

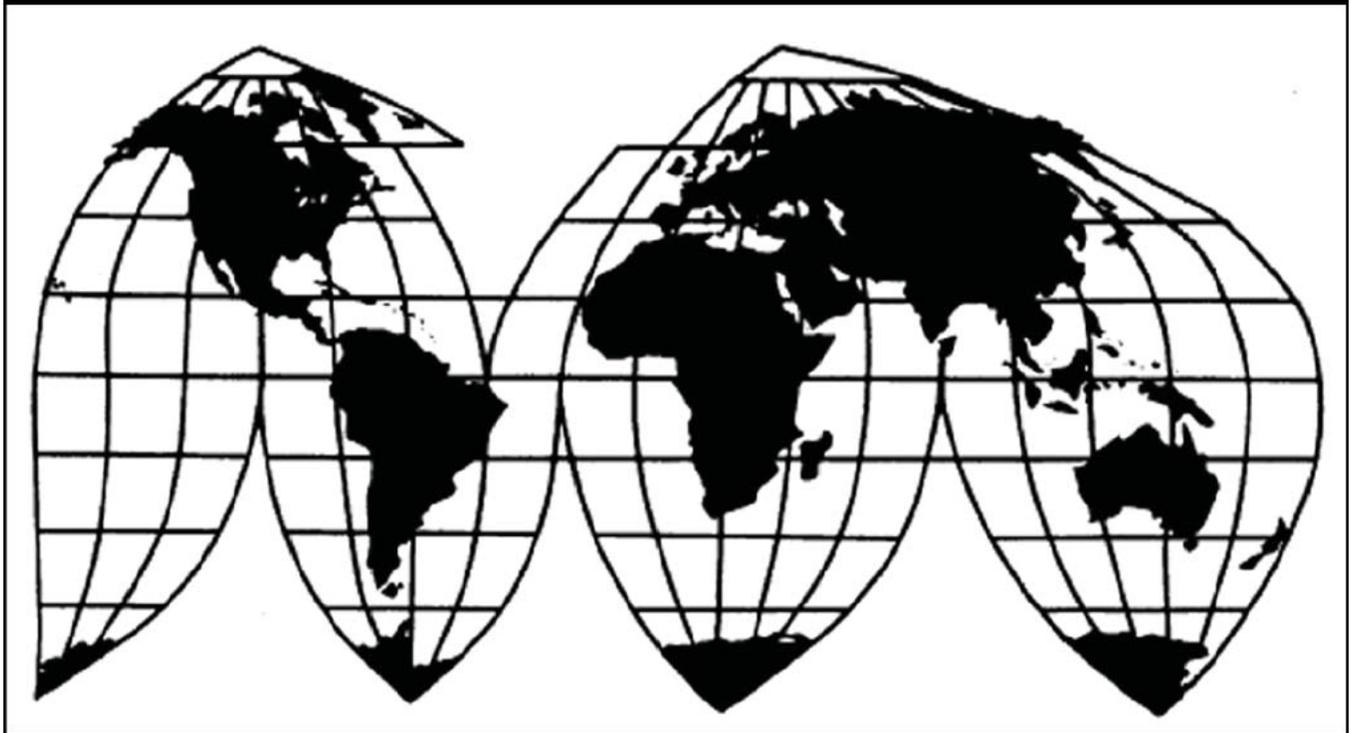
Brass Sheet and Strip from France, Germany, Italy, and Japan

Investigation Nos. 731-TA-313, 314, 317, and 379 (Third Review)

Publication 4313

April 2012

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Investigation Nos. 731-TA-313, 314, 317, and 379 (Third Review)

BRASS SHEET AND STRIP FROM FRANCE, GERMANY, ITALY, AND JAPAN

DETERMINATION

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the antidumping duty orders on brass sheet and strip from France, Germany, Italy, and 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.²

BACKGROUND

The Commission instituted these reviews on March 1, 2011 (76 F.R. 11509) and determined on June 6, 2011 that it would conduct full reviews (76 F.R. 35910, June 20, 2011). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on September 12, 2011 (76 F.R. 58299). The hearing was held in Washington, DC, on January 31, 2012, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² Commissioner Daniel R. Pearson dissenting with respect to the antidumping duty order on France.

VIEWS OF THE COMMISSION

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended (“the Act”), that revocation of the antidumping duty orders on brass sheet and strip (“BSS”) from France, Germany, Italy, and 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.¹

I. BACKGROUND

Original Investigations. In December 1986, the Commission determined that an industry in the United States was materially injured by reason of subsidized imports of BSS from Brazil and by reason of less than fair value (“LTFV”) imports of BSS from Brazil, Canada, and Korea.² In February 1987, the Commission reached affirmative determinations with respect to subsidized imports of BSS from France and LTFV imports of BSS from France, Germany, Italy, and Sweden.³ Commerce issued countervailing duty (“CVD”) orders on Brazil and France in January 1987 and March 1987, respectively. Commerce also issued antidumping duty (“AD”) orders in January 1987 (for Brazil, Canada, and Korea) and in March 1987 (for France, Germany, Italy, and Sweden).⁴ In July 1988, the Commission reached affirmative determinations regarding LTFV imports of BSS from Japan and the Netherlands.⁵ Commerce issued AD orders for both countries in August 1988.⁶

First reviews. In the first five-year reviews, instituted on February 1, 1999, the Commission conducted full reviews of the orders on all countries and in April 2000 found that revocation of the CVD orders on BSS from Brazil and France and the AD orders on BSS from Brazil, Canada, France, Germany, Italy, and 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. The Commission further determined that revocation of the antidumping duty orders on BSS from Korea, the Netherlands, and Sweden would not

¹ Commissioner Daniel R. Pearson determines that revocation of the antidumping duty order on subject imports from France would not be likely to lead to continuation or recurrence of material injury to the domestic BSS industry within a reasonably foreseeable time. He joins all sections of this opinion except section IV.C.1.a., and as noted. See his Separate and Dissenting Views.

² Certain Brass Sheet and Strip from Brazil, Canada and the Republic of Korea, Inv. Nos. 701-TA-269 (Final) and 731-TA-311, 312 and 315 (Final), USITC Pub. 1930 (Dec. 1986).

³ Certain Brass Sheet and Strip from France, Italy, Sweden, and West Germany, Inv. No. 701-TA-270 (Final), 731-TA-313, 314, 316, and 317 (Final), USITC Pub. 1951 (Feb. 1987).

⁴ Confidential Report (“CR”) at I-3, Public Report (“PR”) at I-2.

⁵ Certain Brass Sheet and Strip from Japan and the Netherlands, Inv. Nos. 731-TA-379 and 380 (Final), USITC Pub. 2099 (July 1988).

The Commission’s affirmative determination with respect to BSS from Sweden was affirmed by the Court of International Trade (“CIT”) in Granges Metallverken AB v. United States, 13 CIT 471, 716 F. Supp. 17 (1989). The Commission’s affirmative determination with respect to BSS from Japan was affirmed by the CIT in Cambridge Lee Industries v. United States, 13 CIT 1052, 728 F. Supp. 748 (1989). The Commission’s affirmative determination with respect to BSS from the Netherlands was affirmed in large part by the CIT in Metallverken Nederland B.V. and Outokumpu Metallverken, Inc. v. United States, 13 CIT 1013, 728 F. Supp. 730 (1989), and was remanded with respect to certain aspects of the determination. The Commission’s affirmative remand results were affirmed by the CIT in Metallverken Nederland B.V. and Outokumpu Metallverken, Inc. v. United States, 14 CIT 481, 744 F. Supp. 281 (1990).

⁶ CR at I-3, PR at I-2.

be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁷

Second reviews. In the second reviews, instituted on March 31, 2005, the Commission determined that revocation of the antidumping duty orders on BSS from France, Germany, Italy, and Japan would likely lead to continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time. The Commission further determined that revocation of the countervailing duty order on BSS from Brazil and the AD orders on BSS from Brazil and Canada would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁸

Current Reviews. The Commission instituted the current reviews of the orders on imports of BSS from France, Germany, Italy, and Japan on March 1, 2011.⁹ On June 6, 2011, the Commission decided to conduct full reviews.¹⁰ The Commission received prehearing and posthearing submissions from domestic producers Heyco Metals, Inc., Aurubis Buffalo, Inc., Olin Brass, PMX Industries, Inc., and Revere Copper Products, Inc., along with the International Association of Machinists and Aerospace Workers, the United Auto Workers (Local 2367 and Local 1024), and the United Steelworkers AFL-CIO CLC, unions representing workers producing BSS (collectively “the Domestic Industry”). The Commission also received prehearing and posthearing submissions from respondent German producers Wieland-Werke AG, Schwermetall Halbzeugwerk GmbH & Co. KG, and Messingwerk Plettenberg Herfeld GmbH & Co. KG, and U.S. producer Wieland Metals Inc. (collectively “German respondents”).¹¹ Representatives of the Domestic Industry and the German respondents, as well as importer Tyco Electronics Corp.,¹² appeared at the Commission’s hearing. The Commission did not receive a submission from any other subject producer or importer, nor did any other interested party request to appear at the Commission’s hearing.

The Commission sent questionnaires to 11 producers of BSS, seven of which provided the Commission with information on their BSS operations. These domestic producers are believed to account for the vast majority of U.S. production of the domestic like product in 2010. Of the seven responding firms, three are basic producers of BSS, three are rerollers of BSS, and one is a basic producer and a reroller of BSS.¹³

⁷ Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, Inv. Nos. 701-TA-269 & 270 (Review) and 731-TA-311-317 and 379-380 (Review), USITC Pub. 3290 (Apr. 2000) at 1. There were no appeals of the Commission’s first review determinations.

⁸ Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, and Japan, Inv. Nos. 701-TA-269 and 731-TA-311-314, 317 and 379 (Second Review), USITC Pub. 3842 (Mar. 2006) at 1. The Commission terminated its review of the countervailing duty order on France when Commerce terminated its review and revoked the order. USITC Pub. 3842 at 5 n.14.

German respondents appealed the Commission’s affirmative determinations, which were affirmed by the CIT in Wieland-Werke AG v. United States, 31 CIT 1884, 525 F. Supp.2d 1353 (2007). This decision was affirmed by the Court of Appeals for the Federal Circuit without opinion in Wieland-Werke AG v. United States, 290 Fed. Appx. 348 (2008).

⁹ 76 Fed. Reg. 11509 (Mar. 2, 2011).

¹⁰ Commission Statement on Adequacy, CR/PR at App. A.

¹¹ See also Commission Statement on Adequacy, CR/PR at App. A.

¹² Tyco Electronics Corp. is a member of the TE Connectivity family of companies. Tr. at 151 (Mr. Stockton).

¹³ CR at I-22 - I-23 & Table I-3, PR at I-18 & Table I-3. A basic producer casts, rolls and finishes BSS. A reroller purchases intermediate-to-heavy gauge BSS for additional processing, which includes at least a series of rolling and annealing steps, into finished (final gauge) BSS. CR at I-23 n.60, PR at I-18 n.60.

The Commission also sent importers' questionnaires to 47 firms believed to be importers of subject BSS. Usable questionnaire responses were received from eight companies, representing 4.0 percent of total subject imports from France, Germany, Italy, and Japan in 2010.¹⁴

The Commission sent foreign producer questionnaires to six French firms believed to produce BSS and received only one response, which indicated that *** was not a producer.¹⁵ The Commission sent foreign producer questionnaires to 16 German firms believed to produce BSS and received three usable responses.¹⁶ The Commission sent foreign producer questionnaires to 10 Italian firms believed to produce BSS and received one usable response.¹⁷ The Commission sent foreign producer questionnaires to 22 Japanese firms believed to produce BSS and received one usable response.¹⁸

II. DOMESTIC LIKE PRODUCT

In making its determination under section 751(c) of the Act, the Commission defines the "domestic like product" and the "industry."¹⁹ 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."²⁰ The Commission's practice in five-year reviews is to examine the domestic like product definition from the original investigation and any completed reviews and consider whether the record indicates any reason to revisit the prior findings.²¹

In its expedited five-year review determinations, Commerce defined the subject merchandise as it did in its original investigation and the prior five-year reviews, as follows:

brass sheet and strip, other than leaded and tinned brass sheet and strip, from France, Germany, Italy, and Japan. The chemical composition of the covered product is currently defined in the Copper Development Association ("C.D.A.") 200 Series or the Unified Numbering System ("U.N.S.") C20000. The orders do not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. In physical dimensions, the product covered by the orders has a solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless

¹⁴ CR at I-24, PR at I-20. The 4.0 percent figure is likely understated because the import statistics include nonsubject merchandise. See CR/PR at IV-1 & n.1.

¹⁵ CR at IV-8 & n.9, PR at IV-6 & n.9.

¹⁶ CR at IV-12 & n.34, PR at IV-9 & n.34.

¹⁷ CR at IV-18 & n.43, PR at IV-9 & n.43.

¹⁸ CR at IV-22 & n.47, PR at IV-10 & n.47.

¹⁹ 19 U.S.C. § 1677(4)(A).

²⁰ 19 U.S.C. § 1677(10); see, e.g., Cleo Inc. v. United States, 501 F.3d 1291, 1299 (Fed. Cir. 2007); NEC Corp. v. Department of Commerce, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); 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).

²¹ See, e.g., Internal Combustion Industrial Forklift Trucks From Japan, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); Crawfish Tail Meat From China, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (Jul. 2003); Steel Concrete Reinforcing Bar From Turkey, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

of width. Coiled, wound-on-reels (traverse wound), and cut-to-length products are included.²²

The chief characteristics of CDA 200 series and UNS C20000 series BSS are ease of manufacture because of excellent forming and drawing properties, attractive surface appearance, fair electrical conductivity, good corrosion resistance, and good strength. The generally accepted industry distinction between brass sheet and brass strip is that brass strip is coiled or wound on reels of whatever gauge and width and brass sheet is no longer coiled or wound, but rather has been cut to length.²³

BSS end uses include, but are not limited to, electronics, automotive parts, apparel fasteners, cable wrap, eyelets, jewelry and other ornamentation, building and lock hardware, radiators, transportation equipment, coinage, medical devices, ammunition, telecommunications equipment, electronic terminals, household products, industrial machinery and equipment, stampings and component parts, and miscellaneous industrial applications.²⁴

In the original CVD determinations concerning BSS from Brazil and France and the original AD determinations concerning BSS from Brazil, Canada, France, Germany, Italy, Korea, and Sweden, the Commission found one like product, including both brass material to be rerolled and finished BSS.²⁵ In its original AD determinations concerning BSS from Japan and the Netherlands, the Commission found the like product to be all domestically produced UNS C20000 BSS.²⁶ In the first and second five-year reviews, the Commission left the definition of the domestic like product unchanged from that in the original determinations.²⁷

In these third five-year reviews, the Commission solicited comments from interested parties regarding the appropriate domestic like product and domestic industry.²⁸ Both domestic interested parties and German respondents agreed with the Commission's definitions of the domestic like product and the domestic industry from the original investigations, first reviews and second reviews.^{29 30} Importer TE Connectivity (formerly Tyco Electronics Corp.) took no position on the issue.³¹ No information suggests that the domestic like product definition be revisited. We therefore find a single like product, all UNS C20000 series brass sheet and strip, coextensive with the scope of the subject merchandise as defined by Commerce.

²² 76 Fed. Reg. 39849 (July 7, 2011); 76 Fed. Reg. 59386 (Sept. 26, 2011).

²³ CR at I-18, PR at I-15.

²⁴ CR at I-19, PR at I-15.

²⁵ USITC Pub. 1930 at 9; USITC Pub. 1951 at 10.

²⁶ USITC Pub. 2099 at 10.

²⁷ USITC Pub. 3290 at 7; USITC Pub. 3842 at 7.

²⁸ See 76 Fed. Reg. 11509 (Mar. 2, 2011) (Commission's notice of institution).

²⁹ Response of Domestic Interested Parties to Notice of Institution at 20; Domestic Interested Parties' Prehearing Brief at 4-5.

³⁰ German Respondents' Prehearing Brief at 8.

³¹ Response of TE Connectivity to Notice of Institution at 11. No party requested that the Commission collect data concerning other possible domestic like products in the comments on the Commission's draft questionnaires. CR at I-22, PR at I-18.

III. DOMESTIC INDUSTRY

Section 771(4)(A) of the Act defines the relevant industry as the domestic “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”³² 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.

Given our definition of the domestic like product, we define the domestic industry to include all domestic producers of UNS C20000 series brass sheet and strip, as we did in the original investigations and the first and second reviews.³³ As in the original investigations, we include rerollers as well as basic producers in our definition of the domestic industry.

There were no related party issues in the original investigations. In the first five-year reviews, the Commission found two U.S. firms to be related parties, but found that appropriate circumstances did not exist to exclude PMX, a domestic producer *** percent owned by a Korean producer that supported continuation of all orders except the one concerning Korea, or Outokumpu American Brass, a domestic producer wholly owned by a Finnish company that also owned the only subject Dutch producer and that opposed the order against BSS from the Netherlands.³⁴ Neither of these producers was deemed a related party in the second reviews because the orders on Korea and the Netherlands had been revoked. Wieland Metals, however, was determined to be a related party because it was owned by a German producer and exporter of subject BSS. The Commission determined that appropriate circumstances did not exist to exclude Wieland Metals from the domestic industry.³⁵

The issue arises in these third five-year reviews as to whether appropriate circumstances exist to exclude related parties *** from the domestic industry. *** are related to subject German producers, and *** has imported subject merchandise.

*** is a basic producer whose parent company is ***. Its share of domestic 2010 BSS production was *** percent, and it is the *** responding domestic producer.³⁶ *** imported *** subject imports during the period covered by these reviews.³⁷ It does not appear to be benefitting from its relationship with a subject producer, as its operating income to net sales ratio was *** percent in 2010 and *** percent in interim 2011.³⁸ It also experienced an operating loss during the period of this review (in 2008).³⁹ *** supports continuation of the orders.⁴⁰ Further, no party has argued for its exclusion from

³² 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 apply to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. See 19 U.S.C. § 1677.

³³ USITC Pub. 1930 at 9; USITC Pub. 1951 at 10; USITC Pub. 2099 at 10; USITC Pub. 3290 at 7; USITC Pub. 3842 at 8-9.

³⁴ USITC Pub. 3290 at 7-9.

³⁵ USITC Pub. 3842 at 8-9.

³⁶ CR/PR at Table I-3.

³⁷ See CR/PR at Table I-4.

³⁸ CR/PR at Table III-11. In these reviews, Commissioners Aranoff and Pinkert do not rely on individual company operating income margins in assessing whether particular related parties benefit from importation of subject merchandise. Rather, they have based their determination regarding whether to exclude related parties principally on the ratios of subject imports to domestic shipments and on whether the parties’ primary interests lie in domestic production or importation.

³⁹ Its operating loss was ***. CR/PR at Table III-11.

⁴⁰ CR/PR at Table I-3.

the domestic industry.⁴¹ We conclude that appropriate circumstances do not exist to exclude *** from the domestic industry.

*** is a reroller, whose parent company is ***. Its share of domestic BSS production was *** percent in 2010, making it the *** responding domestic producer.⁴² It imported subject merchandise in 2007 and 2008, and those subject imports represented *** percent of its production in 2007 and *** percent of its production in 2008.⁴³ *** experienced an operating loss in 2008, and its operating income to net sales ratio was the *** at the end of 2010.⁴⁴ *** continuation of the orders.⁴⁵ In light of its *** and the fact that no party has argued for its exclusion from the domestic industry,⁴⁶ along with the ***, we conclude that appropriate circumstances do not exist to exclude *** from the domestic industry.⁴⁷

In light of the foregoing, we define the domestic industry, as we did in the original investigations and the prior five-year reviews, to include all domestic producers of UNS C20000 series BSS.

IV. CUMULATION

A. Legal Standard

With respect to five-year reviews, section 752(a) of the Act provides as follows:

the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.⁴⁸

Cumulation therefore is discretionary in five-year reviews, unlike original investigations, which are governed by section 771(7)(G)(i) of the Act.⁴⁹ The Commission may exercise its discretion to

⁴¹ The domestic industry argues that the exclusion of *** from the domestic industry is not warranted in view of its lack of subject imports during the period of review and the fact that it ***. Domestic Industry's Prehearing Brief at 6 & n.5.

⁴² CR/PR at Table I-3.

⁴³ CR/PR at Table III-8.

⁴⁴ CR/PR at Table III-11.

⁴⁵ CR/PR at Table I-3.

⁴⁶ The domestic industry argues that *** import volumes were so insignificant that appropriate circumstances do not exist to exclude it from the domestic industry. Domestic Industry's Prehearing Brief at 6.

⁴⁷ ***, a U.S. reroller, imported *** pounds of subject BSS from Germany in 2005, but had no other subject imports during the remainder of the period of review. The ratio of its subject imports to production was *** percent in 2005. CR/PR at Table III-8. Its minuscule volume of subject imports indicates that it should not be excluded from the domestic industry.

⁴⁸ 19 U.S.C. § 1675a(a)(7).

⁴⁹ 19 U.S.C. § 1677(7)(G)(i); *see also, e.g., Nucor Corp. v. United States*, 601 F.3d 1291, 1293 (Fed. Cir. 2010) (Commission may reasonably consider likely differing conditions of competition in deciding whether to cumulate subject imports in five-year reviews); *Allegheny Ludlum Corp. v. United States*, 475 F. Supp. 2d 1370, 1378 (Ct. Int'l Trade 2006) (recognizing the wide latitude the Commission has in selecting the types of factors it considers relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews); *Nucor Corp. v.*
(continued...)

cumulate, however, only if the reviews are initiated on the same day, the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market, and imports from each such subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation. Our focus in five-year reviews is not only on present conditions of competition, but also on likely conditions of competition in the reasonably foreseeable future.

B. The Prior Proceedings

In the original investigations, the Commission found a reasonable overlap of competition between and among the domestic like product and imports from each subject country, and therefore considered subject imports from all sources on a cumulated basis.⁵⁰ In the first five-year reviews, the Commission found that revocation of the order with respect to BSS from Sweden would likely have no discernible adverse impact on the domestic industry and, therefore, did not cumulate imports of subject BSS from Sweden with those from any of the other subject countries.⁵¹ The Commission did not find that revocation of the orders with respect to subject imports from the Netherlands, Korea, Brazil, Canada, France, Germany, Italy, and Japan would likely have no discernible adverse impact on the domestic industry.⁵² The Commission found no likely reasonable overlap of competition with respect to subject imports from the Netherlands⁵³ and found that subject imports from Korea would likely face different conditions of competition in the U.S. market than the subject imports from the other countries.⁵⁴ Accordingly, the Commission did not cumulate subject imports from Korea or the Netherlands with the other subject imports, but did cumulate subject imports from Brazil, Canada, France, Germany, Italy, and Japan.⁵⁵

In the second five-year reviews, the Commission cumulated subject imports from France, Germany, Italy, and Japan. It found that revocation of the order with respect to BSS from Canada was likely to have no discernible adverse impact on the domestic industry and did not cumulate subject imports of BSS from Canada with those from any of the other subject countries.⁵⁶ It also found that subject imports from Brazil would likely face different conditions of competition in the U.S. market than subject imports from France, Germany, Italy, and Japan and, therefore, did not cumulate the Brazilian imports with those from the other subject countries.⁵⁷

⁴⁹ (...continued)

United States, 569 F. Supp. 2d 1328, 1337-38 (Ct. Int'l Trade 2008).

⁵⁰ USITC Pub. 1930 at 13; USITC Pub. 1951 at 13; USITC Pub. 2099 at 16.

⁵¹ USITC Pub. 3290 at 11. The sole Swedish producer had closed its Swedish BSS production lines in 1992 and no longer produced (or had the capacity to produce) BSS in Sweden. Id.

⁵² USITC Pub. 3290 at 11.

⁵³ USITC Pub. 3290 at 12-13.

⁵⁴ USITC Pub. 3290 at 13-14.

⁵⁵ USITC Pub. 3290 at 23.

⁵⁶ USITC Pub. 3842 at 11. The lone BSS producer in Canada ceased all production of brass strip, liquidated substantially all of its inventory and net receivables, and began selling all of its production equipment in 2002; by the first quarter of 2004, all of its production equipment had been sold. There was no information in the record to indicate that BSS production in Canada was likely to resume. USITC Pub. 3842 at 10-11.

⁵⁷ USITC Pub. 3842 at 11-17.

C. The Current Reviews

Based on the record, we find that subject imports from each of the four countries would not be likely to have no discernible adverse impact on the domestic industry were the antidumping duty orders revoked.⁵⁸ We also find a likely reasonable overlap of competition among the subject imports and between the subject imports and the domestic like product were the orders revoked. We further find that imports from each of the subject countries are likely to compete in the U.S. market under similar conditions of competition should the orders be revoked.⁵⁹ We therefore exercise our discretion to cumulate subject imports from France, Germany, Italy, and Japan for our likely injury analysis with respect to those subject imports.

1. Likelihood of No Discernible Adverse Impact

The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.⁶⁰ Neither the statute nor the Uruguay Round Agreements Act (“URAA”) Statement of Administrative Action (“SAA”) provides specific guidance on what factors the Commission is to consider in determining that imports “are likely to have no discernible adverse impact” on the domestic industry.⁶¹ With respect to this provision, the Commission generally considers the likely volume of subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked.

Based on the record, we do not find that imports from any of the four subject countries are likely to have no discernible adverse impact on the domestic industry in the event of revocation of the orders.^{62 63}

⁵⁸ Commissioner Pearson does not join this paragraph with respect to France. See his Separate and Dissenting Views.

⁵⁹ As discussed below, Commissioner Pinkert does not join in this finding.

⁶⁰ 19 U.S.C. § 1675a(a)(7).

⁶¹ SAA, H.R. Rep. No. 103-316, vol. I at 887 (1994).

⁶² Commissioner Pearson finds that revocation of the order on subject BSS from France will likely have no discernible adverse impact on the domestic industry. He joins the discussion in this section regarding imports from Germany, Italy, and Japan. See his Separate and Dissenting Views.

⁶³ Chairman Okun and Commissioner Pearson note that, while they consider the same issues discussed in this section in determining whether to exercise their discretion to cumulate the subject imports, their analytical framework begins with whether imports from the subject countries are likely to face similar conditions of competition. For those subject imports which are likely to compete under similar conditions of competition, they next proceed to consider whether there is a likelihood of a reasonable overlap of competition whereby those imports are likely to compete with each other and with the domestic like product. Finally, if based on that analysis they intend to exercise their discretion to cumulate one or more subject countries, they analyze whether they are precluded from cumulating such imports because the imports from one or more subject countries, assessed individually, are likely to have no discernible adverse impact on the domestic industry. See Steel Concrete Reinforcing Bar From Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, and Ukraine, Invs. Nos. 731-TA-873 to 875, 877 to 880, and 882 (Review), USITC Pub. 3933 (Jul. 2007) (Separate and Dissenting Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Regarding Cumulation). Accord Nucor Corp. v. United States, 605 F. Supp.2d 1361, 1372 (Ct. Int’l Trade 2009); Nucor Corp. v. United States, 594 F. Supp.2d 1320, 1345-47 (Ct. Int’l Trade 2008), aff’d, Slip Op. 2009-1234 (Fed.Cir. Apr. 7, 2010).

a. France

As noted above, no producers of subject merchandise in France responded to the Commission's questionnaire. Thus, the information on the record regarding the BSS industry in France is limited. The information available shows that during the period of these reviews, subject BSS imports from France fell from 33,000 pounds in 2005 to 6,000 pounds in 2006 and zero in 2007 and 2008, then rose to 2,000 pounds in 2009 and 62,000 pounds in 2010.⁶⁴ The market share of subject imports from France was less than 0.05 percent in the original investigations and the first two five-year reviews; it was 0 percent during the period of these reviews.⁶⁵ Production, inventory and shipment data are not readily available regarding the industry in France. Industry-wide capacity of French fabricators to manufacture plate, sheet and strip of refined copper and copper alloys, a broader product group that includes BSS, was reported to total *** pounds in 2011.⁶⁶

The German respondents claim that BSS has not been cast or hot-rolled in France since 2009 and that the industry does not produce its own BSS, but rather only rerolls BSS sourced from outside of France. There is evidence in the record, however, that at least one French firm identifies itself as a producer of subject BSS, as well as other information showing that other French firms produce copper alloy products, which could include subject BSS.⁶⁷ Moreover, rerolling of imported BSS, which respondents concede is done in France, constitutes BSS production, as is discussed below.

In the original investigations, with respect to all (subject and nonsubject) brass rolled products in France, French producers' capacity ranged from *** pounds in 1983 to *** pounds in 1985, their production ranged from *** pounds in 1985 to *** pounds in 1984, and their exports to the United States accounted for between *** percent and *** percent of their production from 1983 to 1985.⁶⁸

As in the previous reviews, nothing in the record of these reviews indicates a limitation on the ability of the subject French producers to increase exports to the United States if the order is revoked. There continues to be a French BSS industry that is exporting to the United States, with production capacity that could be used to ship subject merchandise to the U.S. market and a history of shipping a substantial share of its production to this market. The U.S. market is large and relatively open,⁶⁹ making it a likely target for foreign producers with excess capacity. Taking into account other factors discussed below, such as the vulnerability of the domestic industry, the substitutability of BSS from different sources, and the occurrence of underselling in the original investigations,⁷⁰ which we find likely to recur if the order is revoked, we do not find that subject imports from France would likely have no discernible adverse impact on the domestic industry if the order were revoked.

⁶⁴ CR/PR at Table I-1. Note that subject imports are compiled from official Commerce statistics, see id. at source note, and may contain nonsubject merchandise. According to ***. CR/PR at IV-1 n.1.

⁶⁵ CR/PR at Table I-1.

⁶⁶ CR at IV-8 - IV-9, PR at IV-6.

⁶⁷ CR at IV-9- IV-10, PR at IV-7. This fact, along with the fact that the subject imports from France were present during the period of review, undercuts the German respondents' argument that there is no production in France. We also note that the scope of the investigations includes rerolled BSS. See, e.g., 77 Fed. Reg. at 4763.

⁶⁸ USITC Pub. 1951 at A-41, Table 13.

⁶⁹ The domestic industry provided evidence showing that the ad valorem tariff of 1.9 percent that is applied to BSS entering the United States is significantly lower than the tariffs assessed in many other countries. Domestic Industry's Posthearing Brief, Exh. 1 at 4.

⁷⁰ USITC Pub. 1951 at 15-16.

b. Germany

During all years of the period examined in the original investigations, subject German BSS imports accounted for the largest volume of the subject imports from all nine subject countries.⁷¹ The volume of subject imports from Germany has fallen substantially since the orders were issued, when it was 29.4 million pounds in 1987. Since that time, official import statistics, which are broader than subject BSS and may include nonsubject products, show imports from Germany of 5.0 million pounds in 1998 and 2.6 million pounds in 2004. During the current reviews, official statistics show imports from Germany ranging from 2.1 million pounds in 2005 to 5.6 million pounds in 2010.⁷² According to the ***.⁷³

The Commission received usable questionnaire responses from three subject German producers, accounting for an estimated *** percent of subject German BSS production in 2010. Reported subject German capacity and BSS production rose between 2005 and 2010.⁷⁴ Reported capacity utilization likewise increased from *** percent in 2005 to *** percent in 2010, but did so irregularly, as it was *** percent in 2007, *** percent in 2008, *** percent in 2009, and *** percent in 2010. Capacity utilization was lower in interim 2011 (*** percent) than in interim 2010 (*** percent).⁷⁵ Although the German respondents argue that the German industry has no plans to increase capacity and there is virtually no capacity that could be used to produce significant quantities of subject BSS for shipment to the U.S. market,⁷⁶ the record shows the existence of excess capacity.⁷⁷ Moreover, the three German producers that provided their capacity data are not the only German firms that are shipping subject merchandise to the U.S. market.⁷⁸ A ***.⁷⁹

⁷¹ USITC Pub. 2099 at Table 13. Subject imports from Germany totaled 69.5 million pounds in 1984, 48.9 million pounds in 1985, and 44.2 million pounds in 1986. *Id.*

⁷² CR/PR at Table I-1. Note that subject imports are compiled from official Commerce statistics, *see id.* at source note, and may contain nonsubject merchandise.

⁷³ CR/PR at IV-1 n.1.

⁷⁴ Reported subject German capacity rose from *** pounds in 2005 to a period high of *** pounds in 2007, declined to a period low of *** pounds in 2009, and then rose to *** pounds in 2010, a level higher than that at the start of the period. Production capacity was *** pounds in interim 2010 and *** pounds in interim 2011. Reported subject German production increased over the full-year period of these reviews, from *** pounds in 2005 to *** pounds in 2010, and was *** pounds in interim 2010 and *** pounds in interim 2011. CR/PR at Table IV-6.

The German respondents claim that aggregating producer Schwermetall's data with that of the other two responding German producers produces double-counting, as Schwermetall sells a portion of its BSS reroll material to responding German producer Wieland-Werke, which makes finished BSS from it. *See* German Respondents' Prehearing Brief at 44-47. German respondents' data show that, in 2010, Schwermetall sold a significant majority of its reroll material to companies other than Wieland-Werke; these other sales present no double-counting issue. *See* German Respondents' Prehearing Brief, Exh. I. We note that, even if we were to exclude the amount of BSS reroll that Schwermetall supplied to Wieland-Werke (18 million pounds in 2010) from German capacity and production, German Respondents' Prehearing Brief at 46 (Tables 1 and 2), we would make the same findings and reach the same conclusions as we have using the aggregate data.

⁷⁵ CR/PR at Table IV-6. There were no reported inventories during the period. CR/PR at Table IV-6.

⁷⁶ German Respondents' Prehearing Brief at 62-64; German Respondents' Posthearing Brief at 13-15.

⁷⁷ In 2010, German producers reported excess capacity of *** pounds and additional excess capacity to produce reroll of *** pounds. In interim 2011, German producers reported annualized excess capacity of *** pounds and additional excess capacity to produce reroll of *** pounds. *See* CR/PR at Tables E-1 and E-2.

⁷⁸ German respondents argue that rerollers are not important to the Commission's no discernible adverse impact analysis because rerollers get their material from basic producers and the Commission already has production and capacity data from the basic producers in Germany. German Respondents' Prehearing Brief at 44-47. We are

(continued...)

Although German producers' total exports declined over the period of these reviews,⁸⁰ their exports to the United States were more than four times higher in 2010 than in 2005, and were still higher in interim 2011 than in interim 2010.⁸¹ More than one-half of German producers' total shipments in the first two years of the period of these reviews were exports, and exports remained above 40 percent of shipments in each of the following years and interim 2011.⁸² There were no reported inventories during the period of these reviews.⁸³

The German respondents also argue that they have no reason to ship subject BSS to the United States because prices are higher in other established markets and they would have to contend with higher shipping costs and additional ordinary duties in this market.⁸⁴ Given that the volume of subject German imports was far larger at the end of the period of review than the volume of the other subject imports, it

⁷⁸ (...continued)

cognizant, however, that the scope of the orders covers rerolled BSS and that rerollers are just as capable as basic producers of increasing exports of finished BSS to the U.S. if the order is revoked. We also note that German respondents' argument ignores the fact that German rerollers may obtain feedstock from basic producers in other countries, which thus would not be captured in the primary producers' production data on the record. Indeed, one reroller, who did not complete a foreign producer questionnaire, acknowledges that it obtains ***. Email from Barbara Tan to Joanna Lo (Dec. 12, 2011). In this situation, German respondents argue that the finished BSS would not be German BSS, but rather would retain the origin of the country that supplied the reroll material. German Respondents' Prehearing Brief at 43 n.139. In support, they rely on a Customs and Border Protection ("CBP") ruling concerning brass strip from Bulgaria that underwent one cold-rolling pass in Germany, which CBP determined did not substantially transform the strip from Bulgarian origin. See id.; see also Domestic Industry's Posthearing Brief, Exh. 19. Domestic producers point out that CBP rulings are not used for determining whether a product is covered by an antidumping or countervailing duty order, but rather they are used for "marking and normal duty purposes." Domestic Industry's Posthearing Brief, Exh. 1 at 29. Moreover, the CBP ruling is fact-specific and may not apply to other rerollers because the amount of further processing to produce finished BSS is not evident from the record.

⁷⁹ See the ***.

⁸⁰ Reported subject German exports totaled *** pounds in 2005 and *** pounds in 2010. They were *** pounds in interim 2010 and *** pounds in interim 2011. CR/PR at Table IV-6.

⁸¹ Reported exports to the United States increased from *** pounds in 2005 to *** pounds in 2010, and totaled *** pounds in interim 2010 and *** pounds in interim 2011. CR/PR at Table IV-6. We note that subject exports are compiled from Commission questionnaire responses, see id. at source note, which explains the wide disparity between subject imports and subject exports to the United States.

A U.S. purchaser needing more sources of supply indicated that the most likely source for that supply would be Germany. Tr. at 160 (Mr. Stockton). Evidence in the record indicates that Germany is the largest exporter of flat-rolled brass in the world. Tr. at 43, 116 (Mr. Kerwin).

⁸² CR/PR at Table IV-6. Reported exports were *** percent of total shipments in 2005, *** percent in 2006, *** percent in 2007, *** percent in 2008, *** percent in 2009, *** percent in 2010, *** percent in interim 2010, and *** percent in interim 2011. CR/PR at Table IV-6.

⁸³ CR/PR at Table IV-6.

⁸⁴ German Respondents' Prehearing Brief at 62-64; German Respondents' Posthearing Brief at 13-15. German producers provided company data purporting to show that it would be uneconomical for Wieland-Werke or Schwermetall to ship reroll material to the United States for finishing by Wieland Metals. See, e.g., German Respondents' Prehearing Brief at 51- & nn.156-57, Tr. at 13 (Mr. Shor). Domestic producers put forward information rebutting the German parties' contentions, Domestic Industry's Posthearing Brief at 6-7, Exh. 1 at 14-17, & Exhs. 7 and 8, and the German respondents replied to domestic producers' information. German Respondents' Final Comments at 4-6. We observe that, regardless of the extent of any incentive of German producers to ship reroll material to Wieland Metals, Wieland-Werke produces and exports a wide variety of finished BSS products, see Wieland-Werke's Foreign Producer Questionnaire Response, and thus its sales opportunities in the U.S. market would not necessarily be limited to reroll material.

appears that, even assuming higher prices in other export markets, this factor has not been a major deterrent to German exports to the U.S. market. As noted above, *** German companies shipped subject BSS to the U.S. market during the period of review. To assume that *** would not ship significantly increased quantities of subject merchandise to the U.S. market upon revocation of the orders would be speculative.⁸⁵

Given the large size and export orientation of the German producers, the fact that the U.S. market is large and open, and other factors discussed below, such as the vulnerability of the domestic industry, the substitutability of BSS from different sources and underselling in the original investigations,⁸⁶ which we find likely to recur if the order is revoked, we do not find that subject imports from Germany would likely have no discernible adverse impact on the domestic industry if the order were revoked.

c. Italy

Subject BSS imports from Italy have fallen substantially since the period of the original investigations.⁸⁷ The Commission received one usable response to its questionnaires from a subject Italian producer, which estimated that it accounted for *** percent of Italy's production of subject BSS in 2010.⁸⁸ The Italian producer reported capacity to produce BSS of *** pounds in each calendar year of the period of review and *** pounds in both interim periods.⁸⁹ Its reported subject production climbed 47.6 percent between 2005 and 2010,⁹⁰ and reported capacity utilization increased irregularly from *** percent in 2005 to *** percent in 2010, and was *** percent in interim 2010 and *** percent in interim 2011.⁹¹ Its total exports nearly doubled over the period of these reviews. Reported exports to the United States declined from *** pounds in 2005 to *** pounds in 2010, and totaled *** pounds in interim 2010 and *** pounds in interim 2011.⁹²

Nothing in the record of these reviews indicates that there is any limitation on the ability of the subject Italian producers to increase exports to the United States if the order is revoked. Taking into account other factors discussed below, such as the vulnerability of the domestic industry, the substitutability of BSS from different sources and underselling in the original investigations,⁹³ which we find likely to recur if the order is revoked, we do not find that subject imports from Italy would likely have no discernible adverse impact on the domestic industry if the order were revoked.

⁸⁵ German respondents also argue that in the reasonably foreseeable future, imports of subject BSS from Germany are likely to consist of very small volumes of specialty products, rather than the commodity products at issue in these reviews. German Respondents' Prehearing Brief at 59-60. We address this issue in our discussion of the fungibility factor as it pertains to a reasonable overlap of competition, *infra*.

⁸⁶ USITC Pub. 1951 at 15-16.

⁸⁷ Subject BSS imports from Italy declined from 3.1 million pounds in 1987 to 564,000 pounds in 1998 and 182,000 pounds in 2004. During the period of review, they fell further from 196,000 pounds in 2005 to 116,000 pounds in 2006, then rose to 148,000 pounds in 2007 and 151,000 pounds in 2008, before falling to 29,000 pounds in 2009 and 21,000 pounds in 2010. CR/PR at Table I-1. Note that subject imports are compiled from official Commerce statistics, *see id.* at source note, and may contain nonsubject merchandise. According to the ***. CR/PR at IV-1 n.1.

⁸⁸ CR at IV-19, PR at IV-11.

⁸⁹ CR/PR at Table IV-8.

⁹⁰ Reported subject production rose from *** pounds in 2005 to *** pounds in 2010, and was *** pounds in interim 2010 and *** pounds in interim 2011. CR/PR at Table IV-8.

⁹¹ CR/PR at Table IV-8. There were no reported inventories during the period of review. CR/PR at Table IV-8.

⁹² CR/PR at Table IV-8.

⁹³ USITC Pub. 1951 at 15-16.

d. Japan

The volume of subject imports from Japan has fallen substantially since the period of the original investigations.⁹⁴ During these reviews, reported subject BSS Japanese capacity was *** pounds in each calendar year and *** pounds in both interim periods.⁹⁵ Reported production fell over the period,⁹⁶ and reported capacity utilization fell from *** percent in 2005 to *** percent in 2010, and was *** percent in interim 2010 and *** percent in interim 2011.⁹⁷ There were no reported inventories during the period of these reviews.⁹⁸ Reported exports to the United States decreased from *** pounds in 2005 to *** pounds in 2010, and totaled *** pounds in interim 2010 and *** pounds in interim 2011.⁹⁹

The Commission received one usable response from a subject Japanese producer, accounting for an estimated *** percent of Japan's production of BSS in 2010 and *** percent of its exports to the United States in that year.¹⁰⁰ Its total exports¹⁰¹ and exports to the United States both declined over the period of these reviews, as explained above. Its capacity utilization followed the same trend during the six calendar years and was stable during the interim periods.¹⁰²

Nothing in the record of these reviews indicates that there is any limitation on the ability of the subject Japanese producers to increase exports to the United States if the order is revoked. We note that Japanese producers were major suppliers to the U.S. market during the original investigations.¹⁰³ Taking into account other factors discussed below, such as the vulnerability of the domestic industry, the

⁹⁴ Subject imports from Japan fell from 20.0 million pounds in 1987 to 4.9 million pounds in 1998 and 3.2 million pounds in 2004. During the period of review, subject BSS Japanese imports fell from 2.8 million pounds in 2005 to 2.5 million pounds in 2006 and 1.8 million pounds in 2007, rising to 2.1 million pounds in 2008, then declining to 839,000 pounds in 2009 and 398,000 pounds in 2010. CR/PR at Table I-1. Note that subject imports are compiled from official Commerce statistics, see id. at source note, and may contain nonsubject merchandise. According to the ***, CR/PR at IV-1 n.1.

⁹⁵ CR/PR at Table IV-9.

⁹⁶ Reported production fell from *** pounds in 2005 to *** pounds in 2010, and was *** pounds in interim 2010 and interim 2011. CR/PR at Table IV-9.

⁹⁷ CR/PR at Table IV-9.

⁹⁸ CR/PR at Table IV-9.

⁹⁹ CR/PR at Table IV-9. Note that subject exports are compiled from Commission questionnaire responses, see id. at source note, which explains the disparity between subject imports and subject exports to the United States.

¹⁰⁰ There is no record evidence corroborating this producer's claims concerning its share of Japanese production or exports of BSS. If true, it would mean that the entire Japanese industry produced only *** pounds and exported only *** pounds of BSS in 2010. This would represent a severe contraction of the Japanese industry since the period of the original investigation, when Japanese imports into the United States alone were 20.0 million pounds in 1987. CR/PR at Table I-1.

Record evidence suggests that currently there are other significant BSS producers in Japan. For example, a witness from T.E. Connectivity, who indicated that his company is "the largest connector company in the U.S. and the world," testified at the Commission's hearing that primary suppliers of BSS to its facilities located in other countries included Japanese producers Dowa and Kobe. Tr. at 152-53 (Mr. Stockton); *see also* CR/PR at Table IV-11 (International Copper Study Group data listing multiple Japanese producers of copper products, a category that includes BSS). Thus, we conclude that Mitsubishi Shindoh's claims concerning the *** of Japanese production and exports of BSS for which it accounts are not supported by the record.

¹⁰¹ Its total exports fell from *** pounds in 2005 to *** pounds in 2010, and totaled *** pounds in interim 2010 and *** pounds in interim 2011. CR/PR at Table IV-9.

¹⁰² CR/PR at Table IV-9.

¹⁰³ As stated above, subject Japanese imports totaled 20.0 million pounds in 1987, the last year of the original period of investigation. CR/PR at Table I-1.

substitutability of BSS from different sources and underselling in the original investigations,¹⁰⁴ which we find likely to recur if the order is revoked, we do not find that subject imports from Japan would likely have no discernible adverse impact on the domestic industry if the order were revoked.

2. Likely Reasonable Overlap of Competition

As stated above, the Commission found in the original investigations and the two prior five-year reviews that there was a reasonable overlap or likely reasonable overlap of competition with respect to the subject imports and the domestic like product. The record in these reviews provides no reason to depart from these findings.

With respect to fungibility, most responding U.S. producers and importers reported that the domestic and subject imported products were always interchangeable. Most purchasers reported that the U.S. and subject imported products were always or frequently interchangeable for all subject countries.¹⁰⁵ The German respondents argue that they produce a highly customized product that is produced to order and is not fungible with the domestic product.¹⁰⁶ German producers, however, manufacture a full range of subject merchandise, and any specialized products represent only a small share of total German production.¹⁰⁷ Thus, we find that the German product is interchangeable with other subject imports and with the domestic like product.

Although analysis of the current and prospective overlap of geographic markets is limited by the low current volumes of subject BSS imports, U.S. producers and importers of product from Germany reported selling BSS to all regions in the contiguous United States.¹⁰⁸ Nothing in the record indicates that subject imports from all subject countries would not again be marketed nationwide if the orders were revoked, as they were during the original period examined.

With regard to channels of distribution, during the period of these reviews approximately 30 to 40 percent of U.S. producers' commercial sales were to distributors, and 60 to 70 percent were to end users. Import sales by channel of distribution were available only for German and nonsubject imports, and showed that most sales were to end users.¹⁰⁹ Nothing in the record, however, indicates that subject imports from all countries would not again be marketed through similar channels of distribution if the order were revoked, as they were during the original period examined.

Subject imports from all four countries were present in the U.S. market during the period of review. Subject imports from France were present in four of the six years of the period, while subject imports from the remaining countries were present in all years.¹¹⁰

In view of the foregoing, we find that the record indicates that the subject imports from France, Germany, Italy, and Japan are fungible with each other and with the domestic like product; that there will likely be a reasonable overlap of geographic markets and channels of distribution upon revocation of the orders; and that, should the orders be revoked, the subject imports would be simultaneously present in the U.S. market.

¹⁰⁴ USITC Pub. 1951 at 15-16.

¹⁰⁵ CR at II-22, PR at II-16.

¹⁰⁶ See, e.g., German Respondents' Prehearing Brief at 11-12.

¹⁰⁷ See Domestic Industry's Prehearing Brief, Exh. 7; German Respondents' Prehearing Brief at 11; Tr. at 172 (Mr. Traa), 178 (Mr. Gortges). Further, in 2010, only *** percent of *** BSS sales in Germany consisted of specialty products, *i.e.*, products produced with special tolerances for which a premium was charged. German Respondents' Posthearing Brief at Q-39.

¹⁰⁸ CR/PR at II-1.

¹⁰⁹ CR/PR at II-1.

¹¹⁰ CR/PR at Table I-1.

3. Other Factors¹¹¹

As indicated above, the limited record in these five-year reviews does not indicate any significant change since imposition of the orders in the conditions of competition under which imports from France, Germany, Italy, and Japan would likely compete in the U.S. market if the orders were revoked.

The German respondents argue that the likely conditions of competition for subject German imports differ from those for subject imports from France, Italy and Japan based on the ownership of two U.S. producers by two German firms, who in turn jointly own a third German firm. They point out that ***. German respondents argue that these relationships make it unlikely that subject imports from Germany would enter the U.S. market in such volumes as to cause injury to the domestic industry in the event of revocation, because doing so would also injure the U.S. investments made by the German companies.¹¹²

We have considered these relationships, but find them insufficient to warrant our declining to exercise our discretion to cumulate subject imports from Germany with other subject imports. U.S. reroller Wieland Metals existed during the last five-year reviews.¹¹³ Nevertheless, the Commission found no indication that this relationship could or would limit imports from Germany if the order were revoked.¹¹⁴ The current change from the prior reviews is that Aurubis Buffalo (formerly Luvata) was recently acquired by German company Aurubis AG. However, ***.¹¹⁵ It appears that the business plans for the Aurubis companies are currently evolving.¹¹⁶ The record does not show that *** would limit the quantity or type of *** subject imports, or that *** has the ability to structure subject imports in such a manner that would not adversely affect the majority of the domestic industry that is not related to German producers. The president of Aurubis Buffalo also testified that, at this time, Aurubis Buffalo's management does not have veto power over imports of BSS from its affiliate in Germany and that German producer Aurubis Stolberg and Aurubis Buffalo are permitted to operate as independent profit-maximizing entities.¹¹⁷ In fact, *** supports continuation of the order on Germany.¹¹⁸ In view of the representations of Aurubis Buffalo executives, and in the absence of a track record of how the corporation acts as a unit, which does not exist here given how recently Aurubis AG acquired Aurubis Buffalo, we are not prepared to conclude that ownership of Aurubis Buffalo by German producer Aurubis AG supports a

¹¹¹ Commissioner Pinkert does not join in this section. He notes that, where he does not find that imports of the subject merchandise would be likely to have no discernible adverse impact on the domestic industry in the event of revocation and finds that such imports would be likely to compete with each other and with the domestic like product in the U.S. market, he cumulates them unless there is a condition or propensity – not merely a trend – that is likely to persist for a reasonably foreseeable time and that significantly limits competition such that cumulation is not warranted. Based on the record in these reviews, he finds no such condition or propensity, noting that the arguments presented by the German respondents on “other factors” are not addressed to the framework he applies and appear material within that framework only as to whether imports of the subject merchandise from Germany would be likely to have no discernible adverse impact on the domestic industry in the event of revocation.

¹¹² German Respondents' Prehearing Brief at 39-42, 55; German Respondents' Posthearing Brief at 1-2; see CR/PR at Table I-3.

¹¹³ We also note that subject merchandise imported from Germany by *** alone, which has no affiliation with a German producer, comprised *** percent of BSS imports in 2010. CR/PR at Table I-4.

¹¹⁴ USITC Pub. 3842 at 15-16.

¹¹⁵ CR/PR at Table III-1.

¹¹⁶ Tr. at 94 (Mr. Heusner).

¹¹⁷ Domestic Industry's Posthearing Brief, Exh. 6 (Declaration of Raymond Mercer) at 2.

¹¹⁸ CR/PR at Table I-3. *** opposes continuation of the order on Germany, while *** takes no position on the matter. CR/PR at Table I-3.

finding that subject imports from Germany would be likely to compete in the U.S. market under different conditions of competition than the other subject imports.¹¹⁹

4. Summary of Cumulation Conclusions

As discussed above, we do not find that subject imports from France, Germany, Italy, and Japan would be likely to have no discernible adverse impact on the domestic industry upon revocation of the orders. We also find a likely reasonable overlap of competition among these subject imports and the domestic like product if the orders were revoked. Thus, we exercise our discretion to cumulate subject imports from France, Germany, Italy, and Japan in making our determinations in these reviews.¹²⁰

V. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING DUTY ORDERS ARE REVOKED

A. Legal Standards

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping duty order unless (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping and/or countervailing duty order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”¹²¹ The Statement of Administrative Action (“SAA”) states that “under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”¹²² Thus, the likelihood standard is prospective in nature.¹²³ The CIT has found that “likely,” as used in the five-year review provisions of the Tariff Act, means “probable,” and the Commission applies that standard in five-year reviews.^{124 125}

¹¹⁹ Commissioner Pearson notes that the argument that he should decline to exercise his discretion to cumulate imports from Germany with other subject imports based on the ownership by German firms of certain BSS facilities in the United States is, in principle, a compelling one. In these reviews, however, this argument is undermined by (1) the lack of participation in the reviews by *** and (2) the support of the continuation of the order on Germany by ***. Moreover, as Aurubis’ ownership of the plant in Buffalo ***, it is not yet possible to observe the actual behavior in the marketplace of the newly expanded multinational firm. Thus, there currently is considerable uncertainty as to the effect of future actions by Aurubis AG on the U.S. BSS market.

¹²⁰ Commissioner Pearson does not exercise his discretion to cumulate subject imports from France with those from the remaining three subject countries. See his Separate and Dissenting Views.

¹²¹ 19 U.S.C. § 1675a(a).

¹²² SAA at 883-84. The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” Id. at 883.

¹²³ While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

¹²⁴ See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)”), aff’d mem., 140 Fed. Appx. 268 (Fed. Cir. 2005); Nippon Steel Corp. v. United States, 26 CIT 1416, 1419 (2002) (same); Usinor Industeel, S.A. v.

(continued...)

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”¹²⁶ According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis in original investigations.”¹²⁷

Although the standard in a five-year review is not the same as the standard applied in an original antidumping duty investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effects, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”¹²⁸ 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, whether the industry is vulnerable to material injury if the order were revoked, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).¹²⁹ 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.¹³⁰

B. Conditions of Competition

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”¹³¹

1. The Prior Proceedings

In the original investigations involving Brazil, Canada, Korea, France, Germany, Italy, and Sweden, the Commission described the demand for C20000 series BSS as greater in 1984 than at any

¹²⁴ (...continued)

United States, 26 CIT 1402, 1404 nn.3, 6 (2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); Usinor v. United States, 26 CIT 767, 794 (2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

¹²⁵ For a complete statement of Chairman Okun’s interpretation of the likely standard, see Additional Views of Vice Chairman Deanna Tanner Okun Concerning the “Likely” Standard in Certain Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe From Argentina, Brazil, Germany, and Italy, Invs. Nos. 701-TA-362 (Review) and 731-TA-707 to 710 (Review) (Remand), USITC Pub. 3754 (Feb. 2005).

¹²⁶ 19 U.S.C. § 1675a(a)(5).

¹²⁷ 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.

¹²⁸ 19 U.S.C. § 1675a(a)(1).

¹²⁹ 19 U.S.C. § 1675a(a)(1). In the first five-year review of the order on Germany, Commerce’s dumping margin for Wieland-Werke reflected a finding of duty absorption by Commerce. CR at I-4 & n.17, PR at I-3 & n.17. There have been no subsequent findings of duty absorption.

¹³⁰ 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

¹³¹ 19 U.S.C. § 1675a(a)(4).

other time during the period examined. Almost all of the key indicators for the industry showed significant declines in 1985 and interim 1986.¹³² By the time of the final phase Japan and Netherlands investigations, some of the data regarding the industry's performance showed substantial improvement in 1987 and in interim 1988.¹³³

In the first five-year reviews, the Commission found that the U.S. industry had consolidated somewhat since the original investigations, with eight producers supplying the domestic market in lieu of the nine that supplied it at the time of the original investigations. Nonetheless, industry capacity had increased since the original investigations. The industry's market share had also increased, and nonsubject imports held a larger share of the market than subject imports, although nonsubject imports' share was not markedly higher than during the original investigations. The Commission noted the various ways in which BSS was produced and sold, including tolling. The Commission also found that the end-use markets had undergone minor changes since the original investigations and that substitute products had displaced BSS in certain applications.¹³⁴

In the second five-year reviews, the Commission explained that BSS was used in a wide variety of downstream products. It found that apparent U.S. consumption had decreased irregularly over the period of review due to the movement of U.S. manufacturing to lower cost countries, the high price of copper, and the manufacturing recession in 2001-03.¹³⁵ The Commission also found that U.S. producers' share of the contracting U.S. market had declined irregularly over the period and that subject imports' share had remained small. Nonsubject imports' market share had increased over the period, although it was slightly lower in the second interim period than in the first. The Commission noted that U.S. basic producers shipped *** of their BSS to end users, *** to distributors, and *** to rollers during the period of review. Subject importers shipped *** of their BSS to distributors, and importers of nonsubject merchandise shipped *** of their BSS to end users during most of the period.¹³⁶

The Commission also found in the second five-year reviews that there had been numerous structural changes in the domestic industry since the original investigations. It noted the importance of raw material and energy costs in the total cost of producing BSS. It found that price was an important factor in purchasing decisions and that there was a high degree of substitution between domestic and subject BSS. In addition, producers, importers and purchasers found BSS from all subject sources to be always or frequently interchangeable.¹³⁷

2. The Current Reviews

Demand. U.S. demand for BSS depends on the demand for U.S.-produced downstream products. Reported uses include electrical terminals, automotive stamped parts, appliance parts, controls components, electrical connectors, locksets, decorative plumbing accessories, and ordnance. Six of seven responding producers, all seven responding importers, and seven of eight responding purchasers reported no changes in end uses over the period of these reviews, and nearly all firms anticipated no future changes in end uses. One firm noted, however, that products are being made smaller in an effort to use less material.¹³⁸

¹³² USITC Pub. 1930 at 10; USITC Pub. 1951 at 11.

¹³³ USITC Pub. 2099 at 11.

¹³⁴ USITC Pub. 3290 at 17-18.

¹³⁵ USITC Pub. 3842 at 19-20.

¹³⁶ USITC Pub. 3842 at 19-20.

¹³⁷ USITC Pub. 3842 at 20-21.

¹³⁸ CR at II-7, PR at II-5.

In these reviews, apparent U.S. consumption, as measured by quantity, declined irregularly over the period. It climbed from 424.9 million pounds in 2005 to 435.2 million pounds in 2006 (the period high) before falling to 389.0 million pounds in 2007. It further declined due to the economic downturn, to 367.5 million pounds in 2008 and 338.8 million pounds in 2009 (the period low). Apparent U.S. consumption then rose to 400.1 million pounds in 2010, but was lower in interim 2011, at 282.2 million pounds than in interim 2010, at 310.8 million pounds.¹³⁹ Firms indicated that demand for BSS generally tracks overall trends in manufacturing, income and population, as well as economic cycles.¹⁴⁰

Five of seven responding U.S. producers reported that U.S. demand has decreased since 2005, as did three of five responding importers, one of two responding foreign producers, and five of seven responding purchasers.¹⁴¹ Reasons cited for declining demand include purchasers moving their manufacturing operations outside the United States (including original equipment manufacturers moving component parts manufacturing to China), increased substitution of non-metal materials for brass, and the impact of the recession on the U.S. automotive, construction and appliance markets. Most responding producers and importers reported that it will take years for the BSS market to recover from the severe recession, although auto demand has partially recovered. Although most responding U.S. producers anticipate no change in U.S. demand, an equal number of responding importers anticipate an increase, fluctuation, or no change in demand, and an equal number of responding foreign producers anticipate a decrease or fluctuation in demand. Most responding purchasers anticipate a decrease in demand.¹⁴²

Supply. The U.S. market is supplied by domestically produced BSS, as well as BSS from subject and nonsubject sources. During the period of these reviews, U.S. producers' market share rose irregularly from 85.6 percent in 2005 to 91.8 percent in 2010, and was 92.6 percent in interim 2010 and 90.9 percent in interim 2011.¹⁴³ Subject import market share remained small throughout the period, fluctuating from 1.2 percent in 2005 to 1.5 percent in 2010, and was 1.4 percent in interim 2010 and 2.6 percent in interim 2011.¹⁴⁴ Nonsubject import market share fell over the period from 13.2 percent in 2005 to 6.6 percent in 2010, and was 5.9 percent in interim 2010 and 6.5 percent in interim 2011.¹⁴⁵

¹³⁹ CR/PR at Tables I-1, C-1.

¹⁴⁰ CR at II-7, II-9, PR at II-6.

¹⁴¹ CR/PR at Table II-4.

¹⁴² CR/PR at Table II-4, CR at II-8, PR at II-7.

¹⁴³ CR/PR at Table C-1.

¹⁴⁴ CR/PR at Table C-1. As noted above, our market share data are based on official import statistics, which may contain products other than BSS. The *** of imports from the cumulated countries. CR/PR at IV-1 n.1. This quantity would represent a market share of 0.1% in 2010. See CR/PR at Table I-1.

¹⁴⁵ CR/PR at Table C-1. Principal nonsubject import sources include Brazil, India, Mexico, the Netherlands, Poland, and Switzerland. CR/PR at Table IV-2. The domestic industry indicated that the decrease in nonsubject import market share was due in large part to the shutdown of a plant in Poland, a major source of nonsubject imports, and not because the U.S. market had become less attractive, as argued by German respondents. Tr. at 175-76 (Mr. Traa); see also CR/PR at Table IV-2 (imports from Poland declined from 1.4 million pounds in 2008 to 0 pounds in 2009, and such imports did not resume until interim 2011, when they totaled 42,000 pounds). The domestic industry also explained that there was a decline in imports from ***. Domestic Industry's Posthearing Brief, Exh. 3. Nonsubject imports from India also fell significantly over the period, from 2.8 million pounds in 2005 to 445,000 pounds in 2010. They totaled 445,000 pounds in interim 2010 and 3,000 pounds in interim 2011. CR/PR at Table IV-2.

The BSS industry is comprised of both basic producers and rerollers.¹⁴⁶ Upon completion of production, the finished BSS is shipped to end users or distributors.¹⁴⁷

Since the last five-year reviews, the domestic industry has continued to restructure.¹⁴⁸ ¹⁴⁹ Thus, at the end of 2010, there were seven domestic producers of BSS, consisting of three basic producers, three rerollers and one firm that was both a basic producer and a reroller.¹⁵⁰

In the U.S. market, the majority of BSS is sold either on a spot basis or a short-term contract basis. Many of the “contracts” are actually “pricing agreements” that do not contain binding quantities and allow purchasers to seek alternate suppliers if lower-priced product becomes available.¹⁵¹

Raw Material Prices and Other Costs. Raw material costs are a major factor in the production of BSS. Changes in the prices of brass scrap, copper, zinc, and other alloys, which are the principal raw materials used in the production of brass, have caused large changes in the price of brass since January 2005. The price of BSS also depends on the extent of processing, *i.e.* the extent of cold reduction (thinner materials cost more per ton), the surface finish, and any slitting to a narrower width.¹⁵² Purchasers may buy BSS on a tolled or non-tolled basis. Price quotes for non-tolled BSS typically include a metal price, a fabrication price, and surcharges. The copper and zinc prices used in the metal price are set based on prices from commodity futures exchanges, including the COMEX and the LME.¹⁵³ Prices of copper and zinc may be set either when the BSS is ordered or when the BSS is shipped. Although producers set the fabrication price, surcharges are imposed to reflect other costs. For example, as the price of copper has increased, some BSS producers have added a surcharge to cover inventory carrying costs.¹⁵⁴ Price is an important factor in purchasing decisions.¹⁵⁵

Energy costs are an important factor in the cost of fabrication. Available data indicate that the average industrial price of electricity generally increased from January 2005 to October 2011. Natural gas prices spiked during late 2005 and mid-2008, declined to a period low in September 2009, and have since increased but leveled off at prices below those in 2005.¹⁵⁶ Energy surcharges are based on natural gas and electricity prices, fuel surcharges are typically based on diesel prices, and the capital surcharge is based on the Federal Funds Target Rate.¹⁵⁷

Substitutability. As was found in the original investigations and the prior reviews, the record in these reviews shows that BSS produced in the United States, subject countries, and nonsubject countries

¹⁴⁶ See CR/PR at Table I-3.

¹⁴⁷ CR/PR at II-1.

¹⁴⁸ The domestic industry’s capacity has remained stable, however, at 579 million pounds throughout the period of these reviews. CR/PR at Table I-1.

¹⁴⁹ In March 2005, reroller ThyssenKrupp ***. In June 2005, Outokumpu American Brass Co., ***. In July 2006, basic producer Olin Brass ***. In March 2007, Olin Brass ***. In April 2007, ThyssenKrupp ***. In November 2007, Olin Brass ***. In May 2008, ThyssenKrupp ***. In October 2008, basic producer Scott Brass ***. In November 2008, Scott Brass’ ***. In March 2009, Scott Brass ***. In September 2011, Luvata Buffalo ***. In October 2011, GBC ***. CR/PR at Table III-1.

¹⁵⁰ CR at I-22 - I-23, PR at I-18 - I-19; CR/PR at Table I-3.

¹⁵¹ CR at V-11, PR at V-8; Domestic Industry’s Prehearing Brief at 44.

¹⁵² CR/PR at V-1.

¹⁵³ CR/PR at V-1. The “COMEX” is the Commodities Exchange, Inc. of the New York Mercantile Exchange and the “LME” is the London Metal Exchange. CR/PR at V-1 nn. 1-2.

¹⁵⁴ CR/PR at V-1.

¹⁵⁵ CR/PR at Table II-5.

¹⁵⁶ CR at V-8, PR at V-6.

¹⁵⁷ CR at V-9, PR at V-6.

substitute for one another to a moderate-to-high degree.¹⁵⁸ Most responding domestic producers and importers reported that the domestic product, subject imports and nonsubject imports were always interchangeable. Most purchasers reported that U.S. and subject imported products, and subject and nonsubject imported products, were always or frequently interchangeable.¹⁵⁹ In view of the importance of price in purchasing decisions and the substitutability of the products, the market for subject BSS is price competitive.¹⁶⁰

Other Conditions. Toll production/sales are common in this industry because some uses create large amounts of scrap, such as those in which products are punched from BSS. In 2010, toll shipments accounted for *** percent of total U.S. shipments. In toll production, customers – the owners of the scrap – send brass scrap back to BSS producers for reuse in BSS production, for which the customers pay a fee. Respondents report that rerollers also maintain toll relationships with basic producers because when BSS is rerolled there is a yield loss.¹⁶¹ Respondents argue that importers are excluded from toll arrangements with U.S. purchasers because the time and cost of shipping scrap overseas would be prohibitive. They claim that purchasers with scrap for tolling will always be better off tolling than selling scrap, as scrap will always sell for less than the metal exchange value, but using brass for toll purposes maintains the entire metal exchange value.¹⁶² Domestic producers contend, however, that there is nothing to prevent purchasers from buying copper and zinc overseas for toll production with foreign producers. They also report that a number of toll purchasers ***.¹⁶³

Based on the record of these reviews, we find that current conditions of competition in the U.S. BSS market are not likely to change significantly in the reasonably foreseeable future. Accordingly, in these reviews, we find that current conditions of competition provide us with a reasonable basis on which to assess the likely effects of revocation of the orders in the reasonably foreseeable future.

C. Likely Volume of Subject Imports¹⁶⁴

In evaluating the likely volume of imports of subject merchandise if the antidumping and/or countervailing duty orders are revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.¹⁶⁵ 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

¹⁵⁸ CR at II-12, II-26, PR at II-9, II-19.

¹⁵⁹ CR/PR at Table II-9.

¹⁶⁰ See, e.g., CR/PR at Tables II-5, II-6; Tr. at 142 (Mr. Hartquist), 155 (Mr. Stockton).

¹⁶¹ CR at III-8, V-1, PR at III-5, V-1; German Respondents’ Prehearing Brief at 15-16, 20 n.48.

¹⁶² Tr. at 261-62 (Messrs. Schuler and Shor).

¹⁶³ CR/PR at V-2; Tr. at 66-68 (Messrs. Bobish and Werner).

¹⁶⁴ Commissioner Pearson does not join this section of the opinion with respect to France. He notes, however, that because his determination concerning subject imports from France necessarily implies that the likely volume of imports from France will be zero in the event of revocation of the order, he concurs in the majority’s conclusions regarding the likely volume of subject imports from the cumulated subject countries. See his Separate and Dissenting Views.

¹⁶⁵ 19 U.S.C. § 1675a(a)(2).

foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.¹⁶⁶

1. The Prior Proceedings

In the original investigations, the Commission found that subject import volumes fluctuated throughout the periods examined, but were significant.¹⁶⁷ In the first five-year reviews, the Commission found that subject import volumes were much smaller than in the original investigations. Because the record did not indicate any changes in the conditions of competition with respect to these imports, the Commission concluded that the orders were primarily responsible for the reduction in exports of BSS from the subject countries to the United States. The Commission further found that the record indicated there was significant unused capacity in the subject countries and that there was no information indicating any likely limitations on the subject countries' resumption of significant export shipments to the United States if the orders were revoked. Thus, producers in the subject countries would have the ability and motivation to increase exports to the United States in the event of revocation.¹⁶⁸

In the second five-year reviews, the Commission found the volume of subject imports to be much smaller than in the original investigations. It found that the subject industries possessed substantial capacity and excess capacity to produce BSS and were export oriented. It observed that, despite some recent declines in consumption, the U.S. market remained a large and attractive one without significant structural constraints on subject producers' ability to reenter the U.S. market in the event of revocation. The evidence of prices in the United States relative to other global markets was mixed, but the Commission found that subject producers had some incentive to produce and export more of their product to the United States in order to utilize their available capacity more fully. Thus, the Commission determined that, if the orders were revoked, the subject producers would have the ability and motivation to increase exports to the United States.¹⁶⁹

2. The Current Reviews

Subject import volumes are currently small, both absolutely and relative to apparent U.S. consumption. Cumulated subject imports from France, Germany, Italy, and Japan fluctuated over the period, increasing slightly from 5.1 million pounds in 2005 to 6.1 million pounds in 2010. They totaled 4.4 million pounds in interim 2010 and 7.6 million pounds in interim 2011.¹⁷⁰ Subject imports comprised 1.2 percent of apparent U.S. consumption in 2005, 1.5 percent in 2010, 1.4 percent in interim 2010 and 2.6 percent in interim 2011.¹⁷¹ Although this volume is equivalent to only a small percentage of the volume of cumulated subject imports that were present in the U.S. market at the time of the original investigations, we find that a significant volume of subject BSS imports is likely if the orders are revoked.

¹⁶⁶ 19 U.S.C. § 1675a(a)(2)(A-D).

¹⁶⁷ USITC Pub. 1930 at 14-15; USITC Pub. 1951 at 13-14; USITC Pub. 2099 at 17-18. We note that the original investigations and first and second reviews each involved a different number of other, then-subject countries whose imports were cumulated with the imports of the four countries still under order.

¹⁶⁸ USITC Pub. 3290 at 23.

¹⁶⁹ USITC Pub. 3290 at 23.

¹⁷⁰ CR/PR at Table IV-1.

¹⁷¹ CR/PR at Table C-1. As noted above, our market share data are based on official import statistics, which may contain products other than BSS. The *** of imports from the cumulated countries. CR/PR at IV-1 n.1. This quantity would represent a market share of 0.1% in 2010. See CR/PR at Table I-1.

The industries in the subject countries have substantial capacity to produce the subject merchandise. Industry-wide capacity of French fabricators to manufacture plate, sheet and strip of refined copper and copper alloys was reported to total *** pounds in 2011.¹⁷² Reported German producers' capacity to produce BSS increased from *** pounds in 2005 to *** pounds in 2010, and was *** pounds in interim 2010 and *** pounds in interim 2011.¹⁷³ Reported Italian producers' capacity was *** pounds throughout 2005-10, and *** pounds in both interim periods.¹⁷⁴ Reported Japanese producers' capacity to produce subject BSS was *** pounds throughout the six calendar years and *** pounds in both interim periods.¹⁷⁵ Even without considering any French capacity, or the capacity of the numerous producers identified by Commission staff that failed to respond to the Commission's questionnaire,¹⁷⁶ the combined capacity to produce subject BSS in Germany, Italy, and Japan totaled *** pounds in 2010, or *** percent of total apparent U.S. consumption in that year.

The amount of unused capacity in the cumulated subject countries is significant. Reported capacity utilization in Germany fluctuated from *** percent in 2005 to *** percent in 2010, and was *** percent in interim 2010 and *** percent in interim 2011.¹⁷⁷ Reported capacity utilization in Italy fluctuated from *** percent in 2005 to *** percent in 2010, and was *** percent in interim 2010 and *** percent in interim 2011.¹⁷⁸ Reported capacity utilization in Japan also fluctuated during the period, from *** percent in 2005 to *** percent in 2010. It was *** percent in interim 2010 and *** percent in interim 2011.¹⁷⁹ In the absence of current data from producers in France, we rely upon the available information to find that they possess substantial excess capacity with which to increase production for export.¹⁸⁰

The BSS industries in the cumulated subject countries are export oriented.¹⁸¹ Reported German exports accounted for *** percent of shipments in 2010,¹⁸² while reported Japanese exports accounted for *** percent of shipments in that year.¹⁸³ Reported Italian exports accounted for *** percent of shipments in 2010.¹⁸⁴ Each of the cumulated subject countries maintained a market presence in the United States

¹⁷² CR at IV-8 - IV-9, PR at IV-6.

¹⁷³ CR/PR at Table IV-6.

¹⁷⁴ CR/PR at Table IV-8.

¹⁷⁵ CR/PR at Table IV-9.

¹⁷⁶ See CR at IV-12 & n.34, IV-22 & n.47, PR at IV-9 & n.34, IV-10 & n.47.

¹⁷⁷ CR/PR at Table IV-6.

¹⁷⁸ CR/PR at Table IV-8.

¹⁷⁹ CR/PR at Table IV-9. In the original investigations, capacity utilization data for subject BSS produced in France were not available. Capacity utilization for all copper alloys produced in France was 70.7 percent in 1985. INV-K-009 (Feb. 2, 1987), at Table 13 n.3.

¹⁸⁰ In the last five-year reviews, no French producer responded to the Commission's questionnaires. Relying upon the information in the record of those reviews, as well as information in the original investigations and the first five-year reviews, the Commission found that the data indicated substantial BSS capacity and production in France. USITC Pub. 3842 at 11.

¹⁸¹ We note that Germany and Italy export worldwide, not just to their customers in Europe. In 2010, *** percent of reported German producers' exports were to Asia and *** percent were to markets other than the United States, European Union or Asia. CR/PR at Table IV-6. Also in that year, *** percent of reported Italian producers' exports were to Asia and *** percent were to other markets. CR/PR at Table IV-8.

¹⁸² CR/PR at Table IV-6.

¹⁸³ CR/PR at Table IV-9.

¹⁸⁴ CR/PR at Table IV-8.

during the period of review, and each country, with the exception of France, exported subject BSS to the United States during each year of the period.¹⁸⁵

The U.S. market remains a large and attractive one for subject BSS, despite some decline in consumption over the period of these reviews. Industrialized countries account for most of the BSS demand in the world.¹⁸⁶ Although U.S. apparent consumption is below the peak levels experienced prior to the recession, it is still substantial. Indeed, the domestic industry contends that the U.S. market is the second largest BSS consuming market in the world.¹⁸⁷ During the period examined in the original investigations, which is the most recent period in which the subject imports were not constrained by the discipline of an AD or CVD order, subject countries directed substantial quantities of subject imports to the U.S. market. As in the last reviews, there is no evidence in the record of any significant structural constraints on subject producers' ability to reenter the U.S. market in significant numbers in the event of revocation.¹⁸⁸ Indeed, producers from each of the subject countries continued to maintain some, albeit reduced, presence in the U.S. market during the period of these reviews. The fact that a significant amount of BSS from nonsubject countries has penetrated the U.S. market is further proof of the ease with which foreign producers can enter the market.¹⁸⁹ We again find that, upon revocation of the orders, the subject producers have an incentive to produce and export more of their product to the United States in order to utilize more fully their available capacity.^{190 191}

As indicated above, the current volume of cumulated subject imports is small; this appears to be in substantial part a function of the orders. Based on our volume findings in the original investigations and the first and second reviews, the evidence concerning exports of BSS from the cumulated subject countries, the continued presence of subject BSS in the United States even under the discipline of the orders, which indicates continued interest in the U.S. market, and the evidence regarding the production

¹⁸⁵ CR/PR at Table I-1.

¹⁸⁶ CR at IV-27, PR at IV-12.

¹⁸⁷ Domestic Industry's Posthearing Brief, Exh. 1 at 4.

¹⁸⁸ See USITC Pub. 3842 at 23.

¹⁸⁹ Nonsubject BSS imports are imported under the same statistical reporting numbers as the subject product. See CR at I-13 n.29, PR at I-10 n.29. That imports from the Netherlands have not been subject to an AD order since 2000, imports of BSS from Brazil have not been subject to a CVD or an AD order since 2006, and the Netherlands and Brazil are now two of the principal nonsubject sources of BSS, see CR/PR at Table IV-2, underscores our finding.

¹⁹⁰ We note that inventories are not as important in this industry as in some others, as BSS is typically made to order. German Respondents' Prehearing Brief at 76. U.S. importers' inventories of BSS from Germany ranged from *** pounds in 2005 to *** pounds in 2010, and totaled *** pounds in interim 2010 and *** pounds in interim 2011. The only subject imports that U.S. importers reported holding in inventory were from Germany. Reporting German producers' end-of-period inventories totaled *** pounds throughout the period of these reviews, CR/PR at Table IV-6, as did reporting Italian producers' end-of-period inventories, CR/PR at Table IV-8, and reporting Japanese producers' end-of-period inventories. CR/PR at Table IV-9.

¹⁹¹ The extent to which the potential for product shifting may be present in these reviews is unclear. All three responding German producers and the responding Japanese producer stated that they have produced *** on the same equipment and machinery used in the production of C20000 series BSS. CR at IV-16, IV-25, PR at IV-10, IV-12. The responding Italian producer reported that it ***. CR at IV-19, PR at IV-11. It is technically possible to switch between brass and other non-zinc copper alloys, but no mill that casts slabs does so because of the direct expenses and opportunity costs arising from the downtime required to remove zinc from the furnace lining. Although, as indicated above, the responding German producers have produced nonsubject merchandise on the same equipment and machinery used to produce subject BSS, Wieland-Werke and Schwermetall have dedicated casting furnaces for brass and do not switch to other copper alloy compositions. These companies state that it is easier to switch between alloys during the rolling stage than the casting stage of manufacture. Tr. at 210-12 (Messrs. Shor and Traa); German Respondents' Posthearing Brief at Q-30.

and capacity of subject producers in France, Germany, Italy, and Japan, we find that the volume of subject BSS imports from the cumulated subject countries, both in absolute terms and relative to production and consumption in the United States, would likely be significant in the reasonably foreseeable future absent the restraining effect of the orders.

D. Likely Price Effects of Subject Imports¹⁹²

When examining the likely price effects of subject imports if the orders under review were to be revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.¹⁹³

1. The Prior Proceedings

In the original investigations, the Commission found widespread underselling by the subject imports from France, Germany, Italy, and Japan. In the original investigation of imports from France, the data showed underselling in all but one of the 35 direct quarterly price comparisons. In the original investigation of imports from Germany, there was underselling in 43 of 58 direct quarterly price comparisons. In the original investigation of imports from Italy, there was underselling in all 30 quarterly price comparisons.¹⁹⁴ In the original investigation of imports from Japan, price comparisons showed underselling in 74 of 100 instances.¹⁹⁵ The Commission found that such underselling led to price suppression and/or depression.¹⁹⁶

In the first five-year reviews, the Commission noted that because the U.S. BSS market is price competitive, if the orders were revoked the imports would need to be priced aggressively to regain market share. The Commission found that the subject imports would likely significantly undersell the domestic

¹⁹² Commissioner Pearson does not join this section of the opinion with respect to France. He notes, however, that because his determination concerning subject imports from France necessarily implies that the likely volume of imports from France will be zero in the event of revocation of the order, he concurs in the majority's conclusions regarding the likely increased volume of subject imports from the cumulated subject countries and the resulting likely significant depressing or suppressing effects on the prices of the domestic like product. See his Separate and Dissenting Views.

¹⁹³ See 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.

¹⁹⁴ USITC Pub. 1951 at 15-16.

¹⁹⁵ USITC Pub. 2099 at 19. In the original investigations, margins of underselling ranged from 0.9 percent to 30.6 percent for product from France; 0.9 to 21.6 percent for product from Germany; 0.8 to 34.9 percent for product from Italy; and 1.6 percent to 40.5 percent for product from Japan. CR at V-26 n.30, PR at V-15 n.30; INV-L-051 (July 18, 1988), at Table 20.

¹⁹⁶ USITC Pub. 1930 at 15-16; USITC Pub. 1951 at 16-17; USITC Pub. 2099 at 19-20. We note that the original investigations involved imports from other, then-subject countries whose pricing data were considered along with the data of the four countries still under order.

like product and would likely have significant depressing and suppressing effects on the prices of the domestic like product.¹⁹⁷ The Commission made a similar finding in the second five-year reviews.¹⁹⁸

2. The Current Reviews

The pricing data obtained in these reviews are limited in light of the significantly reduced volume of subject imports since the orders were issued and the low response rate to the Commission's questionnaires with respect to the cumulated subject imports.¹⁹⁹ As explained above, price remains an important consideration in purchasing decisions. We have also found that the U.S. product and the subject imports are moderately to highly substitutable and that the market is price competitive. Given the subject producers' demonstrated interest in the U.S. market in the original investigations and the continued presence of subject imports in the market after imposition of the orders, as well as the subject producers' willingness to undersell the domestic product in the original investigations in order to gain market share, the subject producers are likely to find the U.S. market attractive upon revocation of the orders.

U.S. prices tended to follow the same pattern as copper prices. They increased irregularly until the second quarter of 2008, then declined sharply and reached their lowest level since 2005 in the first quarter of 2009.²⁰⁰ The currently high average prices in the U.S. market reflect high raw material costs, as discussed above, and would not likely be sustainable were the orders to be revoked. If the orders were revoked, the importers would find it necessary to price their products aggressively in order to regain market share.

The limited pricing data in these reviews show overselling with respect to the products for which comparisons are available.²⁰¹ Because the available comparisons occurred under the discipline of the orders, and are related to only two products and to small quantities of the imports from Germany, we do not consider these comparisons particularly probative of the likely pricing of the cumulated subject imports if the orders were revoked.²⁰²

We have found that the volume of cumulated subject imports is likely to increase significantly in the reasonably foreseeable future if the orders are revoked. At these volumes, and at low prices, the subject imports would be likely to have a significant depressing or suppressing effect on the prices of the domestic like product.

Accordingly, we find that, upon revocation of the orders, cumulated subject imports would likely significantly undersell the domestic like product and have a significant depressing or suppressing effect on prices within a reasonably foreseeable time.

¹⁹⁷ USITC Pub. 3290 at 24.

¹⁹⁸ USITC Pub. 3842 at 25.

¹⁹⁹ Of the five pricing products for which the Commission sought data in these reviews, it obtained usable comparison data for two products, both of which included data from the domestic and German producers only. CR at V-12, PR at V-9.

²⁰⁰ CR at V-26, PR at V-15.

²⁰¹ See CR/PR at Tables V-1, V-2 (comparisons of U.S. product and subject BSS from Germany).

²⁰² See also ***.

E. Likely Impact of Subject Imports^{203 204}

In analyzing the likely impact of imports of subject merchandise if the orders under review were to be 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 the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.²⁰⁵ 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. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders at issue and whether the industry is vulnerable to material injury if the orders were revoked.²⁰⁶

1. The Prior Proceedings

In the original investigations, the Commission found that the increasing volumes of imports that were underselling the domestic like product caused declines in the domestic industry's market share and material injury to the domestic industry.²⁰⁷ In the first five-year reviews, the Commission found that, based on the facts available, these circumstances would recur and the domestic industry's financial performance would be adversely affected if the orders were revoked. That is, the significantly increased volumes of cumulated subject imports and the accompanying adverse price effects would have a

²⁰³ Commissioner Pearson does not join this section of the opinion with respect to France. He notes, however, that because his determination concerning subject imports from France necessarily implies that the likely volume of imports from France will be zero in the event of revocation of the order, he concurs in the majority's conclusions regarding the likely increased volume of subject imports from the cumulated subject countries and the resulting likely significant depressing or suppressing effects on the prices of the domestic like product, as well as the likely further deterioration in the financial performance of the domestic industry, likely losses in output, and likely losses in market share. See his Separate and Dissenting Views.

²⁰⁴ Under the statute, "the Commission may consider the magnitude of the margin of dumping" in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the "magnitude of the margin of dumping" to be used by the Commission in five-year reviews as "the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title." 19 U.S.C. § 1677(35)(C)(iv); see also SAA at 887. Commerce expedited its determination in the five-year reviews of the antidumping duty orders on BSS from France, Italy, and Japan and conducted a full review of the antidumping duty order on BSS from Germany. It determined in all reviews that revocation would likely lead to continuation or recurrence of dumping at the following margins: France – 42.24 percent for Trefimetaux S.A. and all others; Germany – 3.81 percent for Wieland-Werke AG and 7.30 percent for all others; Italy – 5.44 percent for La Metalli Industriale, SpA and 5.44 percent for all others; and Japan – 57.98 percent for Nippon Mining Co., Ltd., 13.30 percent for Sambo Copper Alloy Co., Ltd., 57.98 percent for Mitsubishi Shindoh Co., Ltd. and for Kobe Steel, Ltd., and 45.72 percent for all others. CR/PR at Table I-2; 76 Fed. Reg. 39849 (July 7, 2011); 77 Fed. Reg. 4762 (Jan. 31, 2012).

²⁰⁵ 19 U.S.C. § 1675a(a)(4).

²⁰⁶ 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.

²⁰⁷ USITC Pub. 1930 at 15-16; 1951 at 16-17; 2099 at 19-21.

significant negative impact on the production, shipments, sales, market share, and revenue of the domestic industry. It also found that the domestic industry was not in a vulnerable condition.²⁰⁸

In the second five-year reviews, the Commission found that the domestic industry was vulnerable to injury by increased subject imports due to the decline in the industry's capacity, production, market share, operating income, unit operating income, and employment. The Commission concluded that revocation of the orders would lead to significant increases in the volume of cumulated subject imports, which would undersell the domestic like product and significantly depress or suppress U.S. prices and have a significant negative impact on the production, shipments, sales, market share, and revenues of the domestic industry. These factors would adversely affect the industry's profitability and ability to raise capital and maintain necessary capital investments.²⁰⁹

2. The Current Reviews

The domestic producers' market share increased over the period of these reviews. These increases were at the expense of nonsubject imports, as subject import market share was already quite low. Domestic producers' market share rose from 85.6 percent in 2005 to 91.8 percent in 2010, and was 92.6 percent in interim 2010 and 90.9 percent in interim 2011.²¹⁰

Industry capacity for basic producers was stable throughout the period of these reviews, remaining at 579 million pounds in each of the calendar years and at 440.8 million pounds in each of the interim periods. For rerollers, capacity fell slightly from 64.2 million pounds to 62.5 million pounds between 2005 and 2010, and was 47.2 million pounds in interim 2010 and 47.1 million pounds in interim 2011.²¹¹ Production by basic producers fluctuated during the period as well, rising irregularly from 363.8 million pounds in 2005 to 368.3 million pounds in 2010; it was 283.8 million pounds in interim 2010 and 257.2 million pounds in interim 2011. For rerollers, production ranged from 34.4 million pounds in 2005 to 30.9 million pounds in 2010, and was 24.7 million pounds in interim 2010 and 23.6 million pounds in interim 2011.²¹² Likewise, capacity utilization for basic producers fluctuated throughout the period, rising slightly from 62.8 percent in 2005 to 63.6 percent in 2010, and was 64.4 percent in interim 2010 and 58.3 percent in interim 2011. For rerollers, capacity utilization fell from 53.5 percent in 2005 to 49.5 percent in 2010, and was 52.4 percent in interim 2010 and 50.1 percent interim 2011.²¹³

²⁰⁸ USITC Pub. 3290 at 24.

²⁰⁹ USITC Pub. 3842 at 26-28.

²¹⁰ CR/PR at Table C-1. Nonsubject import market share fell from 13.2 percent in 2005 to 6.6 percent in 2010, and was 5.9 percent in interim 2010 and 6.5 percent in interim 2011. CR/PR at Table C-1. As noted above, several major sources of nonsubject imports discontinued shipments during the period.

²¹¹ CR/PR at Table III-3.

²¹² CR/PR at Table III-3.

²¹³ CR/PR at Table III-3. German respondents argue that the domestic industry has substantial toll, internal consumption, and related firm shipments that insulate it from injury by subject imports. German Respondents' Prehearing Brief at 20-21. Such substantial shipments existed during the period of the original investigations, but did not prevent the industry from being materially injured by the subject imports. In the original investigations, the second reviews and these reviews, a substantial share of domestic shipments consisted of non-toll commercial shipments. In addition, the share of domestic shipments that consisted of toll shipments declined from the original period of investigation to the current period of review. Compare INV-J-186 (Dec. 9, 1986) at Table 4 (toll shipments accounted for *** percent of domestic shipments in 1985) with CR/PR at Table III-6 (toll shipments accounted for 16.2 percent of domestic shipments in 2010). Moreover, due to the price competitive nature of the market, competitive additional supply of BSS would influence prices for toll, internal consumption, and related firm transfers.

The domestic industry's operating income rose in the calendar years of the period from \$22.2 million in 2005 to \$24.4 million in 2010, but was \$19.1 million in interim 2010 compared with \$13.1 million in interim 2011.²¹⁴ Unit operating income was \$0.05 per pound in 2005, rising irregularly to \$0.06 per pound in 2010, and then was \$0.06 in interim 2010 compared with \$0.04 in interim 2011. The industry experienced an operating loss of \$22.4 million and \$0.06 per pound in 2008. Net sales fluctuated, increasing irregularly from 409.5 million pounds in 2005 to 414.4 million pounds in 2010, and totaled 323.7 million pounds in interim 2010 and 297.4 million pounds in interim 2011. The operating income margin was low and decreased over the period of review, from 3.5 percent in 2005 to 2.2 percent in 2010, was negative 2.3 percent in 2008, and was 2.3 percent in interim 2010 and 1.4 percent in interim 2011.²¹⁵

The domestic industry's employment-related indicators exhibited downward trends as well. The total number of production and related workers fell from 1,051 in 2005 to 1,004 in 2010, and was 996 in interim 2010 and 958 in interim 2011. Their total hours worked fell from 2.0 million in 2005 to 1.9 million in 2010, and remained steady at 1.5 million in interim 2010 and interim 2011. Total wages paid rose from \$55.2 million in 2005 to \$61.0 million in 2010, but were \$45.9 million in interim 2010 and \$44.4 million in interim 2011.²¹⁶

Due to large increases in the price of copper, the industry's cost of goods sold ("COGS") increased considerably over the period of review, from \$601.3 million in 2005 to \$1.1 billion in 2010 – an increase of 78.4 percent – and was \$799.4 million in interim 2010 and \$925.5 million in interim 2011 – an increase of 15.8 percent. COGS relative to net sales climbed from 94.2 percent in 2005 to 96.2 percent in 2010, and was 96.1 percent in interim 2010 and 97.1 percent in interim 2011.²¹⁷ Selling, general and administrative expenses fluctuated over the period, rising irregularly from \$14.7 million in 2005 to \$17.6 million in 2010, and were \$19.1 million in interim 2010 and \$13.1 million in interim 2011.²¹⁸ Capital expenditures rose irregularly from \$10.0 million in 2005 to \$11.2 million in 2010, and totaled \$4.5 million in interim 2010 and \$10.2 million in interim 2011.²¹⁹ Research and development expenses fell from \$*** in 2005 to \$*** in 2010, and totaled \$*** in interim 2010 and \$*** in interim 2011.²²⁰

In light of the foregoing, we conclude that the domestic industry is currently vulnerable to injury by increased subject imports.²²¹ Several factors highlight the weakened condition of the industry during a period of declining demand. As discussed above, the industry's production, capacity utilization, shipments, net sales, production and related workers, and wages all declined at the end of the period of these reviews. The industry's financial picture was relatively weak throughout the period, and was

²¹⁴ German respondents argue that the industry's operating income is understated because Olin Brass failed to report an estimated \$*** gain for 2010. German Respondents' Final Comments at 13-14. As the domestic interested parties pointed out in their posthearing brief, ***. See Domestic Industry's Posthearing Brief, Exh. 1 at 60; German Respondents' Prehearing Brief, Exh. B at 74 (GBC's S-1 Registration Statement). In any event, ***.

²¹⁵ CR/PR at Table III-10. We recognize that some of the decline in operating margin over the period is due to the sharp run-up in raw material costs, which is reflected in higher unit sales values. See *id.* A further measure of the industry's financial performance is the "conversion margin," which represents the difference between negotiated prices and the cost of primary raw materials. The conversion margin was 18.0 percent in 2005, rising irregularly to 22.5 percent in 2010, and was 21.6 percent in interim 2010 and in interim 2011. The conversion margin was negative 31.3 percent in 2008. CR/PR at Table III-12.

²¹⁶ CR/PR at Table III-9.

²¹⁷ CR/PR at Table III-10.

²¹⁸ CR/PR at Table III-10.

²¹⁹ CR/PR at Table III-13.

²²⁰ CR/PR at Table III-13.

²²¹ Commissioner Pearson does not find the domestic industry to be vulnerable.

notably worse in interim 2011 as compared to interim 2010, and the industry suffered an operating loss in one year.²²² Although there may be short-term fluctuations, going forward it is likely that the U.S. industry will continue to operate in an environment of generally declining domestic demand.

Should the orders under review be revoked, we have found that the volume of subject imports would likely increase significantly. We have further found that these additional volumes of subject imports would be priced in a manner that would likely undersell the domestic like product and have significant depressing or suppressing effects on prices for the domestic like product. Consequently, to compete with the likely additional volumes of subject imports, the domestic industry would need to cut prices or restrain price increases. The resulting loss of revenues would likely cause further deterioration in the financial performance of the vulnerable domestic industry. Further deterioration in financial performance would result in likely losses of employment and, ultimately, likely losses in output and market share.

We have also considered the role of nonsubject imports in the U.S. market. As previously discussed, nonsubject imports supplied a greater percentage of the market than did subject imports by the end of the period of these reviews. This is in large part a function of previously subject imports becoming nonsubject imports after revocation of the CVD and AD orders.²²³ At the time of the second five-year reviews, subject imports from the Netherlands were no longer subject to the discipline of the AD order. Instead, they had become the largest nonsubject source of subject BSS.²²⁴ The Commission nevertheless found that a significant portion of the expected increase in subject imports would likely be at the expense of the domestic industry, given the likelihood of subject import underselling and adverse price effects.²²⁵ We make the same finding here.

CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty order on subject BSS from France, Germany, Italy, and 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.

²²² Compare USITC Pub. 3842 at Table C-1 with CR/PR at Table C-1.

²²³ The Netherlands was the largest source of nonsubject imports in 2010, totaling 12.5 million pounds, and Brazil was the third largest source in that year, totaling 4.1 million pounds. CR/PR at Table IV-2.

²²⁴ USITC Pub. 3842 at Table IV-5. Nonsubject imports from the Netherlands totaled 21.2 million pounds in 2004 (they totaled only 435,000 pounds in 1999). *Id.* As stated above, the orders on subject imports from Brazil were removed in 2006.

²²⁵ USITC Pub. 3842 at 28. We note that the Commission did not find that the impact of increased volumes of subject imports would likely fall on nonsubject imports. Rather, it found that subject imports, nonsubject imports and the domestic like product were comparable and competed with each other. See USITC Pub. 3842 at 14-16. We have made a similar finding in these reviews, as discussed regarding the reasonable overlap of competition.

**SEPARATE AND DISSENTING VIEWS OF COMMISSIONER DANIEL R. PEARSON
REGARDING BRASS SHEET AND STRIP FROM FRANCE**

Section 751(d)(2) of the Tariff Act of 1930, as amended (“the Act”), requires that the U.S. Department of Commerce (“Commerce”) revoke a countervailing duty or an antidumping duty order in a five-year (“sunset”) review unless Commerce determines that dumping or a countervailable subsidy would be likely to continue or recur and the U.S. International Trade Commission (“Commission”) determines that material injury to a U.S. industry would be likely to continue or recur within a reasonably foreseeable time.¹ I concur with my colleagues in determining that, based on the record in these five-year reviews, material injury is likely to continue or recur within a reasonably foreseeable time if the antidumping orders on brass sheet and strip (“BSS”) from Germany, Italy, and Japan are revoked. Unlike the majority, however, I determine that material injury to the domestic BSS industry is not likely to continue or recur within a reasonably foreseeable time if the antidumping order on BSS from France is revoked. In making my negative determination in the review involving France I do not cumulate imports from France with imports from other subject sources because I conclude that, in the event the antidumping order on imports of BSS from France is revoked, imports of BSS from France are likely to have no discernible adverse impact on the domestic industry producing BSS.

I. REVOCATION OF THE ORDER WITH RESPECT TO BRASS SHEET AND STRIP FROM FRANCE WILL HAVE NO DISCERNIBLE ADVERSE IMPACT ON THE DOMESTIC INDUSTRY

A. Legal Standard

In five-year reviews, unlike in original investigations, as long as (1) the reviews in question were initiated on the same day and (2) the imports both compete with each other and with domestic like products in the U.S. market, cumulation is within the discretion of the Commission. In addition, section 751(a)(7) of the Tariff Act of 1930 provides, in relevant part, that:

The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.²

This clause effectively prevents the Commission from exercising its discretion to cumulate in situations where it determines that subject imports will not have any discernible effect on the condition of the industry after the order in question is revoked. In performing my analysis with respect to subject imports from France, I have considered the following: (1) the likelihood of significant production of the subject merchandise in the foreign country; (2) the degree of competition between the imported product and the domestic like product; and (3) pre-order and likely post-order subject import volumes.³

¹ 19 U.S.C. § 1675(d)(2).

² 19 U.S.C. §1675a(a)(7).

³ Cf. Titanium Sponge from Japan, Kazakhstan, Russia, and Ukraine, Inv. Nos. 751-TA-17-20, USITC Pub. 3119 at 7 (August 1998), aff’d, Titanium Metals Corp. v. United States, 155 F. Supp. 2d 750 (Ct. Int’l Trade 2001); Solid Urea from Armenia, Belarus, Estonia, Lithuania, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan, Inv. Nos. 731-TA-339 and 340-A-1 (Review), USITC Pub. 3248 (October 1999) at 9 (discussion of Armenia); Nucor Corp. v. United States, 594 F. Supp. 2d 1320, 1333 (Ct. Int’l Trade 2008); Cheflene Corp. v. United States, 170 F.

(continued...)

B. Analysis

I find that, in the event the antidumping duty order on subject imports from France is revoked, such imports will have no discernible adverse impact on the domestic industry producing BSS. In considering the three factors outlined above, my analysis both begins and ends with the first factor – i.e., the likelihood of significant production of the subject merchandise in the foreign country. This is because the record of these reviews indicates that there is no known current production of BSS in France, nor is there likely to be any production of BSS in France in the reasonably foreseeable future.

In the review involving France, the Commission sent questionnaires to the six French companies that were identified by the domestic industry as producing BSS in France and/or exporting BSS from France.⁴ The Commission received a response from one firm indicating that it was not a producer of BSS, and received no responses from the five remaining firms. German respondents indicated, however, that all casting and hot-rolling of BSS had ceased in France as of 2009, and that the only remaining production of BSS in France was limited to re-rolling by the French firm Griset of re-roll material obtained from German [producer Schwermetal].⁵ The question, therefore, is whether the re-rolling of German BSS by French producer Griset constitutes production of BSS in France, or whether the final product remains a product of Germany.

The Department of Commerce has not to date ruled on whether the re-rolling performed by Griset on material sourced from Germany results in a product that is covered under the antidumping order on France, or whether the product remains covered under the antidumping order on Germany. In 2006, however, U.S. Customs and Border Protection (CBP) ruled that BSS that is cast and hot-rolled in one country, and then is subjected to further cold-rolling (“re-rolling”) in a second country, does not become a product of that second country for customs and marking purposes.⁶ Put another way, the cold-rolling process in the second country did not substantially transform the product. Domestic parties assert that this particular Customs ruling is of little value in resolving this issue because Customs rulings are not binding on Commerce for purposes of determining whether merchandise falls within the scope of an order.⁷ They also point out that the CBP ruling cited by German respondents involved a minimal degree of re-rolling and there is no indication that this is true of Griset’s operations in France.

Although domestic parties may be correct in their assertion concerning Commerce’s policy, the fact is that Commerce has not weighed in on the issue of whether Griset’s re-rolling operations result in products that are subject to the French or German orders (likely because Griset did not export any BSS to the United States during the period of review), and absent such a ruling by Commerce, the CBP ruling is the best evidence we have concerning how the Griset product would be treated by the U.S. government, were it to be exported to the United States. As to domestic parties’ second point, domestic parties presented no evidence to show that Griset’s re-rolling operation, unlike the operation examined in the CBP ruling, effected a substantial transformation of the product so that it would be considered a product of France rather than Germany. Accordingly, although I am mindful that the CBP ruling is fact-specific, and the record does not contain detailed information concerning the exact nature of Griset’s re-rolling operation in France, I find it significant that the only indication we have from an agency of the U.S. government as to how Griset’s product would be treated upon importation into the United States suggests

³ (...continued)

Supp. 2d 1320, 1331 (Ct. Int’l Trade 2001).

⁴ CR at IV-8, PR at IV-6.

⁵ CR at IV-9, PR at IV-7; German Respondents’ Prehearing Brief at 4; German Respondents’ Posthearing Brief at Q-1.

⁶ Domestic Industry’s Posthearing Brief, Exh. 19.

⁷ *Id.* at Exh. 1, p. 30, n.9.

that it would be treated as a product of Germany, not of France. In light of these facts, I conclude that there is likely no current production of BSS in France.

Further, the record does not indicate that there is likely to be BSS production in France in the reasonably foreseeable future. First, during this review Commission staff sought information about the French BSS industry from public sources. Those sources indicated that, during the period of review, there was no production in France of copper and alloy plate, sheet, and strip (the category that includes BSS).⁸ Indeed, production of copper alloys was limited to production in 2007 of copper alloy semi-manufactured forms. Second, the record indicates that there are currently only two producers in France that have the capacity to produce BSS: (1) Griset, and (2) KME France SAS (formerly Trefimetaux). KME, a pan-European firm, centralized all its BSS production in Italy in 2001 and since 2006 no longer produces BSS in France. Griset, as noted above, ceased producing BSS in France in 2009.⁹ Third, to the extent that there remains capacity in France for KME France SAS or Griset, or any other firms, to produce copper alloys other than BSS, the record suggests that it would not be possible to switch production from those alloys to BSS without incurring substantial costs and downtime.¹⁰

Accordingly, I conclude that, in the event the antidumping order on imports of BSS from France is revoked, imports of BSS from France are likely to have no discernible adverse impact on the domestic industry producing BSS.

II. REVOCATION OF THE ORDER ON SUBJECT IMPORTS FROM FRANCE IS NOT LIKELY TO LEAD TO CONTINUATION OR RECURRENCE OF MATERIAL INJURY WITHIN A REASONABLY FORESEEABLE TIME

In the original investigations, the volume of imports from France increased from 8.0 million pounds in 1983, to 23.0 million pounds in 1984, and then declined to 11.8 million pounds in 1985. After the petitions were filed, imports from France were 8.3 million pounds in 1986 and only 47,000 pounds in 1987.¹¹ In the current period of review, the volume of subject imports from France was 33,000 pounds in 2005, 6,000 pounds in 2006, 2,000 pounds in 2009, 62,000 pounds in January-September 2010, and 400 pounds in January-September 2011. There were no imports from France in 2007 and 2008.¹²

In my finding of no discernible adverse impact finding concerning France, I determined that the record in this review suggests that there is no current production of BSS in France, and I find no indication that producers in France would resume production of BSS within a reasonably foreseeable time in the event of revocation. Consistent with those findings, I find that the volume of subject imports from France would not likely be significant within a reasonably foreseeable time if the order were revoked. I also find, therefore, that significant adverse price effects would not be likely and that subject imports from France would not be likely to have a significant adverse impact on the domestic industry's output, sales, market share, profits, or return on investment, if the order were revoked. Therefore, I find that revocation of the antidumping duty order on France is not likely to lead to the continuation or recurrence of material injury to the U.S. BSS industry within a reasonably foreseeable time if the order were revoked.

⁸ CR at IV-8, n.10, PR at IV-6, n.10.

⁹ CR at IV-9-10, PR at IV-7.

¹⁰ CR at IV-10, n.25; PR at IV-7, n.25.

¹¹ Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, and Japan, Inv. Nos. 701-TA-269 and 731-TA-311-314, 317 and 379 (Second Review), USITC Pub. 3842 (Mar. 2006) at Table I-1.

¹² CR/PR at table C-1. As noted by the majority, these import data are based on official Commerce statistics, which include merchandise (copper alloys other than BSS) not subject to the order.

PART I: INTRODUCTION AND OVERVIEW

BACKGROUND

On March 1, 2011, the U.S. International Trade Commission (“Commission” or “USITC”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”),¹ that it had instituted reviews to determine whether revocation of the antidumping duty order on brass sheet and strip (“BSS”) from France, Germany, Italy, and Japan would likely lead to the continuation or recurrence of material injury to a domestic industry.^{2 3} On June 6, 2011, the Commission determined that it would conduct full reviews pursuant to section 751(c)(5) of the Act.⁴ The tabulation on the following page presents information relating to the schedule of this proceeding:⁵

Effective date	Action
March 6, 1987	Commerce’s antidumping duty orders on BSS from France, Germany, and Italy (52 FR 6995)
August 12, 1988	Commerce’s antidumping duty order on BSS from Japan (53 FR 30454)
March 1, 2011	Commission’s institution of five-year reviews (76 FR 11509)
March 1, 2011	Commerce’s initiation of five-year reviews (76 FR 11202)
June 6, 2011	Commission’s determinations to conduct full five-year reviews (76 FR 35910)
July 7, 2011	Commerce’s final results of expedited five-year review of the antidumping duty order on BSS from France, Italy, and Japan (76 FR 39849)
September 12, 2011	Commission’s scheduling of the reviews (76 FR 58299)
January 31, 2012	Commerce’s final results of full five-year review of the antidumping duty order on BSS from Germany (77 FR 4762)
January 31, 2012	Commission’s hearing
March 21, 2012	Commission’s vote
April 13, 2012	Commission’s determination transmitted to Commerce

¹ 19 U.S.C. 1675(c).

² *Brass Sheet and Strip From France, Germany, Italy, and Japan*, 76 FR 11509, March 2, 2011. All interested parties were requested to respond to this notice by submitting the information requested by the Commission.

³ In accordance with section 751(c) of the Act, the U.S. Department of Commerce (“Commerce”) published a notice of initiation of five-year reviews of the subject antidumping duty orders concurrently with the Commission’s notice of institution. *Initiation of Five-Year (“Sunset”) Review*, 76 FR 11202, March 1, 2011.

⁴ *Brass Sheet and Strip From France, Germany, Italy, and Japan; Notice of Commission Determinations To Conduct Full Five-Year Reviews Concerning the Antidumping Duty Orders on Brass Sheet and Strip from France, Germany, Italy, and Japan*, 76 FR 35910, June 20, 2011. The Commission found that with respect to each of the subject reviews both the domestic and respondent interested party group responses to its notice of institution were adequate.

⁵ The Commission’s notice of institution, notice to conduct full reviews, scheduling notice, and statement on adequacy appear in appendix A and may also be found at the Commission’s web site (internet address www.usitc.gov). Commissioners’ votes on whether to conduct expedited or full reviews may also be found at the web site. Appendix B presents a list of the witnesses appearing at the Commission’s hearing.

The Original Investigations

On March 10, 1986, Commerce and the Commission received countervailing duty and antidumping petitions on behalf of American Brass, Buffalo, NY; Bridgeport Brass Corp., Indianapolis, IN; Chase Brass and Copper Co., Cleveland, OH; Hussey Copper Ltd., Leetsdale PA; The Miller Co., Meriden, CT; Olin Corp. (Brass Group), East Alton, IL; Revere Copper Products, Inc., Rome, NY; the Copper and Brass Fabricators Council, Inc.; the International Association of Machinists and Aerospace Workers; the International Union, Allied Industrial Workers of America (AFL-CIO); the Mechanics Educational Society of America (Local 56); and the United Steelworkers of America (AFL-CIO/CLC).⁶

The petitions alleged that BSS was being subsidized by the Governments of Brazil and France and that such BSS from Brazil, Canada, France, Germany, Italy, Korea, and Sweden was being sold in the United States at less than fair value (“LTFV”).

The Commission reached final affirmative determinations on December 22, 1986 (for Brazil, Canada, and Korea), and on February 19, 1987 (for France, Germany, Italy, and Sweden).⁷ Commerce issued countervailing duty orders on Brazil and France on January 8, 1987, and March 6, 1987, respectively.⁸ Commerce issued antidumping duty orders on January 12, 1987 (for Brazil, Canada, and Korea), and March 6, 1987 (for France, Germany, Italy, and Sweden).⁹

On July 20, 1987, Commerce and the Commission received petitions on behalf of the same petitioners alleging that imports of BSS from Japan and the Netherlands were being sold in the United States at LTFV. On June 21, 1988, Commerce made its final affirmative determination with respect to Japan, with margins ranging from 13.10 to 57.98 percent.¹⁰ On June 22, 1988, Commerce made its final affirmative determination with respect to the Netherlands, finding a margin of 16.99 percent. The Commission made its final affirmative determinations concerning Japan and the Netherlands on July 29, 1988.¹¹ Accordingly, antidumping duty orders were issued by Commerce on August 12, 1988, for both countries.¹²

The Commission’s affirmative determination with respect to BSS from Sweden was affirmed in Granges Metallverken AB v. United States, 13 CIT 471, 716 F. Supp. 17 (1989). The Commission’s affirmative determination with respect to BSS from Japan was affirmed by the Court of International Trade in Cambridge Lee Industries v. United States, 13 CIT 1052, 728 F. Supp. 748 (1989). The Commission’s affirmative determination with respect to BSS from the Netherlands was affirmed in large part in Metallverken Nederland B.V. and Outokumpu Metallverken, Inc. v. United States, 13 CIT 1013, 728 F. Supp. 730 (1989), and was remanded with respect to certain aspects of the determination of one Commissioner. The Commission determined on remand that an industry in the United States was being

⁶ North Coast Brass & Copper Co. was added as a petitioner in 1988.

⁷ *Certain Brass Sheet and Strip from Brazil, Canada, and the Republic of Korea*, Inv. Nos. 701-TA-269 (Final) and 731-TA-311, 312, and 315 (Final), USITC Publication 1930, December 1986; *Certain Brass Sheet and Strip from France, Italy, Sweden, and West Germany*, Inv. Nos. 701-TA-270 (Final) and 731-TA-313, 314, 316, and 317 (Final), USITC Publication 1951, February 1987.

⁸ 52 FR 698, January 8, 1987; 52 FR 6995, March 6, 1987.

⁹ 52 FR 1214, January 12, 1987; 52 FR 6995, March 6, 1987.

¹⁰ The “all others” rate was 45.72 percent. 53 FR 23296, June 21, 1988.

¹¹ *Certain Brass Sheet and Strip from Japan and the Netherlands*, Inv. Nos. 731-TA-379 and 380 (Final), USITC Publication 2099, July 1988.

¹² 53 FR 30454, August 12, 1988.

materially injured by reason of LTFV imports of BSS from Japan and the Netherlands.¹³ The Commission's remand results were affirmed by the Court in Metallverken Nederland B.V. and Outokumpu Metallverken, Inc. v. United States, 14 CIT 481, 744 F. Supp. 281 (1990).

First Five-Year Reviews

The Commission instituted the first five-year reviews on February 1, 1999, and determined on May 6, 1999, that it would conduct full five-year reviews. On September 3, 1999, Commerce found that revocation of the countervailing duty orders on BSS from Brazil and France and the antidumping duty orders on BSS from Brazil, France, Italy, and Korea would likely lead to continuation or recurrence of countervailable subsidies and dumping.¹⁴

On September 13, 1999, Commerce found that revocation of the antidumping duty order on BSS from Sweden would likely lead to continuation or recurrence of dumping. Commerce found a margin of 9.49 percent for all exporters.¹⁵ On September 14, 1999, Commerce found that revocation of the antidumping duty orders on BSS from Germany and Japan would likely lead to continuation or recurrence of dumping.¹⁶ In the review involving Germany, Commerce found margins of 32.36 percent for Wieland-Werke AG ("Wieland"), and 7.30 percent for all other firms.¹⁷ In the review involving Japan, Commerce found margins of 13.30 percent for Sambo Copper Alloy Co., Ltd. ("Sambo Copper"), 57.98 percent for Nippon Mining Co., Mitsubishi Shindoh Co., Ltd., and Kobe Steel, Ltd., and 45.72 percent for all other firms. Finally, on November 24, 1999, and January 6, 2000, Commerce found that revocation of the antidumping duty orders on BSS from Canada and the Netherlands, respectively, would likely lead to continuation or recurrence of dumping.¹⁸

On April 18, 2000, the Commission determined that revocation of the countervailing duty orders on brass sheet and strip from Brazil and France and the antidumping duty orders on brass sheet and strip from Brazil, Canada, France, Germany, Italy, and 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. The Commission further determined that revocation of the antidumping duty orders on brass sheet and strip from Korea, the Netherlands, and Sweden would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.¹⁹ Consequently, on May 1, 2000, the orders with respect to Brazil, Canada, France, Germany, Italy, and Japan were continued, and the orders with respect to Korea, the Netherlands, and Sweden were revoked.²⁰

¹³ *Certain Brass Sheet and Strip from Japan and the Netherlands*, Inv. Nos. 731-TA-379 and 380 (Final) (Remand), USITC Publication 2255, January 1990.

¹⁴ 64 FR 48348 and 48367, September 3, 1999.

¹⁵ 64 FR 49444, September 13, 1999.

¹⁶ 64 FR 49765, September 14, 1999.

¹⁷ The margin for Wieland reflected a finding of duty absorption by Commerce. Because Commerce found that duty absorption existed on all of Wieland's exports to the United States in the most recent administrative review, the adjusted margin was double the administrative review margin of 16.18 percent.

¹⁸ 64 FR 66165, November 24, 1999; 65 FR 735, January 6, 2000.

¹⁹ 65 FR 20832, April 18, 2000.

²⁰ 65 FR 25304, May 1, 2000.

Second Five-Year Reviews

On March 6, 2006, the Commission completed full five-year reviews of the subject order and determined that revocation of the antidumping duty orders on BSS from France, Germany, Italy, and Japan would likely lead to the continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time.²¹ Following affirmative determinations in the second five-year reviews by Commerce and the Commission,²² Commerce issued a continuation of the antidumping duty orders on imports of BSS from France, Germany, Italy, and Japan, effective April 3, 2006.^{23 24} The Commission further determined that revocation of the countervailing duty orders on BSS from Brazil and antidumping duty orders on BSS from Brazil and Canada would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.²⁵ Consequently, the orders with respect to Brazil and Canada were revoked.²⁶

SUMMARY DATA

Table I-1 presents a summary of data from the original investigations, the first five-year reviews, the second five-year reviews,²⁷ and the current third five-year reviews. Data in this table are limited to those submitted by integrated producers of BSS (basic producers), i.e., firms that cast, roll, and finish BSS. Data presented here do not include data from “rerollers,” or the rerolling operations of basic producers.²⁸ Rerollers are firms that do not cast brass, but rather process unfinished products cast or rolled by other producers.

²¹ *Brass Sheet and Strip From Brazil, Canada, France, Germany, Italy, and Japan: Investigation Nos. 701-TA-269 and 731-TA-311-314, 317, and 379 (Second Review)*, USITC Publication 3842 (March 2006).

²² *Brass Sheet and Strip from Brazil, Canada, France, Italy and Japan; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 45650 (August 8, 2005); *Brass Sheet and Strip from Germany: Final Results of the Full Sunset Review of the Antidumping Duty Order*, 71 FR 4348, January 26, 2006; and, *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, and Japan: Determinations*, 71 FR 14719, March 23, 2006.

²³ *Brass Sheet and Strip from France, Italy, Germany, and Japan: Continuation of Antidumping Duty Orders*, 71 FR 16552, April 6, 2006.

²⁴ Commerce revoked the countervailing duty order on France, effective March 1, 2005. *Final Results of Full Sunset Review: Brass Sheet and Strip from France*, 71 FR 10651, March 2, 2006.

²⁵ *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, and Japan*, 71 FR 14719, March 23, 2006.

²⁶ *Revocation of Antidumping and Countervailing Duty Orders: Brass Sheet and Strip from Brazil and Canada*, 71 FR 16115, March 30, 2006. German respondents contested the Commission’s affirmative determinations. The Commission’s affirmative determinations were affirmed by the Court of International Trade in *Wieland-Werke AG v. United States*, 31 CIT 1884, 525 F. Supp. 2d 1353 (2007). This decision was affirmed by the Court of Appeals for the Federal Circuit without opinion in *Wieland-Werke AG v. United States*, 290 Fed. Appx. 348 (2008). Note the German respondents did not participate in the first reviews.

²⁷ The data for 1987, 1999, and 2004 are the same data used in the staff report to the Commission in the first and second five-year reviews on BSS from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden, March 8, 2000, and BSS from Brazil, Canada, France, Germany, Italy, and Japan, February 15, 2006.

²⁸ For the period 1999-2004, however, the financial data include the operations of both basic producers and rerollers.

Table I-1

BSS: Comparative data from the original investigations, first reviews, second reviews, and current reviews

(Quantity=1,000 pounds; value=\$1,000; unit values are per pound)

Item	1987	1998	2004	2005	2006	2007	2008	2009	2010
U.S. consumption quantity: Amount	570,361	554,247	502,582	424,871	435,217	389,039	367,480	338,798	400,060
Producers' share ¹	82.7	91.8	85.3	85.6	87.0	89.3	90.3	93.3	91.8
Importer's share: ¹									
France	(²)	(²)	(²)	0.0	0.0	0.0	0.0	0.0	0.0
Germany	5.2	0.9	0.5	0.5	0.7	0.7	1.2	1.1	1.4
Italy	0.5	0.1	(²)	0.0	0.0	0.0	0.0	0.0	0.0
Japan	3.5	0.9	0.6	0.7	0.6	0.5	0.6	0.2	0.1
Subtotal, subject	(³)	(³)	1.2	1.2	1.3	1.2	1.8	1.4	1.5
All other sources	6.9	3.9	13.4	13.2	11.7	9.5	7.9	5.3	6.6
Total imports	17.4	8.2	14.7	14.4	13.0	10.7	9.7	6.7	8.2
U.S. consumption value: Amount	(³)	581,426	705,952	644,381	1,015,621	978,162	947,879	705,800	1,043,267
Producers' share ¹	(³)	90.3	83.9	82.7	83.9	86.1	87.5	91.9	89.3
Importer's share: ¹									
France	(³)	(²)	(²)	0.0	0.0	0.0	0.0	0.0	0.0
Germany	(³)	1.2	0.6	0.7	1.0	1.0	1.8	1.6	2.0
Italy	(³)	0.2	0.1	0.1	0.0	0.1	0.1	0.0	0.0
Japan	4.7	1.5	0.9	1.0	0.8	0.7	0.9	0.3	0.2
Subtotal, subject	(³)	2.9	1.6	1.8	1.8	1.7	2.7	2.0	2.2
All other sources	(³)	4.3	14.4	15.5	14.3	12.2	9.8	6.2	8.5
Total imports	(³)	(³)	16.0	17.3	16.1	13.9	12.5	8.1	10.7

Table continued on next page.

Table I-1--Continued

BSS: Comparative data from the original investigations, first reviews, second reviews, and current reviews

(Quantity=1,000 pounds; value=\$1,000; unit values are per pound)

Item	1987	1998	2004	2005	2006	2007	2008	2009	2010
U.S. imports from-- France:									
Quantity	47	83	142	33	6	0	0	2	62
Value	43	120	231	68	67	0	0	22	271
Unit value	\$0.91	\$1.46	\$1.62	\$2.08	\$11.82	(²)	(²)	\$11.06	\$4.40
Germany:									
Quantity	29,392	4,978	2,648	2,083	2,889	2,668	4,258	3,816	5,582
Value	31,351	6,785	4,464	4,609	9,654	9,428	17,285	11,248	21,064
Unit value	\$1.07	\$1.36	\$1.69	\$2.21	\$3.34	\$3.53	\$4.06	\$2.95	\$3.77
Italy:									
Quantity	3,107	564	182	196	116	148	151	29	21
Value	3,193	901	364	443	424	617	485	83	74
Unit value	\$1.03	\$1.60	\$2.00	\$2.26	\$3.66	\$4.17	\$3.21	\$2.87	\$3.53
Japan:									
Quantity	19,968	4,945	3,163	2,772	2,485	1,827	2,145	839	398
Value	21,328	8,521	6,620	6,517	7,997	6,989	8,068	2,466	1,644
Unit value	\$1.07	\$1.72	\$2.09	\$2.35	\$3.22	\$3.82	\$3.76	\$2.94	\$4.13
Subject sources:									
Quantity	52,514	10,570	6,135	5,084	5,496	4,643	6,553	4,686	6,063
Value	55,915	16,327	11,679	11,637	18,141	17,033	25,838	13,819	23,053
Unit value	\$1.06	\$1.54	\$1.90	\$2.29	\$3.30	\$3.67	\$3.94	\$2.95	\$3.80

Table continued on next page.

Table I-1--Continued

BSS: Comparative data from the original investigations, first reviews, second reviews, and current reviews

(Quantity=1,000 pounds; value=\$1,000; unit values are per pound)

Item	1987	1998	2004	2005	2006	2007	2008	2009	2010
All other sources:									
Quantity	38,954	21,311	67,425	55,930	50,967	36,918	29,172	17,946	26,601
Value	39,509	25,606	101,568	99,883	144,905	119,193	93,004	43,514	88,575
Unit value	\$1.01	\$1.20	\$1.51	\$1.79	\$2.84	\$3.23	\$3.19	\$2.42	\$3.33
All countries:									
Quantity	91,468	31,881	73,560	61,013	56,463	41,561	35,725	22,632	32,664
Value	95,424	41,933	113,247	111,520	163,047	136,227	118,841	57,334	111,628
Unit value	\$1.04	\$1.32	\$1.54	\$1.83	\$2.89	\$3.28	\$3.33	\$2.53	\$3.42
U.S. producers'--									
Capacity quantity	543,176	715,429	606,983	579,000	579,000	579,000	579,000	579,000	579,000
Production quantity	462,286	514,907	441,125	363,809	373,597	344,268	332,022	315,940	368,321
Capacity utilization ¹	85.1	72.0	72.7	62.8	64.5	59.5	57.3	54.6	63.6
U.S. shipments:									
Quantity	471,416	508,942	428,939	363,858	378,754	347,478	331,755	316,166	367,396
Value	350,229	525,158	592,521	532,861	852,574	841,935	829,038	648,466	931,639
Unit value	0.74	1.03	1.38	1.46	2.25	2.42	2.50	2.05	2.54
Ending inventory quantity	30,261	34,274	36,398	26,909	24,810	20,771	22,946	24,902	25,248
Inventories/total shipments ¹	5.4	6.6	6.3	7.2	6.4	5.8	6.7	7.5	6.5

Table continued on next page.

Table I-1--Continued

BSS: Comparative data from the original investigations, first reviews, second reviews, and current reviews

(Quantity=1,000 pounds; value=\$1,000; unit values are per pound)

Item	1987	1998	2004	2005	2006	2007	2008	2009	2010
Production workers	1,481	2,829	1,203	994	1,005	967	864	915	951
Hours worked (1,000 hours)	3,225	4,206	2,624	1,882	1,944	1,803	1,608	1,645	1,791
Wages paid (1,000 dollars)	40,774	76,763	64,314	51,560	58,873	54,607	48,748	52,305	57,230
Hourly wages	\$12.64	\$18.25	\$24.51	\$27.40	\$30.28	\$30.29	\$30.32	\$31.80	\$31.95
Productivity (pounds per hour)	143.3	122.4	168.1	193.3	192.2	190.9	206.5	192.1	205.7
Net sales:									
Quantity	(³)	532,033	468,561	409,508	421,190	390,384	373,539	364,172	414,378
Value	352,874	536,197	662,630	638,166	983,022	994,372	972,892	802,127	1,114,554
Unit value	(³)	\$1.01	\$1.41	\$1.56	\$2.33	\$2.55	\$2.60	\$2.20	\$2.69
Cost of goods sold	319,609	477,976	625,773	601,260	946,290	964,790	979,571	764,199	1,072,596
Gross profit or (loss)	33,265	58,221	36,857	36,906	36,732	29,582	(6,679)	37,928	41,958
Operating income or (loss)	6,828	23,590	14,236	22,181	22,077	15,725	(22,437)	19,383	24,404
Unit cost of goods sold	(³)	\$0.90	\$1.34	\$1.47	\$2.25	\$2.47	\$2.62	\$2.10	\$2.59
Unit operating income or (loss)	(³)	\$0.04	\$0.03	\$0.05	\$0.05	\$0.04	\$(0.06)	\$0.05	\$0.06
Cost of goods sold/sales ¹	(³)	89.10	94.4	94.2	96.3	97.0	100.7	95.3	96.2
Operating income or (loss)/sales ¹	1.9	4.4	2.1	3.5	2.2	1.5	-2.3	2.4	2.2

¹ In percent.² Less than 0.05 percent.³ Not available.

Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics. Data for 1987 for France, Germany, and Italy are compiled from *Brass Sheet and Strip from Brazil, Canada, France, Italy, Korea, Sweden, and West Germany*, Inv. Nos. 701-TA-269 and 270 (Final) and 731-TA-311 through 317 (Final), Confidential staff report, December 9, 1986, INV-J-186. Data for 1987 for Japan are compiled from *Certain Brass Sheet and Strip from Japan and the Netherlands*, Inv. Nos. 731-TA-379 and 380 (Final), Confidential staff report, July 18, 1988. Data for 1999 are compiled from *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden*, Inv. Nos. 701-TA-269-270 (Review) and 731-TA-311-317 and 379-380 (Review), Confidential staff report, March 8, 2000, INV-X-054. Data for 2004 are compiled from *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, and Japan*, Inv. Nos. 701-TA-269 (Second Review) and 731-TA-311-314, 317, and 379 (Second Review), Confidential staff report, February 15, 2006, INV-DD-021.

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory Criteria

Section 751(c) of the Act requires Commerce and the Commission to conduct a review no later than five years after the issuance of an antidumping or countervailing duty order or the suspension of an investigation to determine whether revocation of the order or termination of the suspended investigation “would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.”

Section 752(a) of the Act provides that in making its determination of likelihood of continuation or recurrence of material injury--

(1) IN GENERAL.-- . . . the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--

(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,

(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,

(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and

(D) in an antidumping proceeding . . . , (Commerce’s findings) regarding duty absorption . . .

(2) VOLUME.--In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--

(A) any likely increase in production capacity or existing unused production capacity in the exporting country,

(B) existing inventories of the subject merchandise, or likely increases in inventories,

(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and

(D) 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.

(3) PRICE.--In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--

*(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and
(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.*

(4) IMPACT ON THE INDUSTRY.--In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--

*(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,
(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and
(C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.*

The Commission shall evaluate all such relevant economic factors . . . within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.

Section 752(a)(6) of the Act states further that in making its determination, “the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement.”

Organization of the Report

Information obtained during the course of the reviews that relates to the statutory criteria is presented throughout this report. A summary of trade and financial data for BSS as collected in the reviews is presented in appendix C. U.S. industry data are based on the questionnaire responses of seven U.S. producers of BSS that are believed to have accounted for the vast majority of domestic production of BSS in 2010. U.S. import data and related information are based on Commerce’s official import statistics (which includes nonsubject BSS) and the questionnaire responses of eight U.S. importers of BSS that are believed to have accounted for 4.0 percent of the total subject U.S. imports during 2010 and for 9.7 percent of total U.S. imports of BSS from other sources.²⁹ Foreign industry data and related information are based on the questionnaire responses of five producers of BSS: three producers in Germany accounting for *** percent of total production, one producer from Italy accounting for *** percent of total production, and one producer in Japan accounting for *** percent of total production.³⁰ Responses by U.S. producers, importers, purchasers, and foreign producers of BSS to a series of questions

²⁹ Actual coverage of subject imports may be higher than these percentages due to nonsubject products that are imported under the same statistical reporting numbers. See part IV for additional information.

³⁰ No data was received from any producer of BSS in France, ***.

concerning the significance of the existing antidumping duty orders and the likely effects of revocation of such orders are presented in appendix D.

COMMERCE'S REVIEWS

Administrative Reviews

France

Commerce has not completed any administrative reviews of the antidumping duty order with regard to BSS from France.

Germany

Commerce has conducted nine administrative reviews of the antidumping duty order on BSS from Germany, as shown in the following tabulation:

Period of review	Date results published	Producer or exporter	Margins (percent)
August 22, 1986 to February 29, 1988	November 27, 1991 (56 FR 60087)	Langenberg	16.18
		Wieland-Werke AG	14.65 ¹
		All others	7.30
March 1, 1990 to February 28, 1991	July 27, 1995 (60 FR 38542)	Wieland-Werke AG	2.57 ²
March 1, 1991 to February 29, 1992	July 27, 1995 (60 FR 38542)	Wieland-Werke AG	2.37 ²
March 1, 1992 to February 28, 1993	July 27, 1995 (60 FR 38542)	Wieland-Werke AG	0.46 ²
March 1, 1993 to February 28, 1994	July 25, 1995 (60 FR 38031)	Wieland-Werke AG	0.495
March 1, 1994 to February 28, 1995	September 23, 1996 (61 FR 49727)	Wieland-Werke AG	0.0
March 1, 1996 to February 28, 1997	August 11, 1998 (63 FR 42823)	Wieland-Werke AG	16.18
March 1, 1997 to February 28, 1998	August 10, 1999 (64 FR 43342)	Wieland-Werke AG	16.18
March 1, 2008 to February 28, 2009	October 28, 2010 (75 FR 66347)	Wieland-Werke AG	0.0
¹ Amended rate, <i>Brass Sheet and Strip From Germany; Amended Final Results of Antidumping Duty Administrative Review</i> , 62 FR 38256, July 17, 1997. ² Amended rate, <i>Brass Sheet and Strip From Germany; Amendment of Final Results of Antidumping Duty Administrative Reviews</i> , 61 FR 18720, April 29, 1996.			

Italy

Commerce has conducted three administrative reviews of the antidumping duty order on BSS from Italy, as shown in the following tabulation.

Period of review	Date results published	Margins (<i>percent</i>)
August 22, 1986 to February 29, 1988	March 17, 1992 (57 FR 9235)	9.49
March 1, 1989 to February 28, 1990	March 17, 1992 (57 FR 9235)	4.70
March 1, 1991 to February 29, 1992	November 23, 1992 (57 FR 54969)	9.49

Japan

Commerce has not completed any administrative reviews of the antidumping duty order on BSS from Japan.

Five-Year Reviews

Commerce has issued the final results of its expedited reviews with respect to France, Italy, and Japan. Table I-2 presents the dumping margins calculated by Commerce in its original investigations, first reviews, second reviews, and current third reviews.

Table I-2

BSS: Commerce's original, first, second, and third five-year dumping margins for producers/exporters, by subject country

Producer/exporter	Original margin (percent) ¹	First five-year review margin (percent) ²	Second five-year review margin (percent) ³	Third five-year review margin (percent) ⁴
France				
Trefimetaux S.A.	(⁵)	42.24	42.24	42.24
All others	42.24	42.24	42.24	42.24
Germany				
Langenberg	15.94	16.18	(⁶)	(⁶)
Wieland-Werke AG	5.31	3.81	3.81	3.81
All others	8.87	7.3	7.30	7.30
Italy				
La Metalli Industriale, SpA	(⁵)	5.44	5.44	5.44
All others	12.08	5.44	5.44	5.44
Japan				
Nippon Mining Co., Ltd.	57.98	57.98	57.98	57.98
Sambo Copper Alloy Co., Ltd.	13.30	13.30	13.30	13.30
Mitsubishi Shindoh Co., Ltd.	57.98	57.98	57.98	57.98
Kobe Steel, Ltd.	57.98	57.98	57.98	57.98
All others	45.72	45.72	45.72	45.72
<p>¹ Antidumping duty orders, 52 FR 1214, January 12, 1987; 52 FR 6995, March 6, 1987; 53 FR 23296, June 21, 1988 (Japan).</p> <p>² Final results of Commerce's first review, 64 FR 48348 and 48367, September 3, 1999.</p> <p>³ Final results of Commerce's second review, <i>Brass Sheet and Strip from Brazil, Canada, France, Italy and Japan; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders</i>, 70 FR 45650 (August 8, 2005); <i>Brass Sheet and Strip from Germany: Final Results of the Full Sunset Review of the Antidumping Duty Order</i>, 71 FR 4348, January 26, 2006.</p> <p>⁴ Commerce's final results of third review of the antidumping duty order on BSS from France, Italy, and Japan (<i>Brass Sheet and Strip From France, Italy, and Japan: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Orders</i>, 76 FR 39849, July 7, 2011) and Commerce's final full review on Germany (<i>Brass Sheet and Strip From Germany: Final Results of the Full Third Five-Year ("Sunset") Review of the Antidumping Duty Order</i>, 77 FR 4762, January 31, 2012).</p> <p>⁵ Not applicable.</p> <p>⁶ Wieland Werke purchased Langenberg of Germany in 1987.</p>				
Source: Cited <i>Federal Register</i> notices.				

THE SUBJECT MERCHANDISE

Commerce's Scope

The imported product subject to the antidumping and countervailing duty orders under review, as defined by Commerce, is as follows: “*brass sheet and strip, other than leaded and tinned brass sheet and strip, from France, Italy, and Japan. The chemical composition of the covered product is currently defined in the Copper Development Association (“C.D.A.”) 200 Series or the Unified Numbering System (“U.N.S.”) C20000. The orders do not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. In physical dimensions, the product covered by the orders has a solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound-on-reels (traverse wound), and cut-to-length products are included.*”³¹

Tariff Treatment

BSS is classifiable in the Harmonized Tariff Schedule of the United States (“HTS”) under subheadings 7409.21.00 and 7409.29.00 and reported for statistical purposes under statistical reporting numbers 7409.21.0050, 7409.21.0075, 7409.21.0090, 7409.29.0050, 7409.29.0075, and 7409.29.0090. BSS has a normal trade relations duty of 1.9 percent *ad valorem*, which is applicable to products of France, Germany, Italy, and Japan.

³¹ *Brass Sheet and Strip From France, Italy, and Japan: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Orders*, 76 FR 39849, July 7, 2011, and *Brass Sheet and Strip From Germany: Preliminary Results of the Third Five-Year (“Sunset”) Review of the Antidumping Duty Order*, 76 FR 59386, September 26, 2011.

THE SUBJECT PRODUCT

Physical Characteristics and Uses³²

The subject product is wrought³³ sheet and strip of brass,³⁴ of solid rectangular cross section; over 0.006 inch (0.15 millimeter) but not over 0.188 inch (4.8 millimeters) in thickness;³⁵ in coils or cut to length, whether or not corrugated or crimped, but not otherwise cut, pressed, or stamped to non-rectangular shape; meeting the composition specifications of the UNS C20000 series or the CDA 200 series.³⁶ The chief characteristics of CDA 200 series and UNS C20000 series BSS are ease of manufacture because of excellent forming and drawing properties, attractive surface appearance, fair electrical conductivity, good corrosion resistance, and good strength. The generally accepted industry distinction between “brass sheet” versus “brass strip” is that brass strip consists of brass that is coiled or wound on reels of whatever gauge and width, and brass sheet consists of brass that is no longer coiled or wound but rather has been cut to length.

BSS end uses include electronics, automotive parts, apparel fasteners, cable wrap, eyelets, jewelry and other ornamentation, building and lock hardware, radiators, transportation equipment, coinage, medical devices, ammunition, telecommunications equipment, electronic terminals, household products, industrial machinery and equipment, stampers and component parts, and miscellaneous industrial applications. BSS is also used to make welded tube, which is an intermediate product.

³² The following discussion is from the first and second five-year reviews, unless otherwise noted. *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden*, USITC Publication 3290, April 2000, pp. I-15-I-16; and *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, and Japan*, USITC Publication 3842, March 2006, p. I-16.

³³ The term “wrought” refers to products that have been rolled, forged, drawn, or extruded, and also refers to cast or sintered products that have been machined or processed otherwise than by simple trimming, scalping, or descaling. These products, however, are not sufficiently machined or processed to cause them to be treated as articles of brass.

³⁴ Brass is an alloy of copper (not including nickel-silver) in which zinc is the principal alloying element, added as a hardener, with or without small quantities of other alloying metals. There are three general categories of brasses: copper-zinc alloys (“brasses”) covered by the UNS C20000 series; copper-zinc-lead alloys (“leaded brasses”) covered by the UNS C30000 series; and copper-zinc-tin alloys (“tin brasses”) covered by the UNS C40000 series. According to the Copper Development Association (CDA), the UNS C20000 series represents the bulk (roughly 90 percent, and most of this is C26000 series “cartridge brass,” which is 70 percent copper and 30 percent zinc) of U.S. production of BSS. In the original investigations, petitioners stated that leaded and tin brasses are essentially not competitive with UNS C20000 series brasses. For more information about CDA UNS standard designations for copper alloys, see: CDA, “CDA UNS Standard Designation for Wrought and Cast Copper and Copper Alloys, Introduction,” available at <http://www.copper.org/resources/properties/standard-designations/introduction.html>.

³⁵ Gauges of 0.006 inch and below are considered foil, and gauges over 0.188 inch are considered plate.

³⁶ The UNS is managed jointly by the American Society for Testing and Materials (“ASTM”) and the Society of Automotive Engineers (“SAE”). For more information about the CDA UNS standard designations for copper alloys, see: CDA, “CDA UNS Standard Designation for Wrought and Cast Copper and Copper Alloys, Introduction,” available at <http://www.copper.org/resources/properties/standard-designations/introduction.html>.

Manufacturing Process³⁷

The manufacturing process for BSS consists of casting, rolling, and finishing operations. Prior to casting, the raw materials are acquired by purchase or through a “tolling” arrangement whereby customers provide the raw materials and pay a fee for converting these materials into sheet and strip. Scrap brass is recovered from within the brass mill’s own production process,³⁸ obtained from captive operations, or returned from customers through buy-back arrangements.³⁹ High-grade scrap brass and scrap copper are also purchased from scrap dealers or scrap brokers. Brass and copper scrap is augmented with purchased unwrought metals in the forms of refined copper cathode sections and high-grade refined zinc ingots.⁴⁰

In the most common casting process, the raw materials are melted in a furnace⁴¹ and then cast into ingots of weights and dimensions varying by the type of brass alloy, casting process, and manufacturer.⁴² To prepare an ingot for rolling, it is reheated in a furnace to the proper working temperature. Rolling consists of reducing the material’s thickness by a succession of passes between heavy steel rolls.⁴³ In the initial, hot-rolling (“breakdown”) stage, the ingot is passed through a reversible breakdown mill that reduces it down to a thickness of less than 0.5 inch. The material is then allowed to cool and is coil milled to remove oxides and eliminate surface irregularities. Next, the material is passed through a cold-rolling mill to uniformly reduce its thickness even further to fractions of an inch.⁴⁴

³⁷ The following discussion is from the first five-year reviews, unless otherwise noted. *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden*, USITC Publication 3290, April 2000, pp. I-15-I-16; and *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, and Japan*, USITC Publication 3842, March 2006, p. I-17.

³⁸ The proportion of scrap generated by various trimming operations in the successive stages of a mill’s production process is estimated by a domestic producer at *** percent of the starting weight of the slab. ***.

³⁹ According to a domestic producer, buy-back arrangements are advantageous for both the customer and the brass mill. The customer avoids the costs of arranging for disposal of its scrapped brass. The brass mill is essentially buying back its own product (e.g., as stamping waste, trimmings, etc.) at a discount and is assured of the metallurgical quality of its purchased scrap. ***.

⁴⁰ *** and ***.

⁴¹ When the input mix is remelted in a furnace, the molten metal is sampled to monitor and adjust its composition and quality. It then proceeds to a holding (casting) furnace before being poured into rectangular molds. The molds are cooled with water to solidify the brass into ingots. *** and ***. According to counsel and a hearing witness for the German respondents, while technically possible to switch between brass and other non-zinc copper alloys, no mill that casts slabs does so because of the direct expenses and opportunity costs arising from the downtime required to remove zinc from the furnace lining. Because a furnace contaminated with zinc cannot melt or cast alloys that do not contain zinc, either the furnace must be relined to avoid alloying-metal contamination or the contaminated cast ingot must be discarded. Rather, most mills have either dedicated furnace(s) for brass or long-term production schedules. For example, Wieland and Schwermetal have dedicated casting furnaces for brass and they do not switch to other copper alloy compositions. Hearing transcript, p. 212 (Shor); hearing transcript, p. 213 (Traa); German respondents’ posthearing brief, p. Q-30; and questionnaire responses.

⁴² Newer vertical casting technology allows creation of near-continuous cast operations utilizing the direct chill technique. This overall procedure will vary somewhat for each alloy of brass produced, in terms of the melt-down temperature, the type of cast, the cover used on the molds, the “drop rate,” and the degree of cooling required. *** and ***.

⁴³ According to counsel and a witness for the German respondents, mills can more readily switch between different copper alloys on the same equipment at the rolling stages without contamination problems than at the melting stage. Hearing transcript, p. 212 (Shor) and p. 213 (Traa).

⁴⁴ In newer cold-rolling equipment, reversible passes between clustered rolls, guided by computer control achieves uniform thickness along the entire length of the coiled material. ***.

Annealing⁴⁵ and cold-rolling may be repeated several times to reduce the material down to final gauge.⁴⁶ Finally, the product may then undergo a number of different finishing operations, such as cleaning, slitting (cutting to narrower widths), coating, or tinning,⁴⁷ depending upon the customer's specifications. It is then packed and shipped, usually in coiled form, although it may be cut to length. The typical process used by downstream consuming industries to fabricate intermediate or finished products from BSS is by stamping or drawing, whereby the material is punched with a die to form the desired shape.

DOMESTIC LIKE PRODUCT ISSUES

In its original countervailing duty determinations concerning BSS from Brazil and France, and antidumping duty determinations concerning BSS from Brazil, Canada, France, Germany, Italy, Korea, and Sweden, the Commission found one like product to include brass material to be re-rolled (reroll) and finished BSS (finished products).⁴⁸ In its original antidumping duty determinations⁴⁹ concerning BSS from Japan and the Netherlands, the Commission found the like product to be all UNS C20000 domestically produced BSS. In the first and second five-year reviews, the Commission found that the definition of the domestic like product remained unchanged from that in the original determinations.^{50 51} In response to the Commission's notice of institution for the second five-year reviews, domestic interested parties did not comment on the definition of the domestic like product set forth in the previous investigations' determinations.⁵² Counsel for German respondents also did not comment on the definition of the domestic like product.⁵³

In its notice of institution in these current five-year reviews, the Commission solicited comments from interested parties regarding the appropriate domestic like product and domestic industry.⁵⁴ Domestic interested parties agree with the Commission's definitions of the domestic like product and the domestic

⁴⁵ Because copper tends to work harden, it is necessary to anneal (or temper) the metal by heating in order to allow for continued cold reduction or forming. In the strip annealing process, a coil of metal is unwound and fed continuously through a furnace. It is then cleaned (by pickling with acid), dried, and recoiled in line with the furnace. In the bell annealing process, coils of metal are placed on a platform and covered by a retort or bell; the metal is then heated in a protective atmosphere by a furnace placed over the bell. The choice of annealing process is determined by such factors as strip thickness, alloy, and final product specifications. Olin Brass brochure, ***, and ***.

⁴⁶ ***.

⁴⁷ Tinning, or coating brasses with tin, is merely a surface-treatment operation that does not otherwise convert copper-zinc alloys (brasses included in the UNS C20000 series) into copper-zinc-tin alloys (tin brasses included in the UNS C40000 series).

⁴⁸ *Certain Brass Sheet and Strip from Brazil, Canada, and the Republic of Korea*, Inv. Nos. 701-TA-269 (Final) and 731-TA-311, 312, and 315 (Final), USITC Publication 1930, December 1986, p. 9; *Certain Brass Sheet and Strip from France, Italy, Sweden, and West Germany*, Inv. Nos. 701-TA-270 (Final) and 731-TA-313, 314, 316, and 317 (Final), USITC Publication 1951, February 1987, p. 10.

⁴⁹ *Certain Brass Sheet and Strip from Japan and the Netherlands*, Inv. Nos. 731-TA-379 and 380 (Final), USITC Publication 2099, July 1988, p. 10.

⁵⁰ *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden*, Inv. Nos. 701-TA-269 & 270 (Review) and 731-TA-311-317 and 379-380 (Review), USITC Publication 3290, April 2000, p. 7.

⁵¹ *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, and Japan*, Inv. Nos. 701-TA-269 and 731-TA-311-314, 317 and 379 (Second Review), USITC Publication 3842, March 2006, p. 7.

⁵² Domestic interested parties' submission of May 23, 2005.

⁵³ German respondents' submission of May 23, 2005.

⁵⁴ *Brass Sheet and Strip From France, Germany, Italy, and Japan: Institution of five-year reviews concerning the antidumping duty orders on brass sheet and strip from France, Germany, Italy, and Japan*, 76 FR 11509, March 2, 2011.

industry from the original investigations, first reviews, and second reviews.⁵⁵ Counsel for German respondents also agree with the Commission's definition of the domestic like product.⁵⁶ Counsel for importer TE Connectivity (formerly Tyco Electronics Corporation) stated that it takes no position on the definitions of the domestic like product in its response to the Commission's notice of institution.⁵⁷ No party requested that the Commission collect data concerning other possible domestic like products in their comments on the Commission's draft questionnaires.

U.S. MARKET PARTICIPANTS

U.S. Producers

During the original investigations, ten firms supplied the Commission with information on their U.S. operations with respect to BSS. These firms accounted for *** percent of U.S. shipments of BSS in 1987.⁵⁸ In the first reviews, seven firms provided the Commission with information on their U.S. operations of BSS and accounted for virtually all U.S. production of BSS in 1998. In the second reviews, eight firms provided the Commission with information on their U.S. operations of BSS and accounted for virtually all U.S. production of BSS in 2004.

In these current proceedings, the Commission issued producers' questionnaires to eleven firms, which accounted for virtually all U.S. production of BSS during the period of review. Nine of these firms provided responses, with seven firms confirmed as U.S. producers of BSS.⁵⁹ Of the seven responding producers, three firms are basic producers of BSS; three firms are rerollers of BSS; and one firm is both a basic producer and a reroller of BSS.⁶⁰ Presented in table I-3 is a list of current domestic producers of BSS and each company's position on continuation of the orders, production location(s), parent company, and share of reported production of BSS in 2010.

⁵⁵ *Substantive Response of Domestic Interested Parties*, March 31, 2011, p. 20 and domestic interested parties' prehearing brief, p. 4-5.

⁵⁶ German respondents' prehearing brief, p. 8.

⁵⁷ *Substantive Response of TE Connectivity*, May 31, 2011, p. 11.

⁵⁸ The ten U.S. producers that supplied the Commission with usable questionnaire information during the original investigations were: American Brass, APD-Quincy Brass Mill, Bridgeport Brass Corp., Chase Brass & Copper Co., Hussey Copper Ltd., North Coast Brass & Copper Co., Plum & Atwood, Olin Corp., Revere Copper Products, Inc., and The Miller Co.

⁵⁹ ***.

⁶⁰ A basic producer casts, rolls, and finishes BSS. A reroller purchases intermediate-to-heavy gauge BSS for additional processing (which includes at least a series of rolling and annealing steps) into finished (final gauge) BSS.

Table I-3**BSS: U.S. producers, type of producer, U.S. production locations, shares of U.S. production in 2010, and positions on the continuation of the antidumping duty orders**

Firm	Type of producer	Position on continuation of the orders	Production location(s)	Parent company	Share of 2010 production ¹ (percent)
Aurubis Buffalo	Basic producer	***	Buffalo, NY	***	***
Heyco Metals	Reroller	***	Reading, PA	***	***
Olin Brass	Basic producer and reroller	***	East Alton, IL Waterbury, CT Bryan, OH Seymour, CT	***	***
PMX Industries	Basic producer	***	Cedar Rapids, IA	***	***
Revere Copper Products	Basic producer	***	Rome, NY	***	***
ThyssenKrupp	Reroller	***	Southfield, MI	***	***
Wieland Metals	Reroller	***	Wheeling, IL	***	***
¹ Includes rerolled product.					
Source: Compiled from data submitted in response to Commission questionnaires.					

Two U.S. producers (***) are related to foreign producers of the subject merchandise and two (***) are related to U.S. importers of the subject merchandise. In addition, as discussed in greater detail in Part III, two U.S. producers (***) directly imported the subject merchandise.

U.S. Importers

In the original investigations on France, Germany, and Italy, fourteen U.S. importing firms supplied the Commission with usable information on their operations involving the importation of BSS. On Japan, twelve U.S. importing firms supplied the Commission with usable information on their operations of BSS in the original investigation, accounting for 76.4 percent of U.S. imports of BSS during 1987. The Commission received usable data from seven importers during the first reviews and from twelve importers during the second reviews.

In these current proceedings, the Commission issued importers' questionnaires to forty-seven firms believed to be importers of subject BSS, as well as to all U.S. producers of BSS. Usable questionnaire responses were received from eight companies, representing 4.0 percent of the total subject imports from France, Germany, Italy, and Japan. Table I-4 lists all responding U.S. importers of BSS from France, Germany, Italy, and Japan and other sources, their locations, and their shares of U.S. imports in 2010.

Table I-4

BSS: U.S. importers, source(s) of imports, U.S. headquarters, and shares of imports in 2010

* * * * *

U.S. Purchasers

The Commission received 11 usable purchaser questionnaire responses from firms that bought BSS during 2005 through the third quarter of 2011. Seven of the responding purchasers are end users, two are rollers, one is a distributor, one reported that it was a metal stamping job shop, and one was a polisher and plater. All responding U.S. purchasers were located in the Northeast and Midwest. The responding purchasers represented firms in a variety of domestic industries, including producers of electrical components, machine components, and ordinance. The largest purchasers were ***, an end user. ***. None of the purchasers reported purchasing any product from France, Italy, or Japan since 2005. Two purchasers, *** reported purchasing product from Germany. *** reported purchasing product from nonsubject countries including Brazil, Hungary, and Poland.

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of BSS during the period for which data were collected in this proceeding are shown in table I-5.

Table I-5

BSS: U.S. shipments of domestic product, U.S. shipments of imports, and apparent U.S. consumption, 2005-10

Item	Calendar year					
	2005	2006	2007	2008	2009	2010
Quantity (1,000 pounds)						
U.S. producers' U.S. shipments	363,858	378,754	347,478	331,755	316,166	367,396
U.S. imports from--						
France	33	6	0	0	2	62
Germany	2,083	2,889	2,668	4,258	3,816	5,582
Italy	196	116	148	151	29	21
Japan	2,772	2,485	1,827	2,145	839	398
Nonsubject countries	55,930	50,967	36,918	29,172	17,946	26,601
Total U.S. imports	61,013	56,463	41,561	35,725	22,632	32,664
Apparent U.S. consumption	424,871	435,217	389,039	367,480	338,798	400,060
Value (1,000 dollars)						
U.S. producers' U.S. shipments	532,861	852,574	841,935	829,038	648,466	931,639
U.S. imports from--						
France	68	67	0	0	22	271
Germany	4,609	9,654	9,428	17,285	11,248	21,064
Italy	443	424	617	485	83	74
Japan	6,517	7,997	6,989	8,068	2,466	1,644
Nonsubject countries	99,883	144,905	119,193	93,004	43,514	88,575
Total U.S. imports	111,520	163,047	136,227	118,841	57,334	111,628
Apparent U.S. consumption	644,381	1,015,621	978,162	947,879	705,800	1,043,267
Note.—Because of rounding, figures may not add to the totals shown.						
Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.						

U.S. MARKET SHARES

U.S. market share data are presented in table I-6.

Table I-6
BSS: U.S. consumption and market shares, 2005-10

Item	Calendar year					
	2005	2006	2007	2008	2009	2010
Quantity (1,000 pounds)						
Apparent U.S. consumption	424,871	435,217	389,039	367,480	338,798	400,060
Value (1,000 dollars)						
Apparent U.S. consumption	644,381	1,015,621	978,162	947,879	705,800	1,043,267
Share of quantity (percent)						
U.S. producers' U.S. shipments	85.6	87.0	89.3	90.3	93.3	91.8
U.S. imports from--						
France	0.0	0.0	0.0	0.0	0.0	0.0
Germany	0.5	0.7	0.7	1.2	1.1	1.4
Italy	0.0	0.0	0.0	0.0	0.0	0.0
Japan	0.7	0.6	0.5	0.6	0.2	0.1
Nonsubject countries	13.2	11.7	9.5	7.9	5.3	6.6
All countries	14.4	13.0	10.7	9.7	6.7	8.2
Share of value (percent)						
U.S. producers' U.S. shipments	82.7	83.9	86.1	87.5	91.9	89.3
U.S. imports from--						
France	0.0	0.0	0.0	0.0	0.0	0.0
Germany	0.7	1.0	1.0	1.8	1.6	2.0
Italy	0.1	0.0	0.1	0.1	0.0	0.0
Japan	1.0	0.8	0.7	0.9	0.3	0.2
Nonsubject countries	15.5	14.3	12.2	9.8	6.2	8.5
All countries	17.3	16.1	13.9	12.5	8.1	10.7
Note.—Because of rounding, figures may not add to the totals shown.						
Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.						

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

BSS is used as an input in a variety of downstream products including: electrical and electronics (semiconductors, terminal connectors, flashlight shells, and lamp fixtures); automotive (radiator tanks, odometer contacts, and electrical connectors); building and construction (grillwork, door knobs, locks, and push and kick plates); ammunition (cartridge cases and shells); and coinage. BSS is also used in musical instruments, plumbing accessories, bathroom fixtures, fasteners, heat exchangers, washers, and stencils. Since 2005, the U.S. market has experienced a decline in U.S. apparent consumption, particularly with the economic downturn, and the overall increases and volatility in raw material price.

CHANNELS OF DISTRIBUTION

During 2005-10, approximately 30 to 40 percent of U.S. producers' commercial sales were to distributors and 60 to 70 percent were to end users (table II-1). Import sales by channel of distribution were available only for German and nonsubject imports. Most sales of imports from Germany and nonsubject countries were to end users in 2005 through 2010.

GEOGRAPHIC DISTRIBUTION

U.S. producers and importers of product from Germany reported selling BSS to all regions in the contiguous United States (table II-2).¹ U.S. producers, sold from 1 to 25 percent of sales within 100 miles of their production facilities, from 65 to 90 percent between 101 and 1,000 miles, and from 5 to 33 percent over 1,000 miles. Four importers reported distances, one, ***, sold 100 percent of sales within 100 miles of its U.S. point of shipment, two, ***, sold 100 percent between 101 and 1,000 miles, and one, ***, sold 85 percent over 1,000 miles.

U.S. SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, U.S. BSS producers have the capability to respond to changes in demand with moderate-to-large changes in shipments to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the availability of unused capacity, and the ability to produce other products using the same equipment, but mitigated by limited exports.

Industry capacity

Domestic capacity was unchanged at *** pounds during 2005-10. Capacity utilization ranged from a high of 64.5 percent in 2006 to a low of 54.6 percent in 2009. This relatively low level of capacity utilization suggests that U.S. producers may have substantial available capacity to increase production of BSS in response to a price increase.

¹ No data were available for imports from the other subject countries.

Table II-1

BSS: U.S. producers' and importers' U.S. shipments, by sources and channels of distribution, 2005-10

Item	Period					
	2005	2006	2007	2008	2009	2010
Share of reported shipments (<i>percent</i>)						
Domestic producers' U.S. shipments:						
Distributors	30.9	30.5	30.8	29.7	34.3	38.4
End users	69.1	69.5	69.2	70.3	65.7	61.6
U.S. importers' U.S. shipments of product from Germany:						
Distributors	0.0	0.0	0.0	8.1	30.1	11.6
End users	100.0	0.0	100.0	91.9	69.9	88.4
U.S. importers' U.S. shipments of product from nonsubject countries:						
Distributors	17.0	12.7	11.9	18.0	15.8	13.0
End users	83.0	87.3	88.1	82.0	84.2	87.0
Note.—Data for domestic producers include only U.S. commercial shipments.						
Source: Compiled from data submitted in response to Commission questionnaires.						

Table II-2

BSS: Geographic market areas in the United States served by U.S. producers and importers

Region	U.S. producers	Importers	
		Germany	Nonsubject
	Number of firms		
Northeast	7	3	6
Midwest	7	4	6
Southeast	7	3	6
Central Southwest	7	3	6
Mountains	7	3	5
Pacific Coast	7	3	6
Other	3	0	0
Note.—No data were reported for France, Italy, or Japan.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Two purchasers reported experiences that appeared inconsistent with these relatively high levels of excess capacity. Mr. Stockton of TE Connectivity questioned the reported U.S. capacity numbers citing difficulties getting on-time deliveries during a six-to-seven month period in 2009 and 2010.² Weiland also reported that U.S. producers Olin Brass and Luvata put it on allocation in 2010.³ Domestic interested parties report that long lead times did occur as a result of a sudden spurt in demand but that capacity was available.⁴

Export markets

U.S. producers' exports, as a percentage of total shipments, increased overall between 2005 and 2010. U.S. producers' export shipments (as a percentage of their total shipments) were lowest in *** percent. The low share of exports indicate that U.S. producers have very limited ability to shift shipments between the U.S. market and other markets in response to price changes. U.S. producers stated that it would be difficult to shift their shipments to markets other than Canada/North America. Reported barriers to exports included: duties on the full market value of the copper and zinc inputs; very competitive low-priced markets worldwide; home market protections in Asia, Europe, and South America; unfamiliarity with customers; and lack of a sales force.

Inventory levels

U.S. producers' inventories fluctuated irregularly during 2005-10, falling from 7.2 percent of total shipments in 2005 to 5.8 percent in 2007, rising to 7.5 percent in 2009, and then declining to 6.5 percent in 2010. These relatively low inventory levels suggest that U.S. producers may have a limited ability to respond to changes in demand with changes in the quantity shipped from inventories.

Production alternatives

All seven responding producers stated that they could switch production from BSS to other products. Other products that producers reportedly can produce on the same equipment as BSS include other copper alloy sheet and strip, other alloy plate, and foil (hot rolling, cold rolling, and annealing); and other flat-rolled products (cold rolling and annealing).

Subject Imports

Based on available information, producers in subject countries may have the capability to respond to demand changes with moderate changes in the quantity of BSS shipped to the U.S. market. Country specific factors contributing to supply responsiveness are outlined in table II-3.

Factors that affect the ability to increase sales to the U.S. market include capacity and capacity utilization rates, internal consumption, alternative markets, and inventories. Foreign producers reported only very limited increases in capacity from 2005-10, with two German producers reporting shifting capacities between BSS and other products. Most of the subject countries had increases in capacity utilization rates from 2005-10, although Japan's capacity utilization decreased. No foreign producers reported inventories.

² Hearing transcript, pp. 153, 227-278 (Stockton).

³ Hearing transcript, pp. 185-186 (Gortges).

⁴ Hearing transcript, p. 266 (Harquist).

Table II-3

BSS: Capacity, capacity utilization, internal consumption, sales to various markets, and overall ability to shift sales to the United States

Year	Total capacity	Capacity utilization	Internal consumption	Sales to markets				Factors influencing the ability to shift production to the U.S.
	Million pounds			Home	U.S.	EU	Asia	
		Percent						
France:								
2005	***	NA	NA	NA	NA	NA	NA	Total French capacity for all refined copper and copper alloy plate, sheet, and strip. This includes but is not limited to brass sheet and strip. The German respondent interested parties report that there is only one French producers of BSS, a reroller.
2010	***	NA	NA	NA	NA	NA	NA	
Germany:								
2005	***(1)	***	***	***	***	***	***	Factors that increase ability to shift product to the U.S. include large capacity and small internal consumption. Factors reducing their ability to shift product to the U.S. are high capacity utilization and no inventories.
2010	***(1)	***	***	***	***	***	***	
Italy:								
2005	***	***	***	***	***	***	***	Factors that increase ability to shift product to the U.S. include low capacity utilization. Factors reducing ability to shift production to the U.S. include growing internal consumption and not producing other products on same equipment.
2010	***	***	***	***	***	***	***	
Japan:								
2005	***	***	***	***	***	***	***	Factors reducing Japanese ability to shift production to the U.S. market include limited capacity, and high capacity utilization.
2010	***	***	***	***	***	***	***	
<p>¹ Respondent interested parties report that the Commission has questionnaire data for all German production of BSS from integrated producers, German rerollers they report would not add to the overall German capacity because they would purchase German BSS to reroll, hearing transcript, pp. 174-175 (Traa).</p> <p>Note.—Data for Germany and Japan represent ***; the data for Italy represents ***, no French producers responded. Domestic interested parties report that there are *** Japanese producers of BSS with a total production capacity of ***. Domestic interested parties' posthearing brief p. 14.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires, for French data *** and respondent interested parties prehearing brief, p. 3.</p>								

Four of five foreign producers reported changes in factors that affected their ability to supply the U.S. market including: increases in fuel, transportation, and finance costs; high metal prices (which increase the size of the duty relative to fabrication costs); lower transportation costs to Asia; increased demand in Asia; the *** which is absorbing capacity; and the ***. Domestic interested parties report that demand in each of the subject countries is in long term decline and that economic growth in all European subject producers was lower than in the United States.⁵

Respondent interested parties report that subject German imports currently “consist entirely of alloys and specialty products not otherwise available {from U.S. producers}.”⁶ Domestic interested

⁵ Domestic interested parties' posthearing brief, questions, pp. 4, 6.

⁶ German respondent' prehearing brief, p. 3.

parties, however, report that U.S. producers are able to produce all BSS products imported from Germany, if the prices are high enough.⁷

Respondent interested parties report that the Commission has questionnaire data for all German production of BSS from integrated producers, German rerollers report would not add to the overall German capacity because they would purchase German BSS to reroll.⁸ Respondent interested parties report they produce BSS to order and thus have no BSS inventories that they could ship to the U.S. market.⁹

Nonsubject Imports

The largest sources of nonsubject imports during 2005-10, in descending order, were the Netherlands, Mexico, Poland, Switzerland, Brazil, and India.

U.S. Demand

Based on available information, purchasers have the capability to respond to changes in the price of BSS with small changes in their purchases of the product. The main contributing factors to the responsiveness of demand are the limited number of commercially viable substitute products and the small cost share of BSS in the final products in which it is used.

End Uses

U.S. demand for BSS depends on the demand for U.S.-produced downstream products. Reported end uses include: electrical terminals, automotive stamped parts, appliance parts, controls components, electrical connectors, locksets, decorative plumbing accessories, and ordnance. Six of seven responding producers, all seven responding importers, and seven of eight purchasers reported no changes in end uses, and nearly all firms anticipated no future changes in end uses. One firm noted that products are being made smaller to use less material. ***. One importer and one purchaser anticipated changes in end uses, specifically possible additional antibacterial applications and increased use of high performance alloys. Respondent interested parties report that the key demand drivers in Germany were the auto and electronics industries and demand was improving in both these industries.¹⁰

Business Cycles

Four of 7 producers, 4 of 8 importers, and 3 of 10 purchasers indicated that the market was subject to business cycles or conditions of competition. Specifically, most responding producers (3 of 4) and importers (3 of 4) reported that BSS demand followed the overall economy. Firms reported that BSS demand also reflected change in construction and automotive demand. One producer reported that many applications, such as construction and automotive, have both short-term and long-term business cycles, and one importer reported a three-year business cycle.

Most producers (4 of 7) and importers (5 of 7) reported that conditions of competition had changed since 2005. Firms identified many factors related to raw material costs and import related costs, downstream demand, and changing conditions in the industry. Changes reported include: large

⁷ Hearing transcript, p. 63 (Bobish). Domestic interested parties' posthearing brief, questions, pp. 68-70.

⁸ Hearing transcript, pp. 174-175 (Traa).

⁹ Hearing transcript, p. 178 (Traa).

¹⁰ German respondents' posthearing brief p. Q-16.

fluctuations in copper and zinc prices; downturns in the construction and the automobile markets (which has partially recovered); the depreciation of the dollar (making imports less attractive); high metal prices increasing finance costs (particularly with imports because of longer lead times and the duty per pound is higher relative to the fabrication costs); the German purchase of U.S. manufacturers (which increase the German producers' incentives not to depress U.S. prices); fuel and freight costs increasing import costs; and reduced U.S. supply because of bankruptcies, restructuring, and idling of capacity.

Four of 7 U.S. producers, 4 of 8 importers, and 3 of 10 responding purchasers reported business cycles or special conditions of competition. Three of the four producers, all four responding importers and one of the three purchasers reported normal cycles which were related to growth, and construction/automotive demand. One producer and one purchaser reported the current cycle had increased competition for business between BSS producers or between integrated producers and rerollers. One purchaser reported that the antidumping orders prevent it from purchasing the best inputs and this hurts its global competitiveness.

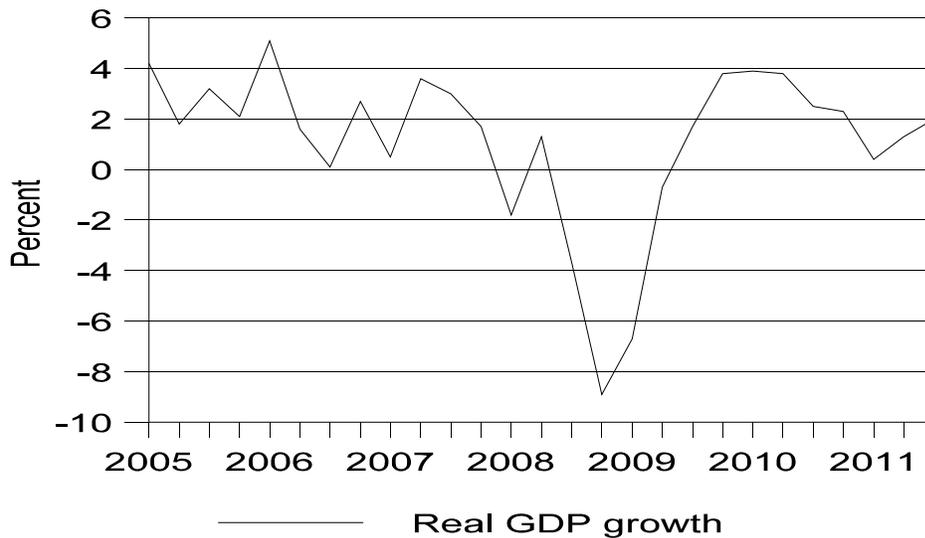
When asked about changes in conditions of competition since 2005, four of seven responding producers, six of eight responding importers and three of nine responding purchasers reported changes. These include: market demand declined 30 percent since 2005; it will take years for the BSS market to recover from the severe recession; increased fluctuations in the prices of copper and zinc have caused BSS prices to fluctuate; auto demand has partially recovered; German capacity has been overestimated and German producers have no reason to seek to depress prices in the U.S. market;¹¹ a weak dollar made imports less attractive; increased sales to Mexico; fewer warehouses; and increased competition among the producers.

Apparent Consumption

Apparent U.S. consumption of BSS fluctuated during 2005-10, increasing from 425 million pounds in 2005 to 435 million in 2006 before falling to 339 million in 2009, and then increasing to 400 million in 2010. Overall, apparent U.S. consumption in 2010 was 5.8 percent lower than in 2005. Firms indicated that demand for BSS generally tracks overall manufacturing, income, and population. Quarterly real growth in U.S. GDP is presented in figure II-1.

¹¹ Reported by ***.

Figure II-1
Real U.S. GDP growth: Percentage change, quarterly, January 2005-June 2011



Source: Bureau of Economic Analysis, retrieved Dec. 9, 2011.

Demand Perceptions

Firms' perceptions of changes in U.S. demand during 2005-10 were mixed, with most firms reporting that it had declined (table II-4). Reasons cited for declining demand included offshoring (including OEMs moving component parts manufacturing to China), replacing brass with plastic, and the impact of the recession on the U.S. automotive, construction, and appliance markets. Firms anticipated that U.S. demand would decrease because of continued offshoring, the conversion of appliances from electro-mechanical to electronic controls, and a shift to substitute alloys. Firms predicting U.S. demand growth cited economic growth and use of BSS in antibacterial applications.

Firms generally reported that demand in non-U.S. markets had increased since 2005, and that they expected demand to increase in the future. Firms reported that offshoring contributed to past and future demand growth outside the U.S. market.

Table II-4

BSS: Firms' perceptions regarding U.S. and non-U.S. demand

Item	Number of firms reporting			
	Increase	Decrease	Fluctuate	No change
U.S. demand since 2005				
U.S. producers	0	5	1	1
Importers	1	3	1	0
Purchasers	0	5	2	0
Foreign producers	0	1	1	0
U.S. demand for purchasers' final products since 2005				
U.S. purchasers	3	1	2	1
U.S. anticipated demand				
U.S. producers	1	2	0	4
Importers	2	0	2	2
Purchasers	2	4	1	1
Foreign producers	0	1	1	0
Non-U.S. demand since 2005				
U.S. producers	5	0	0	0
Importers	4	0	1	0
Purchasers	2	0	0	1
Foreign producers (Home market)	2	1	1	0
Foreign producers (Other markets)	3	1	0	0
Non-U.S. anticipated demand				
U.S. producers	6	0	1	0
Importers	4	0	3	0
Purchasers	5	0	1	1
Foreign producers (Home market)	0	1	3	0
Foreign producers (Other markets)	3	1	0	0

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

Substitute Products

There are a number of reported substitutes for BSS. Four of 6 responding U.S. producers, 3 of 6 importers, 6 of 10 purchasers, and 1 of 3 foreign producers reported that there were substitutes. Reported substitutes include “tin brass,” stainless, high performance alloys, aluminum, bronze, copper, steel, plated steel, “clad materials,” plastic, and zinc. End uses in which these products reportedly could be substituted

for BSS include: electrical, building/hardware, automotive, heat sinks, hose coupling, wiring devices, fasteners, telecommunications, ammunition components, kick plates, lighting fixtures, and emblematic applications. Firms generally indicated that changes in prices of substitutes have not affected prices for BSS.

Only one of nine responding purchasers reported changes in substitutes since 2005, specifically the use of newer alloys and plating alternatives. This firm also expected changes in substitutes, reporting that the newer alloys cost more and have larger required minimum orders. One producer reported that consumption is shifting from subject product to aluminum and plated steel. Two producers anticipated changes in demand if copper prices remain high. No importers anticipated changes in substitutes.

Petitioners report that the high price of copper has both increased material usage efficiency and increased the use of substitutes for BSS. Substitutes include aluminum, plastic, and clad steel.¹²

Cost Share

BSS accounts for a varied share of the cost of the final products in which it is used; however, it is sometimes a very large share of some of the intermediate products. Reported cost shares for some end uses (all of which appear to be intermediate products) were as follows:

- automotive components (3 percent)
- automotive stamped parts (25 percent)
- appliance parts (10 percent)
- controls components (6 percent)
- dryer motor components (2 percent)
- electrical connectors (80 percent)
- electrical terminals (99 percent)
- rimfire shell casings (90 percent)

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported BSS depends on factors such as product specifications, quality, consistency, and conditions of sale (such as reliability of supply, delivery lead times, and payment terms). Based on available data, staff believes there is a moderate-to-high degree of substitutability between U.S.-produced BSS and that imported from subject countries.

Knowledge of Country Sources

Purchasers were asked to indicate the countries of origin for which they have actual BSS marketing/pricing knowledge. Ten of 11 responding purchasers were familiar with U.S.-produced product. The number of firms familiar with other sources were as follows: France (1), Germany (4), Italy (3), Japan (2), and other countries (3).

As shown in the tabulation on the following page, a majority of purchasers “always” or “usually” make purchasing decisions based on the producer, however, most purchasers only “sometimes” or “never” make purchasing decisions based on country of origin. Most of the purchasers’ customers only “sometimes” or “never” make purchasing decisions based on the producer or country of origin. Of the five purchasers that reported that they “always” make decisions based on the manufacturer, one firm reported material must comply with the Conflict Mineral Act, one reported choosing rerollers based on capacity, one (***) reported that ***, and two reported choosing supplier based on a number of factors

¹² Domestic interested parties’ prehearing brief, pp. 47-48 and hearing transcript, p. 30 (Heusner).

<u>Purchaser / Customer Decision</u>	<u>Always</u>	<u>Usually</u>	<u>Sometimes</u>	<u>Never</u>
Purchaser makes decision based on producer	5	1	1	3
Purchaser's customer makes decision based on producer	0	0	4	1
Purchaser makes decision based on country	1	2	3	5
Purchaser's customer makes decision based on country	0	0	3	6

including quality, delivery, service, risk mitigation, and price. The one purchaser that reported it always purchased based on country of origin reported that U.S. mills are the only ones that will sell BSS.

Factors Affecting Purchasing Decisions

Major Factors in Purchasing

When asked to identify the three major factors considered by their firm in their purchasing decisions for BSS, price (11 firms), quality (10 firms), and availability (6 firms) were cited most often, as shown in table II-5. Quality was the most frequently cited first most important factor (cited by 5 firms).

Table II-5

BSS: Ranking factors used in purchasing decisions, as reported by U.S. purchasers

Factor	Number of firms reporting			
	First	Second	Third	Total
Price	2	5	4	11
Quality (meets/exceeds specifications/meets tolerances)	5	2	3	10
Availability	2	3	1	6
Other ¹	2	1	3	6

¹ Other includes finished goods inventory management and contracts for first factor, reliability for second factor, and delivery, payment terms, and raw material supply chain for third factor.

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

Five of the 11 responding purchasers reported that they “usually” purchase the lowest-priced BSS, 4 reported “sometimes,” 1 reported “never,” and 1 reported “always.” Nine purchasers indicated that they purchased BSS from one source although a comparable product was available at a lower price from another source. Reasons included quality, lead times, minimum orders, approved sources, just-in-time programs, gauge or width tolerance differences between suppliers, reliability and responsiveness of the supplier, maintaining secondary source relationship, meeting special requirements/specifications, and ***.

Four of 11 purchasers reported that certain products were available from only a single country. ***. ***. ***. *** One purchaser indicated that the suitability of BSS for its production processes differed by country of origin, reporting that differences in granular structure and cleanness can slow production. In addition, while ***.

Importance of Specified Purchase Factors

Purchasers were asked to rate the importance of 27 factors in their purchasing decisions (table II-6). The factors rated as “very important” by most of the responding purchasers were availability, manufactures to my specifications, product consistency, and reliability of supply (11 responses each); price (10); quality meets industry standards, quality exceeds industry standards, and surface finish (9); lead times (8); delivery time, responsive to emergency requirements, and supplier financial security (7); and minimum quantity requirements (6). Two purchasers reported other factors that were very important: one, ***, reported it needed a committed quality supplier, and the other, ***, reported it would like the potential for a long-term agreement.

Table II-6
BSS: Importance of purchase factors, as reported by purchasers

Factor	Very important	Somewhat important	Not important
	<i>Number of firms responding</i>		
Availability	11	0	0
Lead time required for orders	8	3	0
Deep drawability	3	2	6
Delivery terms	4	7	0
Delivery time	7	4	0
Discounts offered	5	5	1
Extension of credit	5	2	4
Global sourcing	2	2	7
Manufactures to my specifications	11	0	0
Minimum quantity requirements	6	5	1
New product development	1	5	5
Packaging	4	4	3
Partnering	4	3	4
Price	10	1	0
Product consistency	11	0	0
Product range	3	6	2
Quality meets industry standard	9	2	0
Quality exceeds industry standard	9	2	0
Reliability of supply	11	0	0
Responsive to emergency requirements	7	3	1
Special alloys	1	4	6
Supplier financial security	7	3	0
Surface finish	9	2	0
Technical support/service	5	6	1
Toll processing	2	2	7
U.S. transportation costs	3	6	2
Vendor managed/on-hand inventories	5	1	5
Note.--Not all purchasers responded for each factor.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Factors Determining Quality

When asked to identify factors that determine the quality of BSS, purchasers reported numerous factors. Certain factors related to compatibility with manufacturing process and equipment such as formability, bending, performance in dies, physical and mechanical properties, suitable for plating or polishing, tensile/yield strength, quality of end product, and shifting sources does not require many adjustments. Other factors reflected quality characteristics such as defect-free, no rejections, tolerance levels, surface quality (no digs, scratches, or pits), and end-to-end product consistency. Additionally, some factors related to the physical characteristics of the product such as appearance, chemical composition meets industry specifications, dimensional specification, size of coils, camber, grain size, and chemistry.¹³

Supplier Certification

Nearly all responding purchasers (8 of 11)¹⁴ require that all of the BSS they purchase be certified to meet standards set by ASTM, or a similar body.¹⁵ Six purchasers reported additional qualifications including: evidence of financial stability; evidence of process and design control procedures; validation for materials; run tests for PPAP¹⁶ to ensure the product met customer requirements; material traceability; audits of systems, laboratories, and manufacturing sites; social responsibility criteria; and testing and trials of material. Purchasers reported that the time to qualify a new supplier ranged from 3 to 270 days, with three of six responding firms reporting 90 to 180 days. One purchaser reported that a domestic or foreign supplier had failed in its attempt to qualify product, or had lost its approved status since 2005.
***.”¹⁷

Lead Times

U.S. producers sold 90 to 100 percent of their product made-to-order with lead times from 1 to 42 days, with five firms reporting lead times of at least 14 days. Three producers reported that 5 to 10 percent of sales were from inventories with lead times from 2 to 28 days. Three of five responding importers reported sales from U.S. inventories (with two selling 90 to 100 percent from inventories) and four of five importers reported sales produced-to-order (with two selling 100 percent produced to order and one selling 60 percent produced to order). Importers’ reported that lead times were 1 to 7 days from inventories and 3 to 90 days for product produced-to-order (with three firms reporting 90 days).¹⁸

¹³ One firm also identified meets "internal specifications".

¹⁴ Although it answered no to this question, ***, reported requiring ISO, QS or TS systems for its purchases and thus it is included as a purchaser requiring standards. The two firms not requiring standards were *** which provided no other information on qualifications and *** which reported plant visits before trials as well as trials of the material through *** testing.

¹⁵ In addition to ASTM standards, purchasers cited RoHS (Restrictions of Hazardous Substances), a standard set by the EU; and ISO (International Standards Organization) standards.

¹⁶ PPAP is the Production Part Approval Process of the U.S. auto industry.

¹⁷ Elsewhere in its questionnaire ***,”

¹⁸ Respondent interested parties commented that since lead times reported by the importers reflect direct imports by end users, which had longer lead times, if imports were to increase, it would be in sales to end users with longer lead times. German respondents’ prehearing brief, pp. 14-15 footnote 32.

Changes in Purchasing Patterns

Purchasers were asked about changes in their purchasing patterns from different sources since 2005 (table II-7). All reported that changes in purchases of U.S. product reflected changes in the firms' overall demand for the product, increasing because the business increased,¹⁹ or decreasing because of the high price of copper, decline in the demand for finished goods, or because of more efficient manufacturing/technological change. Reasons reported for changes in purchases from other sources included: trial purchase, were unable to purchase more, ended trader relationship, purchased product (***) which is not produced in the United States, and ordered a container load of trial material from Turkey.

Table II-7
BSS: Changes in purchase patterns from U.S., subject, and nonsubject countries

Source	Increased	Constant	Decreased	Fluctuated	Did not purchase
U.S.	4	0	3	4	0
France	0	0	0	0	7
Germany	0	0	1	2	4
Italy	0	0	0	0	7
Japan	0	0	0	0	7
Other	2	0	1	0	5

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

Changes in Suppliers

Five of 11 responding purchasers reported that they had changed suppliers since 2005. Specifically, firms were dropped or purchases were reduced because the supplier could not deliver on time, because quality did not meet requirements, or because of price. *** reported that it had shifted a small portion of its purchases to *** due to lower price. *** reported that its purchases from *** fluctuated as it appeared to be interested in different markets for a time, and its *** purchases declined due to uncompetitive prices and terms and this business shifted to ***. In addition, it reported that *** had closed some facilities which affected purchases. *** reported shifting purchases to *** because of price. *** reported that the *** caused it to add new suppliers, ***, to manage risk.

Respondent interested parties report that performance characteristics, finish, shine, and drawability varies from mill to mill.²⁰ They report that "users optimize their equipment based on the characteristics of their supplier brass and they do not easily switch."²¹ U.S. producers, in contrast, report that "customers are willing to switch suppliers based on a price difference as low as a penny a pound."²²

¹⁹ Two of these purchasers ***.

²⁰ Hearing transcript, p. 188 (Shor).

²¹ Hearing transcript, p. 179 (Gortges).

²² Hearing Transcript, p. 29 (Heusner).

Importance of Purchasing Domestic Product

Most purchasers (6 of 10) reported that purchasing U.S.-produced product was not an important factor in their purchase decisions. *** reported that domestic product was required by law (for 10 percent of its purchases) and by its customers (for 20 percent of its purchases). ***, which purchases only domestic product, reported that it preferred domestic product because it purchases small quantities at regular intervals. *** reported domestic product was required by its customers (for 25 percent of its purchases) and it preferred domestic because of shorter lead times. *** reported preferring U.S. product stating that if U.S. firms could make German quality strip, it would buy all U.S. BSS.

Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

Purchasers were asked a number of questions comparing BSS produced in the United States, subject countries, and nonsubject countries. First, purchasers were asked for a country-by-country comparison on the 27 factors (table II-8) for which they were asked to rate the importance. No purchasers compared product from subject countries to product from nonsubject countries, and only one compared U.S. product to product from nonsubject countries.

France—Only one firm (***)²³ compared U.S. and French product, reporting that they were comparable for 14 factors; that U.S. product was superior for three factors (lead time required for orders, delivery time, and U.S. transportation costs); and that French product was superior for 10 factors (discounts offered, global sourcing, price, product consistency, product range, reliability of supply, responsiveness to emergency requirements, special alloys, supplier financial security and technical support/service).

Germany—Most responding purchasers reported that U.S. and German product were comparable for 10 factors; that U.S. product was superior for 5 factors (lead time required for orders, delivery time, minimum quantity requirements, partnering, and U.S. transportation costs); that German product was superior for 7 factors (discounts offered, global sourcing, product consistency, quality exceeds industry standards, reliability of supply, responsiveness to emergency requirements, and vendor managed on hand inventories).²⁴

Italy—The majority of purchasers reported that U.S. and Italian product were comparable for 20 factors; and that U.S. product was superior for 4 factors (lead times required for orders, delivery time, product range, and U.S. transportation cost), one purchaser each reported U.S. product was superior, comparable, and inferior for availability. Purchasers reported that U.S. product was either comparable or superior for 2 factors (reliability of supply and special alloys).

Japan—Purchasers reported U.S. and Japanese product were comparable for six factors (deep drawability, manufactures to my specifications, packaging, quality meets industry standard, surface finish, and toll processing). U.S. product was reported to be superior for 2 factors (price and U.S. transportation costs). Japanese product was reported to be superior for 2 factors (technical support and services). Purchasers split between U.S. product being superior and Japan product being superior for 6 factors (availability, delivery terms, delivery time, extension of credit, reliability of supply, and vendor managed/on hand inventories). Purchasers were divided between Japan superior and U.S. and Japan

²³ It, however, was unable to name any current French supplier.

²⁴ One purchaser each reported U.S. product was superior, comparable, and inferior for 4 factors (new product development, product range, special alloys, and technical support/service); and for availability two purchasers reported U.S. was superior, while one reported that U.S. and Germany were comparable, and one the U.S. was inferior.

Table II-8

BSS: Comparisons between U.S.-produced, subject imported, and nonsubject imported product as reported by U.S. purchasers

Factor	U.S. vs France			U.S. vs Germany			U.S. vs Italy			U.S. vs Japan			U.S. vs Nonsubject ²		
	S	C	I	S	C	I	S	C	I	S	C	I	S	C	I
Availability	0	1	0	2	1	1	1	1	1	1	0	1	1	0	0
Lead time required for orders	1	0	0	3	1	0	2	1	0	1	1	0	1	0	0
Deep drawability	0	1	0	0	3	1	0	2	0	0	2	0	0	0	0
Delivery terms	0	1	0	1	3	0	1	2	0	1	0	1	1	0	0
Delivery time	1	0	0	2	1	0	2	1	0	1	0	1	1	0	0
Discounts offered	0	0	1	0	1	2	0	3	0	0	1	1	0	1	0
Extension of credit	0	1	0	0	3	0	0	3	0	1	0	1	0	1	0
Global sourcing	0	0	1	0	1	2	0	3	0	0	1	1	0	1	0
Manufactures to my specifications	0	1	0	0	2	1	0	3	0	0	2	0	0	1	0
Minimum quantity requirements	0	1	0	2	1	0	1	2	0	0	1	1	1	0	0
New product development	0	1	0	1	1	1	1	2	0	0	1	1	0	1	0
Packaging	0	1	0	0	3	0	0	3	0	0	2	0	0	1	0
Partnering	0	1	0	2	1	0	1	2	0	0	1	1	1	0	0
Price ¹	0	0	1	0	3	0	0	3	0	2	0	0	0	1	0
Product consistency	0	0	1	0	1	2	0	2	0	0	1	1	0	0	0
Product range	0	0	1	1	1	1	2	1	0	0	1	1	1	0	0
Quality meets industry standard	0	1	0	0	2	1	0	3	0	0	2	0	0	1	0
Quality exceeds industry standard	0	1	0	0	1	2	0	3	0	0	1	1	0	1	0
Reliability of supply	0	0	1	1	0	2	1	1	0	1	0	1	0	0	0
Responsive to emergency requirements	0	0	1	0	0	3	1	2	0	0	1	1	1	0	0
Special alloys	0	0	1	1	1	1	1	1	0	0	1	1	0	0	0
Supplier financial security	0	0	1	0	2	1	0	3	0	0	1	1	0	1	0
Surface finish	0	1	0	0	2	1	0	3	0	0	2	0	0	1	0
Technical support/service	0	0	1	1	1	1	0	3	0	0	0	2	0	1	0
Toll processing	0	1	0	0	2	0	1	2	0	0	2	0	1	0	0
U.S. transportation costs ¹	1	0	0	3	0	0	2	1	0	2	0	0	1	0	0
Vendor managed/on-hand inventories	0	1	0	0	0	2	0	2	1	1	0	1	0	1	0

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

² One firm compared U.S. and product from Turkey and Bulgaria; its responses were the same for both countries.

Note: S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior. Not all purchasers responded for each factor.

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

comparable for 11 factors (discounts offered, global sourcing, minimum quantity requirements, new product development, partnering, product consistency, product range, quality exceeds industry standards, responsiveness to emergency requirements, special alloys, and supplier financial security). Purchaser were divided between U.S. superior and U.S. and Japan comparable for lead times for orders.

Nonsubject—One purchaser compared U.S. product with that from Bulgaria and Turkey. It reported that they were comparable for 13 factors; and U.S. product was superior for 10 factors (availability, lead time required for orders, delivery terms, delivery time, minimum quantity requirement, partnering, product range, responsiveness to emergency requirements, toll processing and U.S. transportation cost).²⁵

Interchangeability

Firms were also asked how frequently BSS from different countries were interchangeable (table II-9). Most responding U.S. producers, and importers reported that the domestic and subject imported products were always interchangeable. One producer and one importer reported that U.S. and German product were only sometimes interchangeable and one importer reported that they were frequently interchangeable. Most purchasers reported that U.S. and subject imported product were always or frequently interchangeable for all subject countries. One purchaser each reported U.S. and German product and U.S. and nonsubject product were only sometimes interchangeable. One purchaser each reported U.S. and Italian and U.S. and nonsubject products were never interchangeable.

Importer *** indicated that imported German products have surface finish and drawability characteristics not available from U.S. producers. One purchaser reported that the quality of product from China and India varied from firm to firm but that there were high quality producers in Brazil, South Korea, Taiwan, and Turkey.

Differences other than price

Firms' assessments of how often differences other than price were significant are shown in table II-10. Most U.S. producers and importers identified factors other than price as never important for U.S.-related comparisons except for the U.S.-Germany comparison, for which as many importers responded "always" as responded "never". This distribution was largely similar for other country comparisons. Differences other than price between U.S. and German product cited by importers included differences in surface finish and drawability. In contrast, most purchasers reported that there were always or frequently differences other than price between U.S. and subject imported BSS.²⁶ Purchasers were also asked if the suitability of BSS differed between country sources for its production process. Two of the eight responding purchasers reported there were differences, however only three purchasers listed specific differences. One, ***, reported differences in granular structure and cleanliness but did not specify sources. Two reported that German BSS was superior to U.S. BSS.²⁷

²⁵ It did not respond on four factors (deep drawability, product consistency, reliability of supply, and special alloys).

²⁶ Only two purchasers explained their responses. *** reported there were always differences other than price between U.S. product and product from other countries, but did not compare other country pairs, explaining that price and availability were always important. *** reported that there were always differences other than price for all country pairs, explaining that it knew the relative quality of product from other countries because of its ***.

²⁷ *** responded no to the question, however it explained that ***

Table II-9

BSS: Perceived interchangeability between BSS produced in the United States and in other countries, by country pairs

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting				Number of U.S. purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. other countries:												
U.S. vs. France	5	0	0	0	2	0	0	0	1	1	0	0
U.S. vs. Germany	5	0	1	0	3	1	1	0	4	0	1	0
U.S. vs. Italy	5	0	0	0	3	0	0	0	3	1	0	1
U.S. vs. Japan	5	0	0	0	3	0	0	0	3	0	0	0
U.S. vs. nonsubject	4	1	0	0	4	0	0	0	2	1	1	1
Subject country comparisons:												
France vs. Germany	5	0	0	0	3	1	0	0	1	1	0	0
France vs. Italy	5	0	0	0	3	0	0	0	1	1	0	0
France vs. Japan	5	0	0	0	3	0	0	0	1	1	0	0
Germany vs. Italy	5	0	0	0	3	0	0	0	2	1	0	0
Germany vs. Japan	5	0	0	0	3	0	0	0	3	0	0	0
Italy vs. Japan	5	0	0	0	3	0	0	0	1	1	0	0
Subject vs nonsubject country comparisons:												
France vs. nonsubject	3	1	0	0	2	0	0	0	1	1	0	1
Germany vs. nonsubject	3	1	1	0	3	0	1	0	2	0	1	1
Italy vs. nonsubject	3	1	0	0	3	0	0	0	3	0	1	1
Japan vs. nonsubject	3	1	0	0	2	0	0	0	1	0	1	1
Note.--A = Always, F = Frequently, S = Sometimes, N = Never.												
Source: Compiled from data submitted in response to Commission questionnaires.												

Table II-10

BSS: Perceived importance of factors other than price between BSS produced in the United States and in other countries, by country pairs

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting				Number of U.S. purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. other countries:												
U.S. vs. France	0	0	1	4	0	0	0	2	2	0	0	1
U.S. vs. Germany	1	0	1	4	3	0	0	3	2	1	1	1
U.S. vs. Italy	0	0	1	4	0	0	0	3	3	1	0	1
U.S. vs. Japan	0	0	1	4	0	0	0	3	2	0	0	1
U.S. vs. nonsubject	0	0	1	4	0	0	1	3	3	1	0	1
Subject country comparisons:												
France vs. Germany	0	0	1	4	1	0	0	3	1	0	0	0
France vs. Italy	0	0	1	4	0	0	0	3	1	0	0	0
France vs. Japan	0	0	1	4	0	0	0	3	1	0	0	0
Germany vs. Italy	0	0	1	4	0	0	0	3	1	1	0	0
Germany vs. Japan	0	0	1	4	0	0	0	3	1	0	0	0
Italy vs. Japan	0	0	1	4	0	0	0	3	1	0	0	0
Subject vs nonsubject country comparisons:												
France vs. nonsubject	0	0	1	3	0	0	0	2	1	0	0	0
Germany vs. nonsubject	1	0	1	3	0	0	0	3	1	1	0	0
Italy vs. nonsubject	0	0	1	3	0	0	0	3	2	1	0	0
Japan vs. nonsubject	0	0	1	3	0	0	0	2	1	0	0	0
Note.--A = Always, F = Frequently, S = Sometimes, N = Never.												
Source: Compiled from data submitted in response to Commission questionnaires.												

Most purchasers reported that both domestic and German product always or usually met their minimum quality standards, while most purchasers reported that product from other countries only sometimes or rarely/never met minimum quality specifications (table II-11). Three purchasers reported German product always met minimum quality standards, two reported that it only sometimes or rarely/never met minimum quality specifications. All three responding purchasers reported that French and Italian product only sometimes or rarely/never met minimum quality specifications. One purchaser reported Japanese product always met minimum quality standards and three reported that it only sometimes or rarely/never met minimum quality specifications.

Table II-11
BSS: Purchasers' responses regarding minimum quality specifications

Source of purchase	Always	Usually	Sometimes	Rarely or never
U.S.	7	2	1	0
France	0	0	1	2
Germany	3	0	1	1
Italy	0	0	1	2
Japan	1	0	1	2
Mexico	0	1	1	2
Netherlands	0	0	1	2
Poland	0	1	1	1
Brazil	0	0	1	0

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

ELASTICITY ESTIMATES

This section discusses the elasticity estimates. Parties were requested to comment on these estimates in their briefs. No comments were provided.

U.S. Supply Elasticity²⁸

The domestic supply elasticity for BSS measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of BSS. The elasticity of domestic supply depends on factors such as the level of excess capacity, the existence of inventories, and the availability of alternate markets for domestically produced BSS. Analysis of these factors indicates that the U.S. industry has the capacity to increase domestic shipments in response to moderate price increases. An estimate in the range of 4 to 8 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for BSS measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of BSS, and depends on the availability and viability of substitute products, as well as the component share of BSS in the production of downstream products. Based on the available information, the aggregate demand elasticity for the U.S. BSS market is estimated to be in the range of -0.5 to -1.0.

Substitution Elasticity

The elasticity of substitution depends on the extent of product differentiation between the domestic and imported products. Product differentiation depends on factors such as the range of products produced, quality, availability, and reliability of supply. Based on available information, the elasticity of substitution between domestically produced BSS and subject imported BSS is estimated to be in the range of 2 to 5 for all subject countries.

²⁸ A supply function is not defined in the case of a non-competitive market.

PART III: CONDITION OF THE U.S. INDUSTRY

OVERVIEW

During the period since conclusion of the second reviews of these orders, the domestic industry¹ has continued to contract through shutdowns and consolidations. In addition, at least one U.S. facility was acquired by a foreign company. Table III-1 summarizes important industry events that have taken place in the U.S. industry since the beginning of 2005.

Table III-1
Brass sheet and strip: Survey of industry events since January 1, 2005

* * * * *

Background

Information in this section is based on the questionnaire responses of seven domestic producers that accounted for the vast majority of all domestic production in 2010. Since all three rerollers of BSS purchase BSS from domestic basic producers of BSS, the discussion of data in this section is limited to the data for basic producers to avoid double-counting.

Changes in Operations Since January 1, 2005

In the Commission's questionnaire, U.S. producers were asked if they had experienced any plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns because of strikes or equipment failure; curtailment of production because of shortages of materials; or any other change in the character of their operations or organization relating to the production of BSS since January 1, 2005. Three firms, *** reported no changes to their operations while four firms reported such changes; their responses to this question are presented in table III-2.

Table III-2
BSS: Changes in the character of U.S. producers' operations since January 1, 2005

* * * * *

¹ As discussed previously, U.S. producers of BSS (***) are owned by producers of BSS in the subject countries. ThyssenKrupp is owned by ThyssenKrupp AG in Germany and is affiliated with ThyssenKrupp VMD in Germany, ***. In addition, as discussed in greater detail later in part III, of the domestic producers, *** directly import or purchase imports of BSS from the subject countries.

Anticipated Changes in Operations

The Commission asked domestic producers to report anticipated changes in the character of their operations relating to the production of BSS. All but one producer (***)² did not anticipate any changes in their operations of BSS.

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

Data on U.S. producers' capacity, production, and capacity utilization are presented in table III-3.³ Reported U.S. capacity to produce BSS stayed steady during the period of review at 579 million pounds, but still exceeded apparent U.S. consumption of BSS in each year during 2005-10. Production of BSS by basic producers fluctuated from 2005 to 2010 while production by rerollers decreased steadily from 2005 to 2009 before increasing slightly in 2010. Production fell for both basic producers and rerollers in interim 2011. For basic producers, capacity utilization increased from 2005 to 2006, then decreased steadily from 2007 to 2009 before increasing in 2010. For rerollers, capacity utilization increased slightly from 2005 to 2006 then decreasing steadily from 2006 to 2010. Capacity utilization fell for both basic producers and rerollers in interim 2011 when compared to interim 2010.

Table III-3

BSS: U.S. producers' capacity, production, and capacity utilization, 2005-2010, January-September 2010, and January-September 2011

Item	Calendar year						Jan.-Sept.	
	2005	2006	2007	2008	2009	2010	2010	2011
Capacity: <i>(1,000 pounds)</i>								
Basic producers	579,000	579,000	579,000	579,000	579,000	579,000	440,825	440,825
Rerollers	64,248	63,852	63,491	61,224	60,849	62,548	47,211	47,120
Production: <i>(1,000 pounds)</i>								
Basic producers	363,809	373,597	344,268	332,022	315,940	368,321	283,849	257,210
Rerollers	34,389	35,683	33,960	32,644	30,741	30,947	24,744	23,603
Capacity utilization: <i>(Percent)</i>								
Basic producers	62.8	64.5	59.5	57.3	54.6	63.6	64.4	58.3
Rerollers	53.5	55.9	53.5	53.3	50.5	49.5	52.4	50.1
Source: Compiled from data submitted in response to Commission questionnaires.								

² ***.

³ Data herein for U.S. producers' capacity, production, capacity utilization, shipments, inventories, and employment are reported separately for basic producers and rerollers. Except for data on employment, aggregation of data for the two groups of firms would result in double-counting because rerollers reroll or finish BSS that has already been produced by a basic producer.

Constraints on Capacity

The Commission asked domestic producers to report constraints on their capacity to produce BSS. One firm, ***, did not report any specific constraints on capacity. The remaining firms provided the information presented in table III-4 regarding their constraints on each stage of BSS production.

Table III-4
BSS: U.S. producers' constraints on capacity

* * * * *

Alternative Products

All seven U.S. producers reported that during the period of review they produced other products on the same equipment and machinery used in the production or reroll of C20000-series BSS. The other products included other series of copper alloys, copper sheet and plate, plate of any alloy, foil of any alloy, and other flat-rolled products. Aggregate data for the firms are presented in table III-5.

Table III-5
BSS: U.S. producers' capacity, production, and capacity utilization for alternative products, 2005-10

Item	Calendar year					
	2005	2006	2007	2008	2009	2010
Quantity (1,000 pounds)						
Casting (all copper and copper alloy):						
Total production capacity	1,788,325	1,761,325	1,752,325	1,752,325	1,752,325	1,752,325
Production	1,503,215	1,453,816	1,371,028	1,251,178	953,766	1,120,241
Capacity utilization (percent)	84.1	82.5	78.2	71.4	54.4	63.9
Hot-rolling:						
Capacity	2,488,926	2,488,926	2,488,926	2,488,926	2,488,926	2,488,926
Production						
C20000-series brass sheet and strip (subject)	540,705	536,415	489,548	459,030	435,320	491,696
Other copper-alloy and copper sheet and strip (nonsubject)	797,319	773,346	735,424	626,512	376,876	453,651
Plate of any alloy (nonsubject)	31,304	39,972	39,348	42,208	44,580	53,043
Foil of any alloy (nonsubject)	8,941	9,346	4,414	4,794	553	1,039
Other flat-rolled products (nonsubject)	0	0	0	0	0	0
Total	1,378,269	1,359,079	1,268,734	1,132,544	857,329	999,429
Capacity utilization (percent)	55.4	54.6	51.0	45.5	34.4	40.2

Table continued on next page.

Table III-5--Continued
BSS: U.S. producers' capacity, production, and capacity utilization for alternative products, 2005-10

Item	Calendar year					
	2005	2006	2007	2008	2009	2010
Quantity (1,000 pounds)						
Cold-rolling:						
Capacity	4,478,174	4,446,174	4,358,174	4,338,274	4,338,274	4,342,274
Production						
C20000-series brass sheet and strip (subject)	1,370,381	1,326,269	1,230,742	1,137,962	1,084,300	1,195,049
Other copper-alloy and copper sheet and strip (nonsubject)	1,703,748	1,630,245	1,529,979	1,272,888	742,148	926,269
Plate of any alloy (nonsubject)	76,696	94,734	94,042	100,911	103,974	125,296
Foil of any alloy (nonsubject)	29,994	30,375	12,352	6,274	1,288	2,452
Other flat-rolled products (nonsubject)	400	400	400	400	400	400
Total	3,181,219	3,082,023	2,867,515	2,518,435	1,932,110	2,249,466
Capacity utilization (percent)	71.0	69.3	65.8	58.1	44.5	51.8
Annealing:						
Capacity	2,930,408	2,902,408	2,825,408	2,807,908	2,807,908	2,811,908
Production						
C20000-series brass sheet and strip (subject)	945,438	908,878	840,607	782,395	732,103	796,902
Other copper-alloy and copper sheet and strip (nonsubject)	1,176,436	1,130,446	1,021,048	867,087	527,405	627,471
Plate of any alloy (nonsubject)	54,783	67,667	67,173	72,054	74,195	89,415
Foil of any alloy (nonsubject)	26,667	26,605	10,709	5,547	920	1,751
Other flat-rolled products (nonsubject)	400	400	400	400	400	400
Total	2,203,724	2,133,996	1,939,937	1,727,483	1,335,023	1,515,939
Capacity utilization (percent)	75.2	73.5	68.7	61.5	47.5	53.9
Note.—Because of rounding, figures may not add to the totals shown.						
Source: Compiled from data submitted in response to Commission questionnaires.						

**U.S. PRODUCERS' DOMESTIC SHIPMENTS, COMPANY TRANSFERS,
AND EXPORT SHIPMENTS**

U.S. producers' shipments (toll, nontoll, internal consumption, transfers to related firms, and exports) are shown in table III-6.⁴ The quantity of U.S. commercial shipments of BSS decreased during the period, from 197 million pounds in 2005 to 190 million pounds in 2010. These shipments declined further in January-September 2011. The value of U.S. commercial shipments of BSS increased from \$304 million in 2005 to \$465 million in 2010. These shipments continued to increase in interim 2011 compared with interim 2010. U.S. producers reported measurable toll shipments of BSS, internal consumption of BSS, and transfers to related firms of BSS during the period of review. In 2010, the percentage of the quantity of total U.S. shipments accounted for by toll shipments, internal consumption, and transfers to related firms was *** percent, *** percent, and *** percent, respectively. The quantity of total U.S. shipments of BSS increased by less than one percent between 2005 and 2010. In interim 2011, these shipments decreased by 8.7 percent compared with interim 2010. The quantity of U.S. producers' exports of BSS was less than *** percent of total shipments of BSS during the period of review. Export markets included Canada, Mexico, China, and Indonesia.

⁴ With respect to the value of shipments, the value of toll shipments excludes the metal value of the merchandise, while the value of nontoll shipments includes the value of the metal.

Table III-6

BSS: U.S. producers' shipments, by type of shipment and type of producer, 2005-10, January-September 2010, and January-September 2011

Item	Calendar year						Jan.-Sept.	
	2005	2006	2007	2008	2009	2010	2010	2011
Quantity (1,000 pounds)								
Commercial shipments:								
Toll:								
Basic producers	36,305	47,269	45,897	47,426	46,191	62,425	48,630	43,739
Rerollers	(¹)							
Nontoll:								
Basic producers	160,931	155,660	128,719	111,574	100,406	127,839	101,853	97,867
Rerollers	29,733	26,982	31,317	30,071	26,760	26,825	21,509	19,086
Total, commercial								
Basic producers	197,236	202,929	174,616	159,000	146,597	190,264	150,483	141,606
Rerollers	29,733	26,982	31,317	30,071	26,760	26,825	21,509	19,086
Internal consumption:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***
Transfers to related firms:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***
Total, U.S. shipments:								
Basic producers	363,858	378,754	347,478	331,755	316,166	367,396	287,918	262,953
Rerollers	34,092	34,211	34,509	32,737	30,593	29,602	23,755	21,166
Export shipments:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***
Total, all shipments:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***

Table continued on next page.

Table III-6--Continued

BSS: U.S. producers' shipments, by type of shipment and type of producer, 2005-10, January-September 2010, and January-September 2011

Item	Calendar year						Jan.-Sept.	
	2005	2006	2007	2008	2009	2010	2010	2011
<i>Value (1,000 dollars)</i>								
Commercial shipments:								
Toll:								
Basic producers	22,665	32,462	34,437	44,408	22,993	27,652	21,799	18,897
Rerollers	(¹)							
Nontoll:								
Basic producers	281,147	429,780	395,180	345,102	272,791	437,058	329,422	386,145
Rerollers	(¹)							
Total, commercial								
Basic producers	303,812	462,242	429,617	389,510	295,784	464,710	351,221	405,042
Rerollers	66,191	94,054	114,132	111,788	83,139	107,238	84,376	90,832
Internal consumption:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***
Transfers to related firms:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***
Total, U.S. shipments:								
Basic producers	532,861	852,574	841,935	829,038	648,466	931,639	696,570	798,122
Rerollers	72,924	106,452	123,278	119,057	94,184	115,797	91,031	99,552
Export shipments:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***
Total, all shipments:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***

Table continued on next page.

Table III-6--Continued

BSS: U.S. producers' shipments, by type of shipment and type of producer, 2005-10, January-September 2010, and January-September 2011

Item	Calendar year						Jan.-Sept.	
	2005	2006	2007	2008	2009	2010	2010	2011
Unit Value (1,000 dollars)								
Commercial shipments:								
Toll:								
Basic producers	0.62	0.69	0.75	0.94	0.50	0.44	0.45	0.43
Rerollers	(¹)							
Nontoll:								
Basic producers	1.75	2.76	3.07	3.09	2.72	3.42	3.23	3.95
Rerollers	(¹)							
Total, commercial								
Basic producers	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Rerollers	2.23	3.49	3.64	3.72	3.11	4.00	3.92	4.76
Internal consumption:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***
Transfers to related firms:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***
Total, U.S. shipments:								
Basic producers	1.46	2.25	2.42	2.50	2.05	2.54	2.42	3.04
Rerollers	2.14	3.11	3.57	3.64	3.08	3.91	3.83	4.70
Export shipments:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***
Total, all shipments:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***

Table continued on next page.

Table III-6--Continued

BSS: U.S. producers' shipments, by type of shipment and type of producer, 2005-10, January-September 2010, and January-September 2011

Item	Calendar year						Jan.-Sept.	
	2005	2006	2007	2008	2009	2010	2010	2011
Share of quantity (percent)								
Commercial shipments:								
Toll:								
Basic producers	9.7	12.2	12.8	13.8	14.0	16.2	16.1	15.8
Rerollers	(¹)							
Nontoll:								
Basic producers	42.8	40.0	35.9	32.5	30.4	33.1	33.8	35.5
Rerollers	(¹)							
Total, commercial								
Basic producers	52.5	52.1	48.7	46.3	44.3	49.3	49.9	51.3
Rerollers	87.0	78.2	90.6	91.8	87.2	90.1	90.1	86.8
Internal consumption:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***
Transfers to related firms:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***
Total, U.S. shipments:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***
Export shipments:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***
Total, all shipments:								
Basic producers	***	***	***	***	***	***	***	***
Rerollers	***	***	***	***	***	***	***	***

¹ Not applicable.

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

U.S. PRODUCERS' INVENTORIES

Table III-7 presents data on U.S. producers' end-of-period inventories of BSS during the review period. U.S. basic producers' end-of-period inventories of BSS fluctuated from 26.9 million pounds in 2005 to 25.2 million pounds in 2010. U.S. basic producers' inventories as a share of U.S. production and as a share of U.S. shipments fluctuated slightly while U.S. rerollers' inventories as a share of U.S. production fluctuated markedly during the period.

Table III-7

BSS: U.S. producers' end-of-period inventories, 2005-10, January-September 2010, and January-September 2011

Item	Calendar year						Jan.-Sept.	
	2005	2006	2007	2008	2009	2010	2010	2011
Inventories (1,000 pounds):								
Basic producers	26,909	24,810	20,771	22,946	24,902	25,248	27,368	26,159
Rerollers	3,194	3,661	4,669	4,555	2,513	2,914	2,781	3,356
Ratio to production (percent):								
Basic producers	7.4	6.6	6.0	6.9	7.9	6.9	7.2	7.6
Rerollers	9.3	10.3	13.7	14.0	8.2	9.4	8.4	10.7
Ratio to U.S. shipments (percent):								
Basic producers	7.4	6.6	6.0	6.9	7.9	6.9	7.1	7.5
Rerollers	9.4	10.7	13.5	13.9	8.2	9.8	8.8	11.9
Ratio to total shipments (percent):								
Basic producers	7.2	6.4	5.8	6.7	7.5	6.5	6.8	7.1
Rerollers	9.3	10.6	13.5	13.9	8.2	9.8	8.7	11.4

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

U.S. PRODUCERS' IMPORTS AND PURCHASES OF IMPORTS

Basic U.S. producers reported no imports of BSS from the subject countries and no purchases of subject imports from importers during the period of review. Only the three reroll U.S. producers (***), reported imports and/or purchases of BSS during the period of review, as shown below in table III-8.

Table III-8

BSS: U.S. producers' production, imports, purchases of imports, and ratios to production, 2005-10, January-September 2010, and January-September 2011

* * * * *

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

Table III-9 presents employment data for U.S. producers of BSS. The number of production and related workers (PRWs) involved in basic production and rerolling of BSS declined by four percent between 2005 and 2010, from 1,051 to 1,004. Reflecting the drop in employment, the number of hours worked by PRWs also declined while wages paid increased during the period. Hourly wages increased during the period, while productivity and unit labor costs fluctuated slightly.

Table III-9

BSS: Average number of production and related workers, hours worked, wages paid to such workers, hourly wages, productivity, and unit labor costs, 2005-10, January-September 2010, and January-September 2011

Item	Calendar year						Jan.-Sept.	
	2005	2006	2007	2008	2009	2010	2010	2011
PRWs: <i>(Number)</i>								
Basic producers	994	1,005	967	864	915	951	942	907
Rerollers	57	57	60	60	62	53	54	51
Total	1,051	1,062	1,027	924	977	1,004	996	958
Hours worked: <i>(1,000)</i>								
Basic producers	1,882	1,944	1,803	1,608	1,645	1,791	1,448	1,386
Rerollers	126	131	130	130	122	115	93	84
Total	2,008	2,075	1,933	1,738	1,767	1,906	1,541	1,470
Wages paid: <i>(\$1,000)</i>								
Basic producers	51,560	58,873	54,607	48,748	52,305	57,230	42,918	41,423
Rerollers	3,646	3,870	4,097	4,078	3,919	3,750	2,977	2,962
Total	55,206	62,743	58,704	52,826	56,224	60,980	45,895	44,385
Hourly wages:								
Basic producers	\$27.40	\$30.28	\$30.29	\$30.32	\$31.80	\$31.95	\$29.64	\$29.89
Rerollers	\$28.94	\$29.56	\$31.41	\$31.31	\$32.21	\$32.49	\$32.18	\$35.12
Average	\$27.49	\$30.24	\$30.36	\$30.39	\$31.82	\$31.99	\$29.79	\$30.19
Productivity: <i>(Pounds per hour)</i>								
Basic producers	193.3	192.2	190.9	206.5	192.1	205.7	196.0	185.6
Rerollers	273.0	272.6	260.4	250.6	252.6	268.1	267.5	279.8
Average	198.3	197.2	195.7	209.8	196.2	209.5	200.3	191.0
Unit labor costs: <i>(Per pound)</i>								
Basic producers	\$0.14	\$0.16	\$0.16	\$0.15	\$0.17	\$0.16	\$0.15	\$0.16
Rerollers	\$0.11	\$0.11	\$0.12	\$0.12	\$0.13	\$0.12	\$0.12	\$0.13
Average	\$0.14	\$0.15	\$0.16	\$0.14	\$0.16	\$0.15	\$0.15	\$0.16
Source: Compiled from data submitted in response to Commission questionnaires.								

FINANCIAL EXPERIENCE OF THE U.S. PRODUCERS

Background

Seven U.S. producers provided usable financial data on their operations on brass sheet and strip (BSS).⁵ These data are believed to account for the large majority of U.S. production of BSS in 2010. BSS activity represents commercial sales, tolling,⁶ internal consumption, and transfers and encompasses basic production (production of BSS from raw material inputs) and rerolling (further processing of purchased BSS). As reported to the Commission and consistent with the previous sunset reviews, the majority of BSS activity represents basic production.

Operations on Brass Sheet and Strip

Income-and-loss data for U.S. producers on their operations on BSS are presented in table III-10. Selected financial data, by firm, are presented in table III-11. The domestic industry experienced declining operating profits from 2005 to 2007, followed by a notable decline in profitability that led to an operating loss in 2008. In 2009 and 2010, the domestic industry returned to positive operating income, and achieved the highest annual operating income in 2010 for the entire six-year period, although the operating income margin was not the highest for the period. Operating income in January-September 2011 declined as compared to January-September 2010. Net sales quantities declined irregularly from 2005 to 2009 by 11 percent, then increased by 14 percent from 2009 to 2010, and were 8 percent lower between the comparable interim periods. In contrast, net sales value increased irregularly from 2005 to 2009 by 26 percent, increased further by 39 percent from 2009 to 2010, and was 15 percent higher between the comparable interim periods. The declines in operating income from 2007 to 2008 cut across the industry, as five of the seven producers reported a sharp decrease in profitability during this time.

The industry-wide financial decline began to ease from 2008 to 2010. Per-unit operating income improved as the changes in per-unit net sales value increasingly offset the combined effects of changes in per-unit cost of goods sold (“COGS”) and selling, general, and administrative (“SG&A”) expenses. Six of the seven firms reported increased profitability from 2008 to 2010.⁷

⁵ The firms (and their fiscal year ends if other than December 31) are: Aurubis Buffalo, Heyco, Olin Brass, PMX, Revere, ThyssenKrupp (September 30, but reported financial data are on a calendar year basis), and Wieland (September 30).

⁶ The majority of reported tolling appears to be performed for companies that are not BSS producers, thus double-counting due to tolling appears to be minor. A variance analysis is not included in this report due to the presence of tolling activity, which limits the meaningful unitization of aggregate revenue and cost information.

⁷ Of the six firms, *** experienced a decline in reported operating income from 2009 to 2010 despite each firm’s improvement in operating income from 2008 to 2010.

Table III-10

BSS: Results of operations of U.S. producers, 2005-10, January-September 2010, and January-September 2011

Item	Fiscal year						January-September	
	2005	2006	2007	2008	2009	2010	2010	2011
Quantity (1,000 pounds)								
Commercial sales	***	***	***	***	***	***	***	***
Tolling revenue	***	***	***	***	***	***	***	***
Int. consumption	***	***	***	***	***	***	***	***
Transfers	***	***	***	***	***	***	***	***
Total net sales	409,508	421,190	390,384	373,539	364,172	414,378	323,734	297,376
Value (\$1,000)								
Commercial sales	***	***	***	***	***	***	***	***
Tolling revenue	***	***	***	***	***	***	***	***
Int. consumption	***	***	***	***	***	***	***	***
Transfers	***	***	***	***	***	***	***	***
Total net sales	638,166	983,022	994,372	972,892	802,127	1,114,554	831,820	953,642
COGS	601,260	946,290	964,790	979,571	764,199	1,072,596	799,409	925,520
Gross profit (loss)	36,906	36,732	29,582	(6,679)	37,928	41,958	32,411	28,122
SG&A expenses	14,725	14,655	13,857	15,758	18,545	17,554	13,278	15,007
Op. income/ (loss)	22,181	22,077	15,725	(22,437)	19,383	24,404	19,133	13,115
Interest expense	6,782	9,449	10,856	6,667	8,913	6,805	5,280	4,663
CDSOA income	60	35	135	129	234	24	24	18
Other income/(exp.)	(4,643)	(1,142)	(5,193)	382	(1,156)	(1,053)	(1,381)	(960)
Net income (loss)	10,816	11,521	(189)	(28,593)	9,548	16,570	12,496	7,510
Depreciation	15,598	14,830	14,648	9,028	10,129	11,130	8,176	8,488
Cash flow	26,414	26,351	14,459	(19,565)	19,677	27,700	20,672	15,998
Ratio to net sales (percent)								
COGS:								
Raw materials	69.4	78.9	81.1	84.1	75.8	79.0	78.6	81.6
Direct labor	7.7	5.3	5.0	4.7	5.9	5.2	5.1	4.7
OFC ¹	17.1	12.1	10.9	11.9	13.5	12.0	12.4	10.8
Total COGS	94.2	96.3	97.0	100.7	95.3	96.2	96.1	97.1
Gross profit (loss)	5.8	3.7	3.0	(0.7)	4.7	3.8	3.9	2.9
SG&A expenses	2.3	1.5	1.4	1.6	2.3	1.6	1.6	1.6
Op. income (loss)	3.5	2.2	1.6	(2.3)	2.4	2.2	2.3	1.4
Net income (loss)	1.7	1.2	0.0	(2.9)	1.2	1.5	1.5	0.8

Table continued on next page.

Table III-10 – continued

BSS: Results of operations of U.S. producers, 2005-10, January-September 2010, and January-September 2011

Item	Fiscal year						January-September	
	2005	2006	2007	2008	2009	2010	2010	2011
Unit value (per pound)								
Commercial sales	\$**	\$**	\$**	\$**	\$**	\$**	\$**	\$**
Tolling revenue	***	***	***	***	***	***	***	***
Int. consumption	***	***	***	***	***	***	***	***
Transfers	***	***	***	***	***	***	***	***
Total net sales	1.56	2.33	2.55	2.60	2.20	2.69	2.57	3.21
COGS:								
Raw materials	***	***	***	***	***	***	***	***
Conversion costs								
Direct labor	0.12	0.12	0.13	0.12	0.13	0.14	0.13	0.15
OFC ¹	0.27	0.28	0.28	0.31	0.30	0.32	0.32	0.35
Total Conv. costs	0.39	0.41	0.41	0.43	0.43	0.46	0.45	0.50
Total COGS	1.47	2.25	2.47	2.62	2.10	2.59	2.47	3.11
Gross profit (loss)	0.09	0.09	0.08	(0.02)	0.10	0.10	0.10	0.09
SG&A expenses	0.04	0.03	0.04	0.04	0.05	0.04	0.04	0.05
Op. income (loss)	0.05	0.05	0.04	(0.06)	0.05	0.06	0.06	0.04
Net income (loss)	0.03	0.03	0.00	(0.08)	0.03	0.04	0.04	0.03
Number of firms reporting								
Data	7	7	7	7	7	7	7	7
Operating losses	1	1	1	5	2	1	1	2
¹ Other factory costs. Note.— As presented in this table and consistent with the previous review, average per-pound raw material costs equal total raw material costs divided by all volume except tolling, while average per-pound direct labor and other factory costs (conversion costs) are the product of total direct labor and other factory costs divided by all volume including tolling. Per-pound COGS is the product of total COGS divided by total volume including tolling. Because different volume denominators are used, the sum of per-pound raw material costs and per-pound conversion costs does not equal per-pound COGS. Per-pound gross profit, per-pound SG&A expenses, per-pound operating income, and per-pound net income are the total value for these items divided by all volume including tolling. For per-unit calculations, **. E-mail correspondence from **, December 13, 2011.								
Source: Compiled from data submitted in response to Commission questionnaires.								

Table III-11

BSS: Results of operations of U.S. producers, by firm, 2005-10, January-September 2010, and January-September 2011

* * * * *

The domestic industry's operating income was lower in January-September 2011 than in January-September 2010. Net sales volume declined between the comparable interim periods, and the increase in per-unit net sales value was somewhat smaller in magnitude than the combined increases in per-unit COGS and SG&A expenses. The overall lower operating income level in January-September 2011 as compared to January-September 2010 reflects the experience of four of the seven reporting firms.^{8 9 10}

A useful factor in the industry's financial performance is the "conversion margin" which represents the difference between negotiated prices and the cost of primary raw materials. Since the industry's pricing mechanism essentially passes the cost of raw materials through to the customer, key determinants of BSS profitability are the relative strength of conversion margins, volume, and associated conversion costs. As shown in table III-12, average fabrication charges and conversion margins can be estimated using information contained in table III-10. The financial results of the industry indicate that per-pound conversion costs increased while estimated conversion margins declined from 2005 to 2008, then both the per-pound conversion costs and estimated conversion margins increased in 2009 and 2010 as well as between the comparable interim periods.

Capital Expenditures and Research and Development Expenses

The responding firms' aggregate data on capital expenditures and research and development ("R&D") expenses are shown in table III-13. Aggregate capital expenditures increased irregularly from 2005 to 2010, and were much higher in January-September 2011 than in January-September 2010. *** accounted for the largest share of reported capital expenditures during most of the review period.¹¹ In total, six firms reported capital expenditure data and *** reported R&D data.

⁸ *** E-mail correspondence from ***, December 14-16, 2011, and ***'s addendum to its U.S. producer questionnaire response.

⁹ U.S. producers that reported any internal consumption and/or transfers to related firms were requested to determine whether there would be an impact on their reported profitability on BSS if such sales values were alternatively based upon (1) the gross profit margin of the downstream product, and (2) the relative COGS of BSS as compared to the total COGS for the downstream product. Four firms (***, ***, ***, and ***) reported internal consumption and/or transfers to related firms during the period for which data were collected. *** reported that there would be no impact on the firms' reported profitability on BSS using the alternative methodology, while *** reported that the effect on profitability is unclear. ***. E-mail correspondence from ***, December 13, 2011, and responses to question III-11 of the U.S. producers' questionnaires for these investigations.

¹⁰ Olin Brass' parent company, Global Brass and Copper Holdings (GBC), filed an S-1 registration statement with the SEC on October 28, 2011, for an initial public offering (IPO) of common stock. GBC is comprised of three operating segments: Olin Brass, Chase Brass, and A.J. Oster. GBC's operating margins were (5.0), 2.7, and 5.5 percent, respectively, from 2008 to 2010, while Olin Brass' margins on segment adjusted EBITDA were 1.8, 1.6, and 3.0 percent, respectively. GBC, Form S-1, October 28, 2011, pp. F-18 and F-48. According to counsel for Olin Brass, ***. E-mail correspondence from ***, January 4, 2012.

***.

¹¹ ***. E-mail correspondence from ***, December 15, 2011. The substantial increase in reported capital expenditures between the comparable interim periods reflects notably higher expenditures in January-September 2011 as compared to January-September 2010 by five of the six reporting firms.

Table III-12**BSS: Fabrication charges, conversion costs, and conversion margins of U.S. producers, 2005-10, January-September 2010, and January-September 2011**

Item	Fiscal year						January-September	
	2005	2006	2007	2008	2009	2010	2010	2011
Unit value (per pound)								
Fabrication charge	\$0.47	\$0.48	\$0.45	\$0.33	\$0.55	\$0.60	\$0.57	\$0.63
Conversion cost	0.39	0.41	0.41	0.43	0.43	0.46	0.45	0.50
Conversion margin	0.08	0.07	0.05	(0.10)	0.12	0.13	0.12	0.14
Ratio to fabrication charge (percent)								
Conversion margin	18.0	15.5	10.0	(31.3)	22.0	22.5	21.6	21.6
Note: The fabrication charges represent the difference between average sales values (without tolling) and average raw material costs. The conversion margin is the difference between the estimated fabrication charges and conversion costs. Since tolling activity can only be partially eliminated, the above data should be considered estimates and thus used with caution. These calculations are consistent with the previous review.								
Source: Compiled from data submitted in response to Commission questionnaires.								

Table III-13**BSS: Capital expenditures and research and development expenses of U.S. producers, 2005-10, January-September 2010, and January-September 2011**

Item	Fiscal year						January-September	
	2005	2006	2007	2008	2009	2010	2010	2011
Value (\$1,000)								
Capital expenditures	9,991	10,935	8,211	10,369	8,758	11,190	4,480	10,155
R&D expenses	***	***	***	***	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.								

Assets and Return on Investment

The Commission's questionnaire requested data on assets used in the production, warehousing, and sale of BSS to compute return on investment ("ROI"). Data on the U.S. BSS producers' total assets and their ROI are presented in table III-14. The total assets utilized in the production, warehousing, and sale of BSS irregularly increased from \$407.7 million in 2005 to \$416.2 million in 2010. From 2005 to 2008, the ROI continuously declined from 5.4 percent to negative 6.9 percent, then improved to a positive 4.9 percent and 5.9 percent, respectively, in 2009 and 2010.¹²

¹² ***.

Table III-14

BSS: Value of assets and return on investment of U.S. producers, 2005-10

Item	Fiscal year					
	2005	2006	2007	2008	2009	2010
Value of assets:	Value (\$1,000)					
Total assets	407,665	445,972	479,299	326,175	392,683	416,180
Operating income or (loss)	22,181	22,077	15,725	(22,437)	19,383	24,404
	Share (percent)					
Return on investment	5.4	5.0	3.3	(6.9)	4.9	5.9
Source: Compiled from data submitted in response to Commission questionnaires.						

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

U.S. IMPORTS

Overview

The Commission issued questionnaires to forty-seven firms believed to have imported BSS between 2005 and 2010. Eight firms provided data and information in response to the questionnaires, while six firms indicated that they had not imported BSS during the period for which data were collected. Based on official Commerce statistics for imports of BSS (which includes nonsubject BSS),¹ importers' questionnaire data accounted for 8.6 percent of total U.S. imports during 2010 and 4.0 percent of total subject imports during 2010. Firms responding to the Commission's questionnaire accounted for the following shares of individual subject country subject imports during the review period:²

- None of the subject imports from France during 2005-10;
- 2.9 percent of the subject imports from Germany during 2005-10;³
- None of the subject imports from Italy during 2005-10; and
- None of the subject imports from Japan during 2005-10.⁴

In light of the data coverage by the Commission's questionnaires, import data in this report are based on official Commerce statistics for BSS.⁵

Imports from Subject and Nonsubject Countries

Table IV-1 presents data for U.S. imports of BSS from France, Germany, Italy, Japan, and all other sources based on official statistics of the Department of Commerce. U.S. imports of BSS from the four subject countries increased by 19.0 percent between 2005 and 2010, from 5.1 million pounds to 6.1 million pounds. Subject imports increased by 71.3 percent during January-September 2011 when compared to January-September 2010. Imports of BSS from France were small and sporadic over the period of review. Imports of BSS from Germany more than doubled between 2005 and 2010 while imports of BSS from Italy and Japan declined between 2005 and 2010. Imports of BSS from nonsubject

¹ According to ***.

² According to official Commerce statistics, subject imports from France and Italy were very small, less than 0.5 percent of total imports from 2005 to September 2011.

³ In the last and current five-year review, German respondents contend that the official statistics substantially overstated imports of subject BSS from Germany because of the inclusion of nonsubject merchandise. Specifically, "the two tariff subheadings under which subject merchandise can be classified (7409.21 and 7409.29) are far broader than the scope of subject merchandise. These subject headings cover not only subject UNS Series 20000 "yellow" brass alloys, but also nonsubject alloys including but not limited to UNS Series 30000 leaded brasses, or UNS Series 40000 tin brasses, as well as nonsubject brass products over 4.8 mm in thickness. In 2010, Wieland exported to the United States *** million pounds of nonsubject brass products, with a value over *** million under these tariff headings but were "****." *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, and Japan, Inv. Nos. 701-TA-269 (Second Review) and 731-TA-311-314, 317, and 379 (Second Review)*, Confidential staff report, February 15, 2006, p. IV-1, fn 3 and German respondents' prehearing brief, p. 47-49.

⁴ According to official Commerce statistics, subject imports from Japan were small, ranging from 1.2 to 6.0 percent of total imports from 2005 to September 2011.

⁵ Import data were based on the following HTS statistical reporting numbers: HTS statistical reporting numbers 7409.21.0050, 7409.21.0075, 7409.21.0090, 7409.29.0050, 7409.29.0075, and 7409.29.0090.

countries declined by more than 50 percent during the period, from 55.9 million pounds in 2005 to 26.6 million pounds in 2010. In January-September 2011, nonsubject imports grew by 1.2 percent over the level in the same period of 2010. The total quantity of U.S. imports of BSS declined by 46.5 percent between 2005 and 2010, from 61.0 million pounds to 32.7 million pounds, with an increase of 14.8 percent in interim 2011. BSS imports from subject countries as a share of total U.S. imports increased irregularly from 8.3 percent in 2005 to 18.6 percent in 2010.

Table IV-1

BSS: U.S. imports, by sources, 2005-2010, January-September 2010, and January-September 2011

Source	Calendar year						Jan.-Sept.	
	2005	2006	2007	2008	2009	2010	2010	2011
Quantity (1,000 pounds)								
France	33	6	0	0	2	62	62	0
Germany	2,083	2,889	2,668	4,258	3,816	5,582	4,011	7,153
Italy	196	116	148	151	29	21	21	56
Japan	2,772	2,485	1,827	2,145	839	398	348	399
Subtotal	5,084	5,496	4,643	6,553	4,686	6,063	4,442	7,609
All other sources	55,930	50,967	36,918	29,172	17,946	26,601	18,447	18,662
Total imports	61,013	56,463	41,561	35,725	22,632	32,664	22,889	26,270
Value (\$1,000)^d								
France	68	67	0	0	22	271	271	4
Germany	4,609	9,654	9,428	17,285	11,248	21,064	14,746	32,831
Italy	443	424	617	485	83	74	70	231
Japan	6,517	7,997	6,989	8,068	2,466	1,644	1,440	1,765
Subtotal	11,637	18,141	17,033	25,838	13,819	23,053	16,528	34,831
All other sources	99,883	144,905	119,193	93,004	43,514	88,575	60,486	72,706
Total imports	111,520	163,047	136,227	118,841	57,334	111,628	77,014	107,537
Unit value (per pound)								
France	2.08	11.82	(¹)	(¹)	11.06	4.40	4.40	9.96
Germany	2.21	3.34	3.53	4.06	2.95	3.77	3.68	4.59
Italy	2.26	3.66	4.17	3.21	2.87	3.53	3.37	4.13
Japan	2.35	3.22	3.82	3.76	2.94	4.13	4.13	4.42
Average	2.29	3.30	3.67	3.94	2.95	3.80	3.72	4.58
All other sources	1.79	2.84	3.23	3.19	2.42	3.33	3.28	3.90
Average	1.83	2.89	3.28	3.33	2.53	3.42	3.36	4.09

Table continued on next page.

Table IV-1--Continued

BSS: U.S. imports, by sources, 2005-2010, January-September 2010, and January-September 2011

Source	Calendar year						Jan.-Sept.	
	2005	2006	2007	2008	2009	2010	2010	2011
Share of quantity (percent)								
France	0.1	0.0	0.0	0.0	0.0	0.2	0.3	0.0
Germany	3.4	5.1	6.4	11.9	16.9	17.1	17.5	27.2
Italy	0.3	0.2	0.4	0.4	0.1	0.1	0.1	0.2
Japan	4.5	4.4	4.4	6.0	3.7	1.2	1.5	1.5
Subtotal	8.3	9.7	11.2	18.3	20.7	18.6	19.4	29.0
All other sources	91.7	90.3	88.8	81.7	79.3	81.4	80.6	71.0
Total imports	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Share of value (percent)								
France	0.1	0.0	0.0	0.0	0.0	0.2	0.4	0.0
Germany	4.1	5.9	6.9	14.5	19.6	18.9	19.1	30.5
Italy	0.4	0.3	0.5	0.4	0.1	0.1	0.1	0.2
Japan	5.8	4.9	5.1	6.8	4.3	1.5	1.9	1.6
Subtotal	10.4	11.1	12.5	21.7	24.1	20.7	21.5	32.4
All other sources	89.6	88.9	87.5	78.3	75.9	79.3	78.5	67.6
Total imports	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
¹ Not applicable. Source: Compiled from official Commerce statistics.								

Leading Nonsubject Sources of Imports

From 2005 to 2010, BSS imports entered the United States from a variety of nonsubject sources. The leading nonsubject suppliers are shown in table IV-2. Nonsubject imports were highest in 2005 and declined to their lowest level in 2009 before increasing in 2010. As noted earlier, nonsubject imports declined more than 50 percent from 2005 to 2010.

Table IV-2

BSS: U.S. imports from principal nonsubject countries, 2005-2010, January-September 2010, and January-September 2011

Source	Calendar year						Jan.-Sept.	
	2005	2006	2007	2008	2009	2010	2010	2011
Quantity (1,000 pounds)								
Netherlands	21,019	21,080	17,483	13,285	6,468	12,530	8,475	8,402
Mexico	9,766	9,970	7,951	7,990	5,610	6,326	4,949	5,035
Brazil	0	658	962	2,918	3,685	4,094	2,625	3,442
Switzerland	3,963	3,658	2,373	2,278	1,111	2,033	1,270	892
India	2,819	2,581	656	121	139	445	445	3
Poland	15,086	9,271	5,878	1,355	0	0	0	42
All other nonsubject countries	3,276	3,750	1,615	1,225	933	1,172	683	845
Total, nonsubject countries	55,930	50,967	36,918	29,172	17,946	26,601	18,447	18,662
Source: Compiled from official Commerce statistics.								

U.S. IMPORTERS' INVENTORIES

End-of-period inventories reported by U.S. importers are shown in table IV-3.

Table IV-3

BSS: U.S. importers' reported end-of-period inventories of imports, by source, 1999-2004, January-September 2004, and January-September 2005

* * * * *

U.S. IMPORTS FOR DELIVERY AFTER SEPTEMBER 30, 2011

Two importers (***) reported that they had imported or arranged for the importation of BSS from the subject countries for delivery after September 30, 2011. ***.

CUMULATION CONSIDERATIONS

In assessing whether subject imports are likely to compete with each other and with the domestic like product with respect to cumulation, the Commission generally has considered the following four factors: (1) the degree of fungibility, including specific customer requirements and other quality-related questions; (2) presence of sales or offers to sell in the same geographic markets; (3) common channels of distribution; and (4) simultaneous presence in the market. Channels of distribution and fungibility (interchangeability) are discussed in Part II of this report. Additional information concerning geographical markets and simultaneous presence in the market is presented below.

Geographic Markets

BSS imported in the United States is shipped nationwide. During 2005-10, the top Customs district for imports from France was Norfolk, VA, while the top Customs district for imports from Germany, Italy, and Japan was New York, NY. Additional information on geographic markets may be found in Part II of this report.

Presence in the Market

Table IV-4 presents data on the monthly entries of U.S. imports of BSS, by source, during 2005-10. BSS produced in Germany and Japan were present in the U.S. market in all months during 2005-10, while BSS from France and Italy were less prevalent in the U.S. market during 2005-10.

Table IV-4
BSS: U.S. imports, number of monthly entries into the United States, by sources, January 2005-December 2010

Country	Calendar year					
	2005	2006	2007	2008	2009	2010
France	6	4	0	0	4	6
Germany	12	12	12	12	12	12
Italy	5	4	7	5	1	2
Japan	12	12	12	12	12	12

Source: Compiled from official statistics from Commerce.

THE INDUSTRY IN FRANCE

Overview

In the original investigations, the Commission identified six French producers of various types of brass rolled products: (1) Trefimetaux; (2) Griset S.A.; (3) Comptoir Lyon Allemand Louyot; (4) Metayer-Noel; (5) Laminoirs du Dauphins; and (6) Usines de Navarre S.A. By the first reviews, only the first two producers still produced brass rolled products in France. In 1995, Trefimetaux combined with the Italian producer La Metall and the German producer Kabelmetall AG to form KM Europa, with a combined sheet and strip productive capacity of approximately 600 million pounds annually.⁶

In its response to the Commission's notice of institution in these reviews, counsel for domestic interested parties identified six current manufacturers/exporters of BSS in France.^{7 8} Questionnaires were sent by facsimile to these producers.⁹ One response was received from *** indicating that it is not a producer of subject BSS and no responses were received from other French firms. Production, inventory, and shipment data were not readily available on the industry in France.¹⁰ Industry-wide capacity of French fabricators to manufacture plate, sheet, and strip of refined copper and copper alloys (including nonsubject BSS) was reported to total *** billion pounds in 2011.¹¹ French production capacity for the *** reporting fabricators of these products (covering a broader range than BSS) is highly concentrated in a single firm, ***, with the other *** reporting significantly smaller production capacities.¹²

BSS Operations

According to the German respondents, BSS has not been cast or hot-rolled in France since around

⁶ *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden*, Inv. Nos. 701-TA-269 & 270 (Review) and 731-TA-311-317 and 379-380 (Review), USITC Publication 3290, April 2000, p. IV-4. In the original investigations, the information about the French brass industry gathered by the Commission consisted of all brass rolled products, not solely C20000-series BSS. According to these data, producers in France had a capacity ranging from *** million pounds in 1983 to *** million pounds in 1985, production ranging from *** million pounds in 1985 to *** million pounds in 1984, and exported approximately *** percent to *** percent of their production to the United States from 1983 to 1985. Investigations Nos. 701-TA-270 (Final) and 731-TA-313, 314, 316, and 317 (Final), *Certain Brass Sheet and Strip from France, Italy, Sweden, and West Germany*, final staff report, February 2, 1987, INV-K-009, pp. A-59-A-60.

⁷ *Substantive Response of Domestic Interested Parties*, March 31, 2011, exhibit 3.

⁸ German producer Schwermetall noted that it is *** Schwermetall's foreign producers' questionnaire response, section II-13.

⁹ These producers are: (1) CLAL-MSX SA; (2) Gindre Duchavany; (3) Gravograph Industrie International; (4) Griset SA; and (5) Trefimetaux SA. Staff was not able to contact Usines de Navarre.

¹⁰ Commission staff sought any information about the industry in France available from various international copper associations and metals statistics publications. For the period 2005-10 and September 2010 and September 2011, the World Bureau of Metal Statistics (WBMS) lists production only in 2007 for the industry in France of 210.8 million pounds of copper alloy semi-manufactured forms. This same source did not list any production in France of copper and alloy plate, sheet, and strip, including BSS, over this same period. WBMS, "Copper," *World Metal Statistics*, various issues. Commission staff also sent an e-mail query to the European Copper Institute and an e-mail query (with text in both French translation and the English original) to the Centre d'Information du Cuivre Laitons et Alliages (Information Center of Copper Brass and Alloys), asking about French company capabilities to produce BSS.

¹¹ ***.

¹² ***.

2009¹³ and that the industry no longer produces its own BSS,¹⁴ but rather, rerolls BSS sourced from outside of France.¹⁵ Of the six French BSS producers at the time of the original investigations, only two remained by time of the first reviews--Trefimeaux and Griset.¹⁶ Moreover, German Respondents also claimed no awareness of any new entrants into the French industry.¹⁷ Conversely, counsel for domestic interested parties claims that Griset's website identifies itself as a producer of subject BSS in France, and furthermore, available information indicates that other French firms produce copper alloy products, which may well include subject BSS.¹⁸

Trefimetaux was purchased by Italian-based refined copper and copper alloy rolled-products producer group KME in 1988. The renamed company, "KME France SAS," permanently ceased all production in 2006, ***¹⁹ reportedly as part of parent-company KME's rationalization and centralization of its brass production to within Italy.^{20 21}

Griset, ***, has a company website that lists its flat-rolled brass products within the UNS C20000 Series,²² which counsel for domestic interested parties considers confirmation that this French company is a producer of subject BSS.²³ According to German respondents, Griset ceased casting and hot rolling brass around 2009,^{24 25} reportedly to focus on electronics applications, mainly of pure copper.²⁶ Since then, it functions only as a reroller, and sources its ***.²⁷ German respondents further provided their estimates of Griset's production volumes, based on the volumes of re-roll material *** (table IV-5).^{28 29}

¹³ German respondents' prehearing brief, pp. 4 and 81.

¹⁴ German respondents' prehearing brief, p. 28.

¹⁵ German respondents' prehearing brief, p. 4.

¹⁶ German respondents' prehearing brief, pp. 28 and 81.

¹⁷ German respondents' prehearing brief, p. 80.

¹⁸ Hearing transcript, Cannon, pp. 50-51.

¹⁹ *** questionnaire response; and German respondents' posthearing brief, pp. 28, 80, and Q-1.

²⁰ German respondents' prehearing brief, pp. 4, 28, and 80.

²¹ KME also reportedly shifted all casting and hot-rolling of brass from its various German mills to Italy in 2001. German respondents' brief, pp. 4, 28, and 82.

²² Petitioners' prehearing brief, exhibit 3.

²³ Petitioners' prehearing brief, p. 4.

²⁴ German respondents' prehearing brief, pp. 28 and 81.

²⁵ Among copper and copper alloys, Griset is casting in France only refined copper alloy C19210, a high-performance alloy, containing more than 99 percent copper with some iron and phosphorous, for producing lead frames for power transistors. This alloy does not contain zinc, so Griset could not readily switch back and forth between producing this refined copper alloy and BSS without incurring significant costs and downtime. ***. German respondents' posthearing brief, p. Q-29.

²⁶ German respondents' prehearing brief, p. 28.

²⁷ German respondents' prehearing brief, pp. 28 and 81.

²⁸ German producers claim that the BSS capacity and production volumes associated with Griset's reroll operations are included in the capacity and production data reported by ***, the source of the reroll material for Griset. German respondents' posthearing brief, pp. Q-2 and Q-37.

²⁹ German producers also claim that the rerolled BSS does not currently enter the U.S. market, because Griset rerolls for its local markets. German respondents' posthearing brief, p. Q-37.

Table IV-5

Griset BSS: Reroll quantities purchased and estimates of finished quantities produced, 2005–10, January–September 2010, and January–September 2011 (1,000 pounds)

Period	Reroll purchase quantity	Estimated finished BSS quantity produced
2005	***	***
2006	***	***
2007	***	***
2008	***	***
2009	***	***
2010	***	***
January–September 2010	***	***
January–September 2011	***	***
Adjusted for anticipated *** percent yield loss from trimming required after each rolling stage and from slitting operations.		
Source: German respondents' posthearing brief, pp. Q-1 and Q-2.		

THE INDUSTRY IN GERMANY

Overview

In the original investigations, seven firms were identified as producers of BSS in Germany: (1) Langenberg Kupfer-und Messingwerke GmbH KG (“Langenberg”); (2) Metallwerke Schwarzwald GmbH (“Metallwerke”); (3) R and G Schmole Metallwerke GmbH and Co. KG; (4) Schwermetall Halbzeugwerk GmbH and Co. KG (“Schwermetall”); (5) Stolberger Metallwerke GmbH and Co. KG; (6) Wieland; and (7) William Prym-Werke GmbH & Co. KG.³⁰ By the time of the first reviews, Langenberg and Metallwerke had become part of Wieland, and several other German firms had entered the BSS business.³¹ In the second reviews, Prymetall GmbH & Co. KG (“Prymetall”),³² Schwermetall, and Wieland provided responses, and indicated that they accounted for ***, ***, and *** percent, respectively, of total production of BSS in Germany in 2004.

In its response to the Commission’s notice of institution in these reviews, counsel for domestic interested parties identified 12 current manufacturers/exporters of BSS in Germany.³³ German respondents identified two additional current manufacturers/exporters of BSS. Commission staff also

³⁰ These seven firms reported capacity to produce BSS ranging from 543.9 million pounds in 1983 to 564.5 million pounds in 1984, production ranging from 533.2 million pounds in 1983 to 572.8 million pounds in 1984, and exported 8 percent to 12 percent of their production to the United States from 1983 to 1985. *Certain Brass Sheet and Strip from France, Italy, Sweden, and West Germany*, Inv. Nos. 701-TA-270 (Final) and 731-TA-313, 314, 316, and 317 (Final), USITC Publication 1951, February 1987, pp. A-44-A-47.

³¹ In the first reviews, only *** German producer provided data on its BSS operations. Investigations Nos. 701-TA-269-270 (Review) and 731-TA-311-317 and 379-80 (Review), *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden*, staff report, March 8, 2000, INV-X-054, pp. IV-7-IV-9.

³² ***’s questionnaire response, section I-7.

³³ *Substantive Response of Domestic Interested Parties*, March 31, 2011, exhibit 3.

identified two additional possible manufacturers/exports of BSS in Germany. Questionnaires were faxed and emailed to all of them.³⁴ Two German producers, ***, responded and indicated that they have not produced or exported C20000-series BSS during the POR. The Commission received useable questionnaires responses from three German producers (***)^{35 36} No responses were received from the remaining German producers.³⁷

BSS Operations

Wieland and Messingwerk account for an estimated *** percent of the Germany's production of finished BSS in 2010.³⁸ Schwermetall also noted that demand for BSS in Germany and Europe ***. Messingwerk, Schwermetall and Wieland, each responded that they had ***. Data provided by Messingwerk, Schwermetall, and Wieland are shown in table IV-6.^{39 40 41}

German producers' reported capacity to produce BSS increased over the period, from *** million pounds in 2005 to *** million pounds in 2010.^{42 43} Capacity in January-September 2011 declined by *** percent from capacity in January-September 2010. Capacity utilization ranged from a high of *** percent in 2006 to a low of *** percent in 2009. German production of BSS increased from *** million pounds

³⁴ These producers are: (1) Auerhammer Metallwerk GmbH; (2) Aurubis Stolberg GmbH & Co. KG (previously known as Prymetall GmbH & Co. KG); (3) Carl Schreiber GmbH; (4) Deutsche Nickel; (5) Diehl Metall Applications GmbH; (6) Fricke GmbH; (7) Gebr. Kemper GmbH & Co. KG; (8) KME Germany AG & Co. KG (Stolberger Metallwerke); (9) KM Europa Metal AG; (10) Messingwerk Plettenberg Herfeld GmbH & Co. KG; (11) MKM Mansfelder Kupfer und Messing GmbH; (12) Schlenk Metallfolien GmbH & Co. KG; (13) Schwermetall; (14) Sundwiger Messingwerk GmbH & Co.; (15) ThyssenKrupp VDM GmbH; and (16) Wieland.

³⁵ ***.

³⁶ ***. German respondents posthearing brief, exh. O and ***.

³⁷ KM Europa Metal AG (including its subsidiary, Fricke GmbH) stated that its firm does not produce BSS in Germany. Deutsche Nickel went bankrupt on June 1, 2005. *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, and Japan, Inv. Nos. 701-TA-269 (Second Review) and 731-TA-311-314, 317, and 379 (Second Review)*, Confidential staff report, February 15, 2006, INV-DD-021, page IV-16, fn 25. Commission staff also sent an e-mail query to the European Copper Institute and an e-mail query (with text in both German translation and the English original) to the Deutsches Kupfer-Institut (German Copper Institute), asking about German company capabilities to produce BSS.

³⁸ ***.

³⁹ In these reviews, data for all German producers, including both basic producers and rollers, are presented using the same methodology as the first and second reviews.

⁴⁰ ***.

⁴¹ ***.

⁴² Domestic interested parties state that Germany has "substantial excess capacity" to produce BSS due to several factors. They state that "German producers and shipments to all markets declined significantly in interim 2011, yet no German mills were closed or capacity eliminated." In addition, Schwermetall is the "world's biggest producer of reroll material" and that its output has increased ten-fold over the past 30 years." Schwermetall reported a casting capacity of 420 million pounds during the POR; however, ***. Domestic interested parties' posthearing brief, p. 9-10, 54, exh. 6, att. 2, p. 29.

⁴³ Witnesses at the hearing noted that no new capacity for BSS has been added in Germany. Mr. Gortges, Vice President of Wieland's Rolled Products Division stated that no capacity to produce BSS has been added in Germany or other subject countries. Hearing transcript, p. 189 (Gortges). Mr. Traa, Member of Wieland's Executive Board stated that Wieland "commissioned one year ago a new rolling mill in one of our plants in the Black Forest, formerly known as Metalwerke Schwarzwald, but this is a replacement for existing rolling mills, so we basically put a new rolling mill in place and then decommission one or two older ones which are more than 40 or 50 years old." Hearing transcript, p. 191 (Traa).

in 2005 to *** million pounds in 2010. Production in January-September 2011 declined by *** percent compared with production in the same period of 2010. German producers' reported exports of BSS as a share of total shipments ranged from a high of *** percent in 2005 to a low of *** percent in 2010. German producers' reported exports of BSS to the United States during the period of review ***.

Table IV-6

BSS: Germany's reported production capacity, production, shipments, and inventories, 2005-2010, January-September 2010, and January-September 2011

* * * * *

All three responding German producers stated that it has produced *** on the same equipment and machinery used in the production of C20000-series BSS. The total production capacity for all of these products is presented in table IV-7.

Table IV-7

German producers' capacity, production, and capacity utilization for alternative products, 2005-10

* * * * *

THE INDUSTRY IN ITALY

Overview

By the time of the first reviews, there were five producers of brass rolled products in Italy: (1) Europa Metalli/LMI-La Metalli Industriale, SpA ("La Metalli"); (2) Dalmet SpA; (3) Metallurgica San Marco SpA ("San Marco"); (4) SA Eredi Gnutti Metalli SpA; and (5) Trafilerie Carlo Gnutti SpA. All of these firms, except for San Marco, had produced some form of brass rolled products during the original investigations. ***.⁴⁴ In the second reviews, counsel for domestic interested parties identified eight current manufacturers/exporters of BSS in Italy, but no useable responses were received from any Italian firm.

In its response to the Commission's notice of institution in these reviews, counsel for domestic interested parties identified eight current manufacturers/exporters of BSS in Italy.⁴⁵ Commission staff also identified two additional possible manufacturers/exports of BSS in Italy. Questionnaires were faxed to these producers.⁴⁶ Aristoncavi SpA and Industrie & Fonderie Metalli SpA reported that they have ***. One useable response was received from KME Italy SpA. ("KME Italy").⁴⁷ Additional industry

⁴⁴ Investigations Nos. 701-TA-269-270 (Review) and 731-TA-311-317 and 379-80 (Review), *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden*, staff report, March 8, 2000, INV-X-054, pp. IV-8-IV-9. According to data gathered by the Commission in the original investigations, producers of C20000-series BSS in Italy had a capacity ranging from *** million pounds in 1983 to *** million pounds in 1985, production ranging from *** million pounds in 1983 to *** million pounds in 1985, and exported at least *** percent to *** percent of their production to the United States from 1983 to 1985. Investigations Nos. 701-TA-270 (Final) and 731-TA-313, 314, 316, and 317 (Final), *Certain Brass Sheet and Strip from France, Italy, Sweden, and West Germany*, final staff report, February 2, 1987, INV-K-009, pp. A-60-A-62.

⁴⁵ *Substantive Response of Domestic Interested Parties*, March 31, 2011, exhibit 3.

⁴⁶ These producers are: (1) AML; (2) Carlo Colomobo SpA; (3) Dalmet SpA; (4) S.A. Eredi Gnutti Metalli SpA; (5) Europa Metalli SpA (formerly La Metalli Industriale SpA); (6) Ilnor SpA; (7) Metallurgica Cidneo San Marco; (8) Simonelli Trafilerie SpA; (9) Trafilerie Carlo Gnutti SpA; and (10) Trafilerie di Lainate SpA/LMM.

⁴⁷ ***.

information was not otherwise readily available about the other companies in Italy.⁴⁸

BSS Operations

Table IV-8 presents data from KME Italy SpA. KME Italy estimates that it accounts for *** percent of the Italy's production of BSS in 2010 and reported that it has ***. KME Italy ***.

Table IV-8

BSS: KME Italy's reported production capacity, production, shipments, and inventories, 2005-2010, January-September 2010, and January-September 2011

* * * * *

THE INDUSTRY IN JAPAN

Overview

In the original investigations, questionnaire respondents reported that there were eight producers of brass rolled products in Japan: (1) Sambo Copper; (2) Nippon Mining & Metals Co., Ltd.; (3) Mitsubishi Shindoh Co., Ltd.; (4) Mitsui Mining & Smelting Co., Ltd.; (5) Kobe Steel, Ltd; (6) Furukawa Electric Co.; (7) Dowa Mining; and (8) Fuji Brass & Copper. By the time of the first reviews, all of these firms continued to produce brass rolled products in Japan, except for Dowa Mining and Fuji Brass & Copper.⁴⁹ In the second reviews, 20 firms were identified as manufacturers/exporters of BSS in Japan, but no firm provided a useable questionnaire response.

In its response to the Commission's notice of institution in these reviews, counsel for domestic interested parties identified twenty current manufacturers/exporters of BSS in Japan.⁵⁰ Commission staff also identified two additional possible manufacturers/exports of BSS in Japan. Questionnaires were faxed to these producers.⁵¹ One useable response was received from Mitsubishi Shindoh Co., Ltd.. ("Mitsubishi Shindoh"). Additional industry information was not otherwise readily available about the other

⁴⁸ Commission staff sent an e-mail query to the European Copper Institute and an e-mail query (with text in both Italian translation and the English original) to the Instituto Italiano del Rame (Italian Copper Institute), asking about Italian company capabilities to produce BSS.

⁴⁹ *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden*, Inv. Nos. 701-TA-269 & 270 (Review) and 731-TA-311-317 and 379-380 (Review), USITC Publication 3290, April 2000, p. IV-6. In the first reviews, the Commission gathered data from five of the six Japanese producers on their BSS operations. These firms had a capacity of 211.4 million pounds in 1997 and 189.4 million pounds in 1998, production of 193.3 million pounds in 1997 and 165.2 million pounds in 1998, and exported *** percent of their production to the United States in 1997 and 1998. Investigations Nos. 701-TA-269-270 (Review) and 731-TA-311-317 and 379-80 (Review), *Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden*, staff report, March 8, 2000, INV-X-054, pp. IV-10-IV-11.

⁵⁰ *Substantive Response of Domestic Interested Parties*, March 31, 2011, exhibit 3.

⁵¹ These producers are: (1) Dowa Metal Co. Ltd.; (2) Fujisawa Co., Ltd; (3) Furukawa Electric Co. Ltd.; (4) Harada Metal Industry; (5) Hitachi-Alloy; (6) Hitachi Cable Ltd.; (7) Kicho Shindosho Co. Ltd.; (8) Kitz Metal Works Corp.; (9) Kobe Steel, Ltd.; (10) Mitsubishi Materials Corp.; (11) Mitsubishi Electric Merecs Co. Ltd.; (12) Mitsubishi Shindoh Co. Ltd.; (13) Mitsui Mining & Smelting Co., Ltd. (Mitsui Kinzoku); (14) Mitsui Sumitomo Metal Mining Brass & Copper Co. Ltd.; (15) NGK Insulators (NGK Metals); (16) Nippon Mining & Metals Co., Ltd.; (17) Ohki Brass & Copper Co., Ltd.; (18) Sambo Copper Ally Co., Ltd.; (19) Sugino Metal Industry Co. Ltd.; (20) Sumitomo Metal Mining Brass & Copper Co., Ltd.; (21) Uji Copper & Alloy Co. Ltd; and (22) YKK Corporation.

companies in Japan.⁵²

BSS Operations

Table IV-9 presents data from Mitsubishi Shindoh. Mitsubishi Shindoh and Sambo Copper Alloy Co., Ltd. consolidated in 2008 into one company. Mitsubishi Shindoh estimates that it accounts for *** percent of the Japan's production of BSS in 2010 and *** percent of Japan's exports of BSS to the United States in 2010. It has ***.

Table IV-9

BSS: Mitsubishi Shindoh's reported production capacity, production, shipments, and inventories, 2005-2010, January-September 2010, and January-September 2011

* * * * *

Mitsubishi Shindoh stated that it has produced *** on the same equipment and machinery used in the production of C20000-series BSS. The total production capacity for all of these products is presented in table IV-10.

Table IV-10

Mitsubishi Shindoh's capacity, production, and capacity utilization for alternative products, 2005-10

* * * * *

GLOBAL MARKET

Information about production, consumption, prices, and additional global supply and demand factors were not readily available about the leading nonsubject sources of U.S. imports. By contrast, reported production capacity information is available (table IV-11) but the product coverage is broader than BSS and includes plate as well as sheet and strip, and all refined copper and copper alloys. World production of BSS is concentrated in the manufacturing industries in the North America, Western Europe, and East Asia. Likewise, these industrialized or rapidly industrializing economies account for most of the world's consumption.⁵³

Table IV-11

United States, subject countries, and nonsubject countries, reported country total capacities and individual fabricators' capacity size groupings, for producing plate, sheet, and strip of copper and copper alloys, 2011

* * * * *

⁵² Commission staff sent an e-mail query to the Japan Copper Development Association, asking about Japanese company capabilities to produce BSS.

⁵³ Various reporting agencies that report on copper and copper alloys, e.g., the Copper Development Association and the International Copper Study Group.

TRADE RESTRICTIONS IN OTHER MARKETS

In its questionnaires, the Commission asked whether the firms' exports of BSS are subject to tariff or non-tariff barriers to trade in any countries other than the United States. No responding foreign producers reported barriers on exports of BSS in any countries other than the United States.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw materials for the production of BSS include brass scrap, copper, zinc, and small amounts of other alloys. The cost of these raw materials are a major factor in the price of brass, and changes in raw material costs have caused large changes in the prices of brass since January 2005. The price of BSS also depends on the extent of processing—i.e., the extent of cold reduction (thinner materials cost more per ton), the surface finish, and any slitting to a narrower width.

Purchasers may buy BSS on a tolled or non-tolled basis. Price quotes for non-tolled BSS typically include a metal price, a fabrication price, and surcharges. The copper and zinc prices used in the metal price are set based on prices from commodities futures exchanges including the COMEX¹ and the LME.² Prices of copper and zinc may be set either when the BSS is ordered, or when the BSS is shipped. While producers set the fabrication price, surcharges are imposed to reflect other costs. For example, as the price of copper has increased, some BSS producers have added a surcharge to cover inventory carrying costs.

Toll sales

Toll production/sales are used because some users create large amounts of scrap such as those in which products are punched from the BSS. In toll production, customers send brass scrap to producers for use in production. Respondent interested parties report that rerollers also have toll relationships with primary producers because when BSS is rerolled there is a yield loss.³

Respondent interested parties report that importers are excluded from toll arrangements with U.S. purchasers because the time and cost of shipping scrap overseas would be prohibitive.⁴ They report that purchasers with scrap that can be for tolling will always be better off tolling than selling scrap. Tolling is more profitable because scrap will always sell for less than the metal exchange value the brass, on the other hand, if the brass is used for toll purchases the firms save the whole metal exchange value.⁵

In contrast, the U.S. producers report that there is nothing to prevent purchasers from buying copper and zinc overseas for overseas toll production.⁶ Domestic interested parties report that toll production does not insulate them from competition from imports because toll sales are a small part of their sales and because purchasers can decide to sell their scrap on the open market, although firms typically do not change between selling scrap and toll production.⁷ Domestic interested parties report that a number of toll purchasers ***.⁸

¹ Commodities Exchange, Inc. of the New York Mercantile Exchange.

² London Metal Exchange.

³ German respondents' prehearing brief, p. 20, fn. 48.

⁴ German respondents' report that toll sales make up a large share of their sales in Germany and the rest of Europe. Hearing transcript, p. 12 (Shor).

⁵ Hearing transcript, pp. 261-262 (Schuler and Shor).

⁶ Domestic interested parties' prehearing brief, p. 49.

⁷ Hearing transcript, pp. 66-68 (Bobish and Werner).

⁸ Domestic interested parties' posthearing brief, pp. Question 64-65.

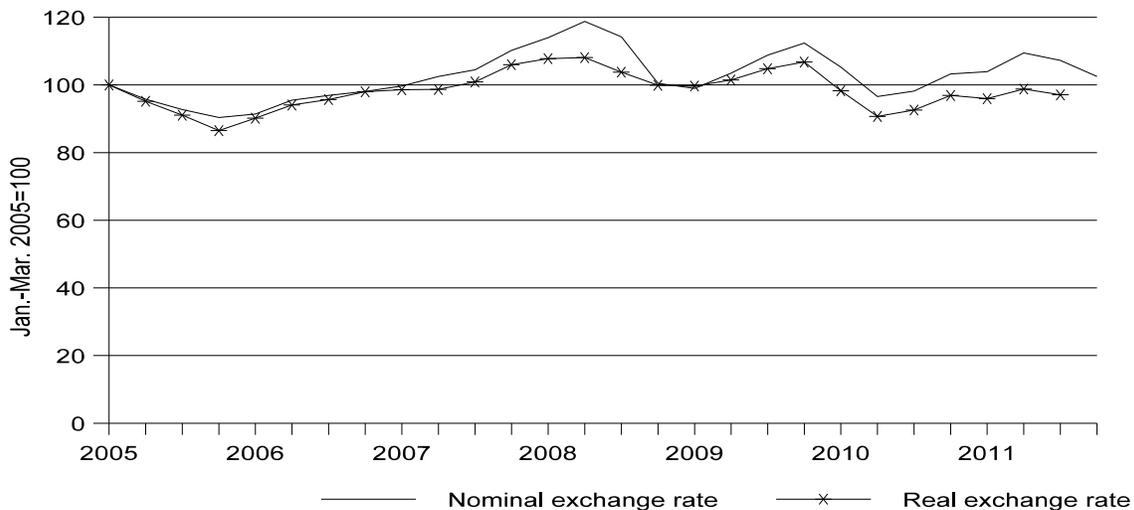
Transportation Costs to the United States

Transportation costs for shipping BSS from France, Germany, Italy, and Japan to the United States represent \$0.16 per pound for France, \$0.15 for Germany, \$0.12 for Italy, and \$0.17 for Japan.⁹ Respondent interested parties report that transportation costs from ***.¹⁰

Exchange Rates

Respondent interested parties contend that the appreciation of the Euro reduces their incentive to sell in the U.S. market and the “high” yen makes Japanese producers less likely to sell in the United States.¹¹ Figures V-1 and V-2 shows the quarterly nominal and real exchange rates for the Euro and the Japanese Yen.

Figure V-1
Exchange rate: Indices of the nominal and real exchange rates between the Euro and the U.S. dollar, by quarters, 2005-2011



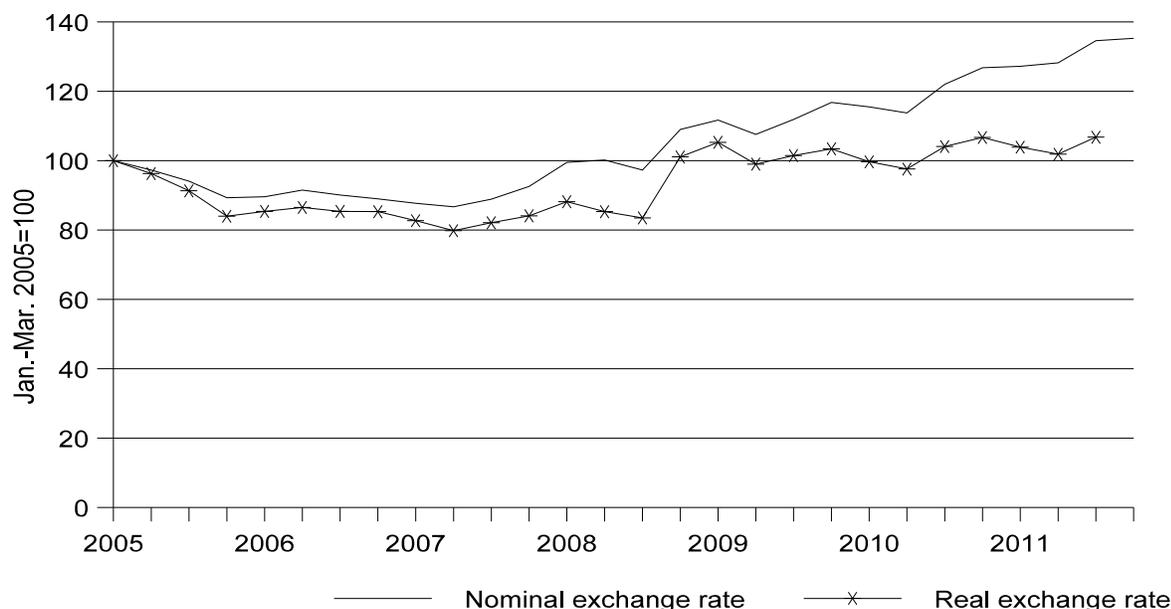
Source: Data from IFS online, retrieved January 25, 2012

⁹ These estimates are derived from official import data for HTS numbers for subject BSS in 7409.21.00 and 7409.29.00 and represent the transportation and other charges on imports value on a c.i.f. basis compared to customs value. Since most of the product imported under these HTS numbers are mainly nonsubject product with different prices per pound, the cost per pound rather than the cost share is used since this is more likely to be representative.

¹⁰ Costs from Germany to Singapore and from Germany to Shanghai were *** per pound, respectively. German respondents’ posthearing brief p. Q-41.

¹¹ German respondents’ prehearing briefs, pp. 5-6.

Figure V-2
Exchange rate: Indices of the nominal and real exchange rates between the Japanese yen and the U.S. dollar, by quarters, 2005-2011



Source: Data from IFS online, retrieved January 25, 2012

Raw Material Costs

The costs of copper and zinc used to produce brass have varied greatly since 2005. Prices for copper and zinc are set based on the COMEX price and/or the LME. In the United States, copper prices are based on the COMEX prices and zinc prices are based on the LME prices.¹²

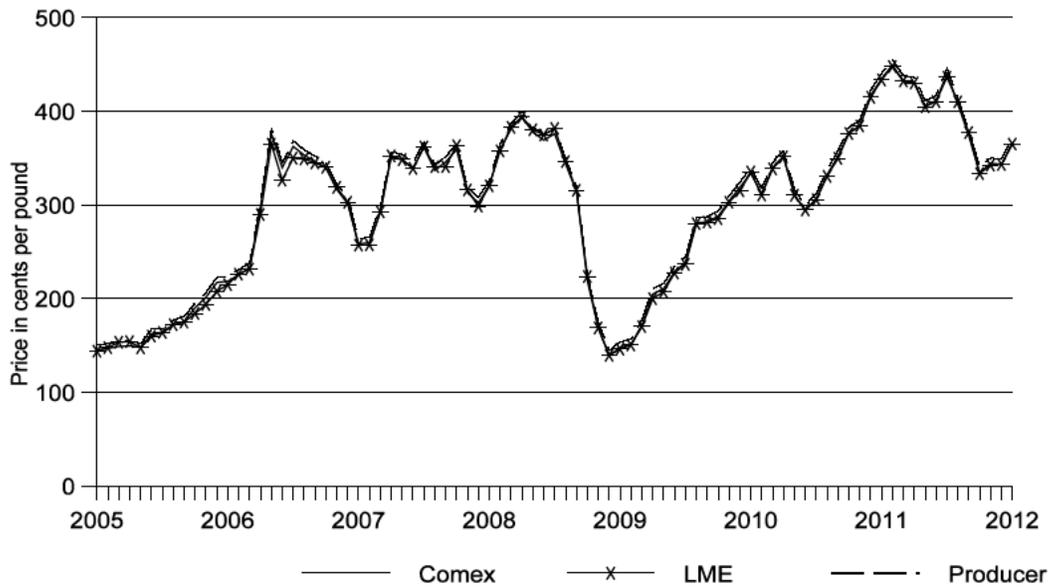
COMEX, LME, and U.S. producer-cathode-delivered price indices for copper are shown in figure V-3. All three indices exhibit similar trends; the differences between the LME and COMEX are reported to be the result of different market closing times.¹³ Copper prices have fluctuated substantially between January 2005 and June 2011. They more than doubled (from \$1.45 per pound to \$3.75 per pound) between January 2005 and May 2006. From 2006 to early 2008, prices remained well above the January 2005 price, varying between \$2.58 per pound in January 2007 and \$3.93 per pound in April 2008. After April 2008, prices plunged, declining to \$1.38 per pound in December 2008. Copper prices, however, soon recovered reaching \$3.52 per pound in April 2010. Prices peaked in February 2011 at \$4.49 per pound, well above the highest price before the 2008-09 downturn. More recently, the price of copper has fallen from this latest high, but still remains much higher than at the beginning of 2005.

Zinc prices also increased overall from 2005-11 (figure V-4). Prices more than doubled from January 2005 to May 2006, from \$0.62 to \$1.72 per pound. Zinc prices reached their highest price during the period (\$2.12 per pound) in December 2006. In December 2008, they were at their lowest (\$0.53 per pound) after which zinc prices rose rapidly, and between August 2009 and June 2011 prices ranged between \$0.83 (June 2010) and \$1.17 (February 2011).

¹² Zinc is not listed on the COMEX and thus COMEX does not set zinc prices. In Europe, LME prices for both copper and zinc are used.

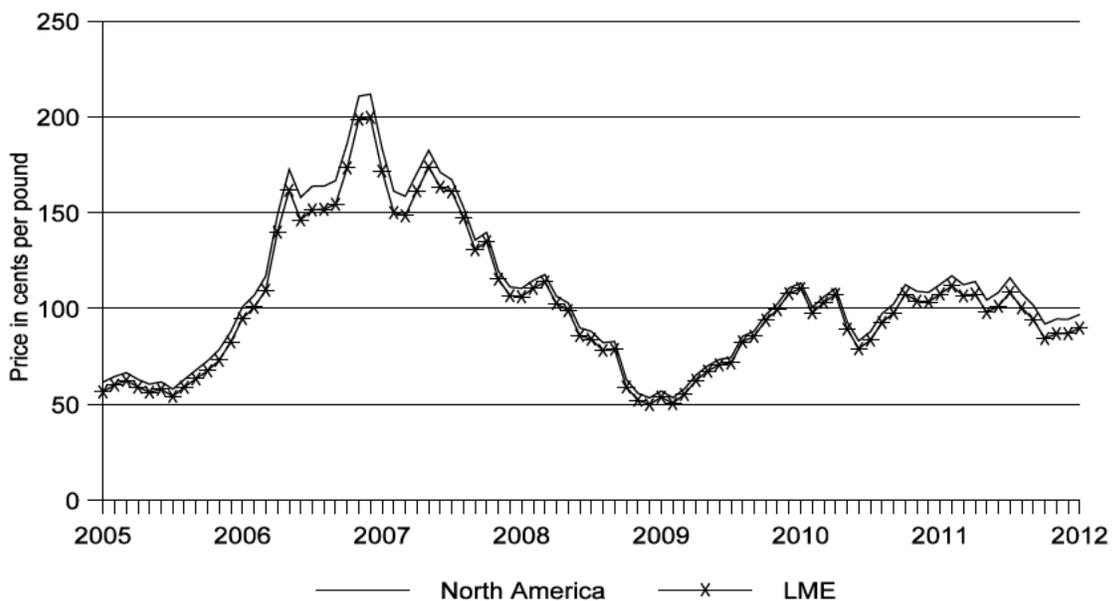
¹³ German respondent's prehearing brief, p. 17, fn. 37.

Figure V-3
Raw materials: Copper COMEX, LME and producer price indices, monthly, January 2005-January 2012



Source: Compiled by U.S. Geological Survey staff and Commission staff from *Platts Metals Week*.

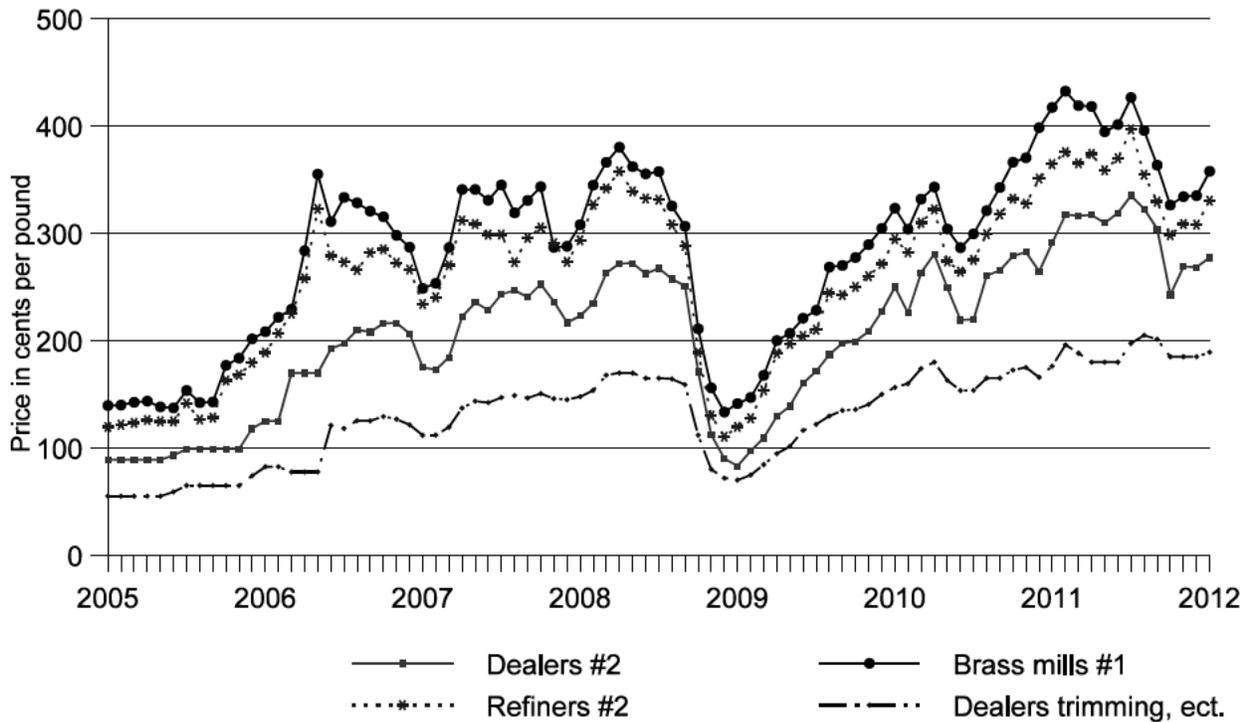
Figure V-4
Raw materials: Zinc North American and LME price indices, monthly, January 2005-January 2012



Source: Compiled by U.S. Geological Survey staff and Commission staff from *Platts Metals Week*.

Brass and copper scrap are also used in the production of BSS. Price indices for four different qualities of brass and copper scrap are shown in figure V-5. Although price levels differ by index, all follow trends similar to refined copper prices (see figure V-3). Brass mills No. 1 scrap prices increased from \$1.39 per pound in January 2005 to \$3.55 in May 2006, declined to \$2.48 in January 2007, rose to \$3.45 in July of 2007, then softened before rising to \$3.80 in April 2008. Prices reached their lowest level of the period at \$1.33 in December 2008, recovered to \$3.43 in April 2010, before softening again and then reaching the period high of \$4.32 in February 2011. Domestic interested parties report that the lower price of scrap used to produce BSS provides a potential source of profit above that provided in the fabrication costs.¹⁴

Figure V-5
Raw materials: Copper scrap monthly prices, January 2005-January 2012



Source: Compiled by U.S. Geological Survey staff and Commission staff from *American Metal Market*.

Respondent interested parties report that the high cost of copper and zinc help insulate U.S. producers from subject imports. First, high raw material costs increase inventory holding costs causing purchasers to prefer just-in-time deliveries, which domestic producers are better able to provide. In addition, higher input costs make imports more expensive because the final price should cover the financial cost of the product as it is being shipped from overseas suppliers.¹⁵ Finally, respondent interested parties report that as the prices of copper and zinc rises, the cost of the 1.9 percent duty has increased relative to the value added by the producers of BSS.¹⁶

¹⁴ Domestic interested parties' post hearing brief, pp. Questions 15-16

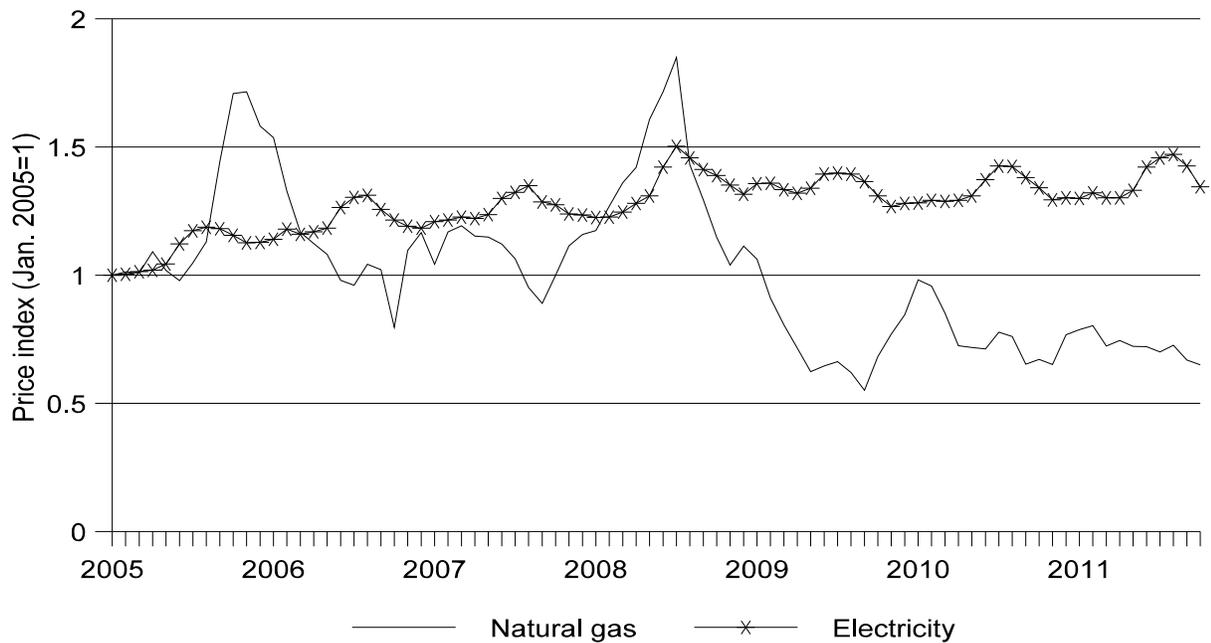
¹⁵ German respondents' prehearing brief, p. 3.

¹⁶ German respondents' prehearing brief, p. 5.

Energy Costs

Energy costs are an important factor in the cost of fabrication. Available data indicate that annual average industrial prices of electricity generally increased from January 2005 to October 2011 (figure V-6).¹⁷ Natural-gas prices spiked during late 2005 and mid-2008, declined to a period low in September 2009, and have since increased but leveled off at prices below those in 2005.

Figure V-6
Industrial natural gas and electricity: Monthly prices, January 2005- October 2011



Source: *Short Term Energy Outlook*, Energy Information Administration, retrieved from www.eia.doe.gov, January 30, 2012.

Surcharges

All seven U.S. producers reported using metal surcharges, which are typically based on COMEX's copper prices.¹⁸ Most producers also reported using other surcharges including energy (6 producers), fuel (5), transportation (2), capital (1), and an additional COMEX-based copper surcharge (1).¹⁹ Energy surcharges are based on natural-gas and electricity prices, fuel surcharges are typically based on diesel prices, and the capital surcharge is based on the Federal Funds Target Rate.

All seven responding producers reported changes in surcharges since 2005. *** reported adding metal surcharges since 2005. *** reported changing its copper premium to reflect the COMEX price. *** reported adding energy and capital surcharges, and the other two producers reported that the volatility in prices lead to changes in surcharge levels.

¹⁷ As shown in figure V-6, energy prices appear to be highly cyclical, with electricity prices increasing in the summer and natural gas prices increasing in the winter, due to seasonal demand.

¹⁸ ***.

¹⁹ ***.

Three importers reported using surcharges. ***. Importer surcharges are based on prices paid, index prices, or a flat amount to defray transportation costs. Two of the three importers reported changes in surcharges. Specifically, ***.

U.S. Inland Transportation Costs

Six of seven responding producers and five of six importers reported that they typically arrange transportation to their customers.²⁰ U.S. producers reported that their U.S. inland transportation costs ranged from 1 to 10 percent, with five reporting costs of 1 to 3 percent. Among importers, two of three responding firms reported transportation costs of 3 percent and one reported 10 percent.

PRICING PRACTICES

Pricing Methods

Four U.S. producers reported using transaction-by-transaction negotiations, contracts, as well as set price lists; two reported using transaction-by-transaction negotiations and contracts; and one reported that prices were negotiated on a volume basis. All six responding importers reported transaction-by-transaction pricing; three also use contracts, and one also uses set price lists.

Metal prices

Respondent interested parties report that all BSS producers' pricing mechanism are set so that they purchase the metal inputs at the same time and price as they sell them or bridge time lapses with hedging transactions. Thus, they say they do not speculate on the price of metals because copper prices can change up to 20 cents per day.²¹

All seven producers reported using COMEX and LME indexes to determine metal prices.²² Producers most often reported that metal prices were valued at the date of shipment, but they may also be valued at the time of the order, or by using the metal price in the previous month. Domestic interested parties report that dramatically higher metal costs create costs for the producers not covered by the metal costs, including "increased inventory carrying, working capital, and metals procurement costs."²³ In addition, the domestic interested parties report that the increased cost of copper has been accompanied by a narrowing of the scrap discount, and as a result, U.S. producers' raw material costs increased more than the value of the metal surcharge.²⁴

Six importers reported how they determined metal prices. Some importers use COMEX and/or the LME. One importer reported adding 15 to 20 percent to the cost of material, one reported following producer prices published by Global Brass, and one reported setting prices daily. Metal prices were reportedly fixed at the time of the order or time of delivery, or from the average metal prices of the past month.

²⁰ One producer reported that sometimes it arranged for transportation and sometimes its purchasers arranged transportation. One importer reported that its purchasers arranged transportation.

²¹ Hearing transcript, pp. 255-257 (Shor, Traa, and Schuler).

²² One producer also reported using producer prices to set metal prices.

²³ Domestic interested parties' prehearing brief, p. 65.

²⁴ Domestic interested parties' prehearing brief, pp. 65-66.

Spot vs. contract

U.S. producers reported selling on both a spot basis and a contract basis. Three sold half or more of their product on a spot basis, two sold half or more of their product on a short-term contract basis, and one sold mostly on a long-term contract basis.²⁵ All five responding importers reported that half or more of their sales were on a spot basis. Three importers also reported selling via short-term contracts (for 10 to 35 percent of sales), and one importer reported using long-term contracts (for 30 percent of sales).

Frequency of purchases

Six of 11 purchasers purchase BSS weekly and 5 purchase daily. No purchaser reported changes in their purchase patterns and none expected a change in the next two years. All 11 responding purchasers contact one to three suppliers before making a purchase, with seven contacting three suppliers.

Sales Terms and Discounts

U.S. producers and importers typically quote prices on a delivered basis. Six of seven responding producers offer quantity discounts, and four also offer total volume discounts.²⁶ Four of the six responding importers reported no discounts, two reported quantity discounts, and one also reported annual total volume discounts. All seven responding producers and five of six importers reported sales terms of net 30 days.

Price Leadership

Of the seven purchasers that reported price leaders, six listed U.S. producers including Olin (listed by 5 firms), Aurubis (1 firm), and PMX (1 firm); one listed Wieland which is both a U.S. and a foreign producer; and one listed a foreign producer, KME.

PRICE DATA

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of the following products shipped to unrelated U.S. customers during 2005-10:

Product 1.—Distributors, CDA end-use classification 920, CDA alloy 260, 0.020-inch to 0.025-inch thick by maximum yield width, uncoated, without special surface finish, without special annealing requirements, and without special tolerances.

Product 2.—Reroll, CDA end-use classification 910, alloy 260, 0.050-inch to 0.080-inch thick by maximum yield width, uncoated, without special surface finish, without special annealing requirements, and without special tolerances.

Product 3.—Automotive electrical, CDA end-use classification 320, CDA alloy 230 and/or alloy 260, 0.0098 inch to 0.020 inch by 0.5 inch to 2 inches in width, not tin coated.

²⁵ One producer reported selling 39 percent using long-term contracts, 46 percent using short-term contracts, and 15 percent on a spot basis.

²⁶ The other producer reported that the price it quotes is based on annual volume and no discount is given off this price.

Product 4.—Closures, CDA end-use classification 620, CDA alloy 260, 0.010-inch - 0.016-inch thick by 1 inch to 4 inches in width.

Product 5.—End users, CDA alloy 272, 0.015-inch to 0.020-inch thick, 0.75- 2.00 inch wide, without coating, without special tolerances, and without special surface finish.

In addition to the total price, firms were also requested to provide the fabrication and metal exchange components of their price, and the premium on the metal component. Only the U.S. producers provided this information. Six U.S. producers and three importers of BSS from Germany provided usable pricing data, although not all firms reported pricing for all products for all quarters. Domestic producer price data were reported for products 1-4, while price data for imports from Germany were reported for products 1, 2, and 5. No price data were reported for France, Italy, and Japan. By quantity, reported non-tolled product pricing data for 2005-10 accounted for approximately 14.7 percent of U.S. producers' U.S. shipments of non-tolled BSS and 1.8 percent of subject imports from Germany. U.S. producers' tolled price data accounted for 22.8 percent of their total toll shipments. Price data for products 1-5 are presented in tables V-1 to V-5 and figures V-7 to V-11.

Purchaser Perceptions of Relative Price Trends

Purchasers were asked how the price of product from subject countries had changed relative to U.S. prices since 2005. One responding purchaser each responded for Germany and Japan and both reported that prices of product from subject countries had increased relative to U.S. prices.²⁷

²⁷ No other responses were received.

Table V-1

BSS: Weighted-average f.o.b. purchase prices and quantities of domestic tolled and non-tolled and imported non-tolled product ¹ and margins of underselling/(overselling), by quarters, January 2005- September 2011

Period	United States						
	Non-Tolled				Tolled		
	Price (per pound)				Quantity (pounds)	Price (per pound)	
	Fabrication	Metal exchange	Metal premium	Total ²		Fabrication	Quantity (pounds)
2005:							
Jan.-Mar.	\$***	\$***	\$***	\$1.73	1,381,233	\$***	***
Apr.-June	***	***	***	1.77	1,330,421	***	***
July-Sept.	***	***	***	1.85	899,820	***	***
Oct.-Dec.	***	***	***	2.10	1,299,282	***	***
2006:							
Jan.-Mar.	***	***	***	2.38	1,476,278	***	***
Apr.-June	***	***	***	3.26	1,536,129	***	***
July-Sept.	***	***	***	3.37	1,709,397	***	***
Oct.-Dec.	***	***	***	3.29	927,750	***	***
2007:							
Jan.-Mar.	***	***	***	2.92	1,298,015	***	***
Apr.-June	***	***	***	3.41	1,328,925	***	***
July-Sept.	***	***	***	3.24	1,417,003	***	***
Oct.-Dec.	***	***	***	3.16	1,508,081	***	***
2008:							
Jan.-Mar.	***	***	***	3.31	1,387,471	***	***
Apr.-June	***	***	***	3.40	1,616,211	***	***
July-Sept.	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***
2009:							
Jan.-Mar.	***	***	***	***	***	***	***
Apr.-June	***	***	***	2.15	640,083	***	***
July-Sept.	***	***	***	2.57	962,378	***	***
Oct.-Dec.	***	***	***	2.86	1,141,884	***	***
2010:							
Jan.-Mar.	***	***	***	3.08	1,284,276	***	***
Apr.-June	***	***	***	2.86	1,078,805	***	***
July-Sept.	***	***	***	2.93	1,125,878	***	***
Oct.-Dec.	***	***	***	3.38	891,983	***	***
2011:							
Jan.-Mar.	***	***	***	3.89	778,724	***	***
Apr.-June	***	***	***	3.78	888,555	***	***
July-Sept.	***	***	***	3.70	755,728	***	***

¹ Distributors, CDA end-use classification 920, CDA alloy 260,0.020-inch to 0.025- inch thick by maximum yield width, uncoated, without special surface finish, without special annealing requirements, and without special tolerances.
² Component prices may not add to the total price because *** did not provide component prices but provided total price.

Table continued.

Table V-1-Continued

BSS: Weighted-average f.o.b. purchase prices and quantities of domestic tolled and non-tolled and imported non-tolled product ¹ and margins of underselling/(overselling), by quarters, January 2005- September 2011

Period	United States		Germany		
	Non-tolled price (total) (per pound)	Quantity (pounds)	Non-tolled price (total) (per pound)	Quantity (pounds)	Margin
2005:					
Jan.-Mar.	\$1.73	1,381,233	--	0	--
Apr.-June	1.77	1,330,421	--	0	--
July-Sept.	1.85	899,820	\$***	***	***
Oct.-Dec.	2.10	1,299,282	***	***	***
2006:					
Jan.-Mar.	2.38	1,476,278	--	0	--
Apr.-June	3.26	1,536,129	--	0	--
July-Sept.	3.37	1,709,397	--	0	--
Oct.-Dec.	3.29	927,750	--	0	--
2007:					
Jan.-Mar.	2.92	1,298,015	--	0	--
Apr.-June	3.41	1,328,925	--	0	--
July-Sept.	3.24	1,417,003	--	0	--
Oct.-Dec.	3.16	1,508,081	--	0	--
2008:					
Jan.-Mar.	3.31	1,387,471	--	0	--
Apr.-June	3.40	1,616,211	--	0	--
July-Sept.	***	***	--	0	--
Oct.-Dec.	***	***	***	***	***
2009:					
Jan.-Mar.	***	***	--	0	--
Apr.-June	2.15	640,083	--	0	--
July-Sept.	2.57	962,378	--	0	--
Oct.-Dec.	2.86	1,141,884	--	0	--
2010:					
Jan.-Mar.	3.08	1,284,276	--	0	--
Apr.-June	2.86	1,078,805	--	0	--
July-Sept.	2.93	1,125,878	--	0	--
Oct.-Dec.	3.38	891,983	--	0	--
2011:					
Jan.-Mar.	3.89	778,724	--	0	--
Apr.-June	3.78	888,555	--	0	--
July-Sept.	3.70	755,728	***	***	***

¹ Distributors, CDA end-use classification 920, CDA alloy 260,0.020-inch to 0.025- inch thick by maximum yield width, uncoated, without special surface finish, without special annealing requirements, and without special tolerances.

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

Table V-2

BSS: Weighted-average f.o.b. purchase prices and quantities of domestic tolled and non-tolled and imported non-tolled product 2¹ and margins of underselling/(overselling), by quarters, January 2005-September 2011

Period	United States						
	Non-Tolled				Tolled		
	Price (per pound)				Quantity (pounds)	Price (per pound)	
	Fabrication	Metal exchange	Metal premium	Total ²		Fabrication ³	Quantity (pounds)
2005:							
Jan.-Mar.	\$***	\$***	\$***	\$***	***	--	0
Apr.-June	***	***	***	1.56	3,298,285	\$***	***
July-Sept.	***	***	***	1.67	2,797,965	--	0
Oct.-Dec.	***	***	***	1.95	3,323,041	--	0
2006:							
Jan.-Mar.	***	***	***	2.17	3,545,616	***	***
Apr.-June	***	***	***	3.08	3,955,209	***	***
July-Sept.	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***
2007:							
Jan.-Mar.	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	--	0
July-Sept.	***	***	***	***	***	--	0
Oct.-Dec.	***	***	***	***	***	--	0
2008:							
Jan.-Mar.	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	--	0
July-Sept.	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***
2009:							
Jan.-Mar.	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***
2010:							
Jan.-Mar.	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***	***	***
2011:							
Jan.-Mar.	***	***	***	***	***	***	***
Apr.-June	***	***	***	***	***	***	***
July-Sept.	***	***	***	***	***	***	***

¹ Reroll, CDA end-use classification 910, alloy 260, 0.050-inch to 0.080-inch thick by maximum yield width, uncoated, without special surface finish, without special annealing requirements, and without special tolerances

² Component prices may not add to the total price because *** did not provide component prices but provided total price.

³ ***. This resulted in much of the variation in the fabrication costs reported.

Table continued.

Table V-2-Continued

BSS: Weighted-average f.o.b. purchase prices and quantities of domestic tolled and non-tolled and imported non-tolled product 2¹ and margins of underselling/(overselling), by quarters, January 2005-September 2011

Period	United States		Germany		
	Non-tolled price (total) (per pound)	Quantity (pounds)	Non-tolled price (total) (per pound)	Quantity (pounds)	Margin
2005:					
Jan.-Mar.	\$***	***	--	0	--
Apr.-June	1.56	3,298,285	--	0	--
July-Sept.	1.67	2,797,965	--	0	--
Oct.-Dec.	1.95	3,323,041	--	0	--
2006:					
Jan.-Mar.	2.17	3,545,616	--	0	--
Apr.-June	3.08	3,955,209	--	0	--
July-Sept.	***	***	--	0	--
Oct.-Dec.	***	***	--	0	--
2007:					
Jan.-Mar.	***	***	--	0	--
Apr.-June	***	***	--	0	--
July-Sept.	***	***	--	0	--
Oct.-Dec.	***	***	--	0	--
2008:					
Jan.-Mar.	***	***	--	0	--
Apr.-June	***	***	--	0	--
July-Sept.	***	***	--	0	--
Oct.-Dec.	***	***	--	0	--
2009:					
Jan.-Mar.	***	***	\$***	***	***
Apr.-June	***	***	***	***	***
July-Sept.	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***
2010:					
Jan.-Mar.	***	***	***	***	***
Apr.-June	***	***	***	***	***
July-Sept.	***	***	***	***	***
Oct.-Dec.	***	***	***	***	***
2011:					
Jan.-Mar.	***	***	--	0	--
Apr.-June	***	***	--	0	--
July-Sept.	***	***	***	***	***

¹ Reroll, CDA end-use classification 910, alloy 260, 0.050-inch to 0.080-inch thick by maximum yield width, uncoated, without special surface finish, without special annealing requirements, and without special tolerances.

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

Table V-3

BSS: Weighted-average f.o.b. purchase prices and quantities of domestic non-tolled product 3¹ and margins of underselling/(overselling), by quarters, January 2005-September 2011

* * * * *

Table V-4

BSS: Weighted-average f.o.b. purchase prices and quantities of domestic non-tolled product 4¹ and margins of underselling/(overselling), by quarters, January 2005-September 2011

* * * * *

Table V-5

BSS: Weighted-average f.o.b. purchase prices and quantities of imported non-tolled product 5¹, by quarters, January 2005-September 2011

* * * * *

Figure V-7

BSS: Weighted-average f.o.b. prices and quantities of domestic and imported product 1, by quarters, January 2005-September 2011

* * * * *

Figure V-8

BSS: Weighted-average f.o.b. prices and quantities of domestic and imported product 2, by quarters, January 2005-September 2011

* * * * *

Figure V-9

BSS: Weighted-average f.o.b. prices and quantities of domestic and imported product 3, by quarters, January 2005-September 2011

* * * * *

Figure V-10

BSS: Weighted-average f.o.b. prices and quantities of domestic and imported product 4, by quarters, January 2005-September 2011

* * * * *

Figure V-11

BSS: Weighted-average f.o.b. prices and quantities of domestic and imported product 5, by quarters, January 2005-September 2011

* * * * *

Price Trends and Comparisons

U.S. prices for products 1-4 tended to follow the same pattern as copper prices, increasing unsteadily until the second quarter of 2008 then declining sharply, reaching their lowest price since 2005 in the first quarter of 2009.²⁸ Prices began to increase again in the second quarter of 2009, reaching their highest price in the first quarter of 2011. German prices for product 5 followed a pattern similar to U.S. prices 1-4 except that they fell less than U.S. prices in 2008-09 and increased sharply in the second quarter of 2011. Table V-6 summarizes the price trends, by country and by product. As shown in the table, between January 2005 and September 2011 domestic prices for non-tolled product increased from 81.0 percent (product 4) to 133.9 percent (product 2) with much of the increase reflecting the increased cost of copper. U.S. prices for tolled product were either unchanged (product 1) or decreased 28.6 percent (product 2).²⁹

Table V-7 summarizes the data on margins. Subject imports were priced higher than domestic products in all 13 possible comparisons, by margins of 4.5 to 274.2 percent.³⁰

²⁸ The price of product 1 was lower in the first quarter of 2009 than it had been in 2005.

²⁹ The price of product 2 varied a great deal from quarter to quarter and this variation rather than any clear price pattern is a major source of the price decline over the period.

³⁰ In the original investigations covering France, West Germany, and Italy, imports from the countries currently subject to the orders were priced lower than domestic product in 106 of 124 comparisons. Specifically, imports from each subject country were priced lower than domestic product in the following number of comparisons: France- 34 of 35, Germany- 42 of 59, and Italy- 30 of 30. Underselling for product from France ranged from 0.9 percent to 30.6 percent, in the remaining case French and U.S. prices were the same. Underselling for German product ranged from 0.9 to 21.6 percent, there were 4 cases in which U.S. and German prices were the same, and overselling margins ranged from 1.4 to 8.2 percent. Underselling for Italian product ranged from 0.8 to 34.9 percent. Confidential staff report for the original investigations (memorandum INV-K-009), pp. A-95-A-99 tables 23-27 and appendix E, tables E-1-E-9, pp. B-36-B-43. Staff calculations made from appendix E, tables E-1-E-9, pp. B-36-B-43.

In the first reviews, no price data were reported for imports from the countries currently subject to the orders. Confidential staff report for the first reviews (memorandum INV-X-054), p. V-13.

In the second reviews, price data were reported only for Japan. Overall, Japanese product oversold U.S. product in all 17 possible comparisons by margins ranging from 19.1 to 93.3 percent. For fabrication, Japanese prices were higher than U.S. prices in all 17 instances; margins of overselling ranged from *** percent. For metal prices, there were eight instances of underselling with margins ranging from 1.0 percent to 16.3 percent and nine cases of overselling with margins ranging from 0.4 percent to 25.4 percent. Confidential staff report for the second reviews (memorandum INV-DD-021), table V-3, p. V-18.

Table V-6

BSS: Summary of f.o.b. prices for products 1-5, by country

Country	Number of quarters	Highest price	Lowest price	Change in price ¹
		(per short ton)	(per short ton)	(percent)
Product 1				
U.S. non-tolled	27	\$***	\$***	113.9
U.S. tolled	27	***	***	0.0
German	4	***	***	--
Product 2				
U.S. non-tolled	27	***	***	133.9
U.S. tolled	20	***	***	(28.6)
German	9	***	***	--
Product 3				
U.S. non-tolled	27	***	***	130.4
Product 4				
U.S. non-tolled	27	***	***	81.0
Product 5				
German	18	***	***	215.3
¹ Price change is from the first quarter of 2005 to the third quarter of 2011, or for first available price to the last available price. Changes for German products 1 and 2 are not shown, since sales were sporadic over the period.				
Source: Compiled from data submitted in response to Commission questionnaires.				

Table V-7

BSS: Instances of underselling/(overselling), the range, and average of margins, January 2005-September 2011

Product	Overall price					
	Underselling			Overselling		
	Number of instances	Range (percent)	Average margin (percent)	Number of instances	Range (percent)	Average margin (percent)
Product 1	0	--	--	4	(4.5 to 274.2)	97.3
Product 2	0	--	--	9	(47.0 to 134.0)	73.9
Total	0	--	--	13	(4.5 to 274.2)	81.1
Source: Compiled from data submitted in response to Commission questionnaires.						

APPENDIX A

***FEDERAL REGISTER* NOTICES AND
THE COMMISSION'S STATEMENT ON ADEQUACY**

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-313, 314, 317, and 379 (Third Review)]

Brass Sheet and Strip From France, Germany, Italy, and Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on brass sheet and strip from France, Germany, Italy, and Japan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on brass sheet and strip from France, Germany, Italy, and 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 consideration, the deadline for responses is March 31, 2011. Comments on the adequacy of responses may be filed with the Commission by May 16, 2011. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* March 1, 2011.

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 11-5-240, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

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

SUPPLEMENTARY INFORMATION:

Background.—On March 6, 1987, the Department of Commerce (“Commerce”) issued antidumping duty orders on imports of brass sheet and strip from France, Germany, and Italy (52 FR 6995; Italy amended at 52 FR 11299 (April 8, 1987)). On August 12, 1988, Commerce issued an antidumping duty order on imports of brass sheet and strip from Japan (53 FR 30454). Following first five-year reviews by Commerce and the Commission, effective May 1, 2000, Commerce issued a continuation of the antidumping duty orders on imports of brass sheet and strip from France, Germany, Italy, and Japan (65 FR 25304). Following second five-year reviews by Commerce and the Commission, effective April 3, 2006, Commerce issued a continuation of the antidumping duty orders on imports of brass sheet and strip from France, Germany, Italy, and Japan (71 FR 16552). The Commission is now conducting third reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

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

(2) The *Subject Countries* in these reviews are France, Germany, Italy, and 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 antidumping duty determinations concerning brass sheet and strip from France, Germany, and Italy, the Commission defined the *Domestic Like Product* to include brass material to be rerolled (reroll) and finished brass sheet and strip (finished products). In its original antidumping duty determination and the remand determination concerning brass sheet and strip from Japan, the Commission defined the *Domestic Like Product* to be all Unified Numbering System (“UNS”) C20000 domestically produced brass sheet and strip. One Commissioner defined the *Domestic Like Product* differently. In its full first and second five-year review determinations, the Commission defined the *Domestic Like Product* as all UNS C20000 series brass sheet and strip. For purposes of this notice, the *Domestic Like Product* is all UNS C20000 series brass sheet and strip.

(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 antidumping duty determinations concerning brass sheet and strip from France, Germany, and Italy, the Commission defined the *Domestic Industry* to include primary mills with casting capabilities and rollers. In its original antidumping duty determination and the remand determination concerning brass sheet and strip from Japan, the Commission defined the *Domestic Industry* as producers of the corresponding *Domestic Like Product*. One Commissioner defined the *Domestic Industry* differently. In its full first and second five-year review determinations, the Commission defined the *Domestic Industry* to consist of the domestic producers of UNS C20000 series brass sheet and strip. For purposes of this notice, the *Domestic Industry* is all domestic producers of UNS C20000 series brass sheet and strip.

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

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

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b)(19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR § 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

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

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the

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

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is March 31, 2011. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is May 16, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the

explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country*; or produce *Subject Merchandise* in more than one *Subject Country*, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country*. As used below, the term "firm" includes any related firms.

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

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

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

(4) A statement of the likely effects of the revocation of the antidumping duty orders 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 each *Subject Country* that currently export or have exported *Subject Merchandise* to the

United States or other countries after 2004.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) 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 2010, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

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

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

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

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

(e) The value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country(ies)*, provide the following information on your firm's(s') operations on that product

during calendar year 2010 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

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

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

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies)*, provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

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

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in each *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) 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 each *Subject Country* accounted for by your firm's(s') exports.

(12) 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 each *Subject Country* after 2004, 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 each *Subject Country*, and such merchandise from other countries.

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

By order of the Commission.

Issued: February 23, 2011.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2011-4449 Filed 3-1-11; 8:45 am]

BILLING CODE 7020-02-P

Final Determination of Sales at Less Than Fair Value and Amendment of Antidumping Duty Order in Accordance with Decision Upon Remand: Brass Sheet and Strip from Italy, 56 FR 23272 (May 21, 1991). On August 12, 1988, the Department issued an antidumping duty order on imports of brass sheet and strip from Japan. See *Antidumping Duty Order of Sales at Less Than Fair Value; Brass Sheet and Strip From Japan*, 53 FR 30454 (August 12, 1988).

On March 1, 2011, the Department initiated the third Sunset reviews of these orders, pursuant to section 751(c) of the Act. See *Initiation of Five-Year ("Sunset") Review*, 76 FR 11202 (March 1, 2011). The Department received a notice of intent to participate from domestic interested parties GBC Metals, LLC of Global Brass and Copper, Inc., doing business as Olin Brass; Heyco Metals, Inc.; Luvata North America, Inc. (previously Outokumpu American Brass); PMX Industries, Inc.; Revere Copper Products, Inc.; International Association of Machinists and Aerospace Workers; United Auto Workers (Local 2367 and Local 1024); and United Steelworkers AFL-CIO CLC (collectively, "Petitioners"), within the deadline specified in 19 CFR 351.218(d)(1)(i). Petitioners claimed interested party status under section 771(9)(C) of the Act as a manufacturer, producer, or wholesaler in the United States of a domestic like product, or under 771(9)(D) of the Act as a certified union or recognized union or group of workers representative of an industry engaged in the manufacture, production, or wholesale in the United States of a domestic like product.

On March 31, 2011, the Department received a substantive response from Petitioners. In addition to meeting the other requirements of 19 CFR 351.218(d)(3), Petitioners provided information on the volume and value of exports of brass sheet and strip from France, Italy, and Japan. On May 5, 2011, the Department received Petitioners' comments regarding the adequacy of responses and the appropriateness of an expedited review. The Department received no responses from respondent interested parties to these proceedings. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited (120-day) Sunset reviews of the antidumping duty orders on brass sheet and strip from France, Italy, and Japan.

Scope of the Orders

The product covered by the orders is brass sheet and strip, other than leaded and tinned brass sheet and strip, from

France, Italy, and Japan. The chemical composition of the covered product is currently defined in the Copper Development Association ("C.D.A.") 200 Series or the Unified Numbering System ("U.N.S.") C2000. The orders do not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. In physical dimensions, the product covered by the orders has a solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound-on-reels (traverse wound), and cut-to-length products are included. The merchandise is currently classified under Harmonized Tariff Schedule of the United States ("HTSUS") item numbers 7409.21.00 and 7409.29.00.

Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the orders remains dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum ("Decision Memorandum") from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Acting Deputy Assistant Secretary for Import Administration, dated June 29, 2011, 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 if the orders were revoked. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit in room 7046 of the main Commerce building.

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

Final Results of Review

Pursuant to sections 752(c)(1) and (3) of the Act, we determine that revocation of the antidumping duty orders on brass sheet and strip from France, Italy and Japan would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-602; A-475-601; A-588-704]

Brass Sheet and Strip From France, Italy, and Japan: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Orders

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

DATES: *Effective Date:* July 7, 2011.

SUMMARY: On March 1, 2011, the Department of Commerce ("Department") published in the *Federal Register* the notice of initiation of the third Sunset review of the antidumping duty orders on brass sheet and strip from France, Italy, and Japan, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). The Department has conducted expedited Sunset reviews of these orders pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). As a result of the Sunset reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the margins identified in the "Final Results of Review" section of this notice.

FOR FURTHER INFORMATION CONTACT: Mahnaz Khan or Yasmin Nair, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0914 and (202) 482-3813, respectively.

SUPPLEMENTARY INFORMATION:

Background

The antidumping duty orders on brass sheet and strip from France and Italy were published in the *Federal Register* on March 6, 1987. See *Antidumping Duty Order: Brass Sheet and Strip From France*, 52 FR 6995 (March 6, 1987); *Antidumping Duty Order: Brass Sheet and Strip From Italy*, 52 FR 6997 (March 6, 1987), amended at *Amendment to*

Manufacturers/producers/exporters	Margin (percent)
France:	
Trefimetaux S.A	42.24
All Others	42.24
Italy:	
LMI-La Metalli Industriale, S.p.A	5.44
All Others	5.44
Japan:	
Nippon Mining Co., Ltd	57.98
Sambo Copper Alloy Co., Ltd	13.30
Mitsubishi Shindoh Co., Ltd ..	57.98
Kobe Steel, Ltd	57.98
All Others	45.72

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

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

Dated: June 29, 2011.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011-17064 Filed 7-6-11; 8:45 am]

BILLING CODE 3510-DS-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–313, 314, 317, and 379 (Third Review)]

Brass Sheet and Strip From France, Germany, Italy, and Japan; Notice of Commission Determinations To Conduct Full Five-Year Reviews Concerning the Antidumping Duty Orders on Brass Sheet and Strip from France, Germany, Italy, and Japan

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty orders on brass sheet and strip from France, Germany, Italy, and Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR Part 201), and part 207, subparts A, D, E, and F (19 CFR Part 207).

DATES: *Effective Date:* June 6, 2011.

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 at 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION: On June 6, 2011, the Commission determined that

it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (76 FR 11509, March 2, 2011) was adequate and that the respondent interested party group response with respect to Germany was adequate, and decided to conduct a full review with respect to the antidumping duty order concerning brass sheet and strip from Germany. The Commission found that the respondent interested party group responses with respect to France, Italy, and Japan were inadequate. However, the Commission determined to conduct full reviews concerning the antidumping duty orders on brass sheet and strip from France, Italy, and Japan to promote administrative efficiency in light of its decision to conduct a full review with respect to the antidumping duty order concerning brass sheet and strip from Germany. 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.

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

By order of the Commission.

Issued: June 15, 2011.

James R. Holbein,
Secretary to the Commission.

[FR Doc. 2011–15249 Filed 6–17–11; 8:45 am]

BILLING CODE 7020–20–P

impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On June 6, 2011, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (76 FR 35910, June 20, 2011). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

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 this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. 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.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the review will be placed in

the nonpublic record on January 6, 2012, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on January 31, 2012, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 23, 2012. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 24, 2012, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is January 18, 2012. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is February 10, 2012; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before February 10, 2012. On March 12, 2012, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 14, 2012, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–313, 314, 317, and 379 (Third Review)]

Brass Sheet and Strip From France, Germany, Italy, and Japan; Scheduling of a Full Five-Year Review Concerning the Antidumping Duty Order on Brass Sheet and Strip From France, Germany, Italy, and Japan

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the *Tariff Act of 1930* (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty order on brass sheet and strip from France, Germany, Italy, and Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B). For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: Effective Date: September 12, 2011.

FOR FURTHER INFORMATION CONTACT: Joanna Lo (202–205–1888), 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

sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the 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 section 207.62 of the Commission's rules.

By order of the Commission.

Issued: September 14, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011-24042 Filed 9-19-11; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-602]

**Brass Sheet and Strip From Germany:
Final Results of the Full Third Five-
Year ("Sunset") Review of the
Antidumping Duty Order**

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

DATES: *Effective Date:* January 31, 2012.

SUMMARY: On March 1, 2011, the Department of Commerce ("the Department") initiated its third sunset review of the antidumping duty order on brass sheet and strip from Germany, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). Based on adequate substantive responses filed on behalf of both the domestic interested parties and the respondent interested parties, the

Department determined to conduct a full sunset review of this antidumping order pursuant to 751(c) of the Act and 19 CFR 351.218(e)(2)(i). As a result of our analysis, the Department finds that revocation of the antidumping duty order on brass sheet and strip from Germany would likely lead to continuation or recurrence of dumping.

FOR FURTHER INFORMATION CONTACT: Mahnaz Khan or Yasmin Nair, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-0914 and (202) 482-3813, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2011, the Department initiated the third sunset review of the antidumping duty order on brass sheet and strip from Germany, pursuant to section 751(c) of the Act. *See Initiation of Five-Year ("Sunset") Review*, 76 FR 11202 (March 1, 2011). The Department received a notice of intent to participate from domestic interested parties, GBC Metals, LLC, of Global Brass and Copper, Inc., doing business as Olin Brass; Heyco Metals, Inc.; Luvata North America, Inc.; PMX Industries, Inc.; Revere Copper Products, Inc.; and International Association of Machinists and Aerospace Workers, United Auto Workers (Local 2367 and Local 1024), and United Steelworkers AFL-CIO CLC (collectively, "Petitioners"), within the deadline specified in 19 CFR 351.218(d)(1)(i).

On March 31, 2011, the Department received a substantive response from Petitioners, and a substantive response from respondent interested parties in Germany, Wieland-Werke AG, Schwermetall Halbzeugwerk GmbH & Co. KG, and Messingwerk Plettenberg Herfeld & Co., KG (collectively, "Respondents") within the deadline specified in 19 CFR 351.218(d)(3)(i). Based on the finding that the substantive responses were adequate, we determined to conduct a full sunset review of this antidumping duty order. *See Memorandum from Susan H. Kuhbach, Director, AD/CVD Operations, Office 1, to Edward C. Yang, Acting Deputy Assistant Secretary for AD/CVD Operations entitled "Adequacy Determination: Third Five-Year ("Sunset") Review of the Antidumping Duty Order on Brass Sheet and Strip from Germany," dated June 7, 2011.*

On September 26, 2011, the Department published in the **Federal Register** the preliminary results of this

full third sunset review of the AD order on brass sheet and strip from Germany. *See Brass Sheet and Strip from Germany: Preliminary Results of the Third Five-Year ("Sunset") Review of the Antidumping Duty Order*, 76 FR 59386 (September 26, 2011) and accompanying Issues and Decision Memorandum.

The Department invited interested parties to comment on the *Preliminary Results*. On November 15, 2011, we received case briefs from Petitioners and Respondents. On November 21, 2011, we received rebuttal briefs from Petitioners and Respondents. No hearing was held because none was requested.

Scope of the Order

The product covered by the order is brass sheet and strip, other than leaded and tinned brass sheet and strip. The chemical composition of the covered product is currently defined in the Copper Development Association ("C.D.A.") 200 Series or the Unified Numbering System ("U.N.S.") C2000. The order does not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. In physical dimensions, the product covered by the order has a solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound-on-reels (traverse wound), and cut-to-length products are included. The merchandise is currently classified under Harmonized Tariff Schedule of the United States ("HTSUS") item numbers 7409.21.00 and 7409.29.00.

Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope of the order remains dispositive.

Analysis of Comments Received

All issues raised in this sunset review are addressed in the "Issues and Decision Memorandum for the Sunset Review of the Antidumping Duty Order on Brass Sheet and Strip from Germany; Final Results" from Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration ("Decision Memorandum"), which is hereby adopted by, and issued concurrently with, this notice. The issues discussed in the Decision Memorandum are the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order is revoked. Parties

can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room 7046 of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. 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 brass sheet and strip from Germany would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/producers/exporters	Margin (percent)
Wieland-Werke AG	3.81
All Others	7.30

Notification to Interested Parties

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

We are issuing and publishing the final results of this review in accordance with sections 751(c), 752, and 777(i) of the Act.

Dated: January 25, 2012.

Paul Piquado,
Assistant Secretary for Import Administration.

[FR Doc. 2012-2082 Filed 1-30-12; 8:45 am]

BILLING CODE 3510-DS-P

EXPLANATION OF COMMISSION DETERMINATIONS ON ADEQUACY

in

Brass Sheet and Strip from France, Germany, Italy, and Japan
Inv. Nos. 731-TA-313, 314, 317, and 379 (Third Review)

On June 6, 2011, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. §1675(c)(5)).

The Commission received a consolidated response to its notice of institution from four integrated brass mills, a U.S. reroller, and the three U.S. unions whose workers are engaged in the production of subject brass sheet and strip (“BSS”) in the United States: Heyco Metals, Inc. (a reroller of BSS); Luvata Buffalo, Inc. and its employees from the United Steelworkers AFL-CIO CLC; Olin Brass (a division of Global Brass and Copper, Inc.) and its employees from the International Association of Machinists and Aerospace Workers; PMX Industries, Inc. and its employees from the United Auto Workers Local 1024; and Revere Copper Products, Inc. and its employees from the United Auto Workers Local 2367. The Commission found the individual response of each of these parties, which contained party-specific data, to be adequate. Because the individual responses were adequate and the producers and unions accounted for a substantial percentage of the domestic production of BSS, the Commission determined that the domestic interested party group response was adequate with respect to the orders on BSS from France, Germany, Italy, and Japan.

The Commission also received a response, concerning the order on BSS from Germany, from Tyco Electronics Corp., a U.S. importer, and a consolidated response concerning the same order from three German producers and exporters, Wieland-Werke AG (which is also a U.S. importer); Messingwerk Plettenberg Herfeid & Co. KG; and Schwermetall Halbzeugwerk GmbH & Co. KG. The Commission found the individual response of each of these parties, which contained party-specific data, to be adequate. Because the individual responses were adequate and the German interested parties accounted for a substantial percentage of BSS production in Germany, the Commission determined that the respondent interested party group response was adequate with respect to the order on BSS from Germany.

Because the individual and group responses from both domestic interested parties and respondent interested parties were adequate in the review of the order concerning BSS from Germany, the Commission determined to conduct a full review in this proceeding.

The Commission did not receive a response from any respondent interested parties in the reviews concerning subject imports from France, Italy, or Japan. Therefore, the Commission determined that the respondent interested party group response from each of these countries was not adequate. The Commission nevertheless determined to conduct full reviews concerning subject imports from France, Italy, and Japan to promote administrative efficiency in light of its determination to conduct a full review of the order on subject imports from Germany in these grouped reviews.

A record of the Commissioners’ votes is available from the Office of the Secretary and on the Commission’s website (<http://www.usitc.gov>).

APPENDIX B
HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject: Brass Sheet and Strip from France, Germany, Italy, and Japan
Inv. Nos.: 731-TA-313, 314, 317, and 379 (Third Review)
Date and Time: January 31, 2012 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, SW, Washington, D.C.

OPENING REMARKS:

In Support of Continuation (**David A. Hartquist**, Kelley Drye & Warren LLP)
In Opposition to Continuation (**Michael T. Shor**, Arnold & Porter LLP)

In Support of the Continuation of Antidumping Duties:

Kelley Drye & Warren LLP
Washington, D.C.
on behalf of

The Domestic Industry

Daniel B. Becker, President,
A.J. Oster, LLC

Todd Heusner, Vice President, Marketing and Sales,
Aurubis Buffalo, Inc.

Jeffery Burghardt, Vice President, Metals and Procurement,
Aurubis Buffalo, Inc.

Thomas J. Werner, Vice President, Marketing and Sales,
Olin Brass

In Support of the Continuation of Antidumping Duties (continued):

Vincent M. Bushell, Marketing Director,
Olin Brass

Thomas Bobish, Senior Vice President,
PMX Industries, Inc.

Michael S. Jemison, President,
Heyco Metals, Inc.

Linda Andros, Legislative Counsel,
United Steelworkers of America

Michael T. Kerwin, Economist,
Georgetown Economic Services

David A. Hartquist)
Kathleen W. Cannon)
Jeffrey S. Beckington) – OF COUNSEL
Grace W. Kim)
Benjamin B. Caryl)

In Opposition to the Continuation of Antidumping Duties:

Arnold & Porter LLP
Washington, D.C.
on behalf of

Wieland-Werke AG
Messingwerk Plettenberg Herfeld & Co. KG
Schwermetall Halbzeugwerk GmbH & Co. KG

Markus Schuler, Executive Vice President,
Wieland Metals, Inc.

Werner Traa, Member, Executive Board,
Wieland-Werke AG

Olaf Gortges, Vice President, Rolled Products Division,
Wieland-Werke AG

Klaus Guttenberg, Senior Counsel,
Wieland-Werke AG

Michael T. Shor)
) – OF COUNSEL
Matthew S. Roessing)

Akin Gump Strauss Hauer & Feld LLP
Washington, D.C.
on behalf of

Tyco Electronics Corporation

Michael K. Stockton, Global Commodity Director-Metals
Tyco Electronics Corporation

Warren E. Connelly) – OF COUNSEL

REBUTTAL/CLOSING REMARKS:

In Support of Continuation (**David A. Hartquist**, Kelley Drye & Warren LLP)
In Opposition to Continuation (**Michael T. Shor**, Arnold & Porter LLP)

APPENDIX C
SUMMARY DATA

Table C-1
C20000-series brass sheet and strip: Summary data concerning the U.S. market, 2005-10, January-September 2010, and January-September 2011

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

Item	Reported data								Period changes						
	2005	2006	2007	2008	2009	2010	January-September		2005-10	2005-06	2006-07	2007-08	2008-09	2009-10	Jan.-Sept.
							2010	2011							2010-11
U.S. consumption quantity:															
Amount	424,871	435,217	389,039	367,480	338,798	400,060	310,807	289,223	-5.8	2.4	-10.6	-5.5	-7.8	18.1	-6.9
Producers' share (1)	85.6	87.0	89.3	90.3	93.3	91.8	92.6	90.9	6.2	1.4	2.3	1.0	3.0	-1.5	-1.7
Importers' share (1):															
France	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-0.0	-0.0	0.0	0.0	0.0	-0.0
Germany	0.5	0.7	0.7	1.2	1.1	1.4	1.3	2.5	0.9	0.2	0.0	0.5	-0.0	0.3	1.2
Italy	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-0.0	-0.0	0.0	0.0	-0.0	-0.0	0.0
Japan	0.7	0.6	0.5	0.6	0.2	0.1	0.1	0.1	-0.6	-0.1	-0.1	0.1	-0.3	-0.1	0.0
Subtotal	1.2	1.3	1.2	1.8	1.4	1.5	1.4	2.6	0.3	0.1	-0.1	0.6	-0.4	0.1	1.2
All other sources	13.2	11.7	9.5	7.9	5.3	6.6	5.9	6.5	-6.5	-1.5	-2.2	-1.6	-2.6	1.4	0.5
Total imports	14.4	13.0	10.7	9.7	6.7	8.2	7.4	9.1	-6.2	-1.4	-2.3	-1.0	-3.0	1.5	1.7
U.S. consumption value:															
Amount	644,381	1,015,621	978,162	947,879	705,800	1,043,267	773,584	905,659	61.9	57.6	-3.7	-3.1	-25.5	47.8	17.1
Producers' share (1)	82.7	83.9	86.1	87.5	91.9	89.3	90.0	88.1	6.6	1.3	2.1	1.4	4.4	-2.6	-1.9
Importers' share (1):															
France	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	-0.0	-0.0	0.0	0.0	0.0	-0.0
Germany	0.7	1.0	1.0	1.8	1.6	2.0	1.9	3.6	1.3	0.2	0.0	0.9	-0.2	0.4	1.7
Italy	0.1	0.0	0.1	0.1	0.0	0.0	0.0	0.0	-0.1	-0.0	0.0	-0.0	-0.0	-0.0	0.0
Japan	1.0	0.8	0.7	0.9	0.3	0.2	0.2	0.2	-0.9	-0.2	-0.1	0.1	-0.5	-0.2	0.0
Subtotal	1.8	1.8	1.7	2.7	2.0	2.2	2.1	3.8	0.4	-0.0	-0.0	1.0	-0.8	0.3	1.7
All other sources	15.5	14.3	12.2	9.8	6.2	8.5	7.8	8.0	-7.0	-1.2	-2.1	-2.4	-3.6	2.3	0.2
Total imports	17.3	16.1	13.9	12.5	8.1	10.7	10.0	11.9	-6.6	-1.3	-2.1	-1.4	-4.4	2.6	1.9
U.S. imports from:															
France:															
Quantity	33	6	0	0	2	62	62	0.4	88.8	-82.6	-100.0	(2)	(2)	3019.1	-99.3
Value	68	67	0	0	22	271	271	4	299.5	-1.2	-100.0	(2)	(2)	1140.7	-98.5
Unit value	\$2.08	\$11.82	(2)	(2)	\$11.06	\$4.40	\$4.40	\$9.96	111.5	468.0	(2)	(2)	(2)	-60.2	126.4
Ending inventory quantity	0	0	0	0	0	0	0	0	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Germany:															
Quantity	2,083	2,889	2,668	4,258	3,816	5,582	4,011	7,153	168.1	38.7	-7.7	59.6	-10.4	46.3	78.3
Value	4,609	9,654	9,428	17,285	11,248	21,064	14,746	32,831	357.0	109.5	-2.3	83.3	-34.9	87.3	122.6
Unit value	\$2.21	\$3.34	\$3.53	\$4.06	\$2.95	\$3.77	\$3.68	\$4.59	70.5	51.0	5.8	14.9	-27.4	28.0	24.8
Ending inventory quantity	0	25	18	71	73	83	63	76	(2)	(2)	-27.5	285.2	2.7	14.3	20.4
Italy:															
Quantity	196	116	148	151	29	21	21	56	-89.3	-41.0	27.8	2.0	-80.9	-27.5	169.1
Value	443	424	617	485	83	74	70	231	-83.3	-4.3	45.6	-21.4	-82.9	-11.0	229.7
Unit value	\$2.26	\$3.66	\$4.17	\$3.21	\$2.87	\$3.53	\$3.37	\$4.13	56.2	62.2	13.9	-22.9	-10.7	22.9	22.5
Ending inventory quantity	0	0	0	0	0	0	0	0	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Japan:															
Quantity	2,772	2,485	1,827	2,145	839	398	348	399	-85.6	-10.4	-26.5	17.4	-60.9	-52.6	14.5
Value	6,517	7,997	6,989	8,068	2,466	1,644	1,440	1,765	-74.8	22.7	-12.6	15.4	-69.4	-33.4	22.6
Unit value	\$2.35	\$3.22	\$3.82	\$3.76	\$2.94	\$4.13	\$4.13	\$4.42	75.7	36.9	18.9	-1.6	-21.9	40.6	7.1
Ending inventory quantity	0	0	0	0	0	0	0	0	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Subtotal (subject sources):															
Quantity	5,084	5,496	4,643	6,553	4,686	6,063	4,442	7,609	19.3	8.1	-15.5	41.1	-28.5	29.4	71.3
Value	11,637	18,141	17,033	25,838	13,819	23,053	16,528	34,831	98.1	55.9	-6.1	51.7	-46.5	66.8	110.7
Unit value	\$2.29	\$3.30	\$3.67	\$3.94	\$2.95	\$3.80	\$3.72	\$4.58	66.1	44.2	11.1	7.5	-25.2	28.9	23.0
Ending inventory quantity	0	25	18	71	73	83	63	76	(2)	(2)	-27.5	285.2	2.7	14.3	20.4
All other sources:															
Quantity	55,930	50,967	36,918	29,172	17,946	26,601	18,447	18,662	-52.4	-8.9	-27.6	-21.0	-38.5	48.2	1.2
Value	99,883	144,905	119,193	93,004	43,514	88,575	60,486	72,706	-11.3	45.1	-17.7	-22.0	-53.2	103.6	20.2
Unit value	\$1.79	\$2.84	\$3.23	\$3.19	\$2.42	\$3.33	\$3.28	\$3.90	86.4	59.2	13.6	-1.3	-23.9	37.3	18.8
Ending inventory quantity	927	1,180	428	340	469	532	417	360	-42.6	27.3	-63.7	-20.5	38.0	13.3	-13.8
All sources:															
Quantity	61,013	56,463	41,561	35,725	22,632	32,664	22,889	26,270	-46.5	-7.5	-26.4	-14.0	-36.6	44.3	14.8
Value	111,520	163,047	136,227	118,841	57,334	111,628	77,014	107,537	0.1	46.2	-16.4	-12.8	-51.8	94.7	39.6
Unit value	\$1.83	\$2.89	\$3.28	\$3.33	\$2.53	\$3.42	\$3.36	\$4.09	87.0	58.0	13.5	1.5	-23.8	34.9	21.7
Ending inventory quantity	927	1,205	446	411	542	615	481	436	-33.6	30.0	-63.0	-7.9	31.9	13.5	-9.3

Table continued on next page.

Table C-1--Continued

C20000-series brass sheet and strip: Summary data concerning the U.S. market, 2005-10, January-September 2010, and January-September 2011

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

Item	Reported data						January-September		Period changes						
	2005	2006	2007	2008	2009	2010	2010	2011	2005-10	2005-06	2006-07	2007-08	2008-09	2009-10	Jan.-Sept. 2010-11
U.S. producers:															
Average capacity quantity	579,000	579,000	579,000	579,000	579,000	579,000	440,825	440,825	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Production quantity	363,809	373,597	344,268	332,022	315,940	368,321	283,849	257,210	1.2	2.7	-7.9	-3.6	-4.8	16.6	-9.4
Capacity utilization (1)	62.8	64.5	59.5	57.3	54.6	63.6	64.4	58.3	0.8	1.7	-5.1	-2.1	-2.8	9.0	-6.0
U.S. shipments:															
Quantity	363,858	378,754	347,478	331,755	316,166	367,396	287,918	262,953	1.0	4.1	-8.3	-4.5	-4.7	16.2	-8.7
Value	532,861	852,574	841,935	829,038	648,466	931,639	696,570	798,122	74.8	60.0	-1.2	-1.5	-21.8	43.7	14.6
Unit value	\$1.46	\$2.25	\$2.42	\$2.50	\$2.05	\$2.54	\$2.42	\$3.04	73.2	53.7	7.6	3.1	-17.9	23.6	25.5
Export shipments:															
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	26,909	24,810	20,771	22,946	24,902	25,248	27,368	26,159	-6.2	-7.8	-16.3	10.5	8.5	1.4	-4.4
Inventories/total shipments (1)	7.2	6.4	5.8	6.7	7.5	6.5	6.8	7.1	-0.6	-0.8	-0.6	0.9	0.8	-1.0	0.3
Production workers	994	1,005	967	864	915	951	942	907	-4.3	1.1	-3.8	-10.7	5.9	3.9	-3.7
Hours worked (1,000s)	1,882	1,944	1,803	1,608	1,645	1,791	1,448	1,386	-4.8	3.3	-7.3	-10.8	2.3	8.9	-4.3
Wages paid (\$1,000)	51,560	58,873	54,607	48,748	52,305	57,230	42,918	41,423	11.0	14.2	-7.2	-10.7	7.3	9.4	-3.5
Hourly wages	\$27.40	\$30.28	\$30.29	\$30.32	\$31.80	\$31.95	\$29.64	\$29.89	16.6	10.5	0.0	0.1	4.9	0.5	0.8
Productivity (pounds per hour)	193.3	192.2	190.9	206.5	192.1	205.7	196.0	185.6	6.4	-0.6	-0.6	8.1	-7.0	7.1	-5.3
Unit labor costs	\$0.14	\$0.16	\$0.16	\$0.15	\$0.17	\$0.16	\$0.15	\$0.16	9.6	11.2	0.7	-7.4	12.8	-6.1	6.5
Net sales:															
Quantity	409,508	421,190	390,384	373,539	364,172	414,378	323,734	297,376	1.2	2.9	-7.3	-4.3	-2.5	13.8	-8.1
Value	638,166	983,022	994,372	972,892	802,127	1,114,554	831,820	953,642	74.6	54.0	1.2	-2.2	-17.6	38.9	14.6
Unit value	\$1.56	\$2.33	\$2.55	\$2.60	\$2.20	\$2.69	\$2.57	\$3.21	72.6	49.8	9.1	2.3	-15.4	22.1	24.8
Cost of goods sold (COGS)	601,260	946,290	964,790	979,571	764,199	1,072,596	799,409	925,520	78.4	57.4	2.0	1.5	-22.0	40.4	15.8
Gross profit or (loss)	36,906	36,732	29,582	(6,679)	37,928	41,958	32,411	28,122	13.7	-0.5	-19.5	-122.6	-667.9	10.6	-13.2
SG&A expenses	14,725	14,655	13,857	15,758	18,545	17,554	13,278	15,007	19.2	-0.5	-5.4	13.7	17.7	-5.3	13.0
Operating income or (loss)	22,181	22,077	15,725	(22,437)	19,383	24,404	19,133	13,115	10.0	-0.5	-28.8	-242.7	-186.4	25.9	-31.5
Capital expenditures	9,991	10,935	8,211	10,369	8,758	11,190	4,480	10,155	12.0	9.4	-24.9	26.3	-15.5	27.8	126.7
Unit COGS	\$1.47	\$2.25	\$2.47	\$2.62	\$2.10	\$2.59	\$2.47	\$3.11	76.3	53.0	10.0	6.1	-20.0	23.4	26.0
Unit SG&A expenses	\$0.04	\$0.03	\$0.04	\$0.04	\$0.05	\$0.04	\$0.04	\$0.05	17.8	-3.2	2.0	18.8	20.7	-16.8	23.0
Unit operating income or (loss)	\$0.05	\$0.05	\$0.04	(\$0.06)	\$0.05	\$0.06	\$0.06	\$0.04	8.7	-3.2	-23.2	-249.1	-188.6	10.6	-25.4
COGS/sales (1)	94.2	96.3	97.0	100.7	95.3	96.2	96.1	97.1	2.0	2.0	0.8	3.7	-5.4	1.0	0.9
Operating income or (loss)/ sales (1)	3.5	2.2	1.6	-2.3	2.4	2.2	2.3	1.4	-1.3	-1.2	-0.7	-3.9	4.7	-0.2	-0.9

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

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

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

Table C-2

Rolls of C2000-series brass sheet and strip: Summary data concerning the U.S. market, 2005-10, January-September 2010, and January-September 2011

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, and unit expenses are per pound; period changes=percent, except where noted)

Item	Reported data										Period changes				
	2005	2006	2007	2008	2009	2010	January-September		2005-10	2005-06	2006-07	2007-08	2008-09	2009-10	Jan.-Sept. 2010-11
							2010	2011							
U.S. rerollers:															
Average capacity quantity	64,248	63,852	63,491	61,224	60,849	62,548	47,211	47,120	-2.6	-0.6	-0.6	-3.6	-0.6	2.8	-0.2
Production quantity	34,389	35,683	33,960	32,644	30,741	30,947	24,744	23,603	-10.0	3.8	-4.8	-3.9	-5.8	0.7	-4.6
Capacity utilization (1)	53.5	55.9	53.5	53.3	50.5	49.5	52.4	50.1	-4.0	2.4	-2.4	-0.2	-2.8	-1.0	-2.3
U.S. shipments:															
Quantity	34,092	34,211	34,509	32,737	30,593	29,602	23,755	21,166	-13.2	0.3	0.9	-5.1	-6.5	-3.2	-10.9
Value	72,924	106,452	123,278	119,057	94,184	115,797	91,031	99,552	58.8	46.0	15.8	-3.4	-20.9	22.9	9.4
Unit value	\$2.14	\$3.11	\$3.57	\$3.64	\$3.08	\$3.91	\$3.83	\$4.70	82.9	45.5	14.8	1.8	-15.3	27.1	22.7
Export shipments:															
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***	***	***	***	***	***	***
Production workers	57	57	60	60	62	53	54	51	-7.0	0.0	5.3	0.0	3.3	-14.5	-5.6
Hours worked (1,000s)	126	131	130	130	122	115	93	84	-8.4	3.9	-0.4	-0.1	-6.6	-5.1	-8.8
Wages paid (\$1,000)	3,646	3,870	4,097	4,078	3,919	3,750	2,977	2,962	2.9	6.1	5.9	-0.5	-3.9	-4.3	-0.5
Hourly wages	\$28.94	\$29.56	\$31.41	\$31.31	\$32.21	\$32.49	\$32.18	\$35.12	12.2	2.1	6.2	-0.3	2.9	0.9	9.1
Productivity (pounds per hour)	273.0	272.6	260.4	250.6	252.6	268.1	267.5	279.8	-1.8	-0.1	-4.5	-3.7	0.8	6.1	4.6
Unit labor costs	\$0.11	\$0.11	\$0.12	\$0.12	\$0.13	\$0.12	\$0.12	\$0.13	14.3	2.3	11.2	3.5	2.1	-4.9	4.3

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

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

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

APPENDIX D

**RESPONSES OF U.S. PRODUCERS, U.S. IMPORTERS,
U.S. PURCHASERS, AND FOREIGN PRODUCERS
CONCERNING THE SIGNIFICANCE OF THE ANTIDUMPING DUTY
ORDERS AND THE LIKELY EFFECTS OF REVOCATION**

U.S. PRODUCERS' COMMENTS

The Commission requested U.S. producers to describe any anticipated changes in their operations or organization relating to the production of BSS in the future if the antidumping and countervailing duty orders were to be revoked. (Question II-4)

* * * * *

The Commission requested U.S. producers to describe the significance of the antidumping and countervailing duty orders on their production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values. (Question II-18)

* * * * *

The Commission asked U.S. producers whether they anticipated changes in their production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, or asset values relating to the production of BSS in the future if the antidumping and countervailing duty orders were to be revoked. (Question II-19)

* * * * *

U.S. IMPORTERS' COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

The Commission asked U.S. importers if they anticipated any changes in the character of their operations or organization relating to the importation of C20000-series BSS in the future if the countervailing duty and antidumping duty orders were to be revoked (Question II-4).

* * * * *

The Commission requested U.S. importers to describe the significance of the existing antidumping and countervailing duty orders covering imports of BSS in terms of their effect on their firms' imports, U.S. shipments of imports, and inventories. (Question II-9)

* * * * *

The Commission requested U.S. importers if they would anticipate any changes in their imports, U.S. shipments of imports, or inventories of PET film in the future if the antidumping and countervailing duty orders were to be revoked. (Question II-10)

* * * * *

U.S. PURCHASERS' COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

The Commission asked U.S. purchasers to comment on the likely effect of any revocation of the antidumping duty order covering BSS from France, Germany, Italy, and Japan. They were asked to discuss the potential effects of revocation of the antidumping duty order in terms of (1) the future activities of their firm and (2) the U.S. market as a whole. (Question III-34)

(1) the future activities of their firm

* * * * *

2) the U.S. market as a whole

* * * * *

The Commission requested that purchasers identify and discuss any improvements/changes in the U.S. BSS industry since January 1, 2005. (Question III-30(a).) Their responses are as follows.

* * * * *

The Commission requested that purchasers identify and discuss any improvements/changes they anticipate in the future U.S. BSS film industry. (Question III-30 (b).) Their responses are as follows.

* * * * *

FOREIGN PRODUCERS' COMMENTS REGARDING THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

The Commission asked foreign producers whether they anticipated any changes in the character of their operations or organization relating to the production of C20000-series BSS in the future if the antidumping duty orders were to be revoked (Question II-4).

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APPENDIX E
ALTERNATIVE DATA FOR GERMANY

Table E-1

BSS: Germany's (excluding Schwermetall) reported production capacity, production, shipments, and inventories, 2005-2010, January-September 2010, and January-September 2011

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Table E-2

BSS: Schwermetall's reported production capacity, production, shipments, and inventories, 2005-2010, January-September 2010, and January-September 2011

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