table 13. Respondents note that Japan has historically (over 20 years) maintained a large share of the U.S. stainless steel angle market. They argue that Japan's presence over that period reflects the U.S. industry's insufficient capacity to supply the U.S. market.[80] Petitioner argues that the high levels of Japanese import competition have hurt Slater financially and forced it to postpone crucial capital improvement projects, thus threatening its continued ability to compete in the U.S. stainless steel angle market.[81]

[80] Hearing transcript, p. 124.

[81] Hearing transcript, p. 78.

TABLE 13
STAINLESS STEEL ANGLE: APPARENT U.S. CONSUMPTION AND MARKET SHARES, 1992-94

* * * * * * *

Prices

Marketing Considerations

Stainless steel angle is most often used as a support or brace in the construction of stainless steel structures such as tanks, pipelines, and vats for the food, beverage, and chemical processing industries.[82] Therefore, demand for stainless steel angle depends on industrial demand for the products that use stainless steel angle in their construction. Demand for stainless steel angle has increased during 1992-94, largely due to the general economic recovery in the United States and stricter environmental regulations requiring corrosive materials to be held in stainless steel containers.[83]

Slater is the only U.S. producer of hot-rolled stainless steel angle. Slater sells the vast majority of its stainless steel angle to steel service centers on either a mill-direct basis or from inventory.[84] Most imported Japanese stainless steel angle is either shipped mill-direct from the Japanese producers to steel service centers, or sold to U.S. mill depots that resell the angle to steel service centers.[85]

Slater markets stainless steel angle in all 50 states, but its sales are concentrated in Chicago, Cleveland, Atlanta, the East Coast, and the West Coast. Slater believes it has a slight geographic advantage over other suppliers for sales in the midwest, but is at a slight geographic disadvantage when competing for sales on the West Coast. Slater maintains that transportation costs for shipments to the West Coast (approximately *** of the total delivered cost) are an important factor in its customers' purchasing decision, but transportation costs for shipments to the midwest (***) are not an important factor.

The two largest mill depots, KG and Distributor Metals, reported a geographic market area of all 50 states, while the other responding importers reported a range of market areas including the East, West, and Gulf Coast regions, southwestern and midwestern United States, and the Great Lakes region. Most of the suppliers of the Japanese subject product reported that transportation costs were an important consideration, accounting for between *** percent of the total delivered cost.

Slater generally prices its stainless steel angle based ***,[86] ***.[87] ***.

Importers of Japanese stainless steel angle generally negotiate prices on a transaction-by-transaction basis, and do not issue price lists. Importers also charge higher prices for sub-2,000 pound shipments, greater nickel content, and dead lengths. Importers' prices are usually quoted on an f.o.b. point of shipment basis and typical sales terms are net 30 days.

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[82] Conference transcript, p. 15.

[83] Conference transcript, p. 40.

[84] ***.

[85] During 1992-94, *** percent of U.S. shipments of imported Japanese stainless steel angle products for which pricing data were reported were mill-direct sales, whereas *** percent were sold from inventory through U.S. mill depots.

[86] Grade 316 angles cost more than the standard grade 304 angles because they contain a higher percentage of nickel.

[87] Stainless steel angle is typically offered in random lengths, which can vary by 2 inches or more either way. Dead lengths are cut to specific lengths.

Product Comparisons

Sales of stainless steel angle are differentiated by several factors including delivery lead times, minimum quantity purchase requirements, available product range, and the quality of the stainless steel angle.

For many purchasers, just-in-time delivery and small minimum quantity purchase requirements are important factors. Stainless steel angle has relatively high inventory carrying costs (between 2.5 and 5.5 percent of the total delivered price). Because of the high inventory carrying costs, steel service centers (particularly smaller ones) prefer to be able to buy smaller quantities of angle that can be delivered to their sites within a few days, as opposed to being forced to inventory large bulk orders that require lead times of up to seven months.

Slater reported average order lead times of ***.[88]

Mill-direct sales of imported Japanese stainless steel angle generally have minimum quantity requirements of 40,000 pounds (full container loads) and very long average lead times of 3 to 7 months. Conversely, customers can buy sub-1,000 pound quantities of imported Japanese stainless steel angle from a mill depot's inventory with average lead times of 1 to 3 days. ***.

The mill depots generally offer a broader product range than Slater. KG, the largest mill depot, offers 28 different sizes of imported Japanese stainless steel angle, as opposed to the 22 different sizes of U.S.-produced angle offered by Slater. In particular, KG offers large stainless steel angle (six different products ranging in size from 3" x 3" x 1/2" to 4" x 4" x 1/2") not offered by Slater.[89]

Slater, the two responding mill depots, and the majority of the responding importers agree that quality differences between the U.S.-produced and imported Japanese stainless steel angle products are not significant. One importer reported that its smaller sized products have fewer defects than the domestic counterparts. Another importer reported that its imported Japanese angle had better surface finishes and tolerances than the domestic product.

Sixteen of 21 responding purchasers reported that they do not always know the manufacturer of the stainless steel angle that they purchase, and 15 of 19 reported that their customers were not aware of or interested in the country of origin of the stainless steel angle that they buy. All of the 19 responding purchasers reported that there are no significant differences between U.S.-produced and imported Japanese stainless steel angle, and 13 of 14 responding purchasers reported that the quality of the domestic and imported Japanese subject products was comparable.[90] Reported advantages of buying the domestic product include shorter delivery lead times (versus mill-direct sales of imported Japanese subject product), better sales and technical support, and the fact that Slater is a long-term, domestic supplier. Reported advantages of buying the imported Japanese subject product include availability of certain sizes not produced by Slater, smaller minimum quantity order requirements (for sales from mill depots), and lower cost (for mill-direct sales).[91]

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[88] Slater maintains that it does not take orders below 1,000 pounds because it views these small sales as "distributor business" and it does not want to be seen as competing with its distributor customers. *** (hearing transcript, pp. 74-75).

[89] In value terms, sales of these product sizes accounted for *** percent of the total U.S. stainless steel angle market in 1992, 1993, and 1994, respectively.

[90] ***.

[91] The Commission sent purchaser questionnaires to 83 steel service centers. The Commission received responses from 43 purchasers, 17 of which reported that they either did not purchase stainless steel angle or purchased only an insignificant amount of stainless steel angle during the period of investigation. The 26 steel service centers that completed purchaser questionnaire responses accounted for *** percent of the U.S. producer's domestic shipments and *** percent of U.S. shipments of imported Japanese stainless steel angle in 1994.

Questionnaire Price Data

The Commission requested U.S. producers, importers of Japanese stainless steel angle, and U.S. mill depots that resell the imported Japanese subject product to provide U.S. f.o.b. prices and total quantities and values of four representative stainless steel angle products. For each product listed below, the Commission requested price data for the largest sale to unrelated U.S. steel service centers for each quarter during January 1992-December 1994.

Product 1: **Grade 304 hot-rolled, annealed, and descaled stainless steel 90-degree angle, 1" x 1" x 1/8"**

Product 2: **Grade 304 hot-rolled, annealed, and descaled stainless steel 90-degree angle, 2" x 2" x 1/4"**

Product 3: **Grade 304 hot-rolled, annealed, and descaled stainless steel 90-degree angle, 1-1/2" x 1-1/2" x 3/16"**

Product 4: **Grade 316 hot-rolled, annealed, and descaled stainless steel 90-degree angle, 2" x 2" x 1/4"**

Slater, seven importers, and two mill depots provided pricing data, although not necessarily for all products or quarters during January 1992-December 1994. Slater accounted for all of the reported U.S. shipments of U.S.-produced stainless steel angle in 1994. The responding importers and mill depots accounted for virtually all U.S. imports of Japanese stainless steel angle in 1994. Weighted-average f.o.b. prices for sales by Slater, mill-direct sales by importers, and inventory sales by mill depots of U.S.-produced and imported Japanese products 1-4 are presented in tables 14-17 and figures 4-7.[92] [93]

Price trends for U.S.-produced stainless steel angle

F.o.b. prices for U.S.-produced products 1-4 generally declined during 1992 and 1993, then increased during 1994. ***.

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[92] The Commission also requested purchasers to report f.o.b. and delivered prices, total quantities, and f.o.b. and delivered values for purchases of the same four stainless steel angle products. *** purchasers accounting for *** percent of the U.S. market in 1994 reported pricing data. Weighted-average delivered purchase prices and total quantities purchased are presented in tables E-1 through E-4 in app. E. Purchase price trends for purchases of products 1-4 from Slater and from the mill depots ***. Purchase price trends for mill-direct shipments of imported products 1-4 ***.

[93] The Commission also requested that the mill depots (KG and Distributor Metals) provide price data for their purchases of stainless steel angle. ***. Quarterly weighted-average mill depot purchase prices are presented in tables E-5 and E-6 of app. E.

TABLE 14
STAINLESS STEEL ANGLE: WEIGHTED-AVERAGE NET F.O.B. PRICES AND TOTAL QUANTITIES OF U.S.-PRODUCED AND IMPORTED JAPANESE PRODUCT 1 SOLD TO STEEL SERVICE CENTERS, BY QUARTERS, JAN. 1992-DEC. 1994

Period	United States		Japan			
			Mill-direct		Mill depots	
	Price	Quantity	Price	Quantity	Price	Quantity
	$/pound	*Pounds*	*$/pound*	*Pounds*	*$/pound*	*Pounds*
1992:						
Jan.-Mar	***	***	$1.55	32,136	***	***
Apr.-June	***	***	1.50	30,650	***	***
July-Sept	***	***	1.44	31,323	***	***
Oct.-Dec	***	***	1.40	32,391	***	***
1993:						
Jan.-Mar	***	***	1.37	49,922	***	***
Apr.-June	***	***	1.37	32,084	***	***
July-Sept	***	***	1.34	55,134	***	***
Oct.-Dec	***	***	1.32	50,113	***	***
1994:						
Jan.-Mar	***	***	1.31	31,591	***	***
Apr.-June	***	***	1.28	33,537	***	***
July-Sept	***	***	1.28	69,708	***	***
Oct.-Dec	***	***	-	-	***	***

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

FIGURE 4
STAINLESS STEEL ANGLE: WEIGHTED-AVERAGE NET F.O.B. PRICES OF U.S.-PRODUCED AND IMPORTED JAPANESE PRODUCT 1 SOLD TO STEEL SERVICE CENTERS, BY QUARTERS, JAN. 1992-DEC. 1994

* * * * * * *

TABLE 15
STAINLESS STEEL ANGLE: WEIGHTED-AVERAGE NET F.O.B. PRICES AND TOTAL QUANTITIES OF U.S.-PRODUCED AND IMPORTED JAPANESE PRODUCT 2 SOLD TO STEEL SERVICE CENTERS, BY QUARTERS, JAN. 1992-DEC. 1994

Period	United States		Japan			
			Mill-direct		Mill depots	
	Price	Quantity	Price	Quantity	Price	Quantity
	$/pound	*Pounds*	*$/pound*	*Pounds*	*$/pound*	*Pounds*
1992:						
Jan.-Mar	***	***	$1.36	100,671	***	***
Apr.-June	***	***	1.33	121,486	***	***
July-Sept	***	***	1.27	161,432	***	***
Oct.-Dec	***	***	1.24	101,072	***	***
1993:						
Jan.-Mar	***	***	1.28	224,680	***	***
Apr.-June	***	***	1.19	149,256	***	***
July-Sept	***	***	1.17	215,551	***	***
Oct.-Dec	***	***	1.16	155,493	***	***
1994:						
Jan.-Mar	***	***	1.17	178,193	***	***
Apr.-June	***	***	1.11	145,402	***	***
July-Sept	***	***	1.14	319,472	***	***
Oct.-Dec	***	***	1.17	15,809	***	***

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

FIGURE 5
STAINLESS STEEL ANGLE: WEIGHTED-AVERAGE NET F.O.B. PRICES OF U.S.-PRODUCED AND IMPORTED JAPANESE PRODUCT 2 SOLD TO STEEL SERVICE CENTERS, BY QUARTERS, JAN. 1992-DEC. 1994

* * * * * * *

TABLE 16
STAINLESS STEEL ANGLE: WEIGHTED-AVERAGE NET F.O.B. PRICES AND TOTAL QUANTITIES OF U.S.-PRODUCED AND IMPORTED JAPANESE PRODUCT 3 SOLD TO STEEL SERVICE CENTERS, BY QUARTERS, JAN. 1992-DEC. 1994

Period	United States		Japan			
			Mill-direct		Mill depots	
	Price	Quantity	Price	Quantity	Price	Quantity
	$/pound	*Pounds*	*$/pound*	*Pounds*	*$/pound*	*Pounds*
1992:						
Jan.-Mar	***	***	$1.44	15,644	***	***
Apr.-June	***	***	1.40	43,038	***	***
July-Sept	***	***	1.41	77,393	***	***
Oct.-Dec	***	***	1.30	32,618	***	***
1993:						
Jan.-Mar	***	***	1.31	85,140	***	***
Apr.-June	***	***	1.28	111,321	***	***
July-Sept	***	***	1.24	149,586	***	***
Oct.-Dec	***	***	1.24	89,086	***	***
1994:						
Jan.-Mar	***	***	1.22	52,595	***	***
Apr.-June	***	***	1.23	55,794	***	***
July-Sept	***	***	1.19	108,839	***	***
Oct.-Dec	***	***	-	-	***	***

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

FIGURE 6
STAINLESS STEEL ANGLE: WEIGHTED-AVERAGE NET F.O.B. PRICES OF U.S.-PRODUCED AND IMPORTED JAPANESE PRODUCT 3 SOLD TO STEEL SERVICE CENTERS, BY QUARTERS, JAN. 1992-DEC. 1994

* * * * * * *

TABLE 17
STAINLESS STEEL ANGLE: WEIGHTED-AVERAGE NET F.O.B. PRICES AND TOTAL QUANTITIES OF U.S.-PRODUCED AND IMPORTED JAPANESE PRODUCT 4 SOLD TO STEEL SERVICE CENTERS, BY QUARTERS, JAN. 1992-DEC. 1994

* * * * * * *

FIGURE 7
STAINLESS STEEL ANGLE: WEIGHTED-AVERAGE NET F.O.B. PRICES OF U.S.-PRODUCED AND IMPORTED JAPANESE PRODUCT 4 SOLD TO STEEL SERVICE CENTERS, BY QUARTERS, JAN. 1992-DEC. 1994

* * * * * * *

Price trends for mill-direct sales of imported Japanese stainless steel angle

F.o.b. prices for mill-direct sales of imported Japanese products 1-4 declined during the period of investigation. ***.

Price trends for mill depot sales of imported Japanese stainless steel angle

In general, prices for mill depot sales of imported Japanese products 1-4 declined during 1992-93, then rebounded in 1994. ***.

Input costs

Respondents maintain that price declines in raw materials costs are "the driver" behind declines in the prices for U.S.-produced stainless steel angle.[94] Petitioner allows that prices for U.S.-produced stainless steel angle and raw materials costs may be correlated in selected instances, but argues that empirical evidence demonstrates that the relationship is too divergent to show a definitive pattern. Rather, it argues, the true driving force behind the falling prices for U.S.-produced stainless steel angle is the declining prices for Japanese imports.[95] [96]

Quarterly indexes of constructed prices for major stainless steel inputs[97] and of prices for U.S.-produced product 2 (the most popular of the four products for which pricing data were reported) sold during 1992-94 are shown in figure 8. Prices for U.S.-produced product 2 ***.

FIGURE 8
INPUT COSTS: INDEXES OF THE WEIGHTED-AVERAGE COST OF MAJOR INPUTS USED IN THE PRODUCTION OF STAINLESS STEEL ANGLE AND PRICES FOR U.S.-PRODUCED PRODUCT 2, BY QUARTERS, JAN. 1992-DEC. 1994

* * * * * * *

Price comparisons between sales of U.S.-produced stainless steel angle and mill-direct sales of the imported Japanese subject product[98]

The reported price data for mill-direct sales of imported Japanese stainless steel angle during January 1992-December 1994 allowed *** f.o.b. price comparisons (Table 18). ***.

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[94] Hearing transcript, pp. 53-54, 134-135.

[95] Hearing transcript, pp. 88-91, 156-157.

[96] Total raw materials costs accounted for *** percent of the total cost of goods sold during 1992, 1993, and 1994, respectively. Report, Table 8, p. II-13.

[97] Stainless steel input purchase prices are based on prices for the contained mineral units. Grade 304 stainless steel is primarily composed of nickel (8.50 percent by weight), chromium (18.25 percent by weight), and iron (70.77 percent by weight). In its questionnaire response, petitioner reported its monthly prices paid for the secondary nickel and chromium content of stainless steel scrap. In its postconference brief, petitioner reported published quarterly prices for iron. The per-pound prices for these raw materials were weighted by the percentage (by weight) each material accounts for in the composition of grade 304 stainless steel. The weighted prices for the three components were then summed to construct a per-pound input price for the stainless steel based on its contained units.

[98] ***.

TABLE 18
STAINLESS STEEL ANGLE: JAPANESE MARGINS OF UNDERSELLING/(OVERSELLING) FOR MILL-DIRECT SALES OF PRODUCTS 1-4 BY IMPORTERS TO STEEL SERVICE CENTERS, BY QUARTERS, JAN. 1992-DEC. 1994

* * * * * * *

Price comparisons between sales of U.S.-produced stainless steel angle and mill depot sales of the imported Japanese subject product

In general, price comparisons between mill depot sales of imported Japanese stainless steel angle and sales of the domestic product indicated overselling, as opposed to the underselling indicated by the price comparisons between mill-direct sales of imported Japanese angle and sales of the domestic product. The reported price data for mill depot sales of imported Japanese stainless steel angle during January 1992-December 1994 allowed *** f.o.b. price comparisons (Table 19). ***.

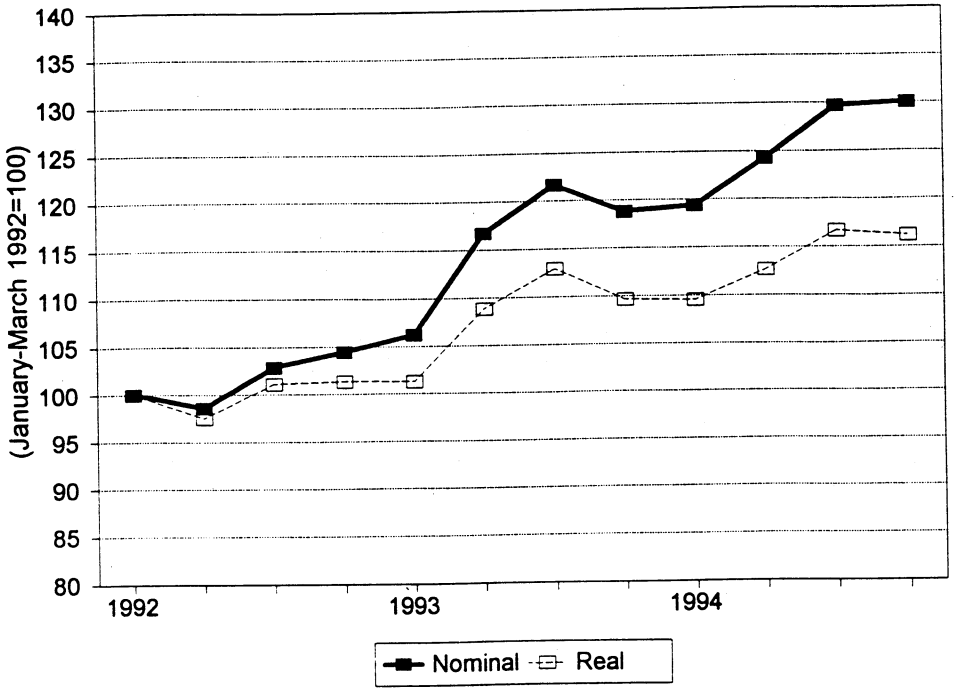
TABLE 19
STAINLESS STEEL ANGLE: JAPANESE MARGINS OF UNDERSELLING/(OVERSELLING) FOR INVENTORY SALES OF PRODUCTS 1-4 BY MILL DEPOTS TO STEEL SERVICE CENTERS, BY QUARTERS, JAN. 1992-DEC. 1994[1]

* * * * * * *

Exchange Rates

The nominal value of the Japanese yen appreciated by 30.0 percent during January 1992-December 1994 (figure 9). When adjusted for movements in producer price indexes in the United States and Japan, the Japanese currency appreciated by 16.2 percent over the period.

FIGURE 9
INDEXES OF THE NOMINAL AND REAL EXCHANGE RATES BETWEEN THE U.S. DOLLAR AND JAPANESE YEN, BY QUARTERS, JAN. 1992-DEC. 1994



Source: International Monetary Fund, *International Financial Statistics*, Feb. 1995.

Lost Sales and Lost Revenues

Slater reported lost sales and lost revenues allegations as shown in the tabulation below.

	Customers	Sales	Quantity (*Pounds*)	Value
Lost revenues	***	***	***	***
Lost sales	***	***	***	***

The Commission interviewed *** purchasers named in *** of the lost revenue allegations worth *** and *** of the lost sales allegations concerning *** pounds of stainless steel angle worth ***. The information obtained from these purchasers is discussed below.

***.

***.

***.

APPENDIX A

SUMMARY TABLES

TABLE A-1
STAINLESS STEEL ANGLE: SUMMARY DATA CONCERNING THE U.S. MARKET, 1992-94

(Quantity=short tons; value=*1,000 dollars*; unit values are per *short ton*; period changes=*percent*, except where noted)

Item	Reported data			Period changes		
	1992	1993	1994	1992-94	1992-93	1993-94
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producer's share[1]	***	***	***	***	***	***
Importers' share:[1]						
Japan	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producer's share[1]	***	***	***	***	***	***
Importers' share:[1]						
Japan	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total	***	***	***	***	***	***
U.S. imports from--						
Japan:						
Quantity	7,774	8,135	5,668	-27.1	+4.6	-30.3
Value	20,097	19,431	13,922	-30.7	-3.3	-28.4
Unit value	$2,585	$2,389	$2,456	-5.0	-7.6	+2.8
Ending inventory quantity	***	***	***	***	***	***
Other sources:						
Quantity	3,570	4,589	7,546	+111.4	+28.6	+64.4
Value	8,312	10,371	16,983	+104.3	+24.8	+63.8
Unit value	$2,328	$2,260	$2,251	-3.3	-2.9	-0.4
Ending inventory quantity	***	***	***	(2)	(2)	(2)
All sources:						
Quantity	11,343	12,724	13,214	+16.5	+12.2	+3.9
Value	28,409	29,801	30,904	+8.8	+4.9	+3.7
Unit value	$2,504	$2,342	$2,339	-6.6	-6.5	-0.1
Ending inventory quantity	***	***	***	***	***	***
U.S. producer's--						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization[1]	***	***	***	***	***	***
U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***

See footnotes at end of table.

TABLE A-1--CONTINUED
STAINLESS STEEL ANGLE: SUMMARY DATA CONCERNING THE U.S. MARKET, 1992-94

(Quantity=*short tons*; value=*1,000 dollars*; unit values are per *short ton*; period changes=*percent*, except where noted)

Item	Reported data			Period changes		
	1992	1993	1994	1992-94	1992-93	1993-94
U.S. producer's--						
Ending inventory quantity	***	***	***	***	***	***
Inventory/shipments[1]	***	***	***	***	***	***
Production workers	***	***	***	***	***	***
Hours worked (*1,000s*)	***	***	***	***	***	***
Total compensation	***	***	***	***	***	***
Hourly total compensation	***	***	***	***	***	***
Productivity (*short tons/hr*)	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***
Net sales--						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
COGS	***	***	***	***	***	***
Gross profit (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income (loss)	***	***	***	***	***	***
COGS/sales[1]	***	***	***	***	***	***
Operating income (loss)/sales[1]	***	***	***	***	***	***

[1] "Reported data" are in *percent* and "period changes" are in *percentage points*.
[2] Not applicable.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown.

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

TABLE A-2
STAINLESS STEEL ANGLE: SUMMARY DATA CONCERNING THE U.S. MARKET, 1991-94

(Quantity=*short tons*; value=*1,000 dollars*; unit values are per *short ton*; period changes=*percent*, except where noted)

Item	Reported data				Period changes	
	1991	1992	1993	1994	1991-94	1991-92
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producer's share[1]	***	***	***	***	***	***
Importers' share:[1]						
Japan	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producer's share[1]	***	***	***	***	***	***
Importers' share:[1]						
Japan	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total	***	***	***	***	***	***
U.S. imports from--						
Japan:						
Quantity	7,673	7,774	8,135	5,668	-26.1	+1.3
Value	21,967	20,097	19,431	13,922	-36.6	-8.5
Unit value	$2,863	$2,585	$2,389	$2,456	-14.2	-9.7
Ending inventory quantity	***	***	***	***	***	***
Other sources:						
Quantity	3,518	3,570	4,589	7,546	+114.5	+1.5
Value	9,588	8,312	10,371	16,983	+77.1	-13.3
Unit value	$2,726	$2,328	$2,260	$2,251	-17.4	-14.6
Ending inventory quantity	***	***	***	***	(2)	(2)
All sources:						
Quantity	11,190	11,343	12,724	13,214	+18.1	+1.4
Value	31,556	28,409	29,801	30,904	-2.1	-10.0
Unit value	$2,820	$2,504	$2,342	$2,339	-17.1	-11.2
Ending inventory quantity	***	***	***	***	***	***
U.S. producer's--						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization[1]	***	***	***	***	***	***
U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***

See footnotes at end of table.

TABLE A-2--CONTINUED
STAINLESS STEEL ANGLE: SUMMARY DATA CONCERNING THE U.S. MARKET, 1991-94

(Quantity=*short tons*; value=*1,000 dollars*; unit values are *per short ton*; period changes=*percent*, except where noted)

Item	Reported data				Period changes	
	1991	1992	1993	1994	1991-94	1991-92
U.S. producer's--						
Ending inventory quantity	***	***	***	***	***	***
Inventory/shipments[1]	***	***	***	***	***	***
Production workers	***	***	***	***	***	***
Hours worked (*1,000s*)	***	***	***	***	***	***
Total compensation	***	***	***	***	***	***
Hourly total compensation	***	***	***	***	***	***
Productivity (*short tons/hr*)	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***
Net sales--						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
COGS	***	***	***	***	***	***
Gross profit (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income (loss)	***	***	***	***	***	***
COGS/sales[1]	***	***	***	***	***	***
Operating income (loss)/sales[1]	***	***	***	***	***	***

[1] "Reported data" are in *percent* and "period changes" are in *percentage points*.
[2] Not applicable.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown.

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

APPENDIX B

FEDERAL REGISTER NOTICES

[Investigation No. 731-TA-699 (Final)]

Stainless Steel Angle From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-699 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of stainless steel angle, provided for in subheading 7222.20.30 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, 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: November 10, 1994.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187), 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. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of stainless steel angle from Japan 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 investigation was requested in a petition filed on April 8, 1994, by Slater Steels Corp., Fort Wayne, IN.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation 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, not later than twenty-one (21) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on March 17, 1995, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on March 30, 1995, 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 March 17, 1995. 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 March 23, 1995, 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 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is March 24, 1995. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is April 7, 1995; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 7, 1995. 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.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (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: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

Issued: November 30, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–30092 Filed 12–6–94; 8:45 am]

BILLING CODE 7020–02–P

[A-588-834]

Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Stainless Steel Angle From Japan

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

EFFECTIVE DATE: March 31, 1995.

FOR FURTHER INFORMATION CONTACT: James Maeder or Bill Crow, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-3330 or 482-0116, respectively.

Final Determination

We determine that stainless steel angle (SSA) from Japan is being 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 estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination of sales at less than fair value in this investigation on November 4, 1994 (59 FR 56053, November 10, 1994), the following events have occurred.

On November 23, 1994, the petitioners alleged that the preliminary margin calculations contained three distinct ministerial errors. As detailed in the December 8, 1994, memorandum to Barbara R. Stafford, the Department agreed that the errors identified by the petitioners were ministerial in nature, but did not amend the preliminary determination because these errors were not significant, as defined in the Proposed Regulations (19 CFR 353.15(g)(4)(ii)).

In December 1994, the Department conducted its sales and cost

verifications of the respondent, Aichi Steel Works Ltd. ("Aichi") in Japan.

On February 17, 1995, the petitioners and Aichi submitted case briefs. Rebuttal briefs were submitted by both parties on February 24, 1995.

Scope of Investigation

For purposes of this investigation, the term "stainless steel angle" includes hot-rolled, whether or not annealed or descaled, stainless steel products of equal leg length angled at 90 degrees, that are not otherwise advanced.

The stainless steel angle subject to this investigation is currently classifiable under subheadings 7222.40.30.20 and 7222.40.30.60 of the Harmonized Tariff Schedules of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

As noted in the March 21, 1995 memorandum from the Acting Director of the Office of Antidumping Investigations to the Deputy Assistant Secretary for Investigations, the Department has clarified the scope of the investigation as published in the preliminary determination, to specifically exclude stainless steel products of unequal leg length.

Period of Investigation

The period of investigation (POI) is November 1, 1993, through April 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994. References to the Antidumping and Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments, 57 FR 1131 (Jan. 10, 1992), concerning corrections of ministerial errors, ("Proposed Regulations"), are provided solely for further explanation of the Department's antidumping practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the Proposed Regulations were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding, which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act. *See* 60 FR 80 (Jan. 3, 1995).

Such or Similar Comparisons

For purposes of the final determination, we have determined that SSA constitutes a single "such or similar" category of merchandise.

The respondent reported that there were no sales of identical merchandise in the home market during the POI. Because there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar merchandise comparisons on the basis of: (1) Stainless steel grade; (2) leg-length; (3) thickness; (4) spine length; and (5) other characteristics, as listed in Appendix V of the Department's questionnaire, and in accordance with section 772(16) of the Act.

Fair Value Comparisons

To determine whether sales of SSA from Japan to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice. When comparing the U.S. sales to sales of similar merchandise in the home market, we made adjustments for differences in physical characteristics, pursuant to 19 CFR 353.57. Further, in accordance with 19 CFR 353.58, we made comparisons at the same level of trade, where possible.

United States Price

We based USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to an unrelated purchaser before importation into the United States and because exporter's sales price methodology was not otherwise indicated. For the reasons detailed in the *Comment* section of this notice, we reclassified the level of trade of U.S. sales to categorize them as having been made to a trading company.

With regard to the calculation of movement expenses, we made deductions from the U.S. sales price, where appropriate, for foreign brokerage, foreign inland freight, and insurance.

We recalculated U.S. credit expenses based on Aichi's lending rate to its customers as opposed to Aichi's investment return rate. In accordance with section 772(d)(1)(B) of the Act, we added to USP the amount of import duties which were not collected on inputs due to exportation of SSA to the United States.

In accordance with our standard practice, pursuant to the decision of the U.S. Court of International Trade (CIT) in *Federal-Mogul Corporation and The Torrington Company* v. *United States*, 834 F. Supp. 1391 (CIT 1993), our calculations include an adjustment to U.S. price for the consumption tax levied on comparison sales in Japan. See Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from France (60 FR 10538, 10539, February 27, 1995) and Preliminary Antidumping Duty Determination: Color Negative Photographic Paper and Chemical Components from Japan (59 FR 16177, 16179, April 6, 1994), for an explanation of this methodology.

Foreign Market Value

As stated in the preliminary determination, we found that the home market was viable for sales of SSA, in accordance with 19 CFR 353.48(a).

Because Aichi maintained that its sales to related parties in the home market were made at arm's length, we examined those sales under the Department's arm's-length test. Where possible, in applying this test, we compared related and unrelated party sales at the same level of trade. We considered a party as related to the respondent whenever the respondent had a substantial ownership interest in the party. See Appendix II to the Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina (58 FR 37077, July 9, 1993) for more information on the Department's arm's-length test. In order to determine whether a sale is made at arm's length, we must compare the related-party price for a given product model to the average price for the same product model as sold to unrelated customers. Therefore, certain related-party sales were excluded from our analysis because those specific product models could not be compared to unrelated sales and because they were made in insignificant quantities.

In the home market, Aichi sells SSAs through several distribution channels. Where Aichi sold SSAs through its subsidiary, that subsidiary's sales to unrelated parties formed the basis of our FMV calculation. We only included sales to the related parties that were made at arm's length.

We calculated FMV based on delivered prices. Deductions were made for discounts and rebates, where applicable.

In light of the decision of the U.S. Court of Appeals for the Federal Circuit's (CAFC) in Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement v. United States, 13 F.3d 398 (Fed. Cir. 1994), the Department no longer can deduct home

market movement charges from FMV pursuant to its inherent power to fill in gaps in the antidumping statute. Instead, we adjust, where appropriate, for those expenses under the circumstance-of-sale provision of 19 CFR 353.56(a). Accordingly, in the present case, we deducted post-sale home market inland freight and insurance from FMV under the circumstance-of-sale provision of 19 CFR 353.56(a).

Examination of the facts surrounding one expense claimed as a rebate by Aichi led us to determine that this reported adjustment was, in fact, a transfer of funds from the parent to its subsidiary. As stated in Final Results of Antidumping Duty Administrative Review: Color Television Recievers from Korea (53 FR 24975, July 1, 1988), "Transactions between related parties are intracorporate transfers of funds for which no adjustment should be allowed." In Final Determination of Sales at Less Than Fair Value: Coated Groundwood Paper from Finland (56 FR 56372, November 4, 1991), we made an exception for rebates paid to a related party where sales to that party were found to be at arm's length. However, in this instance, the rebates in question are to a related reseller, and the sales reported to the Department are the downstream resales of that related party to the first unrelated purchaser. This rebate was not passed on to the unrelated purchaser. Consequently, we did not make any adjustments to FMV for this claimed rebate.

FMV was reduced by home market packing costs and U.S. packing costs were added, in accordance with section 773(a)(1) of the Act. The Department also made circumstance-of-sale adjustments for home market direct selling expenses, which included imputed credit expenses, and commissions, in accordance with 19 CFR 353.56(a)(2). Pre-sale warehousing expenses and pre-sale foreign freight charges were classified as home market indirect selling expenses, pursuant to the Departments practice and as upheld by *The Torrington Co.* v. *the United States*, No. 91–08–00567, Slip Op. 94–168 (CIT 1994). We deducted commissions incurred on home market sales and added total U.S. indirect selling expenses, capped by the amount of home market commissions; those total U.S. indirect selling expenses included U.S. inventory carrying costs, and indirect selling expenses incurred in Japan on U.S. sales.

We adjusted for the consumption tax in accordance with our practice (*see* "United States Price" section of this notice).

Cost of Production (COP)

As we indicated in our preliminary determination, on September 7, 1994, the Department initiated an investigation of sales in the home market made below the cost of production (COP). In order to determine whether home market sales prices were below COP within the meaning of section 773(b) of the Act, we calculated COP based on the sum of the respondent's cost of materials, fabrication, general, and packing expenses, in accordance with 19 CFR 353.51(c). As discussed in the Department's cost verification report, Aichi had misreported the material costs of two SSA models. We corrected the reported material costs used in COP and constructed value (CV) for those two models by using the average material cost of all other models of the same grade as a reasonable surrogate, since verification revealed that the misreporting resulted from a technical flaw inherent in the computerized cost allocations used by Aichi in the normal course of business. We then compared the COP to the home market selling prices, net of movement charges and discounts and rebates.

In accordance with Section 773(b) of the Act, we followed our standard methodology to determine whether the home market sales of each product were made at prices below their COP in substantial quantities over an extended period of time, and whether such sales were made at prices that would permit recovery of all costs within a reasonable period of time in the normal course of trade.

To satisfy the requirement of 773(b)(1) that below-cost sales be disregarded only if made in substantial quantities, we applied the following methodology. Where we found that over 90 percent of a respondent's sales of a given product were at prices above the COP, we did not disregard any below-cost sales because we determined that respondent's below-cost sales are not made in substantial quantities. If between ten and 90 percent of a respondent's sales of a given product were at prices above the COP, we disregarded only the below-cost sales if made over an extended period of time. Where we found that more than 90 percent of a respondent's sales of a given product were at prices below the COP and were sold over an extended period of time, we disregarded all sales for that model and calculated FMV based on CV, in accordance with section 773(b) of the Act.

In accordance with section 773(b)(1) of the Act, in order to determine whether below-cost sales had been made over an extended period of time, we compared the number of months in which below-cost sales occurred for each product to the number of months in the POI in which that product was sold. If a product was sold in three or more months of the POI, we did not exclude below-cost sales unless there were below-cost sales in at least three months during the POI. When we found that sales of a product only occurred in one or two months, the number of months in which the sales occurred constituted the extended period of time; *i.e.*, where sales of a product were made in only two months, the extended period of time was two months, where sales of a product were made in only one month, the extended period of time was one month. (See Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the United Kingdom (60 FR 10558, 10560, February 27, 1995). Based on this, for U.S. sales of certain products, there were adequate home market sales made above the cost of production to serve as FMV. For U.S. sales of other products, there were not. In such cases, we matched U.S. sales to CV.

Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of the cost of materials, fabrication, general expenses, profit, and U.S. packing cost. In accordance with section 773(e)(1)(B) of the Act, for general expenses, which include selling and financial expenses (SG&A), we used the reported general expenses because these were greater than the statutory minimum of ten percent of the cost of production. For profit, we used the statutory minimum of eight percent of the cost of manufacturing and general expenses, because Aichi's reported profit was less than eight percent of the total of cost of manufacturing and general expenses.

Currency Conversion

We have made currency conversions based on the official exchange rates, as certified by the Federal Reserve Bank of New York, in effect on the dates of the U.S. sales, pursuant to 19 CFR 353.60.

Verification

As provided in section 776(b) of the Act, we verified the information used in making our final determination.

Interested Party Comments

Comment 1—Level of Trade

The petitioners maintain that the reported U.S. sales were not made to a

distributor, as the respondent claims, but to a trading company. They contend that since the sales are made to Kanematsu [1] for delivery to its wholly-owned subsidiary, KGS, and since Kanematsu is a trading company, U.S. sales should be classified as trading company sales. According to the petitioners, Aichi's descriptions in its June 29, 1994, submissions at exhibits 31 and 32 identify Kanematsu at a different level of trade than reported. The petitioners maintain that the record shows that Kanematsu did not inventory SSA, since the subject merchandise was shipped directly by Aichi to KGS. Thus, they argue, Aichi's own definition categorizes Kanematsu as a trading company.

Aichi claims that it has reported levels of trade based on the different economic functions performed by its customers. According to the respondent, while Kanematsu is nominally a trading company, it actually functions as a distributor in Japan for sales of SSA, since it does take the SSA into inventory. Correspondingly, the respondent reported sales to Kanematsu in the home market as "distributor" sales. Aichi maintains that it detailed in its June 29, 1994, submission and in the documentation of sales at verification, how Aichi's sales to the United States begin with price negotiations held with KGS, not Kanematsu. Aichi stresses that it deals directly with KGS, which functions as a mill depot for Aichi's angles and, therefore, holds inventory. Aichi reiterates that the prices are set between Aichi and KGS on CIF terms considering KGS's function as a mill depot, and that the price to Kanematsu is merely calculated from this CIF price. Respondent's argument centers on the price negotiations between Aichi and KGS, and Kanematsu's role in facilitating the documentation for Aichi's sales to KGS; accordingly, Aichi maintains that its sales are, in effect, to a distributor.

DOC Position

We disagree with the respondent. In accordance with 19 CFR 353.58, we have changed the designation of U.S. sales level of trade to that of a trading company. It is Kanematsu which establishes the basic business relationship with Aichi and which pays for the merchandise. Because Kanematsu is the controlling entity with final approval of the subject sales to the United States, we have determined that the appropriate designation of the level of trade of U.S. sales is that of a trading company transaction. Thus, we are matching trading company sales in Japan to trading company sales in the United States first; if no trading company sales exist in Japan for the product model, then we used distributor sales in Japan instead.

Comment 2—Aichi's Price Protection Program as Control

The petitioners maintain that in the event the Department does not classify Aichi's home market sales price protection program as a commission program, the Department should reconsider its determination not to treat Aichi and the participating members of the price protection program as related parties. They restate their argument, previously made before the preliminary determination, that the record demonstrates that the manufacturer, Aichi, exercises significant control over the selling practices of the reseller companies participating in the price protection program. Contending that, while these parties are not related via stock or equity ownership, the business dealings between them do not represent arm's-length transactions, the petitioners argue that the Department should treat these parties as related.

Aichi counters that the Department thoroughly reviewed its records at verification to examine the members' activities, none of which would give Aichi either *de jure* or *de facto* control over these member companies. Rejecting the petitioners' contention that the possibility of control is the operative standard for relatedness, Aichi states that the petitioners have failed to provide any measurable criteria for applying such a standard. Aichi maintains that, in the absence of evidence that Aichi exerts control over these members and in the absence of an ownership interest greater than 5 percent, the petitioners argument that Aichi is related to these customers should be rejected.

DOC Position

We disagree with the petitioners and determine that members of the program are not related. We believe that the evidence on the record does not indicate that Aichi maintains control over members of the price protection program. The information provided does not indicate that Aichi can set the prices of the members; price is set by market conditions. The price protection agreement is not a contractual agreement constituting business control over the members. No evidence exists in the record of this investigation which indicates that Aichi exercises, or can exercise, control over participants in the price protection program.

Comment 3—The Nature of Price Protection Adjustments

The petitioners maintain that the Department should treat the amounts which Aichi claimed as discounts as home market commissions under the commission offset provision. They argue that a review of the administration of the price protection program demonstrates that the adjustments granted represent ommissions rather than discounts, arguing that the calculation of the adjustments is based, not on the purchases made by these firms, but rather on their resales. The petitioners further maintain that discounts are price reductions which are based solely on the transaction between the manufacturer and the immediate purchaser. The analysis conducted by petitioners instead characterizes the reported adjustments as the equivalent of payments for services rendered by a commissioned agent. The petitioners cite to the Final Determination of Sales at Less than Fair Value: Sweaters Wholly or in Chief Weight of Man-Made Fiber from Taiwan (55 FR 34585,34598 (August 23, 1990)), which they maintain shows that the Department has classified selling expenses as commissions when it found that the manufacturers' trading company performed the functions of a commission agent.

As an alternative approach, the petitioners argue that even if the Department decides not to treat all of the price protection adjustments as commissions, it should, at a minimum, offset indirect U.S. selling expenses against those price protection adjustments expressly identified as commissions.

Aichi states that the petitioners ignore a basic distinction between discounts which are a prepayment price reduction, and commissions which are a form of payment for services. Aichi maintains that its accounting system treats discounts differently from commissions and likewise the Department's methodology should treat the adjustments differently. Citing numerous investigations and court cases, including *Sonco Steel Tube Division* v. *United States*, 714 F. Supp. 1218, 1222 (CIT 1989), Aichi seeks to demonstrate that the Department's practice of treating early payment discounts as price adjustments instead of circumstance-of-sale adjustments is longstanding and supported by the Courts. Aichi believes that the pre-payment price protection adjustments are similar to early-payment discount

[1] Aichi has not claimed proprietary treatment for the identity of its U.S. customer, nor for that customer's U.S. subsidiary.

programs and, accordingly, should be given the same treatment in the Department's margin calculations.

Aichi maintains that since the price protection program deals with reductions in prices to its customers, not in selling expenses actually incured, the program cannot be considered to generate commissions. Aichi notes that in its accounting system, the price protection discounts are netted from accounts receivable as a reduction from sales revenue and are, therefore, reflected in its net sales. Aichi contrasts its treatment of commissions (paid only on non-subject merchandise) which are expensed in Aichi's SG&A accounts with its treatment of the price protection adjustments as a component netted from accounts receivable.

Central to Aichi's presentation is its contention that the Department in every prior determination has determined price protection adjustments to be discounts; for this reason it refers to its listing of those determinations in exhibit 4 of its September 19, 1994, submission. According to Aichi, the discount nominally identified as the "commission" adjustment was administered and calculated according to an agreed-upon formula just as are all other components of the price protection program.

Aichi maintains that the petitioners' citation to Sweaters from Taiwan is ill-chosen because, in that investigation, the Department treated payments to a trading company as commissions for a combination of reasons not present here: because the trading company never took possession of the merchandise, because the trading company never paid the manufacturer directly for the merchandise, and because the respondent treated the payment amounts as commission expenses in its accounting records.

DOC Position

We agree, in part, with both parties. Under the program, Aichi receives aggregate monthly resale reports from the price protection member companies; Aichi does not set prices for the member companies. Member companies do not report individual sales prices back to Aichi, only aggregate resales values. The price protection program does not require member companies to report expenses to Aichi; the program's various adjustments take into account that the member firms will incur certain selling expenses in making those resales.

As described by Aichi and verified by the Department, the general purpose and actual administration of the price protection program consists of Aichi granting price reductions to its customer to ensure a set return on the resales of the merchandise. Unlike the company examined in the investigation of *Sweaters from Taiwan*, Aichi did not report the expenses incurred by an intermediary party in making resales. Instead, Aichi is, for the most part, granting discounts in order to ensure that the prices received by resellers are adequate. Because these price adjustments are based on claims settled according to terms agreed upon at sale and before payment, we are treating the claimed adjustments for four of the five elements of the price protection program as discounts, similar in execution to early payment discounts, for purposes of the final determination. *See Sonco Steel Tube Division* v. *United States*, 714 F. Supplement 1218, 1222 (CIT 1989); Granular Polytetrafluorethylene Resin from Japan; Preliminary Results of Antidumping Duty Administrative Review, 60 FR 5622 (January 30, 1995); *et al.*

Four adjustments (the exception being the adjustment calculated in recognition of member companies' role as resellers) are not like commissions, which are normally set at given rates prior to sale and which are not dependent on ultimate resale prices. One component of Aichi's program, however, which was specifically designed in recognition of the selling function of the member companies, is the functional equivalent of a sales commission. As stated by Aichi in its July 28, 1994, submission at 18, "Aichi guarantees * * * a set return on their SSA sales by granting a commission for their resales of Aichi SSAs and price adjustments that 'account' for 'selling expenses' presumably incurred * * * in making resales." The reduction in price termed a commission adjustment is, in fact, similar to a commission payment. The amount is set and administered like a commission. This adjustment is designed, by Aichi's own account, to take into consideration the expenses which the price protection member companies must incur to find and maintain their customers. The importance of this function is underlined by Aichi's reliance on the external sales and marketing abilities of its price-protected customers. We are, therefore, treating this reported adjustment as a commission, deducting it from FMV and adding to FMV indirect selling expenses incurred by Aichi on U.S. sales, capped by the amount of the home market commission.

Comment 4—Duty Drawback

The petitioners maintain that the record in the investigation demonstrates that Aichi is not entitled to an upward adjustment to U.S. price by virtue of duty drawback. They contend that Aichi does not have a valid claim to a duty drawback adjustment because the cost verification demonstrated that import duties were not included in the prices for any of the angle that Aichi sold in Japan during the POI. They cite the December 29, 1994, cost verification report, which states that "Aichi re-exported enough nickel and chromium during the POI in order to avoid paying any (import) duty amounts." They also cite the report's analysis that "since there are no duties included in the home market price, it may be appropriate to exclude the submitted addition to COP and CV for exempted duty, and to exclude the duty adjustment to USP."

The petitioners' contention rests on the concept that the statute requires that import duties be added to U.S. price in order to prevent the creation of dumping margins, or the increase of dumping margins, as a result of comparing duty-inclusive home market prices to duty-exclusive U.S. prices. Based on this interpretation, the petitioners maintain that granting a drawback adjustment in this case would contravene the object of the statute because the record shows that Aichi used both domestic and imported nickel and chromium to manufacture its stainless steel products, and because Japan's substitution drawback regulations allowed Aichi to obtain exemption from payment of duties for all of its imported nickel and chromium. Thus, they argue, all of Aichi's home market sales were at prices that were exclusive of duties on imported nickel and chromium. The petitioners object to the comparison of what they characterize as duty-inclusive U.S. prices to duty-exclusive home market prices.

Alternatively, they argue that if the Department adds duty drawback to Aichi's U.S. prices it should also add the same amount of import duties to Aichi's reported home market prices and reported cost of production.

The petitioners maintain that none of the arguments presented by Aichi in its case brief alters the Department's concerns voiced in the cost verification report. They contend that the reasoning inherent in Aichi's arguments suggests that the drawback adjustment is inappropriate. Petitioners characterize Aichi's reporting as specifically acknowledging that the purpose of the duty drawback adjustment is to "neutralize the duty difference between sales made to the U.S. and sales made in the home market."

Aichi maintains that, in its preliminary determination, the Department correctly made a price-related adjustment to Aichi's U.S. price for duty drawback earned in connection with its exports to the United States. Likewise, Aichi believes that the Department was correct in its preliminary upward adjustment to Aichi's COP and CV for the amount of duty drawback revenues included in its cost of production. According to Aichi, the upward adjustment to cost is necessary because COP and CV are intended to represent the theoretical cost of producing a product to be sold in the home market. Aichi states that its cost system does not specifically allocate duty drawback earned between cost of production for export products and cost of production for home market products. Thus, Aichi maintains, it needed to extract duty drawback savings from its normal cost system to enable the Department to identify the theoretical costs of production for a product to be sold in the home market. Aichi disagrees with the comments in the cost verification report, which noted that there may be a connection between the purpose of Aichi's price-related duty drawback adjustment and its cost-related duty drawback adjustment. Aichi argues that there is no connection because, while the price-related adjustment captures duty drawback savings which are earned in connection with exports to the United States, the cost-related adjustment simply isolates the duty drawback savings included in its normal cost accounting system for all products.

In addressing the petitioners' arguments, Aichi cites to the statute, Court decisions, Department practice, and the GATT, in maintaining that it is irrelevant whether products sold in the home market are produced from imported and duty-paid raw materials. According to Aichi, the petitioners mischaracterize the conditions under which the Department makes a duty-drawback adjustment.

In Aichi's view, the antidumping statute and the Department's practice do not require the respondent receiving rebates on, or exemptions from, import duties by reason of exportation of finished products, to demonstrate that its home market prices include import duties in order for its U.S. prices to be eligible for a duty-drawback adjustment. Aichi maintains that the statute and regulations make clear that the duty-drawback adjustment is to capture a difference in selling circumstances whereby a company receives import duty-drawback rights or earnings by virtue of exportation which are not earned when products are sold on the home market. Citing several investigations, including Certain Welded Stainless Steel Pipe from Korea (57 FR 53693,53696) (1992), Aichi seeks to demonstrate that the Department has consistently used a two prong test to analyze duty-drawback claims:

- Import duty and rebate are directly linked to, and dependent upon one another, and;
- The company claiming the adjustment can demonstrate that there were sufficient imports of imported raw material to account for the duty drawback received on the exports of the manufacturing product.

Aichi faults the petitioners for not noting that the Court of International Trade has flatly rejected past requests to add as a new condition to the two-prong test the mandatory inclusion of dutiable imported inputs into the production of the merchandise sold in the home market. Aichi cites *Chang Tieh Industry v. U.S.*, 840 F. Supp. 141, 147 (CIT 1993):

> [Plaintiff's] arguments provide no basis from which to conclude that drawback adjustments should not be made unless ITA determines that the cost of the products sold in the home market is duty-inclusive. To require such a finding would add a new hurdle to the drawback test that is not required by the statute.

Maintaining that the petitioners' suggestion to make an upward duty-drawback adjustment to FMV by increasing the import duty component of cost of production/constructed value is tantamount to not making any adjustment at all, Aichi asks the Department to reject such an alternative. According to Aichi, the amount of import duties included in COP/CV will depend on several factors including: (1) Whether the company normally allocates duty-drawback earnings to the cost of production for export products, (2) the relative quantity of raw materials which are imported and exempted from import duties, and (3) the volume of home market sales relative to the volume of export sales to all countries. Aichi argues that none of these factors affects the calculation of the entitlement or earnings-based adjustment used to increase U.S. price. Aichi concludes that there is no legal or policy reason for denying or changing Aichi's drawback adjustment.

DOC Position

We disagree with the petitioners. The only germane issue is whether or not Aichi's documented duty drawback meets the two pertinent statutory criteria. At verification we examined Aichi's duty drawback and documented that the application of the duty exemption program reported to the Department had been accurately described and quantified. Although Aichi then and now maintains that the imported materials need not have been physically consumed in the actual production of the U.S. shipments, company officials also demonstrated that imported alloys are used in the batches from which SSAs destined for the United States were produced. Most importantly, the inclusion of imported inputs in equal proportions in merchandise sold in both the home market and in the United States *is not* a requirement for obtaining a duty drawback adjustment. As stated by the Department in *Final Determination of Sales at Less Than Fair Value: Certain Welded Stainless Steel Pipes from Taiwan* (57 FR53705, 53710, November 12, 1992):

> Other claims by petitioners do not speak to the test traditionally applied by the Department but rather seek to impose additional requirements for duty drawback claims, which are not required by the statute, the regulations, or past Department practice. There is no basis for petitioners' argument that the Department should not make a duty drawback adjustment, unless it determines that the cost of products sold in the home market includes duties on imported raw materials.

Therefore, we made a duty drawback adjustment to U.S. price in our final margin calculations following this principle. In accordance with this principle, the Department calculates the amount of duty included in CV. CV includes import duties which have been waived or rebated upon export because such duties are added to U.S. price. The cost figures used for constructed value reflect the weighted-average value of duty costs, which, due to Aichi's use of domestically-sourced inputs in the production of SSA, are not necessarily the exact equivalent of the duty drawback adjustment on U.S. sales.

Comment 5—Rebates

The petitioners argue that the Department should correct the mistake noted in the verification report at pages 20–23, whereby Aichi included the three percent consumption tax in the numerators of its formulas for allocating rebates and thus overstated the reported rebates. The respondent did not address this issue.

DOC Position

On February 23, 1995, the Department instructed Aichi to resubmit a computer tape correcting this calculation error. It did so on March 3, 1995.

Comment 6—Sales Outside the Ordinary Course of Trade

The petitioners agree with Aichi's contention that sales of ferritic angle should be considered as sales outside the ordinary course of trade because Aichi did not sell ferritic angle to the United States during the POI. They also agree with Aichi's argument that billing and expense adjustments that were erroneously classified as sales transactions should be excluded from consideration as a basis for FMV. They note without comment that Aichi contends that angles with spine length of seven meters are outside of the ordinary course of trade. However, they disagree with Aichi's contention that products for nuclear use, grade 304HT or of special straightness, should be considered outside the ordinary course of trade. The petitioners maintain that since no physical differences existed but, instead, different selling and packing costs were incurred, Aichi should have reported those under the respective charges and adjustment fields available in the sales listing. According to the petitioners, a number of the home market product codes used for those products Aichi identifies as within the ordinary course of trade are also used for those products which Aichi claims to be outside the ordinary course of trade. The petitioners argue that Aichi has not submitted evidence to show that the special sales were made through a different channel of trade or by way of some unusual marketing practice. In the petitioners' view, the Department's acceptance of a designation of outside the ordinary course of trade is normally reserved for sample sales and sales of secondary quality.

The petitioners contend further that, because Aichi did not provide timely evidence to support its claim that nuclear SSAs were sold outside the ordinary course of trade, the Department should not exclude those transactions from the final margin analysis. For support, the petitioners cite the CIT's ruling in *Timken Co.* v. *United States*, 865 F. Supp. 850 (CIT 1994), which overturned the Department's exclusion of certain sales as outside the ordinary course of trade where the respondents only alleged that their sales were not in the ordinary course of trade. Further, the petitioners maintain that Aichi's arguments fail because none of the circumstances identified by Aichi provide a sufficient basis for treating sales for nuclear applications as sales outside the ordinary course of trade. The petitioners maintain that SSAs sold for nuclear purposes possess the same anti-corrosive properties as SSA sold for other applications. Moreover, they contend that special expenses incurred to make nuclear application sales could, and should, have been captured as claims for circumstance of sale adjustments.

Aichi maintains that the nuclear SSA sales involved such different circumstances that they should be excluded from the margin calculation analysis. According to Aichi, the Department verified that the nuclear SSAs are distinguished by their unique sales process and application, and that these factors are sufficient to call for the exclusion of nuclear SSAs from the antidumping analysis. The special requirements for nuclear SSAs, examined at verification, such as special documentation of quality, special warranties, special inspections, special packing, and special quality control inspections, in conjunction with relatively different quantity and prices in comparison to sales of SSA not certified for nuclear use, are factors Aichi lists in support of its request for exclusionary treatment. Aichi cites Final Determination of Sales at Less Than Fair Value: Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan, 52 FR 30700, 30704 (August 17, 1987) ("Tapered Roller Bearings from Japan") in support of its contention that the Department excludes sales when the transactions: (1) Involve individual sales at very small quantities at substantially higher prices; (2) most of the sales were later cancelled; and, (3) there were no comparable sales in the United States.

Contending that because the price of nuclear SSAs are set at vastly different price ranges due to the unique nature of the products and their sales process, Aichi rejects the possible use of circumstance-of-sale adjustments as inadequately capturing the basic sales differences. Aichi maintains that these unique circumstances are precisely the reason for excluding these sales as unrepresentative. Aichi further maintains that none of the home market product codes which the petitioners ascribe as applying both to sales designated as outside the ordinary course of trade and to sales designatied as within the ordinary course of trade, pertain to sale of nuclear-use SSA.

DOC Position

We disagree with both parties. As to whether ferritic and nuclear-use sales were made outside the ordinary course of trade, Aichi has made an unsubstantiated argument. Aichi has not substantiated its claim under the guidelines enunciated in Tapered Roller Bearings from Japan, in support of its contentions. Additionally, the claims set forth do not satisfy the criteria enunciated in Final Results of Antidumping Duty Administrative Reviews: Certain Welded Carbon Steel Standard Pipes and Tubes from India, 56 FR 64,753, 64,753–55 (1991) (these terms were reiterated in the Court of International Trade's remand order in Circular Welded Non-Alloy Pipe from the Republic Korea). To determine whether sales were made outside of the ordinary course of trade, it is appropriate for the Department to analyze: (1) The number of home market customers buying the products; (2) the product standards and uses of the products; and, (3) price and profit differentials between the alleged non-ordinary sales and sales made in the ordinary course of trade. (See *Leclede Steel Co.* vs. *U.S.*, No. 92–12–00784, Slip 94–160, at 28–29 (CIT October 12, 1995) Remand Order. Sales of ferritic SSA comprise a relatively small percentage of the total quantity of sales. However, Aichi never reported the data to quantify particular expenses which make such sales unique, nor did it address the market situation of the customers of ferritic SSA. No evidence of special channels of trade for ferritic SSA exists. We examined the spectrum of sales of the grade of SSA to which ferritic SSA belong and found that many of the customers who purchase ferritic SSA also purchase austenitic SSA. On average, ferritic SSA prices are only slightly different from those of austenitic SSA of the same leg-length. No information was submitted providing analysis for determining profit differentials.

Sales of nuclear-use SSA also comprise a small percentage of the total quantity of sales, and only a slightly greater percentage of sales of the same angle type sold for non-nuclear use. On average, nuclear SSA prices are different from non-nuclear SSA of the same physical characteristics. However, Aichi never reported the data to quantify the nuclear-specific technical, packing, and warranty expenses it maintains are unique, nor did it address the market situation of the customers of nuclear-use SSA. No evidence of special channels of trade for nuclear-use SSA exists. We examined the spectrum of sales of the grade of SSA to which nuclear-use SSA belong and found that all of the customers who purchase nuclear SSA also purchase non-nuclear SSA. No information was submitted providing analysis for determining profit differentials.

It is Aichi's responsibility to provide such data in defense of its claims, both for ferritic and for nuclear-use sales.

Aichi provided almost no explanation of any unique sales conditions for ferritic SSA. As regards nuclear-use SSA, Aichi did not provide analysis of the quantitative factors required to determine that such sales are outside of the ordinary course of trade, but instead gave general documentation at verification that such sales had specific sales conditions. Those aspects of the sales process should have been accounted for by a detailed explanation and reporting of circumstance-of-sale adjustments. Therefore, we determine that neither ferritic nor nuclear-use SSA were sold outside of Aichi's normal course of trade.

We are removing the separate line-items for billing and expense adjustments from the sales database for use in the less than fair value comparison, since these were erroneously entered as sales transactions.

We are keeping in the database those sales of SSA which were of odd spine lengths, since these are subject merchandise.

Comment 7—Rate for U.S. Imputed Credit Calculations

Aichi maintains that it reported the correct interest rate to calculate U.S. imputed credit expenses and credit income because this is the rate its pays for the pre-shipment advance money it receives from Kanematsu. According to Aichi, the use of the home market interest rate at the preliminary determination was based on the faulty understanding that the interest rate Aichi had used was based on investment returns. Aichi maintains that the rate reported is that which Aichi pays to Kanematsu for having received the pre-shipment advance money deposited by Kanematsu with Aichi for sales greater than a certain set amount. Therefore, Aichi argues that the correct interest rate for all U.S. imputed credit calculations is the percentage Aichi pays Kanematsu for pre-payment.

The petitioners contend that, because the customer is credited for the time that Aichi held advance payment at a given rate for the period from the receipt of advance payment to shipment, the interest revenue that Aichi earned from the advance payments should have been calculated based on the difference between Aichi's short-term borrowing rate, as manifest by its use of promissory notes, and the interest rate that Aichi paid to Kanematsu. They argue that the Department should value the imputed interest revenue for advance payments at the difference between the two percentages.

In addressing Aichi's arguments, the petitioners counter that the Department should recognize that Aichi was incurring interest expenses for two distinct periods: (1) the period between receipt of the advance payment and the date of shipment, and (2) the period from the date of shipment to the date of final payment. The petitioners argue that Aichi's methodology does not account for the interest rate that Aichi incurred to finance its receivables for the post-shipment period. They maintain that the interest rate for the post-shipment period should be Aichi's home market promissory note discount rate, which reflects the only short-term borrowing that Aichi had during the POI. They argue that the Department should continue to use Aichi's promissory note discount rate to calculate Aichi's post-shipment credit expense.

DOC Position

We agree with the petitioners. The time value of the yen-denominated U.S. sales should be measured by Aichi's short-term borrowings as represented by its use of promissory notes in Japan. Measuring the value of advance payments received by Aichi (*i.e.*, Aichi's imputed credit revenue) should be measured by the difference between the time value of money to Aichi and the credit Aichi gives to Kanematsu for having advanced payment. With regard to establishing the time value of money, we verified Aichi's borrowing rate by examining the discount rate documented by Aichi's promissory notes on home market sales. We also verified the rate used by Aichi to credit Kanematsu for the value of the advance payment received before shipment. For those sales greater than a given amount, Aichi reduced the net total amount due from Kanematsu by the value of the advance payment for the time held, at an interest rate set internally. However, while this amount does reflect Aichi's internal evaluation of the time value of the money advanced by Kanematsu, the rate is not based on actual borrowing by Aichi during the POI. The Department, therefore, used a rate charged for borrowings to determine imputed credit, since by extending credit to its customers, Aichi acted as a lender. It is the Department's practice to use lending rates, as opposed to investment return rates, in calculating credit expenses. (See, e.g., Preliminary Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Color Negative Photographic Paper and Chemical Components Thereof from Japan 59 FR 16177, (April 6, 1994), and Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from Germany, 54 FR 18992, 19053 (May 3, 1989).

We have therefore recalculated imputed U.S. credit expenses based on the interest rate applied by Aichi's banks for discounting promissory notes and applied this rate to the portion of U.S. sales paid after shipment. The net value of Aichi's imputed interest income is measured as the difference between (1) the time value money based on Aichi's Japanese promissory notes and (2) the rate at which Aichi compensated Kanematsu for making advance payments. We have, therefore, also recalculated U.S. credit income on advance payments by using an interest rate that is the difference between the two rates.

Comment 8—Errors in U.S. Indirect Selling Expenses

The petitioners argue that the Department should correct the errors concerning the calculation of U.S. indirect selling expenses as identified in the verification report. In the report, the Department noted that on November 23, 1994, Aichi reported that the correct amount of U.S. indirect selling expenses was a percent of sales value slightly higher than that on the computer tape submitted for purposes of verification. On February 23, 1995, the Department instructed Aichi to resubmit a computer tape correcting this calculation error. On March 1, 1995, Aichi also requested that it revise the home market indirect selling expenses to reflect the narrative data submitted on November 23, 1994. The tape, with the requisite revisions, was submitted on March 3, 1995.

DOC Position

We agree with both parties. We used the revised percentages for both U.S. and home market indirect selling expenses, based on the data first submitted in narrative on November 23, 1994.

Comment 9—Home Market Inland Freight

Aichi states that in preparing the documentation for verification of the home market inland freight charges, several errors had been discovered prior to, and voluntarily disclosed at, verification and corrected for the Department officials' inspection. (The first type of error involved a recording error of the contract rate for the route. The second type of error was due to the fact that the actual delivery route for particular shipments was sometimes different from the standard delivery route reflected in the contract freight

rate schedule.) The effect of these errors, Aichi emphasizes, had been to understate most inland freight costs. Aichi stresses that shipment-specific reporting of such costs was prohibitively burdensome, since Aichi's computerized records do not contain the data necessary to electronically compile the information. At verification, Aichi adjusted incorrect amounts for specific transactions and provided a revision of the chart showing freight expense charges by domestic destination. Aichi argues that the Department should make the adjustments to the home market inland freight charges based on the verified freight expenses.

The petitioners contend that the Department should use the verified freight rate schedules originally reported and should not accept the revisions to the reported freight schedule rates. They argue that if the Department chooses to rely on the revised home market inland freight charges, it should only do so with respect to those home market sales actually found to contain erroneous freight costs. Additionally, they argue that any revisions to the respondent's home market inland freight costs should not include the amounts reported under the second inland freight variable field which they contend pertain to pre-sale expenses for shipments to the warehouses, and, therefore, should not be deducted as movement charges from FMV.

DOC Position

We agree, in part, with both parties. We used the originally reported values for most home market sales. We examined a selection of the mistakes made in reporting these values and found that, overwhelmingly, the charges under-reported inland freight claimed as a reduction of FMV. Aichi voluntarily disclosed the mistakes and was able to quantify the general effect of the inaccuracies. However, due to the volume and complexity of the errors, a complete revision was not examined at verification. Therefore, we used the originally reported charges, with the exception of the corrections specifically examined at verification; for those transactions we (1) used the revised freight-schedule data reported, and (2) added several invoice-specific corrections noted in the sales verification report at 31.

Because certain expenses reported separately pertain to pre-sale expenses for transportation to warehouses, these costs should be included as a portion of home market indirect selling expenses, rather than movement charge deductions to FMV. Aichi reported on September 19, at 32–33 that "because shipment date to the customer is sale date, these shipments to the warehousers are pre-sale and reported in INLFRTH2." For those transactions whose corrections were examined at verification, the correct values for pre-sale expenses are included in home market indirect selling expenses.

Comment 10—Additional Price Protection Adjustment

Aichi originally argued that the Department should make an adjustment at the final determination for the additional price discounts discovered at verification, maintaining that the unreported discounts are no different from the other price protection discounts previously reported. For this reason, Aichi argued that the Department should adjust the applicable home market sales for these additional discounts.

The petitioners argue that the newly claimed discounts constitute a claim submitted for the first time in Aichi's case brief and as such, is untimely. In its March 3, 1995, submission, Aichi withdrew its claim for additional price protection program discounts.

DOC Position

Since Aichi has withdrawn its own claims, all arguments set forth by the interested parties are moot. We accept Aichi's withdrawal of the request for additional price protection adjustments.

Comment 11—Home Market Bank Charges

Aichi argues that the Department should make an adjustment for Aichi's home market bank charges as direct selling expenses because the Department verified that Aichi incurs bank charges for the processing of promissory notes in connection with home market sales. Aichi cites several cases, including Final Determination of Sales at Less Than Fair Value: Ferrosilicon from Venezuela, 58 FR 27522, 27525 (May 10, 1993), to demonstrate that the proper treatment of bank charges is as a circumstance-of-sale adjustment.

The petitioners contend that the Department should reject Aichi's claim for an adjustment based on bank charges given the untimeliness of the claim. Additionally, they argue that the Department did not review documents related to this charge during verification. If the Department were to consider Aichi's claim as timely and substantiated by the verification record, the petitioners maintain that they believe that such bank charges would have also been incurred in the discounting of anticipated revenues for U.S. sales. Therefore, they request that the Department either disregard Aichi's claim or, alternatively, make a similar adjustment for Aichi's U.S. sales.

DOC Position

We agree with the petitioners that the respondent's claim is untimely. Therefore, we did not make any adjustments for bank charges.

Comment 12—Product-Matching Criteria

Aichi argues that the Department should not conduct its sales-below-cost test on a model-specific basis, whereby if more than 90 percent of a model are found to be sold below the cost of production, constructed value is used as the basis of FMV. This claim is premised on Aichi's understanding that it is inconsistent with the statutory preference for price-to-price comparisons to resort to constructed value when a comparable model exits that in the home market that was sold above cost and that satisfies the 20 percent difference in merchandise test. Aichi contends that when there are no above-cost sales for a particular control number designated product, the Department should first compare the U.S. sale to the next most similar product.

The petitioners contest Aichi's proposed revision to matching home market sales of the next most similar model to U.S. prices when the number of sales of the most similar model were found to be insufficient to form the basis of FMV because they were made below the cost of production. They cite to the Department's Import Administration Policy Bulletin 92/4, issued on December 15, 1992, wherein the Department states that because the statute "specifies the determination of such or similar merchandise on the similarity of the merchandise only and not on whether the most similar model is sold above cost, section 771(15) appears to direct us to the use of constructed value when the most similar model is sold below cost."

DOC Position

We agree with the petitioners. As outlined in the December 15, 1995, Office of Policy Bulletin, it is the Department's practice to conduct the sales-below-cost test on a model-specific basis. The memorandum states that "in determining FMV, if the Department finds that sales of a given model, otherwise suitable for comparison, are sold below the cost of production, and the remaining sales of that model are inadequate to determine FMV, the

Department will use constructed value to determine FMV." This has been the Department's consistent practice since the issuance of that Bulletin. Therefore, we used constructed value to determine FMV when 90 percent of the sales of a given model were found to be sold below the cost of production.

Comment 13—Correction to Understated COP

The petitioners contend that the Department should correct all misstated material costs for purposes of the final determination by substituting the highest material cost reported by Aichi for the same grade of material.

Aichi agrees with the petitioners that for two sizes of stainless steel angle products, the reported materials cost does not reflect actual costs and notes that this error was due to an output quantity recording error in Aichi's normal cost accounting system. However, Aichi explains that since neither of these products were produced in significant volume, nor exported to the United States, nor compared to U.S. products in the Department's product matching, they have no relevance in the Department's LTFV comparisons. Accordingly, Aichi contends that the Department should not revise material costs for these two sizes of products. In the event the Department decides to revise material costs for these two sizes of products, Aichi urges the Department to use the average of reported material costs within the same grade of steel rather than the highest reported costs.

DOC Position

We agree in part with petitioner that Aichi's material costs for these two products should be revised. However, because the misstated material costs were due to re-coding errors from its cost accounting system, we do not consider it appropriate to penalize Aichi by using the highest material cost reported for the same grade of material. Instead, we agree with Aichi to revise the material costs for these two products using the average reported material cost within the same grade of steel.

Comment 14—Inclusion of Depreciation Expenses in COP

The petitioners argue that the Department should increase Aichi's reported depreciation expense to account for the special depreciation amount on environmental and conservation equipment. They state that these expenses were recorded in Aichi's accounting records and were reported in its audited financial statements for the fiscal accounting period that covered the POI. Accordingly, the Department should increase Aichi's reported G&A expenses to include the special depreciation expense.

Aichi contends that it included all conventional depreciation expenses in its submitted G&A rate and that it did not include the special depreciation expense or the reversal of this special depreciation because these amounts strictly relate to Japanese tax law. However, if the Department determines that the special depreciation amounts should appropriately be included in the G&A rate calculation, Aichi believes that its COP and CV would decrease due to the fact that the reversal of previously set aside depreciation exceeds the current year's special depreciation.

DOC Position

The Department disagrees with the petitioners that the special depreciation expense should be included in the reported COP and CV amounts. This special depreciation relates solely to Japanese tax law which, in effect, allows companies to accelerate depreciation for purchases of environmental and conservation equipment. Since this depreciation relates solely to tax law and represents no real additional cost to the company, we excluded it from the COP and CV for purposes of the final determination.

Comment 15—Preliminary Ministerial Errors

The petitioners maintain that the Department should make corrections pertaining to the following: (1) Comparison of tax-inclusive U.S. prices to consumption tax-exclusive constructed value; (2) double-counting of other expenses for purposes of determining the SG&A amounts to be used in constructed value calculations; and, (3) double-counting of imputed credit in the formula used to calculate SG&A.

Aichi contends that the Department should incorporate a revision to SG&A in the CV calculations by revising two lines of its preliminary computer programming to include the factor for imputed credit as one of the components of SG&A, but as deductions. Aichi maintains that the imputed credit value should be a downward adjustment to SG&A, both when measuring whether actual or statutory (10 percent) SG&A are to be used, and when defining what actual SG&A is comprised of. According to Aichi, the values reported should be used as downward adjustments to interest expenses requested in the section D questionnaire, based on Aichi's relative value of finished goods inventory and accounts receivable to total assets.

In addition, Aichi argues that, when revising the calculation of SG&A in its programming, the Department should also revise the program to deduct warehousing expenses. Aichi contends that this revision is required because the Department's calculations double-count warehousing. Aichi maintains that home market warehousing expenses are included in FMV as a component of total indirect selling expenses. According to Aichi, the indirect selling expenses for CV are inclusive of warehousing; thus SG&A brings home-market warehousing into FMV when CV is used.

DOC Position

We implemented the three corrections noted after the preliminary determination. Our final calculations took into account the following methodology:

(A) The calculations exclude the tax adjustment included in the U.S. price to CV comparison programming.

(B) The calculations eliminate the "other expenses" added to the SG&A test in the preliminary programming, as these double-counted these expenses.

(C) The calculations eliminate the separate variable for imputed credit used in its SG&A test in the preliminary programming, as this double-counted the expenses. Aichi's claim that the reported value is the required adjustment to interest expenses is not correct; as noted in the final OA memorandum, the interest expense value has already been adjusted for imputed credit by the ratio of Aichi's accounts receivables to total assets.

With regard to Aichi's request to modify the methodology for treating selling expenses, we disagree with Aichi, instead:

(D) We included home market pre-sale warehousing as a component of the indirect selling expenses in CV and also treated U.S. post-sale warehousing as a direct selling expense and adjusted for it as a circumstance-of-sale, pursuant to *Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement* V. *United States*, 13 F.3d 398 (Fed. Cir. 1994).

Continuation of Suspension of Liquidation

In accordance with section 735(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of stainless steel angle from Japan, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from

warehouse, for consumption on or after November 10, 1994.

The Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margin, as shown below. The suspension of liquidation will remain in effect until further notice.

Producer/manufacturer/exporter	Margin (percentage)
Aichi Steel Works, LTD.	15.06
All Others	15.06

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled.

However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing the Customs Service officers to assess an antidumping duty on SSA from Japan, entered, or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)) and 19 CFR 353.20.

Dated: March 24, 1995.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 95–8017 Filed 3–30–95; 8:45 am]

BILLING CODE 3510–DS–P

To: Chairman WATSON

Recd 4/25

UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-588-834
Investigation
Public Document

APR 24 1995

Honorable Don E. Newquist
Chairman
International Trade Commission
500 E Street, S.W.
Washington, D.C. 20436

731-TA-699F

Re: Clerical Error Allegation: Final Determination of Stainless Steel Angle from Japan - Aichi Steel Works, Ltd. (Aichi)

Dear Mr. Chairman:

This letter is to inform you that on April 10, 1995, counsel for petitioners in the above-referenced investigation alleged that the Department had made a clerical error in its final margin calculations. Upon review of the allegation and the final antidumping duty margin calculations, the Department agreed with counsel for petitioners. The final margin has now changed from 15.06 percent to 23.02 percent.

On May 9, 1995, the International Trade Commission is scheduled to make its final determination. Should your final injury determination be affirmative, the order will amend the final margin for Aichi, and thus the all-others rate, to 23.02 percent.

Sincerely,

Barbara R. Stafford

by Susan G. Esserman
Assistant Secretary for
Import Administration

95 APR 25 P4:13

APPENDIX C

LIST OF PARTICIPANTS IN THE HEARING

CALENDAR OF HEARING

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

Subject: STAINLESS STEEL ANGLE FROM JAPAN

Inv. No.: 731-TA-699 (Final)

Date and Time: March 30, 1995 - 9:30 a.m.

Sessions were held in the Main Hearing Room, 500 E Street, S.W., Washington, D.C.

OPENING REMARKS

Petitioner

Respondent

IN SUPPORT OF IMPOSITION OF ANTIDUMPING DUTIES:

Collier, Shannon, Rill and Scott
Washington, D.C.
on behalf of

Slater Steels Corporation and United Steelworkers of America

Randall A. Oertel, Vice-President, Sales/Marketing Technology, Specialty Alloys Division of Slater Steels Corporation

Dr. Patrick J. Magrath, Director, Georgetown Economic Services

Kenneth M. Barkman, Economist, Georgetown Economic Services

David A. Hartquist)
Michael J. Coursey)--OF COUNSEL
Lynn E. Duffy)

IN OPPOSITION TO THE IMPOSITION OF ANTIDUMPING DUTIES:

Willkie Farr and Gallagher
Washington, D.C.
on behalf of

Aichi Steel Works, Limited

Bruce Malashevich, Economist, Economic Consulting Services, Incorporated

Vincent Honnold, Economist, Economic Consulting Services, Incorporated

Ronald Skinner, Executive Vice President, KG Specialty Steels

Tom Guilmette, Vice President, National Marketing Manager, KG Specialty Steels

James P. Durling)
Christopher S. Stokes)--OF COUNSEL
Linda S. Ranema)

APPENDIX D

MONTHLY SHIPMENTS AND INVENTORIES OF SLATER'S STAINLESS STEEL ANGLE AND FT. WAYNE ESTABLISHMENT

TABLE D-1
MONTHLY SHIPMENTS AND INVENTORIES OF SLATER'S STAINLESS STEEL ANGLE AND FT. WAYNE ESTABLISHMENT, JAN. 1993-DEC. 1994

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APPENDIX E

WEIGHTED-AVERAGE PURCHASE PRICES

TABLE E-1
STAINLESS STEEL ANGLE: WEIGHTED-AVERAGE NET DELIVERED PRICES AND TOTAL QUANTITIES OF U.S.-PRODUCED AND IMPORTED JAPANESE PRODUCT 1 PURCHASED BY STEEL SERVICE CENTERS, BY QUARTERS, JAN. 1992-DEC. 1994

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TABLE E-2
STAINLESS STEEL ANGLE: WEIGHTED-AVERAGE NET DELIVERED PRICES AND TOTAL QUANTITIES OF U.S.-PRODUCED AND IMPORTED JAPANESE PRODUCT 2 PURCHASED BY STEEL SERVICE CENTERS, BY QUARTERS, JAN. 1992-DEC. 1994

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TABLE E-3
STAINLESS STEEL ANGLE: WEIGHTED-AVERAGE NET DELIVERED PRICES AND TOTAL QUANTITIES OF U.S.-PRODUCED AND IMPORTED JAPANESE PRODUCT 3 PURCHASED BY STEEL SERVICE CENTERS, BY QUARTERS, JAN. 1992-DEC. 1994

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TABLE E-4
STAINLESS STEEL ANGLE: WEIGHTED-AVERAGE NET DELIVERED PRICES AND TOTAL QUANTITIES OF U.S.-PRODUCED AND IMPORTED JAPANESE PRODUCT 4 PURCHASED BY STEEL SERVICE CENTERS, BY QUARTERS, JAN. 1992-DEC. 1994

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TABLE E-5
STAINLESS STEEL ANGLE: WEIGHTED-AVERAGE DELIVERED PRICES AND TOTAL QUANTITIES OF IMPORTED JAPANESE PRODUCTS 1 AND 2 PURCHASED BY KG AND DISTRIBUTOR METALS FROM AICHI AND SUMITOMO, RESPECTIVELY, BY QUARTERS, JAN. 1992-DEC. 1994

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TABLE E-6
STAINLESS STEEL ANGLE: WEIGHTED-AVERAGE DELIVERED PRICES AND TOTAL QUANTITIES OF IMPORTED JAPANESE PRODUCTS 3 AND 4 PURCHASED BY KG AND DISTRIBUTOR METALS FROM AICHI AND SUMITOMO, RESPECTIVELY, BY QUARTERS, JAN. 1992-DEC. 1994

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