

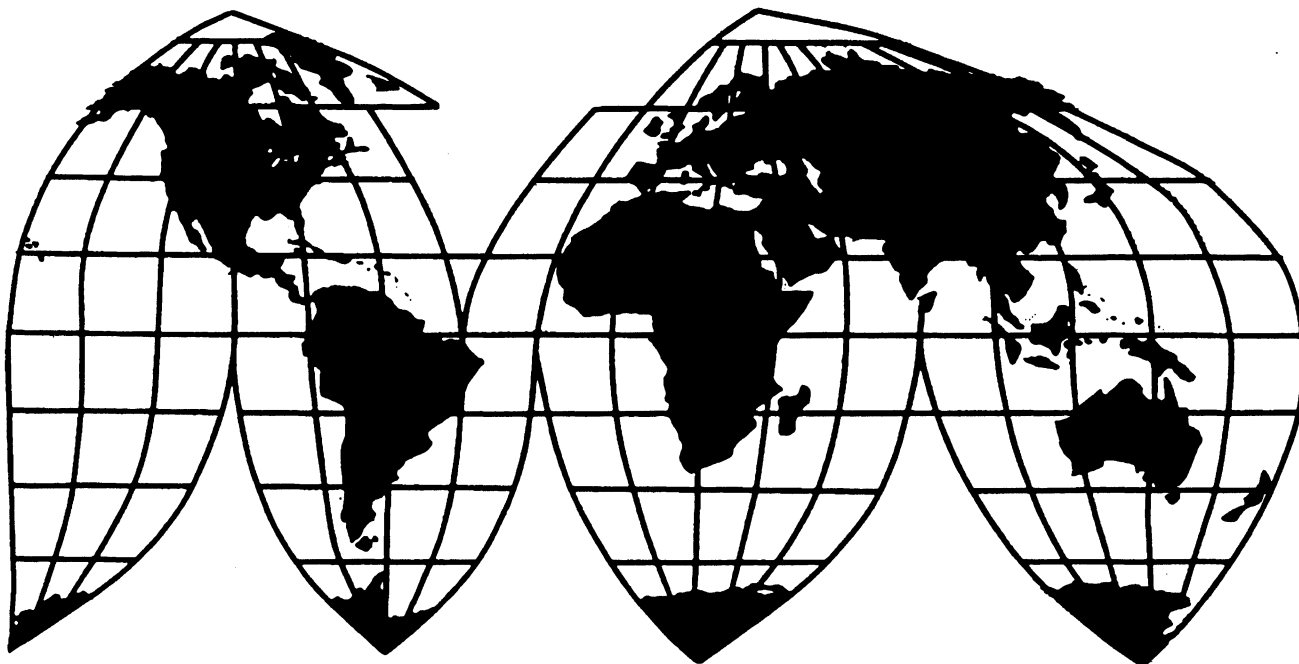
Clad Steel Plate From Japan

Investigation No. 731-TA-739 (Review)

Publication 3459

October 2001

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

GLOSSARY

AISI	American Iron and Steel Institute
Ametek	Ametek Corp.
ASTM	American Society for Testing and Materials
Bethlehem	Bethlehem Steel Corp.
Bethlehem Lukens	Bethlehem Lukens Plate
Commerce	U.S. Department of Commerce
Commission/USITC	U.S. International Trade Commission
Customs	U.S. Customs Service
DMC	Dynamic Materials Corp.
Dana	Dana Glacier Daido America LLC
DuPont	E.I. DuPont de Nemours & Co.
F.o.b.	Free on board
FR	Federal Register
Graver	Graver Manufacturing Co.
<i>HTS</i>	<i>Harmonized Tariff Schedule</i>
Japan Steel	The Japan Steel Co.
JSW	The Japan Steel Works, Ltd.
JSWA	Japan Steel Works America, Inc.
Kawasaki Steel	Kawasaki Steel Corp.
LTFV	Less than fair value
Lukens	Lukens Steel Co.
MITI	Ministry of International Trade and Industry
Mm	Millimeters
NEF	Nobel Explosifs France
NKK	NKK Corp.
Nippon	Nippon Steel Corp.
Nitro Metall	Nitro Metall Aktiebolag
Nobelclad	Nobelclad Europe S.A.
Nooter	Nooter Corp.
<i>Response</i>	Response to the Commission's Notice of Institution
SEC	Securities and Exchange Commission
SG&A expenses	Selling, general, and administrative expenses
SNPE	SNPE, Inc.
Sumitomo	Sumitomo Metal Industries, Ltd.
TIB	Temporary imports under bond
Vessel Clads/Vee Cee Metals	Vessel Clads, Inc./Vee Cee Metals LLC

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-739 (Review)

Clad Steel Plate from Japan

DETERMINATION

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

BACKGROUND

The Commission instituted this review on June 1, 2001 (66 FR 29829, June 1, 2001) and determined on September 4, 2001 that it would conduct an expedited review (66 FR 49040, September 25, 2001).

The Commission transmitted its determination in this review to the Secretary of Commerce on October 29, 2001. The views of the Commission are contained in USITC Publication 3459 (October 2001), entitled *Clad Steel Plate from Japan: Investigation No. 731-TA-739 (Review)*.

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

VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty order concerning clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. BACKGROUND

In June 1996, the Commission determined that an industry in the United States was materially injured by reason of imports of clad steel plate from Japan that the Department of Commerce (“Commerce”) determined to be sold at less than fair value (“LTFV”).¹ On June 1, 2001, the Commission instituted a review pursuant to section 751(c) of the Act to determine whether revocation of the antidumping duty order on clad steel plate from Japan would likely lead to continuation or recurrence of material injury within a reasonably foreseeable time.²

In five-year reviews, the Commission first determines whether to conduct a full review (which would include a public hearing, the issuance of questionnaires, and other procedures) or an expedited review. Specifically, the Commission determines whether individual responses to the notice of institution are adequate and, based on these individually adequate responses, whether the collective responses submitted by two groups of interested parties -- domestic interested parties (such as producers, unions, trade associations, or worker groups) and respondent interested parties (such as importers, exporters, foreign producers, trade associations, or subject country governments) -- show a sufficient willingness among each group to participate and provide information requested in a full review, and if not, whether other circumstances warrant a full review.³

The Commission received one response to its notice of institution. This response was from Bethlehem Lukens Plate Corp. (“Lukens”), a domestic producer of clad steel plate accounting for an estimated *** percent of total domestic production in 2000.⁴ Lukens also filed comments on adequacy, arguing that the review should be expedited because no Japanese clad steel plate producer responded to the Commission’s notice of institution.

On September 4, 2001, the Commission found that the domestic interested party group response was adequate. The Commission also found that the respondent interested party group response was inadequate. Pursuant to 19 U.S.C. § 1675(c)(3)(B), the Commission expedited review of this matter.⁵

¹ Clad Steel Plate from Japan, Inv. No. 731-TA-739 (Final), USITC Pub. No. 2972, June 1996 (“Original Determination”).

² 66 Fed. Reg. 29829 (June 1, 2001).

³ See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

⁴ Confidential Staff Report (“CR”) at I-10; Public Staff Report (“PR”) at I-8.

⁵ 66 Fed. Reg. 49040 (Sept. 25, 2001).

II. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. Domestic Like Product

In making its determination under section 751(c), the Commission defines “the domestic like product” and the “industry.”⁶ The Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”⁷ In its final five-year review determination, Commerce defined the imported product covered by the existing antidumping duty order as “all clad steel plate of a width of 600 mm or more and a composite thickness of 4.5 mm or more.”⁸

Cladding is the association of layers of metals of different colors or natures by molecular interpenetration of the surfaces in contact. This limited diffusion is characteristic of clad products and differentiates them from products metalized in other manners (*i.e.*, by normal electroplating).

In the original investigation, no party raised any like product issues and the Commission found a single like product coextensive with the scope of Commerce’s investigation, *i.e.*, all clad steel plate of a width of 600 mm or more and a composite thickness of 4.5 mm or more.⁹ In this review investigation, no party has contested the Commission’s original like product determination, nor have new facts been presented to warrant a different conclusion than that reached by the Commission in the original investigation.

We therefore define, based on the facts available, a single domestic like product consisting of all clad steel plate of a width of 600 mm or more and a composite thickness of 4.5 mm or more coextensive with Commerce’s scope in this review.

B. Domestic Industry

Section 771(4)(A) of the Act defines the relevant 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.”¹⁰ Based on its findings in the original investigation of a single domestic like product, the Commission found that the domestic industry consisted of all domestic producers of clad steel plate of the dimensions specified by the definition of the

⁶ 19 U.S.C. § 1677(4)(A). Section 771(4)(A) of the Act defines the relevant industry as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.” *Id.*

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

⁸ 66 Fed. Reg. 49040 (Sept. 25, 2001).

⁹ Original Determination at 4.

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

like product.¹¹ No evidence gathered in this review warrants a different conclusion from the Commission's original determination. We find, therefore, that the domestic industry consists of all domestic producers of clad steel plate of a width of 600 mm or more and a composite thickness of 4.5 mm or more.

III. REVOCATION OF THE ORDER ON CLAD STEEL PLATE FROM JAPAN IS LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

A. Legal Standard

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping duty order or finding unless it makes a determination that dumping is likely to continue or recur and the Commission makes a determination that material injury would be likely to continue or recur if the order or finding is revoked, as described in section 752(a).

Section 752(a) of the Act states that in a five-year review "the Commission shall determine whether revocation of an order [or finding], or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."¹² The Uruguay Round Agreements Act ("URAA") Statement of Administrative Action ("SAA") indicates that "under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo -- the revocation [of the order or finding] . . . and the elimination of its restraining effects on volumes and prices of imports."¹³ Thus, the likelihood standard is prospective in nature.¹⁴ The statute states that "the Commission shall consider that the effects of revocation . . . may not be imminent, but may manifest themselves only over a longer period of time."¹⁵ According to the SAA, a "reasonably foreseeable time" will vary from case-to-case, but normally will exceed the 'imminent' time frame applicable in a threat of injury analysis [in antidumping and countervailing duty determinations]."^{16 17}

¹¹ Original Determination at 4.

¹² 19 U.S.C. § 1675a(a).

¹³ URAA SAA, H.R. Rep. No. 316, 103d Cong., 2d Sess., vol. I at 883-84.

¹⁴ While the SAA states that "a separate determination regarding current material injury is not necessary," it indicates that "the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked." SAA at 884.

¹⁵ 19 U.S.C. § 1675a(a)(5).

¹⁶ SAA at 887. Among the factors that the Commission should consider in this regard are "the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities." *Id.*

¹⁷ In analyzing what constitutes a reasonably foreseeable time, Chairman Koplan examines all the current and likely conditions of competition in the relevant industry. He defines "reasonably foreseeable time" as the length of
(continued...)

Although the standard in five-year reviews is not the same as the standard applied in original antidumping or countervailing duty investigations, it contains some of the same elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked.” It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order under review, and whether the industry is vulnerable to material injury if the order is revoked.^{18 19}

Section 751(c)(3) of the Act and the Commission’s regulations provide that in an expedited five-year review the Commission may issue a final determination “based on the facts available, in accordance with section 776.”²⁰ We have relied on the facts available in this review, which consist primarily of the record in the original investigation and information submitted by Lukens.

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

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry if the order is revoked, the statute directs the Commission to evaluate all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”²¹ Conditions of competition relevant to the clad steel plate industry are discussed below.

¹⁷ (...continued)

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

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

¹⁹ Section 752(a)(1)(D) of the Act directs the Commission to take into account in five-year reviews involving antidumping proceedings “the findings of the administrative authority regarding duty absorption.” 19 U.S.C. § 1675a(a)(1)(D). Commerce stated in its five-year review determination that it has not issued any duty absorption findings in this matter. 66 Fed. Reg. 51007 (October 5, 2001).

²⁰ 19 U.S.C. § 1675(c)(3)(B); 19 C.F.R. § 207.62(e). Section 776 of the Act, in turn, authorizes the Commission to “use the facts otherwise available” in reaching a determination when: (1) necessary information is not available on the record or (2) an interested party or any other person withholds information requested by the agency, fails to provide such information in the time or in the form or manner requested, significantly impedes a proceeding, or provides information that cannot be verified pursuant to section 782(i) of the Act. 19 U.S.C. § 1677e(a).

²¹ 19 U.S.C. § 1675a(a)(4).

Many of the conditions of competition prevailing in the U.S. market at the time of the original investigation still exist. Although there have been fluctuations, apparent U.S. consumption of clad steel plate has declined since the time of the original investigation, falling *** percent from 1995 to 2000.²² Production of clad steel plate in the United States also has declined since the imposition of the antidumping duty order in July 1996, falling from 1995 to 1997, then rising in 1998 compared to 1997, and then decreasing again from 1998 to 2000, for an overall decline of *** percent from 1995 to 2000.²³

In the original determination, the Commission did not include temporary imports under bond (“TIB”) entries in its analysis but did regard subject TIB entries as a relevant condition of competition and an economic factor in its analysis of the volume of imports.²⁴ While there have been no such subject entries since 1996, we recognize the existence of a small volume of nonsubject TIBs and note them as a condition of competition in the U.S. market.²⁵

Another condition of competition in this industry is that demand for clad steel plate is derived from end uses in the petrochemical industry, the power/utilities industry, the pulp and paper industry, and the shipbuilding industry. The record indicates that, during the period of review (as was the case during the original investigation), the petrochemical industry consumed most of the clad steel plate sold in the U.S. market.²⁶

The U.S. market is price sensitive and contract negotiations are characterized by a relatively small number of major bids.²⁷ The domestic industry’s downstream customer base of clad vessel fabricators has been reduced since 1996 with several clad vessel fabricators exiting the market. Among the closing firms were Nooter (St. Louis, MO), which closed after 100 years of continuous operation, and Graver (Houston, TX), which had been Lukens’ largest clad steel plate customer during the 1990-95 period.²⁸

Another important condition of competition in this industry is that sales are made through a multi-level, competitive bidding process. General contractors or engineers design process vessels for inclusion in larger industrial projects, and they solicit bids from fabricators who compete for contracts to produce these process vessels. Clad steel plate producers, in turn, compete to supply fabricators with the clad steel plate used to manufacture the process vessels.²⁹ Because each contract has fairly exact specifications for clad steel plate, clad steel plate offered by different suppliers bidding on the same project is generally fungible. Clad steel plate produced for different projects, however, may vary

²² CR & PR Table I-4. The Commission noted in its original determination that “demand patterns for clad steel plate are irregular” due to the sporadic nature of the contracts through which the product is sold. Original Determination at 7.

²³ CR & PR Table I-4.

²⁴ Consistent with the original determination, Commissioner Bragg considers it appropriate in this investigation to include likely TIB imports in the apparent consumption, import, and market share data for purposes of determining the likely effects of subject imports on U.S. producers of clad steel plate in the event of revocation. See Original Determination at 8, n.43.

²⁵ CR & PR Table I-2 - I-3.

²⁶ CR at I-6 - I-7; PR at I-4 - I-5.

²⁷ CR & PR Table I-4.

²⁸ CR at I-8; PR at I-7; Original Determination at 15; Lukens Submission of July 17, 2001, at 4-5.

²⁹ CR at I-7; PR at I-6.

significantly due to the unique specifications for each project. Moreover, not all producers can bid for every type of project, due to their differing production capabilities.³⁰

Clad steel plate in the range of 1/2 inch to 2 inches in thickness is generally specified in the larger contracts for the petrochemical industry.³¹ In general, roll bonding is more cost-effective than explosion bonding for the production of these sizes of clad steel plate.³²

In 1995, there were four firms producing clad steel plate in the United States: Ametek (Eighty Four, PA), DuPont (Kennett Square, PA), Dynamic Materials Corporation (“DMC”) (Lafayette, CO), and Lukens (Coatesville, PA).³³ Each of these firms, with the exception of DMC, provided a response to the Commission’s questionnaire during the original investigation. Lukens accounted for *** percent of reported U.S. production in 1995, DuPont accounted for *** percent, and Ametek accounted for the remaining *** percent. No U.S. producer reported importing clad steel plate or purchasing imported clad steel plate. Lukens primarily produced clad steel plate during the period examined in the original investigation by the roll-bonding method, but also utilized the “bang and roll” method,³⁴ on a toll basis, for thicker plate gauges. DuPont and DMC were primarily explosion-bond clad steel plate producers and Ametek manufactured the product through roll-bonding.³⁵

Each of the original producing firms, with the exception of DuPont, continues to manufacture the subject clad steel plate in the United States today.³⁶ In July 1996, DMC acquired DuPont’s clad steel plate operations.³⁷ Also, Vessel Clads was renamed Vee Cee Metals and, Bethlehem Lukens is the successor company of Lukens.³⁸ Lukens claims that “other than DMC’s acquisition of DuPont’s clad

³⁰ Furthermore, a substantial proportion of the annual sales volume of clad steel plate is derived from large contracts that are made on a sporadic basis. As a result, demand patterns for clad steel plate are irregular and render year-to-year comparisons of the data collected in this investigation less probative than in other industries where demand is more consistent from year to year.

³¹ CR at I-6 - I-7.

³² Original Determination at 4.

³³ In addition, Vessel Clads (Berwyn, PA) ***, CR at I-9.

³⁴ Clad steel plate produced by explosion bonding may be further rolled to achieve the desired thickness; this is known as the “bang and roll” method.

³⁵ CR at I-9 citing Staff Report of June 3, 1996, at I-8 and III-1. While there have been some changes in ownership and some consolidation, Lukens estimates that the aggregate operations of the other U.S. producers are about the same as they were during the period examined in the original investigation (1993-95).

³⁶ CR at I-9; PR at I-8.

³⁷ CR at I-9 - I-10. Further, on June 15, 2000, 55 percent of DMC’s stock was purchased by SNPE, a wholly-owned subsidiary of Group SNPE, a French government-owned fire chemicals, aerospace, and defense company with interests in the explosive bonding of clad metals plate. On March 15, 2001, DMC announced that it had reached agreement to acquire 100 percent of the stock of Nobelclad and Nitro Metall from Nobel Explosifs France (“NEF”). Nobelclad and Nitro Metall operate cladding businesses in France and Sweden, respectively. Group SNPE wholly owns NEF. Lukens Submission of July 17, 2001, at 8, n.6.

On April 23, 1999, DMC announced that it would be closing its Colorado clad steel plate manufacturing plant and consolidating its Explosive Metalworking Group operations into a new Pennsylvania-based clad metal plate manufacturing facility. Id.

³⁸ In May 1998, Bethlehem acquired all of the outstanding stock of Lukens, Inc. CR at I-10.

steel plate operations, the domestic industry remains virtually the same as it was in 1995-96.”³⁹ Lukens estimates that it accounted for *** percent of U.S. production in 2000, DMC for *** percent, Ametek for *** percent, and Vee Cee Metals for *** percent.⁴⁰

C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the order under review is revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.⁴¹ In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.⁴²

As discussed below, we conclude from the facts available⁴³ that subject import volume is likely to increase significantly and would be significant if the order is revoked.⁴⁴ This conclusion is based largely on the record from the original investigation and the information submitted by Lukens in this review. As noted above, no respondent interested parties responded to the Commission’s notice of institution.

We recognize that the volume of subject imports is currently at a very low level relative to total consumption.⁴⁵ In a five-year review, however, our focus is on whether subject import volume is likely to be significant in the reasonably foreseeable future if the antidumping duty order is revoked, as current import levels may be affected by the antidumping duty order.

The record from the original investigation indicated that Japanese clad steel plate producers had the ability and willingness to establish a significant presence in the U.S. market. The Commission also found that U.S. imports of clad steel plate from Japan excluding those temporarily imported under bond rose from *** tons in 1993 to *** tons in 1994 and then fell to *** tons in 1995.⁴⁶ In contrast, total U.S.

³⁹ Lukens Submission of July 17, 2001, at 6.

⁴⁰ Lukens Submission of July 17, 2001, exhibit 3.

⁴¹ 19 U.S.C. § 1675a(a)(2).

⁴² 19 U.S.C. § 1675a(a)(2)(A)-(D).

⁴³ See 19 U.S.C. § 1677e(a).

⁴⁴ Commissioner Bragg notes that by including TIB imports, the subject import volume is likely to increase even more significantly and would therefore likely be more significant if the order is revoked. Furthermore, she infers that, upon revocation, subject producers would resort to their historical emphasis in exporting to the United States, as evidenced in the Commission’s original determination. Based on the record in this review, Commissioner Bragg finds that the historical emphasis will likely result in significant volumes of subject imports into the United States if the order is revoked.

⁴⁵ CR & PR Table I-2.

⁴⁶ The Commission noted in its views for the original investigation that “{i}n 1994, when subject imports were at their height, many of the domestic industry’s economic indicators experienced their worst performance. ...

(continued...)

imports of clad steel plate from Japan rose continuously on an annual basis during the original period of investigation.⁴⁷ Following the imposition of the antidumping duty order in July 1996, U.S. imports of clad steel plate from Japan dropped to minimal levels.⁴⁸ In 2000, there were 4 tons of clad steel plate imported from Japan. U.S. imports of clad steel plate from sources other than Japan were relatively low in 1994 and 1995 compared to 1993.⁴⁹ After the imposition of the antidumping duty order in July 1996, nonsubject imports began to rise and, by 1997, exceeded the highest annual level reported during the period examined in the original investigation. Nonsubject imports of clad steel plate declined somewhat from 1997 to 1998, rose again in 1999, and increased sharply in 2000.⁵⁰

Given the apparent high substitutability between domestic and Japanese clad steel plate, relatively small changes in price can result in significant shifts in market share. In these circumstances, Lukens maintains that subject imports would surge if the order is revoked given the high dumping margins that Commerce found in its review investigation.⁵¹

During the original investigation, Japanese capacity utilization was *** percent in 1993, *** percent in 1994, and *** percent in 1995. Evidence collected in this review indicates that Japanese producers have increased their production capacity since the order went into effect. Moreover, the Japanese industry is export oriented, as it exported over one half its production volume during the original period of investigation and still depends on substantial quantities of exports.⁵² The export orientation of the Japanese industry indicates that it would likely seek to re-enter the U.S. market with significant quantities of subject merchandise, as it did during the original investigation, if the order were revoked. Therefore, we conclude that the likely volume of imports of the subject merchandise would be significant absent the restraining effect of the antidumping duty order.

D. Likely Price Effects of Subject Imports

In evaluating the likely price effects of subject imports if the antidumping duty order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and if the subject imports are likely to enter the

⁴⁶ (...continued)

Conversely, between 1994 and 1995, when the level of subject imports decreased, and the rate of growth in overall imports of Japanese clad steel plate (including TIB imports) greatly slowed, many domestic industry economic indicators improved.” Original Determination at 23.

⁴⁷ CR & PR Table I-3. The Commission stated in its views for the original investigation that “{w}e regard TIB entries ... as a relevant economic factor in our analysis of the volume of imports, pursuant to 19 U.S.C. 1677(7)(b)(ii). Specifically, while subject imports declined from 1994 to 1995, we give the decline less weight in considering whether subject imports are significant. TIB imports compete for U.S. fabricators’ purchases in the U.S. market. Thus, there was not a wholesale decline in imports of clad steel plate from Japan, but rather a shift of such imports to TIB entries.” Original Determination at 14-15.

⁴⁸ CR & PR Table I-2.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Commerce found the dumping margin rate for Japan Steel Works, Ltd. (“JSW”) and all others to be 118.53 percent. 66 Fed. Reg. 51007 (Oct. 5, 2001).

⁵² CR & PR Tables I-5 - I-6.

United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.⁵³

The record in this expedited review contains very little current pricing data, and provides no information comparing current prices of the domestic like product and the subject imports in the U.S. market. As noted above, subject imports dropped to minimal levels after the order was imposed. Consequently, our conclusions are based primarily on the record of the original investigation and the information submitted by Lukens.

In the original determination, the Commission found that less than fair value imports from Japan consistently undersold the domestic like product and depressed prices in the U.S. market to a significant degree.⁵⁴ The Commission found instances where the Japanese producers won bids on the basis of lower prices.⁵⁵ Lukens asserts that subject imports would again enter the U.S. market at prices that would have significant price depressing or suppressing effects if the order is revoked.⁵⁶

As noted above, the market for clad steel plate is price sensitive such that price plays a key role in determining which supplier will win a bid.⁵⁷ It is likely that if the order is revoked subject Japanese exporters would offer attractively low prices to U.S. purchasers in order to regain market share. Consequently, prices for domestically produced clad steel plate in the United States would likely decline to a significant degree due to the effects of increased volumes of highly substitutable subject clad steel plate offered at lower prices.

Accordingly, we find that revocation of the antidumping duty order would be likely to result in significant price effects, including significant underselling by the subject imports of the domestic like product, as well as significant price depression and suppression in the reasonably foreseeable future.⁵⁸

E. Likely Impact of Subject Imports

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

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

⁵⁴ Original Determination at 5-6.

⁵⁵ Original Determination at 6.

⁵⁶ Lukens Submission of July 17, 2001, at 3. Lukens points out that after revocation of the 1982 order on clad steel plate from Japan, less than fair value imports resumed and prompted the filing of a petition in 1995, which resulted in the subject order.

⁵⁷ See also, Original Determination at 5.

⁵⁸ Commissioner Bragg infers that, in the event of revocation, subject producers will revert to aggressive pricing practices in connection with exports of subject merchandise to the United States, as evidenced in the Commission’s original determination. Original Determination at 15-16.

including efforts to develop a derivative or more advanced version of the domestic like product.⁵⁹ All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.⁶⁰ As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the antidumping duty order at issue and whether the industry is vulnerable to material injury if the order is revoked.⁶¹

In the original determination, the Commission found that the significant increase in less-than-fair-value imports adversely affected the financial condition of the domestic industry. It found that the adverse impact on the domestic industry of the volume and prices of subject imports was reflected in the industry's low capacity utilization rates, declining shipments and employment, and consistently poor financial performance and operating losses throughout the period of investigation.⁶² Following the completion of the original investigation, U.S. producers' market share declined irregularly, reaching a period low in 2000. The market share for imports from Japan rose from 1993 to 1994, declined in 1995, and then fell sharply after the imposition of the antidumping duty order in July 1996. From 1997 onward, the market share for subject imports has remained below *** percent.⁶³ The market share of U.S. imports of clad steel plate from countries other than Japan has fluctuated since 1993 with large increases shown in the years following the imposition of the antidumping duty order. In addition, the market share of nonsubject imports also increased sharply in 2000 as clad steel plate from Austria began to be imported in relatively large amounts.

Total U.S. production declined overall by *** percent, from *** tons in 1995 to *** tons in 2000.⁶⁴ Although the record does not contain data on total U.S. shipments during the period of review, Lukens did provide shipment data from 1994 to 2000. Lukens' shipments also fell dramatically from *** tons in 1995 to *** tons in 2000.⁶⁵ On balance, we find that the domestic industry's condition has declined since the order went into effect as reflected by its declining market share, production, and shipments. Consequently, we find the domestic industry to be currently vulnerable.

Lukens contends that revocation of the order would lead to an increased volume of subject imports that would displace U.S. producers' shipments, result in lost market share for the domestic industry, and cause capacity utilization to decline, and erode profitability in an industry that is dependent on high capacity utilization. It further argues that the domestic industry is currently vulnerable and is

⁵⁹ 19 U.S.C. § 1675a(a)(4).

⁶⁰ *Id.* Section 752(a)(6) of the Act states that "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887.

⁶¹ The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

⁶² Original Determination at 6-7.

⁶³ CR at I-10 - I-12; PR at I-10 - I-12.

⁶⁴ CR & PR Table I-1.

⁶⁵ *Id.*

facing significant cost increases, and that an increase in unfairly priced imports would therefore have a devastating impact on the domestic industry.⁶⁶

Based on the record in this review, we find that revocation of the antidumping duty order would likely lead to significant increases in the volume of subject imports at prices that would undersell the domestic product and significantly depress or suppress U.S. prices. We find further that the volume and price effects of the subject imports would have a significant negative impact on the domestic industry and would likely cause the domestic industry to further lose market share. In addition, the price and volume declines would likely have a significant adverse impact on the production, shipments, sales, and revenue levels of the domestic industry. This reduction in the industry's production, sales, and revenue levels would have a direct adverse impact on the industry's profitability.

For all of the above reasons, we conclude that revocation of the antidumping duty order on clad steel plate from Japan likely would have a significant adverse impact on the domestic industry within a reasonably foreseeable time.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury to the U.S. clad steel plate industry within a reasonably foreseeable time.

⁶⁶ Lukens Submission of July 17, 2001, at 6-7.

INFORMATION OBTAINED IN THE REVIEW

INTRODUCTION

On June 1, 2001, the Commission gave notice that it had instituted a review to determine whether revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to a continuation or recurrence of material injury within a reasonably foreseeable time.¹ On September 4, 2001, the Commission determined that the domestic interested party response to its notice of institution was adequate;² the Commission also determined that the respondent interested party response was inadequate. The Commission found no other circumstances that would warrant conducting a full review. Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)).³ The Commission voted on this review on October 18, 2001, and notified Commerce of its determination on October 29, 2001.

The Original Investigation

The Commission completed the original investigation⁴ in June 1996, determining that an industry in the United States was materially injured by reason of imports of clad steel plate from Japan that Commerce determined to be sold at LTFV. The Commission defined the like product as all clad steel plate covered by Commerce's scope of investigation (clad steel plate of a width of 600mm or more and a composite thickness of 4.5mm or more) and it defined the domestic industry as producers of that product.⁵ After receipt of the Commission's determination, Commerce issued an antidumping duty order on imports of clad steel plate from Japan.⁶

¹ 66 FR 29829, June 1, 2001. All interested parties were requested to respond to this notice by submitting the information requested by the Commission.

² The Commission received one submission in response to its notice of institution for the subject review. It was filed on behalf of Bethlehem Lukens, formerly Lukens. Bethlehem Lukens estimated that it represented *** percent of total domestic production in 2000. *Response* of Bethlehem Lukens, exhibit 3.

³ 66 FR 49040, September 25, 2001. The Commission's notice of its expedited review appears in app. A. See the Commission's web site (<http://www.usitc.gov>) for Commissioner votes on whether to conduct an expedited or full review. The Commission's statement on adequacy is presented in app. B.

⁴ The original investigation resulted from a petition filed on behalf of Lukens on September 29, 1995.

⁵ *Clad Steel Plate from Japan*, USITC Publication 2972, June 1996, pp. 4-5. Bethlehem Lukens did not address the issue of domestic like product in its *Response* to the Commission's notice of institution.

⁶ 61 FR 34421, July 2, 1996. The order required the posting of a cash deposit equal to the estimated weighted-average antidumping duty margins, which were 118.53 percent for Japan Steel and 118.53 percent for all others. In determining its weighted-average antidumping duty margins, Commerce used the margin supplied in the petition as the facts available. 61 FR 21158, May 9, 1996.

On July 31, 2000, a Japanese manufacturer (Dana) requested that Commerce conduct an administrative review for clad steel plate (as specified by the firm in subsequent corrections and clarifications to its initial request). On August 31, 2000, Dana informed Commerce that the merchandise it exported to the United States was not subject to the antidumping duty order on clad steel plate from Japan and withdrew its request for an administrative review (65 FR 60615, October 12, 2000). There have been no other requests for administrative reviews of the order. See Commerce's web site (<http://web.ita.doc.gov/ia/SunCase.nsf>, retrieved September 14, 2001) at *Case Information*.

Commerce's Final Results of Expedited Sunset Review

Commerce's determination on whether dumping is likely to continue or recur if the antidumping duty order for clad steel plate from Japan is revoked is presented in appendix A.

THE PRODUCT

Scope

The scope of the order is all clad⁷ steel plate of a width of 600mm or more and a composite thickness of 4.5mm or more. Clad steel plate is a rectangular finished steel mill product consisting of a layer of cladding material (usually stainless steel or nickel) which is metallurgically bonded to a base or backing of ferrous metal (usually carbon or low alloy steel) where the latter predominates by weight.⁸ Clad steel plate is classified under the *HTS* subheading 7210.90.10.00, with a 2001 normal trade relations tariff rate of 2 percent ad valorem, applicable to imports from Japan. The *HTS* subheading is provided for convenience and for Customs purposes, but Commerce's written description of the merchandise is dispositive as to the scope of the product coverage.

Description and Uses⁹

The imported product subject to this investigation is clad steel plate, of a width of 600mm (approximately 24 inches) or more and a thickness of 4.5mm (approximately 3/16 inch) or more.¹⁰ The product is a flat-rolled, corrosion-resistant, "composite" steel plate product composed of cladding material that is metallurgically bonded to a base carbon steel plate. The cladding material, which is

⁷ According to Commerce's web site, cladding is the association of layers of metals of different colors or natures by molecular interpenetration of the surfaces in contact. This limited diffusion is characteristic of clad products and differentiates them from products metalized in other manners (e.g., by normal electroplating). As specified in the scope, the various cladding processes include pouring molten cladding metal onto the basic metal followed by rolling; simple hot-rolling of the cladding metal to ensure efficient welding to the basic metal; any other method of deposition or superimposing of the cladding metal followed by any mechanical or thermal process to ensure welding (e.g., electro-cladding), in which the cladding metal (nickel, chromium, etc.) is applied to the basic metal by electroplating, molecular interpenetration of the surfaces in contact then being obtained by heat treatment at the appropriate temperature with subsequent cold-rolling. See Harmonized Commodity Description and Coding System Explanatory Notes, Chapter 72, General Note (IV) (C)(2)(e). Stainless clad steel plate is manufactured to ASTM specifications A263 (400 series stainless types) and A264 (300 series stainless types). Nickel and nickel-base alloy clad steel plate are manufactured to ASTM specification A265. These specifications are illustrative but not necessarily all-inclusive. Commerce's web site (<http://web.ita.doc.gov/ia/SunCase.nsf>, retrieved September 14, 2001) at *Case Information*.

⁸ See Commerce's web site (<http://web.ita.doc.gov/ia/SunCase.nsf>, retrieved September 14, 2001) at *Case Information*.

⁹ All of the discussion in this section is from the original investigation, unless otherwise noted. *Staff Report of June 3, 1996*, pp. I-2 - I-4.

¹⁰ Clad steel flat-rolled products of a thickness of less than 4.5mm would generally be considered sheet, rather than plate.

usually a solid sheet or plate of alloy metal such as stainless steel, nickel-based alloys, copper, or titanium, is generally 10 to 20 percent of the total thickness of the composite. The base metal, the thicker portion of the composite, is usually either carbon or low-alloy steel and normally provides the required strength to the clad composite.

Clad steel plate is produced to meet exact customer specifications. It is used to manufacture vessels or structures used in heavy industry projects where corrosion resistance qualities are essential. The main end users of clad steel plate include petrochemical companies, the shipbuilding industry, electric utilities, pulp and paper companies, and other users of industrial equipment. The petrochemical industry, specifically the hydrocarbon processing industry which includes petroleum refining and petrochemical and chemical processing, consistently has been the largest market for clad steel plate, likely consuming about *** percent of clad products used in the United States in the mid-1990s according to estimates made by Lukens during the original investigation. JSW, the responding Japanese manufacturer of clad steel plate, testified at the hearing in the original investigation that all of its sales of the subject product in the United States were to companies in the petrochemical industry. The firm maintained that it did not compete for projects in the shipbuilding, utilities, or pulp and paper industries and had not sold clad steel plate for any U.S. projects in these sectors during 1993-95.

Manufacturing Processes¹¹

There are two processes by which clad steel plate is produced, regardless of what cladding material is used. The first is the roll-bonding process, or “sandwich” process. This manufacturing method typically involves assembling a four-ply clad “pack” comprised of two “backing steel” slabs and two “cladding” inserts in a dedicated production facility. The assembled pack is rolled at high temperature and pressure, which metallurgically bonds the backing steel to the cladding. After rolling, the edges of the pack are cut and it is separated into two clad plates. The second method is called explosion bonding. In this process, the base and cladding materials are prepared for ideal surface conditioning, then matched before being transported to the cladding site. Here the matched plates are moved into an underground “shooting chamber” where the base and clad materials are bonded by the detonation of specially formulated explosives over the cladding material.

While roll bonding and explosion bonding are distinctly different processes, clad steel plate products produced by these two methods are largely interchangeable. A specific production process will, however, be more cost-effective for certain ranges in product thickness; roll-bonding is most cost-effective between ½ inch and 2 inches, but explosion bonding is usually reserved for plate between 2 and 3½ inches thick. Generally, over 80 percent of stainless clad plate manufactured by Lukens during the original investigation was between ½ inch and 2 inches in thickness. Most of the large contracts reportedly covered goods in this thickness range, where Lukens competed most heavily with JSW during the period examined in the original investigation. Other domestic producers competed with Lukens in other size ranges.

¹¹ All of the discussion in this section is from the original investigation, unless otherwise noted. *Staff Report of June 3, 1996*, pp. I-6 - I-10.

U.S. Market and Pricing^{12 13}

Both domestic and imported clad steel plate are generally sold on a competitive-bid basis to the fabricators of equipment, process equipment, heat exchangers, etc., which are seeking to meet the requirements of general contractors or engineers for specific projects that incorporate vessels or other structures where corrosion resistance is required. Fabricators, in turn, compete for contract awards to construct these vessels or structures for the end user.

The bid process begins when the engineering firm retained by the eventual owner of the project solicits bids from various clad fabricators, which, in turn, contact several clad producers and U.S. importers¹⁴ to ensure the lowest possible bid. The clad steel plate firm may, therefore, receive an inquiry from one or more of the competing fabricators, and formal quotations are sent to each. Upon selection of the fabricator by the engineering firm, the bidding process becomes extremely competitive among clad plate suppliers. The successful fabricator finalizes the design details and contacts the clad plate bidders, as long as they were initially competitive, with final plate sizes and more detailed specifications. On the basis of the final bids, the fabricator chooses a clad plate supplier for the project. Since each contract provides fairly exact specifications, there is generally very little difference in the physical characteristics of the competing clad steel plate products for a specific bid.

The price for clad steel plate varies widely depending on the specifications required by the individual purchaser (including the type of cladding material, the dimensions of the base and cladding metals, and any special requirements or codes that must be met). Other factors that can influence price include finishing details, the quantity and tonnage ordered as well as the shipping or transportation arrangements required. Transportation charges from Japan to the U.S. market, not including U.S. inland costs, were estimated to be 6.1 percent of the total delivered price during the original investigation. U.S. producers' and importers' U.S. inland transportation costs generally accounted for *** percent of the total delivered price of the clad steel plate. All U.S. producers reported during the original investigation that they quoted prices on *** basis, while importers of the Japanese product may quote prices on either an f.o.b. or a delivered basis. The Commission stated in its views for the original investigation that the market for clad steel plate is price-sensitive, "such that price plays a key role in determining which supplier will win a bid."¹⁵

Bethlehem Lukens stated in its *Response* that the U.S. market is "still characterized by a relatively small number of major bids so that the loss of only a few to unfair foreign competition would

¹² All of the discussion in this section is from the original investigation, unless otherwise noted. *Staff Report of June 3, 1996*, pp. I-11 - I-12, II-7, V-1, and V-3.

¹³ The Commission noted several conditions of competition in its views for the original investigation, among them (1) that "virtually all" of the Japanese clad steel plate sold in the U.S. market during the period examined was sold to the petrochemical industry, as was "a large percentage" of domestic production of clad steel plate; (2) that sales in the clad steel plate market are made through a multi-level competitive bidding process; (3) that certain purchasers of clad steel plate have domestic content ("Buy American") requirements or domestic preferences; and (4) that demand patterns for clad steel plate are irregular since a substantial proportion of the annual sales volume of clad steel plate is derived from large contracts that are made on a sporadic basis. *Clad Steel Plate from Japan*, pp. 5-7.

¹⁴ ***.

¹⁵ *Clad Steel Plate from Japan*, p. 15.

be sufficient to injure Bethlehem Lukens. The market also is highly price sensitive.”¹⁶ Bethlehem Lukens also indicated that the downstream customer base of clad vessel fabricators has been reduced since 1996 with several clad vessel fabricators exiting the market. Among the closing firms were Nooter (St. Louis, MO), which closed after 100 years of continuous operation, and Graver (Houston, TX), which had been Lukens’ largest clad customer during the 1990-95 period.¹⁷ Petitioner argued in its *Response* that the decline in the downstream clad vessel fabrication market enhances the “prospects for a resumption of injury to the domestic industry” and that the industry is even more “vulnerable today than in 1995 to dumping of competitive Japanese plate.”¹⁸

THE INDUSTRY IN THE UNITED STATES

U.S. Producers

In 1995, there were four firms producing clad steel plate in the United States: Ametek (Eighty Four, PA), DuPont (Kennett Square, PA), DMC (Lafayette, CO), and Lukens (Coatesville, PA).¹⁹ Each of these firms, with the exception of DMC, provided a response to the Commission’s questionnaire during the original investigation. Lukens accounted for *** percent of reported U.S. production in 1995, DuPont accounted for *** percent, and Ametek accounted for the remaining *** percent. No U.S. producer reported importing clad steel plate or purchasing imported clad steel plate. Lukens primarily produced clad steel plate during the period examined in the original investigation by the roll-bonding method, but also utilized the “bang and roll” method,²⁰ on a toll basis, for thicker plate gauges. DuPont and DMC were primarily explosion-bond clad steel plate producers and Ametek manufactured the product through roll-bonding.²¹

Each of the original producing firms, with the exception of DuPont, continues to manufacture the subject clad steel plate in the United States today. In July 1996, DMC acquired DuPont’s clad plate operations.²² Also, Vessel Clads was renamed Vee Cee Metals and, as indicated earlier, Bethlehem

¹⁶ *Response* of Bethlehem Lukens, pp. 4-5.

¹⁷ *Id.*, p. 6.

¹⁸ *Id.*, p. 7.

¹⁹ In addition, Vessel Clads (Berwyn, PA) ***.

²⁰ Clad steel plate produced by explosion bonding may be further rolled to achieve the desired thickness; this is known as the “bang and roll” method.

²¹ *Staff Report of June 3, 1996*, pp. I-8 and III-1. While there have been some changes in ownership and some consolidation, Bethlehem Lukens estimates that the aggregate operations of the other U.S. producers are about the same as they were during the period examined in the original investigation (1993-95).

²² Further, on June 15, 2000, 55 percent of DMC’s stock was purchased by SNPE, a wholly-owned subsidiary of Group SNPE, a French government-owned fire chemicals, aerospace, and defense company with interests in the explosive bonding of clad plate. On March 15, 2001, DMC announced that it had reached agreement to acquire 100 percent of the stock of Nobelclad and Nitro Metall from NEF. Nobelclad and Nitro Metall operate cladding businesses in France and Sweden, respectively. Group SNPE wholly owns NEF. *Response* of Bethlehem Lukens, p. 8, n.6.

On April 23, 1999, DMC announced that it would be closing its Colorado clad plate manufacturing plant and consolidating its Explosive Metalworking Group operations into a new Pennsylvania-based clad plate manufacturing facility. DMC SEC Filings Form 10-K and 10-Q (December 2000 Annual Report and September
(continued...)

Lukens is the successor company of Lukens.²³ Petitioner states that “other than DMC’s acquisition of DuPont’s detaclad operations, the domestic industry remains virtually the same as it was in 1995-96.”²⁴ Bethlehem Lukens was estimated by petitioner to account for *** percent of U.S. production in 2000, DMC for *** percent, Ametek for *** percent, and Vee Cee Metals for *** percent.²⁵

U.S. Production and Financial Performance

Data reported by U.S. producers of clad steel plate in the Commission’s original investigation and in response to its review institution notice are presented in table I-1. As shown, the majority of the industry indicators reported during the original investigation (i.e., production; capacity utilization; and the quantity, value, and unit value of U.S. shipments) dipped from 1993 to 1994 then rose in 1995 to, in some instances, points higher than those reported for 1993.²⁶ Production of clad steel plate in the United States has declined since the imposition of the antidumping duty order in July 1996, falling from 1995 to 1997, then rising in 1998 compared to 1997, and then decreasing again from 1998 to 2000, for an overall decline of *** percent from 1995 to 2000.

There are no current financial or pricing data available for the subject product. Reported net sales by the responding clad steel plate producers increased overall between 1993 and 1995. However, as noted by the Commission in its views for the original investigation, “the industry experienced declining gross profits and mounting operating losses during this same period, concurrent with increases in cost of goods sold and SG&A expenses.”²⁷

U.S. IMPORTS AND CONSUMPTION

U.S. Imports

During the original investigation, the Commission identified six possible importers of the subject merchandise. Four of these firms,²⁸ which accounted for the *** of U.S. imports from Japan during 1994-95, responded to Commission questionnaires during the original investigation. In its response to the Commission’s notice of institution, Bethlehem Lukens listed the U.S. importers named in the 1995 petition but indicated that it cannot verify that all of these firms continue to import subject clad steel plate from Japan.²⁹

²² (...continued)
2000 Quarterly Report).

²³ In May 1998, Bethlehem acquired all of the outstanding stock of Lukens, Inc. Bethlehem SEC Filing Form 10-K (December 2000 Annual Report).

²⁴ *Response of Bethlehem Lukens*, p. 6.

²⁵ *Id.*, exhibit 3.

²⁶ Due to the prevalence of sporadic but large contracts in the clad steel plate industry, as well as to a wide variety in product mix, the Commission stated in its views for the original investigation that it finds “overall period trends less probative in this investigation.” *Clad Steel Plate from Japan*, p. 18.

²⁷ *Clad Steel Plate from Japan*, p. 10.

²⁸ ***.

²⁹ *Response of Bethlehem Lukens*, p. 9.

Table I-1
Clad steel plate: U.S. producers' capacity, production, and U.S. shipments, 1993-2000

Item	1993	1994	1995	1996	1997	1998	1999	2000
Reporting firms: ¹								
Capacity (tons)	***	***	***	(2)	(2)	(2)	(2)	(2)
Production (tons)	***	***	***	(2)	(2)	(2)	(2)	(2)
Capacity utilization (percent)	***	***	***	(2)	(2)	(2)	(2)	(2)
U.S. shipments								
Quantity (tons)	***	***	***	(2)	(2)	(2)	(2)	(2)
Value (1,000 dollars)	***	***	***	(2)	(2)	(2)	(2)	(2)
Unit value (per ton)	\$***	\$***	\$***	(2)	(2)	(2)	(2)	(2)
Total industry: ³								
Production (tons)	***	***	***	***	***	***	***	***
Lukens/Bethlehem Lukens:								
U.S. shipments:								
Quantity (tons)	(2)	***	***	***	***	***	***	***
Value (1,000 dollars)	(2)	***	***	***	***	***	***	***
Unit value (per ton)	(2)	\$***	\$***	\$***	\$***	\$***	\$***	\$***
<p>¹ Data for those firms (Ametek, DuPont, and Lukens) that responded to Commission questionnaires during the original investigation. Clad steel plate produced by the responding firms accounted for *** percent of total U.S. production in 1995 according to the <i>Response</i> of Bethlehem Lukens, exhibit 2.</p> <p>² Not available.</p> <p>³ Data for all firms in the industry ((1) Ametek, (2) DMC, (3) DuPont/DMC, (4) Lukens/Bethlehem Lukens, and (5) Vessel Clads/Vee Cee Metals).</p> <p>Note.--Production figures for those firms responding to Commission questionnaires during the original investigation are, for certain periods (specifically, ***), *** than the total industry figures reported by petitioner in its <i>Response</i>. This is primarily due to the industry totals being based on petitioner's estimates for *** that are somewhat *** than the actual production figures reported by those firms to the Commission during the original investigation.</p> <p>Source: <i>Staff Report of June 3, 1996</i>, pp. III-4 - III-5, for data reported during the original investigation (for 1993-95) and <i>Response</i> of Bethlehem Lukens, exhibits 2 and 3, for estimated data for the entire industry and for data on petitioner's operations (for 1993-2000).</p>								

Table I-2 presents data on U.S. imports of clad steel plate excluding TIB imports and table I-3 presents import data including TIB imports.³⁰ JSW reportedly made *** TIB entries in 1995 for a total

³⁰ TIB is a procedure whereby merchandise may be entered into the customs territory of the United States duty- (continued...)

Table I-2

Clad steel plate:¹ U.S. imports from Japan and other sources, excluding TIB imports, 1993-2000

Item	1993	1994	1995	1996	1997	1998	1999	2000
	Quantity (tons)							
Japan	***	***	***	213	70	78	0	4
Other sources	***	***	***	636	1,387	1,079	1,283	1,884
Total	***	***	***	849	1,457	1,158	1,283	1,888
	Landed duty-paid value (1,000 dollars)							
Japan	***	***	***	837	310	273	0	15
Other sources	***	***	***	2,089	4,929	3,808	4,438	8,921
Total	***	***	***	2,926	5,240	4,081	4,438	8,936
	Landed duty-paid unit value (per ton)²							
Japan	\$***	\$***	\$***	\$3,932	\$4,433	\$3,489	-	\$3,712
Other sources	***	***	***	3,285	3,554	3,527	\$3,458	4,736
Total	***	***	***	3,448	3,596	3,525	3,458	4,734
<p>¹ Excludes imports of nonsubject clad steel plate less than 4.5mm in thickness from Kawasaki Steel for 1993-95. Clad steel plate less than 4.5mm in thickness is used in cookware, coinage, and electrical applications. (However, data for 1996-2000 include any U.S. imports of clad steel plate less than 4.5mm in thickness. See note 4 to table I-4.) Also excludes TIB imports from Japan in 1995 reported to the Commission as well as TIB imports from France of 24 short tons in 1996 and 120 short tons in 1998.</p> <p>² Unit values are calculated from the unrounded figures.</p> <p>Source: <i>Staff Report of June 3, 1996</i>, p. IV-2, for 1993-95 data (which were official Commerce statistics, adjusted to exclude imports of clad steel plate from Kawasaki Steel and TIB imports) and official Commerce statistics for 1996-2000 data. Note that landed, duty paid values do not include any antidumping duty.</p>								

³⁰ (...continued)

free by posting a bond. Under the terms of the bond, the importer agrees to export the merchandise within a specified time (usually a year) or pay liquidated damages, generally equal to twice the normal duty.

Table I-3

Clad steel plate:¹ U.S. imports from Japan and other sources,² including TIB imports, 1993-2000

Item	1993	1994	1995	1996	1997	1998	1999	2000
	Quantity (tons)							
Japan	105	975	1,567	213	70	78	0	4
Other sources	661	236	99	659	1,387	1,200	1,283	1,884
Total	765	1,211	1,666	872	1,457	1,278	1,283	1,888
	Landed duty-paid value (1,000 dollars)							
Japan	298	2,143	3,904	837	310	273	0	15
Other sources	4,620	883	317	2,266	4,929	4,493	4,438	8,921
Total	4,918	3,026	4,221	3,104	5,240	4,766	4,438	8,936
	Landed duty-paid unit value (dollars per ton)³							
Japan	\$2,854	\$2,197	\$2,491	\$3,932	\$4,433	\$3,489	-	\$3,712
Other sources	6,991	3,742	3,207	3,438	3,554	3,745	\$3,458	4,736
Total	6,425	2,499	2,533	3,558	3,596	3,729	3,458	4,734

¹ Includes TIB imports and product less than 4.5mm in thickness.

² The largest sources of U.S. imports were France in 1993; Japan in 1994 and 1995; United Kingdom in 1996, 1997, 1998, and 1999; and Austria in 2000.

³ Unit values are calculated from the unrounded figures.

Source: *Staff Report of June 3, 1996*, p. C-5, for 1993-95 data (which were official Commerce statistics) and official Commerce statistics for 1996-2000 data. Note that landed, duty paid values do not include any antidumping duty.

of *** tons.³¹ As shown in table I-2, U.S. imports of clad steel plate from Japan excluding TIB imports rose from *** tons in 1993 to *** tons in 1994 and then fell to *** tons in 1995.³² In contrast, total U.S.

³¹ The data on which the majority of the Commission relied in its original determination were calculated exclusive of TIB imports. *Clad Steel Plate from Japan*, p. 8, n.42. The Commission stated that “{s}uch imports are technically not entries for consumption and thus are not subject to Commerce’s affirmative LTFV determination.” *Id.*, p. 14. Commissioner Bragg, however, indicated that it was “appropriate in this investigation to include TIB imports, which are sold to U.S. purchasers in direct competition with domestic clad steel plate and are used in the fabrication of industrial equipment in the United States ...” *Id.*, p. 8, n.43.

³² The Commission noted in its views for the original investigation that “{i}n 1994, when subject imports were at their height, many of the domestic industry’s economic indicators experienced their worse performance. ... Conversely, between 1994 and 1995, when the level of subject imports decreased, and the rate of growth in overall

(continued...)

imports of clad steel plate from Japan rose continuously on an annual basis during the period reviewed during the original investigation (table I-3).³³

Following the imposition of the order in July 1996, U.S. imports of clad steel plate from Japan dropped to minimal levels (table I-2). In 2000, there were 4 tons of clad steel plate imported from Japan. U.S. imports of clad steel plate from sources other than Japan were relatively low in 1994 and 1995 compared to 1993 as the quantity of clad steel plate imported from France dropped off.³⁴ After the imposition of the antidumping duty order in July 1996, nonsubject imports began to rise and, by 1997, exceeded the highest annual level reported during the period examined in the original investigation (i.e., 1993-95). Nonsubject imports of clad steel plate declined somewhat from 1997 to 1998, rose again in 1999, and increased sharply in 2000, as relatively large amounts of U.S. imports of clad steel plate from Austria were entered for consumption.^{35 36} Bethlehem Lukens stated in its *Response* to the Commission's notice of institution that the "supply from other foreign producers like Voest Alpine, which is represented for sales of roll-bonded products in the United States by Dynamic Materials Corporation, has increased."³⁷

The only pricing data provided by Bethlehem Lukens in its *Response* were U.S. import unit values from AISI, which are compiled from official Commerce statistics. However, as the Commission noted in its views for the original investigation, "movements in average unit values are not reliable for purposes of evaluating the price effects of subject imports since bid prices vary according to the unique specifications of each contract."³⁸ The Commission relied in large part on its analysis of bid data provided in response to Commission questionnaires during the original investigation.³⁹ For the 12 bid comparisons where there was competition between domestic and Japanese suppliers, the imported Japanese product was priced lower than the domestic product in five instances. The Commission stated

³² (...continued)

imports of Japanese clad plate (including TIB imports) greatly slowed, many domestic industry economic indicators improved." *Clad Steel Plate from Japan*, pp. 17-18.

³³ The Commission stated in its views for the original investigation that "{w}e regard TIB entries ... as a relevant economic factor in our analysis of the volume of imports, pursuant to 19 U.S.C. 1677(7)(b)(ii). Specifically, while subject imports declined from 1994 to 1995, we give the decline less weight in considering whether subject imports are significant. TIB imports compete for U.S. fabricators' purchases in the U.S. market. Thus, there was not a wholesale decline in imports of clad plate from Japan, but rather a shift of such imports to TIB entries." *Clad Steel Plate from Japan*, pp. 14-15.

³⁴ Compare the quantity of U.S. imports of clad steel plate from France in 1993 to that imported in 1994 as reported in official Commerce statistics for HTS subheading 7210.90.10.

³⁵ See official Commerce statistics for HTS subheading 7210.90.10.

³⁶ As noted earlier, the Commission viewed data concerning trends with caution.

³⁷ *Response* of Bethlehem Lukens, p. 11.

³⁸ *Clad Steel Plate from Japan*, p. 16.

³⁹ The Commission received usable bid data from *** U.S. producers and *** importers of Japanese clad steel plate. U.S. producers' reported bid data accounted for *** percent of total U.S. producers' domestic shipments of clad steel plate during January 1993-March 1996 and bid information reported by importers of the subject Japanese product accounted for *** percent of total U.S. imports of the clad steel plate from Japan during that period. *Staff Report of June 3, 1996*, p. V-4.

in its views that “{w}hile the Japanese bidder did not always win the contract . . . the amount and value of sales for which it did win bids based on lower prices were significant.”⁴⁰

Bethlehem Lukens stated in its *Response* that revocation of the antidumping order “would trigger a reversion to the unfair and injurious pricing practices that prevailed prior to the subject order.” The firm further indicates that “{t}his is precisely what happened after revocation of the 1982 order in 1986 and what prompted Lukens to invest the time and money in another antidumping petition that . . . resulted in the subject order.”⁴¹

Apparent U.S. Consumption

Although there have been fluctuations, apparent U.S. consumption of clad steel plate has declined on an overall basis since the time of the original investigation, falling 23.6 percent from 1995 to 2000 (table I-4).⁴² As shown in table I-4, the market shares for U.S. producers during the original investigation fell from 1993 to 1994 and then rose in 1995 to a point slightly higher than that reported for 1993.⁴³ Following the completion of the original investigation, U.S. producers’ market shares have declined irregularly, reaching a period low in 2000. The market shares for imports from Japan rose from 1993 to 1994, declined in 1995, and then fell sharply after the imposition of the antidumping duty order in July 1996. From 1997 onward, the market shares for subject imports have remained below *** percent. The market shares of U.S. imports of clad steel plate from countries other than Japan have fluctuated since 1993 with large increases shown in the years spanning the imposition of the antidumping duty order (i.e., from 1995 to 1997). In addition, the market share of nonsubject imports also increased sharply in 2000 as clad steel plate from Austria began to be imported in relatively large amounts.

THE FOREIGN INDUSTRY

There were five known producers of clad steel plate in Japan during the period examined in the original investigation: JSW, NKK, Nippon, Kawasaki Steel, and Sumitomo. Total production of clad steel plate in Japan, as reported by MITI, was 36,281 tons in 1992, 33,751 tons in 1993, and 44,431 tons in 1994.⁴⁴ Clad steel plate production in Japan was 60,936 tons in 1998, 52,343 tons in 1999, and 37,309

⁴⁰ *Clad Steel Plate from Japan*, p. 15.

⁴¹ *Response* of Bethlehem Lukens, pp. 3-4. On October 6, 1981, Lukens filed an antidumping petition on stainless steel clad plate from Japan. The petition resulted in an antidumping duty order (47 FR 34178, August 6, 1982) that subsequently was revoked (50 FR 38151, September 20, 1985).

⁴² The Commission noted in its views for the original investigation that “demand patterns for clad steel plate are irregular” due to the sporadic nature of the contracts through which the product is sold. *Clad Steel Plate from Japan*, p. 7. In general, demand for clad steel plate is derived from end users in the petrochemical industry, the power/utilities industry, the pulp and paper industry, and the shipbuilding industry.

⁴³ The same trend is shown for domestic market shares calculated using both U.S. production and U.S. producers’ U.S. shipments (i.e., the data analyzed by the Commission during the original investigation).

⁴⁴ *Staff Report of June 3, 1996*, pp. VII-1 - VII-4.

Table I-4

Clad steel plate: U.S. producers' production, U.S. shipments, U.S. imports, and apparent U.S. consumption, on the basis of quantity, 1993-2000

Item	1993	1994	1995	1996	1997	1998	1999	2000
	Quantity (tons)							
U.S. production ¹	***	***	***	***	***	***	***	***
U.S. producers' U.S. shipments ²	***	***	***	(3)	(3)	(3)	(3)	(3)
U.S. imports: ⁴ Japan	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***
Apparent U.S. consumption: Calculated using— U.S. production	***	***	***	***	***	***	***	***
U.S. shipments	***	***	***	(3)	(3)	(3)	(3)	(3)
	Share of consumption calculated using U.S. production (percent)							
U.S. production	***	***	***	***	***	***	***	***
U.S. imports: Japan	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***
	Share of consumption calculated using U.S. producers' U.S. shipments (percent)							
U.S. producers' U.S. shipments	***	***	***	(3)	(3)	(3)	(3)	(3)
U.S. imports: Japan	***	***	***	(3)	(3)	(3)	(3)	(3)
Other sources	***	***	***	(3)	(3)	(3)	(3)	(3)
Total	***	***	***	(3)	(3)	(3)	(3)	(3)
<i>Notes on next page.</i>								

Notes.

¹ Estimated total U.S. production.

² U.S. shipments for firms responding to Commission questionnaires in the original investigation. Responding firms are estimated to account for *** percent of total U.S. production in 1995 according to the *Response of Bethlehem Lukens*, exhibit 2.

³ Not available.

⁴ Excluding TIB imports. U.S. imports for 1993-95 data were adjusted using questionnaire data to exclude nonsubject clad steel plate less than 4.5mm in thickness and are not absolutely comparable to presented U.S. imports for 1996-2000 that include such product. Total U.S. imports of all clad steel plate (excluding TIB imports) were *** short tons in 1993, *** short tons in 1994, and *** short tons in 1995.

Source: *Staff Report of June 3, 1996*, pp. IV-5 and IV-7, for 1993-95 data based on U.S. producers' U.S. shipments (of which import data were adjusted Commerce statistics); *Response of Bethlehem Lukens*, exhibit 2, for 1993-2000 production data; and 1996-2000 imports are from official Commerce statistics.

tons in 2000.⁴⁵ JSW is the only Japanese producer of the subject merchandise that was known during the original investigation to export to the United States. The firm manufactures clad steel plate in a roll-bonding process. JSW's wholly-owned subsidiary company in the United States, JSWA (New York), provided technical and mechanical assistance to U.S. customers during the period examined in the original investigation.⁴⁶

Data provided by JSW on its operations during the original investigation are shown in table I-5. As shown, production of clad steel plate by the firm rose from 1993 to 1995 while capacity remained somewhat constant, resulting in increased capacity utilization during the period examined. In 1995, *** percent of total shipments by JSW were to the home market while *** percent were to the United States and *** percent were to other export markets. There are no comparable data available for JSW's current operations. However, JSW continues to produce and market clad steel plate.⁴⁷ Table I-6 presents data on Japan's exports of clad steel plate during 1996-2000. In 2000, Japan exported 12,469 tons of clad steel plate, the vast majority of which were to destinations other than the United States. Korea accounted for 65.5 percent of the quantity of total Japanese exports of clad steel plate in 2000.

⁴⁵ "Monthly Iron and Steel Statistics" (June 2001), Ministry of Economy, Trade, and Industry. Data may include some nonsubject clad steel (i.e., narrower than 600mm and thinner than 4.5mm).

⁴⁶ *Staff Report of June 3, 1996*, pp. VII-1 - VII-4.

⁴⁷ Bethlehem Lukens indicated in its *Response* that only JSW exports the subject clad steel plate to the United States, although there are other Japanese producers for the home and third-country markets. *Response of Bethlehem Lukens*, p. 9.

Table I-5
Clad steel plate: JSW's capacity and shipments, 1993-95

Item	1993	1994	1995
	Quantity (tons, except as noted)		
Capacity	***	***	***
Production	***	***	***
Capacity utilization (percent)	***	***	***
Shipments: Home market	***	***	***
Exports: ² United States	***	***	***
Other markets	***	***	***
Total exports	***	***	***
Total shipments	***	***	***
¹ Not available. ² Includes tonnage exported under TIB.			
Source: <i>Staff Report of June 3, 1996</i> , p. VII-3, for 1993-95 data (which was provided by JSW).			

Table I-6
Clad steel plate: Japan's exports, 1996-2000

Item	1996	1997	1998	1999	2000
	Quantity (tons)				
Exports: ¹ United States	236	220	78	136	139
Other markets	13,885	13,695	15,959	14,763	12,330
Total exports	14,122	13,915	16,037	14,899	12,469
¹ Includes tonnage exported under TIB.					
Source: Compiled from official trade statistics of Japan (published by the Japan Tariff Association) for HTS statistical reporting number 7210.90.10.					

Bethlehem Lukens states that "after the 1996 antidumping order was issued, JSW increased its aggressiveness in combining with Japanese fabricators to concentrate on 'downstream' clad pressure

vessels not subject to the U.S. order for ultimate shipment to U.S. customers.”⁴⁸ Also, Bethlehem Lukens believes that NKK has increased its manufacturing capacity to produce clad steel plate since the period reviewed during the original investigation.⁴⁹ In July 1998, NKK was reported to have indicated that it would be withdrawing from production of hot-rolled stainless steel sheet to concentrate on the manufacture of the more profitable stainless steel plate and clad steels.⁵⁰

There are no antidumping orders in place, other than in the United States, for clad steel plate produced in Japan.⁵¹

⁴⁸ *Response of Bethlehem Lukens*, p. 4.

⁴⁹ *Id.*, p. 11.

⁵⁰ “NKK to Focus on Stainless Plate,” *Steel* (July 1, 1998), retrieved, on September 6, 2001, at <http://www.amm.com>.

⁵¹ World Trade Organization (*see www.wto.org*).

APPENDIX A
FEDERAL REGISTER NOTICES

consideration, the deadline for responses is July 23, 2001. Comments on the adequacy of responses may be filed with the Commission by August 15, 2001. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: June 1, 2001.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Background

On July 2, 1996, the Department of Commerce issued an antidumping duty order on imports of clad steel plate from Japan (61 FR 34421). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the

OMB number is 3117-0016/USITC No. 01-5-062, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC-3 20436.

**INTERNATIONAL TRADE
COMMISSION**

[Investigation No. 731-TA-739 (Review)]

Clad Steel Plate From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on clad steel plate from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of

¹No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the

scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Japan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as all clad steel plate coextensive with Commerce's scope of the investigation, i.e., all clad steel plate of a width of 600mm or more and a composite thickness of 4.5mm or more, regardless of cladding alloy.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as producers of clad steel plate of a width of 600mm or more and a composite thickness of 4.5mm or more.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is July 2, 1996.

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

Participation in the Review and Public Service List

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

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the "same particular matter" as the

underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. § 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202-205-3088.

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

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the *Federal Register*.

Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 23, 2001. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy

of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is August 15, 2001. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to Provide Requested Information

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

Information To Be Provided in Response to this Notice of Institution

As used below, the term "firm" includes any related firms.

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

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

your workers are employed or which are members of your association.

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

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

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

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1995.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2000 (report quantity data in short tons and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

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

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

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

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2000 (report quantity data in short tons and value data in thousands of U.S. dollars). If you are a trade/business association, provide the

information, on an aggregate basis, for the firms which are members of your association.

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

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

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

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2000 (report quantity data in short tons and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the

ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

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

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

Issued: May 21, 2001.

Donna R. Koehnke,
Secretary.

[FR Doc. 01-13685 Filed 5-31-01; 8:45 am]

BILLING CODE 7020-02-P

**INTERNATIONAL TRADE
COMMISSION****[Investigation No. 731-TA-739 (Review)]****Clad Steel Plate From Japan****AGENCY:** United States International Trade Commission.**ACTION:** Scheduling of an expedited five-year review concerning the antidumping duty order on clad steel plate from Japan.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's rules of practice and procedure, part 201, subpart A through E (19 CFR part 201), and part 207, subpart A, D, E, and F (19 CFR part 207).**EFFECTIVE DATES:** September 4, 2001. A-6**FOR FURTHER INFORMATION CONTACT:**
Debra Baker (202-205-3180), 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 ADD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

On September 4, 2001, the Commission determined that the domestic interested party group response to its notice of institution (66 FR 29829, June 1, 2001) was adequate and the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.¹ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff Report

A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on October 1, 2001, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written Submissions.

As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,² and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before October 4, 2001, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party

may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by October 4, 2001. However, should Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

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

Issued: September 20, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01-23978 Filed 9-24-01; 8:45 am]

BILLING CODE 7020-02-P

¹ A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

² The Commission has found the response submitted by Bethlehem Likens Plate to be individually adequate. Comments from other interested parties will not be accepted (see 19 CAR 207.62(d)(2)).

ACTION: Notice of Final Results of Expedited Sunset Review: Clad Steel Plate from Japan.

SUMMARY: On June 1, 2001, the Department of Commerce ("the Department") initiated a sunset review of the antidumping duty order on clad steel plate from Japan (66 FR 29771) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and substantive comments filed on behalf of the domestic industry, and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

EFFECTIVE DATE: October 5, 2001.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Carole A. Showers, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-5050 or (202) 482-3217 respectively.

SUPPLEMENTARY INFORMATION:

Statute and Regulations

This review was conducted pursuant to section 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) ("Sunset Regulations"), and in 19 CFR part 351 (2000) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3 Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Background

On June 1, 2001, the Department initiated a sunset review of the antidumping duty order on clad steel plate from Japan (66 FR 29771), pursuant to section 751(c) of the Act. The Department received a notice of intent to participate on behalf of one domestic interested party, Bethlehem Lukens Plate ("Lukens"), formerly Lukens Steel Company, within the

applicable deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Lukens claimed interested party status under section 771(9)(C) of the Act, as a producer of a domestic like product in the United States. On July 2, 2001, we received a complete substantive response from Lukens, within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). We did not receive a substantive response from respondent interested parties in this proceeding. As a result, pursuant to 19 CFR 351.218(e)(1)(iii)(C), the Department determined to conduct an expedited sunset, 120-day, review of this antidumping duty order.

Scope of Review

The scope of this review is all clad steel plate of a width of 600 millimeters ("mm") or more and a composite thickness of 4.5 mm or more. Clad steel plate is a rectangular finished steel mill product consisting of a layer of cladding material (usually stainless steel or nickel) which is metallurgically bonded to a base or backing of ferrous metal (usually carbon or low alloy steel) where the latter predominates by weight.¹

Clad steel plate within the scope of this review is classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") 7210.90.10.00. Although the HTSUS subheading is provided for convenience and Customs purposes, our written description of the scope of this review is dispositive.

Analysis of Comments Received

All issues raised by parties to this sunset review are addressed in the Issues and Decision Memorandum

¹ Cladding is the association of layers of metals of different colors or natures by molecular interpenetration of the surfaces in contact. This limited diffusion is characteristic of clad products and differentiates them from products metalized in other manners (i.e., by normal electroplating). The various cladding processes include pouring molten cladding metal onto the basic metal followed by rolling; simple hot-rolling of the cladding metal to ensure efficient welding to the basic metal; any other method of deposition of superimposing of the cladding metal followed by any mechanical or thermal process to ensure welding (i.e., electrocladding), in which the cladding metal (nickel, Chromium, etc.) is applied to the basic metal by electroplating, molecular interpenetration of the surfaces in contact then being obtained by heat treatment at the appropriate temperature with subsequent cold rolling. See Harmonized Commodity Description and Coding System Explanatory Notes, Chapter 72, General Note (IV)(C)(2)(e). Stainless clad steel plate is manufactured to American Society for Testing and Materials ("ASTM") specifications A263 (400 series stainless types) and A264 (300 series stainless types). Nickel and nickel-base alloy clad steel plate is manufactured to ASTM specification A265. These specifications are illustrative but not necessarily all-inclusive.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-838]

Final Results of Expedited Sunset Review: Clad Steel Plate From Japan

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

(“Decision Memorandum”) from Jeffrey A. May, Director, Office of Policy, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated October 1, 2001, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail were the order revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B-099, of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>, under the heading “October 2001.” The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

We determine that revocation of the antidumping duty order on clad steel plate from Japan would likely head to continuation or recurrence of dumping at the following percentage weighted-average margins:

Manufacturer/exporter	Margin (percent)
The Japan Steel Company	118.53
All Others	118.53

This notice serves as the only reminder to parties subject to administrative protective order (“APO”) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department’s regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (“sunset”) review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 1, 2001.

Joseph A. Spetrini,
Acting Assistant Secretary for Import Administration.

[FR Doc. 01-25101 Filed 10-4-01; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX B
STATEMENT ON ADEQUACY

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Clad Steel Plate from Japan, Inv. No. 731-TA-739 (Review)

On September 4, 2001, the Commission determined that it should proceed to an expedited review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(3)(B). The Commission determined that the domestic interested party group response was adequate. In this regard, the Commission received a response from domestic producer Bethlehem Lukens Plate, which accounts for a significant portion of domestic production. The Commission did not receive a response from any respondent interested party. Consequently, the Commission determined that the respondent interested party group response was inadequate. The Commission did not find any circumstances that would warrant conducting a full review. The Commission, therefore, determined to conduct an expedited review. A record of the Commissioners' votes is available from the Office of the Secretary and the Commission's web site.