

IRON ORE PELLETS FROM BRAZIL

**Determination of the Commission in
Investigation No. 701-TA-235
(Final) Under the Tariff Act of
1930, Together With the
Information Obtained in the
Investigation**

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Data that would disclose confidential operations of individual concerns may not be published and therefore have been deleted from this report. Deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigation No. 701-TA-235 (Final)

IRON ORE PELLETS FROM BRAZIL

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission unanimously determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Brazil of iron ore pellets, 2/ provided for in item 601.24 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be subsidized by the Government of Brazil.

Background

The Commission instituted this investigation effective March 22, 1985, following a preliminary determination by the Department of Commerce that imports of iron ore pellets from Brazil were being subsidized within the meaning of section 701 of the Act (19 U.S.C. § 1671). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC,

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

2/ The term iron ore pellets covers fine particles of iron oxide hardened by heating and formed into balls from 3/8-inch to 5/8-inch in diameter, for use in blast furnaces to obtain pig iron, reported for statistical purposes in item 601.2450 of the Tariff Schedules of the United States Annotated (TSUSA). The term does not include pellets for use in electric furnaces unless such pellets contain more than 3 percent by weight of silica.

and by publishing the notice in the Federal Register of April 24, 1985 (50 F.R. 16174). Subsequently, however, Commerce suspended its investigation on the basis of a suspension agreement with Brazil (50 F.R. 24265, June 10, 1985); the Commission then suspended its investigation (50 F.R. 25478, June 19, 1985).

Effective March 31, 1986, Commerce continued its investigation following cancellation of the suspension agreement. Consequently, effective March 31, 1986, the Commission resumed its final countervailing duty investigation (51 F.R. 12938, April 16, 1986). The hearing was held in Washington, DC, on June 19, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

On the basis of the record developed in this investigation, the Commission determines that an industry in the United States is not materially injured or threatened with material injury by reason of the imports of iron ore pellets from Brazil that the Department of Commerce (Commerce) has determined are subsidized by the government of Brazil. ^{1/}

Like product and the domestic industry.

As a prerequisite to its material injury analysis, the Commission must first define the relevant domestic industry against which to assess the impact of unfairly traded imports. The term "industry" is defined in section 771(4)(A) of the Tariff Act of 1930 as "the domestic producers of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product...." ^{2/} In turn, "like product" is defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation." ^{3/} Consequently, the definition of the like product legally defines the scope of the relevant domestic industry under consideration by the Commission.

^{1/} "Material retardation" was not an issue in the investigation and will not be discussed further.

^{2/} 19 U.S.C. § 1677(4)(A)

^{3/} 19 U.S.C. § 1677(10).

The imported product in this investigation is iron ore pellets. ^{4/} They are made from iron ore by forming fine particles of iron oxide into balls of 3/8 inch to 5/8 inch, which are then used in blast furnaces to obtain pig iron. Pellets for use in electric furnaces and containing not over 3 percent of silica by weight are excluded from this investigation.

Iron ore pellets constitute approximately 95 percent of domestic iron ore production and 70 to 75 percent of consumption. ^{5/} They are manufactured in the United States from lower grade magnetite and hematite ores found primarily in Minnesota and Michigan. ^{6/} Approximately 80 percent of domestically produced pellets are made from magnetite ore, whereas Brazilian pellets are made largely from hematite ore. ^{7/} The methods of pelletizing magnetite and hematite concentrates are the same. ^{8/}

U.S. and Brazilian iron ore pellets are interchangeable for use in blast furnaces. Because their chemical properties are well known and understood, ^{9/} a steelmaker can take into account the different mixes and chemistries of the pellets and the other raw materials charged into the blast furnace and achieve a balance among the acid and base materials in order to efficiently remove impurities from the raw materials. ^{10/} Therefore, iron ore pellets from different mines are interchangeable once the chemistries are known.

^{4/} Notice of Final Affirmative Countervailing Determination, 51 Fed. Reg. 21961 (June 17, 1986).

^{5/} Report of the Commission (Report) at A-4.

^{6/} Id.

^{7/} Id.

^{8/} Id. at A-5.

^{9/} See Additional Views of Vice Chairman Brunsdale on this issue.

^{10/} Report at A-4.

In its preliminary investigation the Commission defined the like product as iron ore pellets. ^{11/} Subsequently, there has been no request to change the definition, nor do we see any reason to do so. Accordingly, we determine that there is one like product -- iron ore pellets.

In a countervailing duty investigation, the domestic industry is defined in terms of the like product. The domestic industry, therefore, in this investigation consists of U.S. producers of iron ore pellets. Domestic iron ore pellet producers include merchant and captive producers. ^{12/} Three of the petitioners are merchant pellet producers. ^{13/} Merchant pellet producers own or operate iron ore mines or pelletizing facilities in partnership or joint ventures with steel companies. The output of a pellet plant is allocated to the partners according to each partner's percentage of equity ownership in the plant.

Steel producers generally use their share of the output for captive consumption in steelmaking. ^{14/} Some steel companies also sell portions of their share of domestic production on the commercial market. Merchant pellet companies usually sell their share of the output to steel companies under long-term or short-term contracts or on a spot basis.

There are eight firms that operate pellet plants in the United States. Two of them, U.S. Steel Corp. (U.S. Steel) ^{15/} and Inland Steel Co., are steel producers that own and operate their own pellet plants. ^{16/} Five of

^{11/} Iron Ore Pellets from Brazil, Inv. No. 701-TA-235 (Preliminary), USITC Pub. 1640 (Feb. 1985).

^{12/} Report at A-6.

^{13/} The fourth petitioner is the United Steelworkers of America, a union representing steelworkers. Report at A-7.

^{14/} *Id.* at A-6.

^{15/} During the pendency of this investigation U.S. Steel changed its name to USX Corp.

^{16/} Report at A-7.

the firms are merchant pellet companies that have equity ownership in some or all of the mines they operate. The remaining firm acts as a manager/operator of a domestic mine and pelletizing facility. ^{17/}

Petitioners in this case continued to argue that the Commission should separate the merchant and captive producers in the domestic industry. ^{18/} Since there is no statutory provision allowing the separation of the captive and merchant producers in the domestic industry, we include both in the domestic industry. ^{19/}

Condition of the domestic industry

In examining the condition of the domestic industry, the Commission considers, among other factors, consumption, production, capacity, capacity utilization, sales, employment, and profitability of the domestic industry. ^{20/} No single factor is determinative of material injury and, in each investigation, the Commission must take into account the particular nature of the industry it is examining. The Commission collected data based on the entire industry and on just the equity owners. Our analysis of injury considers the structure which characterizes this industry. The level of domestic iron ore pellet production is related to the demand for

^{17/} Id.

^{18/} Prehearing Brief of Petitioners at 24-25.

^{19/} Two domestic pellet producers are also importers of iron ore pellets from Brazil. Report at A-9-A-10, A-18. Even though none of the parties raised the related parties issue under 19 U.S.C. § 1677(4)(B), we considered the issue. That provision grants the Commission discretion in determining whether "appropriate circumstances" exist for the exclusion of related parties from the industry. The primary purpose of the provision is to avoid the distortion in aggregate data concerning the domestic industry which might result from the inclusion of related parties whose operations are shielded from the effect of imports. In this investigation, inclusion of the related parties in the domestic industry would not distort the data, thus, it is not appropriate to exclude these two companies from the domestic industry.

^{20/} See 19 U.S.C. § 1677(7)(C)(iii).

steel. ^{21/ 22/} Because of the decline in steel demand, the iron ore pellet industry is undergoing a process of rationalization and consolidation.

Total apparent U.S. consumption of pellets increased significantly in the period of this investigation, rising from 40.6 million long tons in 1983 to 53.9 million long tons in 1984, and then falling slightly to 51.6 million long tons in 1985. ^{23/} In the first quarter of 1986, it reached 5.8 million long tons, 0.6 million long tons above the first quarter of 1985. ^{24/}

Domestic production, shipments, and capacity utilization followed the same trend. Production moved up from 35.7 million long tons in 1983 to 50.3 million long tons in 1984, then dropped slightly to 47.5 million long tons in 1985, and in the interim 1986 quarter held virtually level at 10.1 million long tons compared to 10.2 million long tons in the 1985 period. ^{25/} U.S. operators' shipments (domestic and export) ^{26/} increased significantly from 39.8 million long tons in 1983 to almost 49.0 million long tons in 1984, dropped to 46.5 million long tons in 1985, and then, comparing the first quarters of 1985 and 1986, rose sharply from almost 2.9 million to 4.2 million long tons. ^{27/}

^{21/} Domestic iron ore pellets are shipped from pelletizing facilities in northeastern Minnesota and the upper peninsula of Michigan, via special ore vessels, through the Great Lakes to steel plants situated near major ports on the Lower Great Lakes, such as Cleveland and Chicago. Report at A-14.

^{22/} The decline in demand for U.S. produced steel has resulted in excess capacity in the iron ore pellet industry. This condition is consistent with the declining profits reported by domestic producers discussed later in the opinion. Also, it encouraged sales of pellets at less than average total cost of production in this relatively high fixed cost industry. Report at A-27, Table 9 and at A-40, Table 14.

^{23/} Report at A-15, Table 3.

^{24/} Id.

^{25/} Id. at A-17, Table 4.

^{26/} Operators' shipments constitute the total shipments of the domestic industry.

^{27/} Report at A-17, Table 5.

Capacity utilization rose strongly from 43.8 percent in 1983 to 63.9 percent in 1984, then dropped slightly in 1985, ^{28/} and then in the first quarter of 1986 improved slightly over the 1985 period. — 53.3 percent versus 52.0. ^{29/} Capacity declined modestly over the period of investigation and numerous temporary shutdowns occurred. ^{30/}

The employment statistics are mixed. The number of production and related workers producing iron ore pellets was 6,305 in 1983, 7,678 in 1984, and 6,860 in 1985; ^{31/} and a further decline occurred in the first quarter of 1986 relative to 1985. ^{32/} Hours worked increased 25.4 percent from 1983 to 1984, but then decreased by 14.5 percent in 1985 and by 14.1 percent in the first quarter of 1986 compared to the first quarter of 1985. ^{33/} On the other hand, average hourly compensation (wages and fringe benefits) in current dollars fell by about ten percent in 1984, from \$21.43 to \$19.34, and rose to \$21.01 in 1985. Though not directly comparable to annual data, an additional gain of about 8 percent was recorded from the first quarter of 1985 to the same period in 1986. Worker productivity (measured in long tons per hour) steadily increased, by 23.8 percent from 1983 to 1985. Based on first quarter comparisons, this trend also appears to have continued, into 1986. Since productivity grew faster than nominal wages, unit labor costs probably fell over the period.

Turning to the financial performance of the operators, net sales were \$1.7 billion in 1983, \$2.2 billion in 1984, \$2.0 billion in 1985, and for interim 1986 increased to \$345.8 million from \$326.1 million in

^{28/} Id. at A-17, Table 4.

^{29/} Id.

^{30/} Id. at A-17 and A-21.

^{31/} Id. at A-20, Table 6.

^{32/} Id. at A-19 and Table 6 at A-20.

^{33/} Id.

1985. ^{34/} ^{35/} Operating profits increased from \$258 million in 1983 to \$552 million in 1984; then dropped to \$389 million in 1985; ^{36/} during the January-March 1986 period operating income then increased again by 8.5 percent compared to the 1985 period. ^{37/} The ratio of operating income to net sales increased from 14.9 percent in 1983 to 25.5 percent in 1984 and to 19.7 percent in 1985; during interim 1986 the operating income margin increased further from 24.6 percent in the year earlier period to 25.2 percent. ^{38/} We note, however, that a significant portion of the profitability data for the industry is based on using the published Lower Lakes price as a transfer price, which could be seriously misleading. ^{39/} Since tax considerations have the greatest influence on the transfer prices, ^{40/} we have considered the data with caution. ^{41/}

The financial performance of equity owners on their commercial operations may provide a more accurate picture of the condition of the industry. ^{42/} Steel producers that are equity owners of pelletizing facilities consume

^{34/} Id. at A-23 and Table 7 at A-22.

^{35/} The Commission collected sales data for domestic pellets broken down according to types of ownership of the mines. Sales realized by each type of owner generally paralleled total sales reported by operators. Id. at A-23 and Table 7 at A-22.

^{36/} Id.

^{37/} Id.

^{38/} Id.

^{39/} The published Lower Lakes price is a list price for iron ore pellets and is not an actual transaction price for pellets. Besides being used as a transfer price; the published Lower Lakes price is also used in long-term contracts. However, due to widespread discounting, it does not reflect market conditions. From 1977 to 1985; for example, the published Lower Lakes price increased 57 percent, whereas the world price declined by 16 percent over the same period. Id. at A-34.

^{40/} Report at A-36.

^{41/} Steel companies transfer iron ore from their pelletizing facilities to their steel producing facilities at the highest allowable price, the published Great Lakes price; due to depletion allowances provisions of the tax regulations. Thus, the transfer price greatly affects their reported profitability. Id. at A-36.

^{42/} Report at A-25, Table 8.

approximately 80 percent of domestic production of iron ore pellets. ^{43/}
 Those data show an industry performing poorly. Net sales on the spot market were highest in 1984 and then slightly decreased in 1985. In contrast to operators' net sales during the interim periods, net sales on the spot market fell sharply from interim period 1985 to interim period 1986. ^{44/} Net sales under long-term contracts on the commercial market followed the same trend as commercial spot market sales. ^{45/} Although the ratio of operating income to net sales for commercial operations followed the same general trend as the operators' operations, losses occurred, declines in profits were much steeper, and profits dropped significantly from interim period 1985 to interim period 1986. ^{46/ 47/ 48/}

No material injury by reason of subsidized imports from Brazil ^{49/}

When determining whether there is material injury by reason of subsidized imports, the statute provides that the Commission shall consider, among other

^{43/} Id. at A-32.

^{44/} Id.

^{45/} Id.

^{46/} Vice Chairman Brunsdale notes that the extensive use of the Lower Lakes price as transfer prices makes it exceptionally difficult to assess the financial condition of the domestic industry. Moreover, indicators such as employment and domestic shipments suggest to her that the industry recovered well in 1984, declined in 1985 and into the first quarter of 1986, but stood somewhat better at the end of the three-year period than at the beginning. Because the indicators are mixed and in some instances of doubtful applicability, the Vice Chairman finds it useful to assume, for the sake of argument, material injury to the domestic industry and turn to the question of causation.

^{47/} Commissioner Stern concludes that the domestic industry is experiencing economic problems.

^{48/} Commissioner Eckes and Commissioner Rohr determine that the domestic industry is materially injured.

^{49/} Chairman Liebeler does not join this section of the opinion. See her Additional Views.

factors:

- (i) the volume of imports of the merchandise which is the subject of the investigation,
- (ii) the effect of imports of that merchandise on prices in the United States for like products and
- (iii) the impact of imports of such merchandise on domestic producers of like products. 50/

For the following reasons, we have concluded that the domestic industry is not being materially injured by reason of subsidized imports from Brazil.

First, the volume of imports from Brazil in the U.S. market during the period of investigation was low relative to apparent consumption. Specifically, such imports were 254,000 long tons in 1983 (0.6 percent of all apparent U.S. consumption), almost 1.4 million long tons in 1984 (2.5 percent of consumption), and 737,000 long tons in 1985 (1.4 percent of consumption). 51/ Moreover, in the first quarter of 1986, they were 43.2 percent lower than in the same period of 1985. By contrast, total domestic shipments, as a share of apparent consumption, remained relatively constant, at approximately 80 percent. 52/

Second, the majority of imports from Brazil during the period of investigation were shipped pursuant to long-term contracts negotiated in the 1970s when expected demand for pellets and steel were higher than at present. Companhia Vale do Rio (CVRD), the sole Brazilian ore producer that exported pellets to the United States during the period of the investigation, alleges that major steel producers are accepting less than their entire pellet shipments under those contracts, and in some instances, domestic steel companies have not honored the contracts. 53/ For example, U.S. Steel had a

50/ 19 U.S.C. § 1677(7)(B).

51/ Report at A-31 and A-33.

52/ Id. at A-30 and A-33.

53/ Transcript of Hearing (TR.) at 149-150.

long-term contract with CVRD, but according to CVRD, U.S. Steel is currently taking all of its pellet requirements for its Pennsylvania plant and some of its pellet requirements for its Alabama plant from a U.S. Steel subsidiary plant in Canada. ^{54/} CVRD alleges that those Canadian pellets are being supplied at "variable cost." ^{55/ 56/}

Third, in the commercial market, the ratio of imports from Brazil to apparent U.S. consumption rose from zero in 1983 to 3.2 percent in 1984 and then declined sharply to 0.7 percent in 1985. ^{57/ 58/} During the same period, however, domestic shipments in the commercial market increased from 70.5 percent in 1983 to 91.8 percent in 1985. Thus, domestic shipments in the commercial market rose steadily.

Fourth, petitioners argued that the suspension agreement caused the decrease in pellet imports. ^{59/} The suspension agreement was in effect from

^{54/} Id.

^{55/} Id.

^{56/} So called "variable cost" pellets are pellets sold below cost in order to utilize excess capacity. Report at A-28.

^{57/} Report at A-33. Interim data for the January-March quarters of 1985 and 1986 show a higher Brazilian import penetration. Since the Great Lakes are frozen during those months, the interim data cover a disproportionately large share of Brazil's annual exports to the United States. Annual data, on the other hand, include imports not directly attributable to seasonal factors and are thus much more reliable indicators of changes in overall import patterns. Id. at A-32-A-33.

^{58/} Commissioner Stern notes that the dominant U.S. share in the commercial market undercuts allegations of price depression by Brazilian iron ore imports.

^{59/} Petitioners' Post-Hearing Brief at 7.

May 1985 to December 1985.^{60/} We considered the petitioners' argument and concluded that it is not supported by the price data, as discussed below, and the existence of long-term contracts.

Another key factor in our negative determination is price comparison.^{61/} The Commission considered pricing information from domestic producers and importers of iron ore pellets based on transfer pricing, long-term contracts, short-term contracts and spot market sales. As previously noted, the vast majority of iron ore pellets produced in the United States are consumed captively by steel companies and are transferred from the mines to the steel plants at the published Lower Lakes price.^{62/} Thus, comparisons between captive sales (transfers) and import sales are of no value.

Comparison of long-term contract prices and import prices is questionable. Long-term contracts for domestically produced iron ore pellets are written in terms of the published Lower Lakes price. However, because of pervasive discounting, the actual price is significantly lower.^{63/} Moreover, because many of the current long-term contracts between domestic iron ore merchants and domestic steel producers were negotiated in the mid to

^{60/} Under the terms of the suspension agreement, the Government of Brazil agreed not to provide any countervailable benefits with respect to iron ore exported to the United States and to ensure that CVRD would comply with the agreement. In addition to agreeing not to claim benefits from two programs that Commerce preliminarily determined to confer subsidies, CVRD also agreed that it would not apply for or receive any countervailable benefits with respect to iron ore pellets exported from Brazil to the United States. Another term of the agreement was that CVRD would not build any pelletizing facilities at the Carajas project for pelletizing Carajas ore before 1995; then, if such facilities were built, CVRD would not ship pellets to the United States until after a countervailing duty investigation was completed. Report at A-2.

^{61/} Most of the price data collected by the Commission are confidential. Our discussion of prices is, therefore, in general terms.

^{62/} Report at A-36.

^{63/} Id. at A-36-A-37.

late 1970s, they do not reflect current market realities. ^{64/}

The data on prices for short-term contracts and spot market prices support our conclusion that imports of iron ore pellets from Brazil are not causing material injury to the domestic industry. Since transportation costs are a significant portion of the total cost of iron ore pellets, the most accurate price comparison is the delivered price. The best delivered price comparison is of sales of the domestic and imported product delivered to the Pittsburgh, PA area. ^{65/ 66/} The Pittsburgh data show relative stability in the delivered price of Brazilian pellets during the period of the investigation and no pattern of underselling by Brazil. ^{67/ 68/} Moreover, in the Pittsburgh area, Brazilian pellets have an inland transportation cost advantage over domestically produced pellets. ^{69/}

Also, comparisons between the f.o.b. mill and delivered prices to the Lower Lakes for short-term contracts and spot market sales of domestically produced iron ore pellets and the c.i.f. port of entry prices for imported pellets generally show domestic and Canadian pellets being sold at lower prices than Brazilian pellets. ^{70/} Included in the Brazilian weighted-average price for that comparison are sales pursuant to long-term contracts that are renegotiated annually — which function, for pricing purposes, like short-term contracts. ^{71/}

^{64/} Id. at A-37.

^{65/} Id. at A-39-A-41, Table 14.

^{66/} The majority of sales of Brazilian pellets have been in coastal areas which the domestic industry does not service. Since transportation costs are a major portion of the cost of iron ore pellets, price comparisons between the coastal areas and the lower Great Lakes area are not helpful. Id. at A-38.

^{67/} Id. at A-42.

^{68/} See Additional Views of Vice Chairman Brunsdale on this issue.

^{69/} Report at A-41.

^{70/} Id. at A-39.

^{71/} Id.

Finally, CVRD is a major exporter of iron ore to other world markets. ^{72/} The price of Brazilian pellets in the United States has followed the same trend as the world-market price of pellets. ^{73/ 74/}

There is evidence that the Brazilian imports do not compete in the same geographical area as domestically produced pellets due to transportation costs. The majority of Brazilian imports during the period of investigation went to coastal areas and to areas outside the lower Great Lakes region. For example, U.S. Steel purchased Brazilian pellets for its Pennsylvania and Alabama plants, Gulf States Steel purchased Brazilian pellets for use in Alabama, Lone Star purchased Brazilian pellets for use in Texas, and Armco purchased Brazilian pellets for use at its plants in the Ohio River valley. ^{75/}

^{72/} Id. at A-13.

^{73/} Id. at A-34-A-36. Tables 13, 14.

^{74/} Vice Chairman Brunsdale notes that Brazilian pellets accounted for only 11 percent of all imports in interim 1986, whereas Canadian pellets accounted for most of the rest. Thus, Canada has a dominant share of the import market, many times larger than Brazil's share. Report at A-33, table 11. Both Canada and Brazil export pellets not only to the United States but also to Europe and other countries. Id. at A-13, table 1 and Respondent's Prehearing Brief, June 13, 1986, Exhibit 4. She concludes from these facts, considered together, that Brazilian imports do not suppress or depress the prices received by U.S. producers. For instance, if Brazilian exports of pellets to this country should decline, either because Brazil had removed its subsidy on exports to the United States, or the United States had imposed a countervailing duty, Brazilian exports to other countries would increase. Initially, that would raise the U.S. price and lower the price in the rest of the world. But this situation could not persist. Canadian producers would have every incentive to take advantage of the temporary price discrepancy by shifting their exports from third countries to the United States until price differences had been fully arbitrated. As a result, consumption in all countries (including ours), and consequently prices, would return to the levels existing before Brazil had reduced its shipments to the United States. Because of these opportunities to shift world trading patterns in offsetting ways, the Vice Chairman finds that Brazilian shipments to the U.S. market cannot account for lower pellet prices here.

^{75/} TR. at 149-151.

At the Commission's hearing in this investigation, petitioners could not identify any areas of competition between domestically produced pellets and imported Brazilian pellets in the coastal areas. Rather, the petitioners stated that the competition in those areas was between Canadian pellets and Brazilian pellets. ^{76/} Moreover, the domestic industry has not traditionally served those areas. In fact, U.S. Steel is primarily supplying its Alabama and Pennsylvania plants with pellets from Canada. ^{77/} Thus, Brazilian iron ore pellets do not compete with domestic pellets, except possibly in very limited areas, and even in those limited areas, there is evidence that some of the sales of Brazilian pellets were made during the winter months when the Great Lakes were frozen and shipment of domestic pellets was impossible. ^{78/} A realistic analysis of import penetration in this investigation must take into account that the geographical area where the imports compete with domestically produced ore is limited.

No threat of material injury by reason of subsidized imports from Brazil

In making a determination as to whether there is threat of material injury, the Commission is required to consider, among other factors:

- (I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),
- (II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,
- (III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

^{76/} Id. at 98.

^{77/} Id. at 149-150.

^{78/} Id. at 151.

- (IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,
- (V) any substantial increase in inventories of the merchandise in the United States,
- (VI) the presence of underutilized capacity for producing the merchandise in the exporting country,
- (VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury, and
- (VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 ... or to find orders under section 706 or 736 ..., are also used to produce the merchandise under investigation. ^{79/}

U.S. market penetration of Brazilian imports decreased significantly from 1984 to 1985, ^{80/} and the decrease is likely to continue. First, Brazil has been a swing supplier of pellets to the U.S. and, as already noted, is having difficulty enforcing its long-term contracts with U.S. steel producers. ^{81/} Second, the remaining commercial sales of Brazilian iron ore pellets during the period of investigation were minor, isolated sales made on the spot market. ^{82/}

We have also considered the nature of the two countervailable subsidies found by the Department of Commerce -- income tax exemptions for export earnings and import duty exemptions. ^{83/} Although the former is an export subsidy, it is unlikely that it will result in increased exports of iron ore pellets to the U.S. Indeed, it has been in effect throughout the period of this investigation and imports have not increased.

^{79/} 19 U.S.C. § 1677(F)(i).

^{80/} Report at A-33.

^{81/} Id. at A-42.

^{82/} TR. at 151-152.

^{83/} Report at A-6.

As for production and capacity, the data for the Brazilian iron ore pellet industry show that the industry is operating at full or near full capacity. ^{84/} It is unlikely that capacity will increase because of the high fixed costs of expansion and the excess world supply of iron ore pellets.

During the preliminary investigation, the Commission examined whether Brazil might build a pelletizing plant at its Carajas project. The Department of Commerce, in its final determination, verified that this project will produce only natural iron ore and not iron ore pellets. ^{85/ 86/} The construction of a pellet plant at Carajas would be uneconomical and a violation of CVRD's loan requirements with the World Bank. Petitioners alleged that a pelletizing facility could be constructed at Carajas within two years from completion of the engineering plans, ^{87/} whereas the Brazilians claimed that construction would take four years. Although it is theoretically possible to move iron ore fines to a pelletizing facility and convert the fines to pellets, there is no evidence on the record that Brazil is doing, or intends to do, this. ^{88/} Based on this evidence, we find that the Carajas project does not constitute an imminent threat of material injury to the domestic industry.

There also is no indication that Brazilian pellets will enter the U.S. market at depressing or suppressing prices. Most of the imports in the period of investigation came into areas that the domestic industry is unable to serve

^{84/} Id. at A-13.

^{85/} 51 Fed. Reg. 21965 (1986).

^{86/} Although the Department of Commerce's finding was for purposes of determining the existence of a subsidy, we consider it as providing some evidence of the Brazilians' intent. Moreover, petitioners offered no convincing evidence to the contrary. TR. at 113.

^{87/} TR. at 100.

^{88/} Id. at 100-101.

because of transportation costs. In addition, the pellets CVRD sends into the U.S. market are a small share of its total world exports, the bulk of which goes to Europe and Japan. CVRD is unlikely to lower its price of pellets to the U.S. market because of the risk of jeopardizing the price of its ore in the European and Japanese markets. 89/

Finally, inventories of Brazilian iron ore pellets declined irregularly during the period of investigation, 90/ further supporting our conclusion that the Brazilian pellet imports do not pose a threat of material injury to the domestic industry.

89/ TR. at 115-116.

90/ Report at A-30.

ADDITIONAL VIEWS OF CHAIRMAN LIEBELER

Inv. No. 701-TA-335 (Final)
Iron Ore Pellets from Brazil

I determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of subsidized iron ore pellets from Brazil.¹ I concur with the majority's definitions of the like product and domestic industry. I also concur with the majority's determination with respect to the condition of the industry.

Material Injury by Reason of Imports

In order for a domestic industry to prevail in a final investigation, the Commission must determine that dumped or subsidized imports cause or threaten to cause material injury to the domestic industry producing the like product. First, the Commission must determine whether the domestic industry producing the like product is materially injured or is threatened with material

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Material retardation is not an issue because the industry is well established.

injury. Second, the Commission must determine whether any injury or threat thereof is by reason of the dumped or subsidized imports. Only if the Commission finds both injury and causation, will it make an affirmative determination in the investigation.

Before analyzing the data, however, the first question is whether the statute is clear or whether one must resort to the legislative history in order to interpret the relevant sections of the antidumping law. In general, the accepted rule of statutory construction is that a statute, clear and unambiguous on its face, need not and cannot be interpreted using secondary sources. Only statutes that are of doubtful meaning are subject to

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such statutory interpretation.

The statutory language used for both parts of the two-part analysis is ambiguous. "Material injury" is defined as "harm which is not inconsequential, immaterial, or unimportant."³ This definition leaves unclear what

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Sands, Sutherland Statutory Construction Sec. 45.02 (4th Ed.)

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19 U.S.C. sec. 1977(7)(A) (1980).

is meant by harm. As for the causation test, "by reason of" lends itself to no easy interpretation, and has been the subject of much debate by past and present commissioners. Clearly, well-informed persons may differ as to the interpretation of the causation and material injury sections of title VII. Therefore, the legislative history becomes helpful in interpreting title VII.

The ambiguity arises in part because it is clear that the presence in the United States of additional foreign supply will always make the domestic industry worse off. Any time a foreign producer exports products to the United States, the increase in supply, ceteris paribus, must result in a lower price of the product than would otherwise prevail. If a downward effect on price, accompanied by a Department of Commerce dumping or subsidy finding and a Commission finding that financial indicators were down were all that were required for an affirmative determination, there would be no need to inquire further into causation.

But the legislative history shows that the mere presence of LTFV or subsidized imports is not sufficient to establish causation. In the legislative history to the Trade Agreements Acts of 1979, Congress stated:

[T]he ITC will consider information which indicates that harm is caused by factors other⁴ than the subsidized imports.

The Finance Committee emphasized the need for an exhaustive causation analysis, stating, "the Commission must satisfy itself that, in light of all the information presented, there is a sufficient causal link between the less-than-fair-value imports and the requisite injury."⁵

The Senate Finance Committee acknowledged that the causation analysis would not be easy: "The determination of the ITC with respect to causation is, under current law, and will be, under section 735, complex and difficult, and is matter for the judgment of the ITC."⁶ Since the domestic industry is no doubt worse off by the presence of any imports (whether LTFV, subsidized, or fairly traded) and Congress has directed that this is not enough upon which to base an affirmative determination, the Commission must delve further to find what condition Congress has attempted to remedy.

⁴ Report on the Trade Agreements Act of 1979, S. Rep. No. 249, 96th Cong. 1st Sess. 58 (1979).

⁵ Id.

⁶ Id.

In the legislative history to the 1974 Act, the Senate Finance Committee stated:

This Act is not a 'protectionist' statute designed to bar or restrict U.S. imports; rather, it is a statute designed to free U.S. imports from unfair price discrimination practices. * * * The Antidumping Act is designed to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a

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United States industry.

Thus, the focus of the analysis must be on what constitutes unfair price discrimination and what harm results therefrom:

[T]he Antidumping Act does not proscribe transactions which involve selling an imported product at a price which is not lower than that needed to make the product competitive in the U.S. market, even though the price of the imported product is lower than its home market price.⁸

This "difficult and complex" judgment by the Commission is aided greatly by the use of economic and financial analysis. One of the most important assumptions

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Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

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Id.

of traditional microeconomic theory is that firms attempt

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to maximize profits. Congress was obviously familiar with the economist's tools: "[I]mporters as prudent businessmen dealing fairly would be interested in maximizing profits by selling at prices as high as the

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U.S. market would bear."

An assertion of unfair price discrimination should be accompanied by a factual record that can support such a conclusion. In accord with economic theory and the legislative history, foreign firms should be presumed to behave rationally. Therefore, if the factual setting in which the unfair imports occur does not support any gain to be had by unfair price discrimination, it is reasonable to conclude that any injury or threat of injury to the domestic industry is not "by reason of" such imports.

In many cases unfair price discrimination by a competitor would be irrational. In general, it is not

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See, e.g., P. Samuelson & W. Nordhaus, Economics 42-45 (12th ed. 1985); W. Nicholson, Intermediate Microeconomics and Its Application 7 (3d ed. 1983).

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Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

rational to charge a price below that necessary to sell one's product. In certain circumstances, a firm may try to capture a sufficient market share to be able to raise its price in the future. To move from a position where the firm has no market power to a position where the firm has such power, the firm may lower its price below that which is necessary to meet competition. It is this condition which Congress must have meant when it charged us "to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a United States industry."¹¹

In Certain Red Raspberries from Canada, I set forth a framework for examining what factual setting would merit an affirmative finding under the law interpreted in light of the cited legislative history.¹²

The stronger the evidence of the following . . . the more likely that an affirmative determination will be made: (1) large and increasing market share, (2) high dumping or subsidy margins, (3) homogeneous products, (4) declining prices and

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Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

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Inv. No. 731-TA-196 (Final), USITC Pub. 1680, at 11-19 (1985) (Additional Views of Vice Chairman Liebelser).

(5) barriers to entry to other foreign producers¹³
 (low elasticity of supply of other imports).

The statute requires the Commission to examine the volume of imports, the effect of imports on prices, and the general impact of imports on domestic producers.¹⁴ The legislative history provides some guidance for applying these criteria. The factors incorporate both the statutory criteria and the guidance provided by the legislative history. Each of these factors is evaluated in turn.

Causation analysis

Let us start with import penetration data. A Large market share is a necessary condition for a seller to obtain or enhance market power through unfair price discrimination. Imports of iron ore pellets from Brazil increased from .6 percent of the total apparent U.S. consumption of iron ore pellets in 1983 to 2.5 percent in 1984, and decreased to 1.4 percent of total apparent U.S. consumption in 1985. The ratio for the first quarter of

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Id. at 16.

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19 U.S.C. 1677(7)(B)-(C) (1980 & cum. supp. 1985).

1986 is 2.8 percent compared to 5.5 over the same period in 1985. Thus imports of iron ore pellets from Brazil represent a small market share and the first factor is not consistent with the presence of unfair price discrimination.

The second factor is a high margin of dumping or subsidy. The higher the margin, ceteris paribus, the more likely it is that the product is being sold below the

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competitive price and the more likely it is that the domestic producers will be adversely affected. The Commerce Department determined the estimated net subsidy to be 2.09 percent ad valorem. However, after a review Commerce adjusted the duty deposit to reflect changes in exports and total sales. Therefore the current cash deposit rate is 7.94 percent ad valorem, effective June 17, 1986. These subsidies are small and do not suggest the presence of unfair price discrimination.

The third factor is the homogeneity of the products. The more homogeneous the products, the greater will be the effect of any allegedly unfair practice on domestic

producers. The physical characteristics of the U.S. and Brazilian produced iron ore pellets are very similar, making the products fungible in use at most blast

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furnaces.

As to the fourth factor, evidence of declining domestic prices, ceteris paribus, might indicate that domestic producers were lowering their prices to maintain market share. In contrast to the world price, the Lower Lakes price increased 57 percent from 1977 to 1985 while the world price fell by 16 percent over the same

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However, since iron ore pellets are characterized by a low value-to-weight ratio, transportation costs are significant in all shipments of iron ore pellets. U.S. producers have an inland transportation cost advantage to the lower Great Lakes, whereas the Brazilian producers have an inland transportation cost advantage over almost all U.S. producers to steel plants near the Gulf Coast and East Coast ports. In only one major consuming region, the Pittsburgh area, is there significant competition between the domestic and the Brazilian product. In 1984, the last year of sales of Brazilian pellets in the Pittsburgh area, Brazilian pellets sold in that region accounted for approximately 20 percent of total imports of Brazilian pellets that year and .5 percent of U.S. apparent consumption in that year. Memorandum to the Commission from International Economist EC-J-273, at 2 (July 15, 1986). The fact that transportation costs are important in determining consumption patterns indicates that these products are not commercially substitutable in most regions

period.¹⁷ More recently, domestic spot market prices increased from the first quarter of 1984 through the first quarter of 1985, then fell during the remainder of 1985. These price data are somewhat inconclusive.

The fifth factor is barriers to entry (foreign supply elasticity). If there are barriers to entry (or low foreign elasticity of supply) it is more likely that a producer can gain market power. Brazil accounted for only 3 percent of the volume of US iron ore pellet imports in 1983. This percentage rose to 12 percent in 1984 and declined to 8 percent in 1985.¹⁸ This indicates that there are not likely to be barriers to entry and that import supply to the U.S. from countries other than Brazil has relatively high elasticity. This factor is inconsistent with unfair price discrimination.

All of these factors must be considered in each case to reach a sound determination. As noted earlier, market

¹⁷ Report at A-34

¹⁸ Report at A-40 and A-30. The decline in import penetration in 1985 coincided with the decline in domestic prices. This evidence is consistent with the idea that the Brazilian supply of iron ore pellets is elastic and that Brazil functions as a swing supplier.

share plays an important role in determining whether unfair price discrimination could be occurring. In this case the market penetration ratios indicate that what we are observing is not related to unfair price discrimination. In addition, the evidence indicates that the elasticity of foreign supply is high and the subsidy margin is low. The other factors are inconclusive. The evidence in this case is therefore not consistent with finding material injury by reason of subsidized imports of iron ore pellets from Brazil.

Conclusion

Therefore, I conclude that an industry in the United States is not materially injured or threatened with material injury by reason of subsidized imports of iron ore pellets from Brazil.

ADDITIONAL VIEWS OF VICE CHAIRMAN BRUNSDALE

Quality differences among pellets. Although I share the majority's analysis of like product and domestic industry, I find the record does not fully support their assertion that U.S. and Brazilian pellets are perfectly interchangeable in all instances. The staff report notes that "historically, pellets have been priced on the basis of their iron content (Report at A-6, n. 1). Thus, pellets with higher iron content, wherever they might come from, are of higher quality. Even if pellets of varying iron content are not perfectly interchangeable, however, they are highly interchangeable.

Underselling. Title VII requires the Commission to "consider whether there has been significant price undercutting by the imported merchandise as compared with the price of like products of the United States" 19 U.S.C. sec. 1677(C)(ii)(I). The data on price underselling typically collected by the Commission do not generally constitute particularly persuasive evidence of either the presence or absence of price undercutting. In my view, price differences between the foreign and domestic product are usually explained by product differences. Rarely will all of the characteristics of the imported product be identical to those of the domestic like product. For a more general discussion of underselling, see Memorandum from Director, Office of Economics, EC-J-010 (January 7, 1986) at 8-22.

Despite extensive investigation by Commission staff, I find a lack of evidence that would indicate price undercutting in this case.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On December 20, 1984, a countervailing duty petition was filed with the U.S. International Trade Commission (the Commission) and the U.S. Department of Commerce (Commerce) by counsel for the Cleveland-Cliffs Iron Co., Oglebay Norton Co., Pickands Mather & Co., and the United Steelworkers of America (USWA), on behalf of the domestic industry producing iron ore pellets. The petition alleged that the domestic iron ore pellet industry is materially injured and is threatened with material injury by reason of imports from Brazil of iron ore pellets, provided for in item 601.24 of the Tariff Schedules of the United States (TSUS), which are allegedly subsidized by the Government of Brazil. Accordingly, effective December 20, 1984, the Commission instituted preliminary investigation No. 701-TA-235 (Preliminary) under section 703(a) of the Tariff Act of 1930. On February 4, 1985, the Commission determined that there was a reasonable indication that an industry in the United States was materially injured, or threatened with material injury, 1/ by reason of imports from Brazil of iron ore pellets which are allegedly subsidized by the Government of Brazil.

On March 22, 1985, Commerce published notice in the Federal Register (50 F.R. 11527) of its preliminary determination that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of certain types of iron ore pellets. Accordingly, effective March 22, 1985, the Commission instituted investigation No. 701-TA-235 (Final), to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports of such merchandise.

Notice of the institution of the Commission's final investigation and of a hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of April 24, 1985 (50 F.R. 16174). 2/ Subsequently, however, Commerce suspended its investigation on the basis of a suspension agreement

1/ Commissioners Stern and Lodwick determined that there was a reasonable indication that an industry in the United States was threatened with material injury only.

2/ A copy of the Commission's notice is presented in app. A.

with Brazil (50 F.R. 24265, June 10, 1985). 1/ The Commission then suspended its investigation (50 F.R. 25478, June 19, 1985). 2/

On March 31, 1986, Commerce published a notice in the Federal Register (51 F.R. 10906) canceling the suspension agreement concerning iron ore pellets from Brazil. The agreement is no longer in force because the Government of Brazil notified Commerce on December 18, 1985, of its withdrawal from the suspension agreement. According to section 704(i)(B) of the Tariff Act of 1930, if a suspension agreement is canceled, the countervailing duty investigation shall resume as if Commerce's affirmative preliminary determination were made on the date of the publication of the notice of such cancellation. Consequently, effective March 31, 1986, the Commission resumed its final countervailing duty investigation (No. 701-TA-235 (Final)).

Notice of the continuation of the Commission's final investigation and of a hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of April 16, 1986 (51 F.R. 12938). 3/ The hearing was held in Washington, DC, on June 19, 1986. All persons who requested the opportunity were permitted to appear in person or by counsel. 4/

Commerce published its final affirmative determination in the Federal Register of June 17, 1986. 5/ The applicable statute directs that the Commission make its final determination within 45 days after Commerce's final determination. 6/ The Commission's briefing and vote in this investigation was held on July 18, 1986.

1/ The parties to the agreement, which was signed May 29, 1985, were the Department of Commerce, the Government of Brazil, and Companhia Vale do Rio Doce (CVRD) and its subsidiaries and affiliates that mine or produce pellets for export to the United States. The Government of Brazil agreed not to provide any countervailable benefits for iron ore pellets exported to the United States and to ensure that CVRD would comply with the agreement. In addition to agreeing not to claim benefits from the two programs that Commerce preliminarily determined to confer subsidies, CVRD also agreed that it would not apply for or receive any countervailable benefits with respect to iron ore pellets exported from Brazil to the United States. Another term of the agreement was that CVRD would not build any pelletizing facilities at the Carajas project for pelletizing Carajas ore before 1995; then, if such facilities were built, CVRD would not ship pellets to the United States until after a countervailing duty investigation was completed.

2/ A copy of the Commission's notice suspending its investigation is presented in app. A.

3/ A copy of the Commission's notice is presented in app. A.

4/ A list of witnesses appearing at the hearing is presented in app. B.

5/ A copy of Commerce's notice is presented in app. A.

6/ The Commission's administrative deadline for notifying Commerce of its determination in this case is July 28, 1986. The statutory deadline is July 31, 1986.

Previous Commission Investigations

The Commission has not previously conducted an investigation specifically on iron ore pellets. However, the Commission conducted investigations on iron ore, which included iron ore pellets, in 1958, 1960, and 1963.

On August 4, 1958, pursuant to a resolution of the Committee on Finance, U.S. Senate, the Commission instituted investigation No. 35 under section 332 of the Tariff Act of 1930 to examine the conditions of competition in the United States between domestically produced iron ore and iron ore produced in foreign countries. A report on this investigation was transmitted to the Committee on Finance in March 1959. 1/

On July 6, 1960, pursuant to a resolution of the Committee on Finance, U.S. Senate, the Commission instituted escape-clause investigation No. 7-92 under section 7 of the Trade Agreements Extension Act of 1951 to determine whether iron ore, including manganiferous iron ore, was, as a result in whole or in part of the customs treatment reflecting concessions granted thereon under trade agreements, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products. In December 1960, the Commission made a negative determination in that investigation. 2/

In June 1963, the Commission made a negative determination in a trade adjustment assistance investigation concerning U.S. Steel Corp.'s iron ore mines located near Fairfield, AL. 3/

The Product 4/

Description and uses

Iron ore is a mineral substance used principally in the production of pig iron, 5/ which in turn is used in steel production. Iron is manufactured

1/ U.S. Tariff Commission, Report on Investigation No. 35 Under Section 332, Tariff Act of 1930, March 1959.

2/ U.S. Tariff Commission, Report on Escape-Clause Investigation No. 7-92 Under Section 7 of the Trade Agreements Extension Act of 1951, as amended, December 1960.

3/ U.S. Tariff Commission, Tariff Commission Reports to the President on Iron-Ore Mine Workers' Petition for Adjustment Assistance, TC Publication 96, June 28, 1963.

4/ For purposes of this investigation, the term "iron ore pellets" covers fine particles of iron oxide hardened by heating and formed into balls from 3/8 inch to 5/8 inch in diameter, for use in blast furnaces to obtain pig iron, reported for statistical purposes in item 601.2450 of the Tariff Schedules of the United States Annotated (TSUSA). The term does not include pellets for use in electric furnaces unless such pellets contain more than 3 percent by weight of silica.

5/ Small amounts of iron ore are used in the manufacture of other commodities such as cement, heavy-medium materials, iron oxide pigments, high-density concrete, ferrites, and additives to animal feed.

through a number of different processes, all of which involve heating iron ore to high temperatures along with certain additional chemical elements or "fluxes." Iron ore is produced and shipped in several different forms, depending on mining methods, ore grades and composition, and steel industry requirements. The most widely used iron ore product in the United States is pellets, which, according to the petition, constitute approximately 95 percent of U.S. iron ore production, and 70 to 75 percent of consumption.

Iron ore pellets are manufactured in the United States from lower grade magnetite and hematite ores 1/ that are mined primarily in Minnesota and Michigan, with a few other scattered locations in Missouri, California, New York, Texas, Utah, and Wisconsin. Pellets are formed by heating fine particles of iron oxide and forming them into 3/8- to 5/8-inch balls. 2/ The chemical compounds contained in pellets include iron (about 63 to 65 percent, by weight), acids (silica and alumina, about 4 to 6 percent), bases (lime and magnesia, 0.5 to 1.5 percent), and miscellaneous elements (these include manganese, sodium, phosphorus, and sulfur, and are usually less than 3 percent of the total weight). 3/ Oxygen makes up most of the remaining 25 percent, although there may be a small amount of moisture (0 to 4 percent).

Although only produced in small amounts domestically, the most common form of iron ore used internationally is sinter feed. Sintering, which is typically used to agglomerate higher grade ores, consists of heating and fusing particles of iron ore less than 1/4 inch in diameter. Sintered ore is

1/ Approximately 80 percent of U.S.-produced pellets are made from magnetite as opposed to hematite ore. Brazilian pellets are made largely from hematite ore (transcript of the conference, p. 91).

2/ Pellets are designed to fall into the 3/8- to 5/8-inch size range to match the screening size of domestic blast furnaces.

3/ Historically, pellets have been priced on the basis of their iron content. However, a steelmaker must also take into consideration the mix and chemistries of the pellets and other raw materials charged into a blast furnace. He tries to achieve a balance among the acid and base materials in order to remove most efficiently the impurities from the ore and other materials used to make iron.

Recently, there has been interest among domestic steelmakers in so-called fluxed pellets. These pellets contain the right amounts of base material or flux (i.e., limestone and magnesia) so that a steelmaker doesn't need to add additional flux in the blast furnace. The Brazilians contend that for CVRD, fluxing of pellets is standard practice, and thus makes their pellets more desirable to steelmakers (transcript of the conference, p. 113). Further, according to the Brazilians, domestic producers for the most part have resisted fluxing because it adds to manufacturing costs (postconference brief of CVRD, p. 5). The petitioners counter that domestic steelmakers have only recently shown an interest in fluxed pellets, and that domestic pellet producers are working with steelmakers to test the effectiveness of these pellets. Petitioners also stated in their postconference brief (p. 6) that the Brazilian pellets must be fluxed in order to perform acceptably in blast furnaces.

more fragile than pelletized ore and can disintegrate during transport; therefore, sintering occurs not at the mine but in sintering plants located at steel mills. In addition to its fragility, sintering is not used extensively in the United States because of the pollution it creates and because domestic ores produce concentrates that are too fine for use as sinter feed. 1/

Manufacturing process

Open-pit mining is the principal extraction technique for iron ore. 2/ Most open-pit mines utilize large power shovels and trucks. Generally, in U.S. mines, 5 to 6 tons of material must be mined to produce 1 ton of usable product (or, 3 tons of crude ore yield about 1 ton of pellets). After it has been mined, crude ore is transported to a crusher, and then to grinding mills. The tumbling action of the revolving grinding mills serves to reduce the ore to the consistency of a coarse beach sand. The ore is ground further in the pebble mills until it reaches a powder-fine consistency.

In the case of magnetite ore, the finely ground material passes over magnetic cobbles that attract the iron while the waste is washed away. The material is further upgraded in setting tanks, magnetic finishers, and by flotation. Following a thickening operation, 90 percent of the moisture is removed in disc filters. In the case of hematite ore, processing is basically by chemical means. Finely ground ore is conditioned by adding sodium silicate, caustic soda, and a cooked cornstarch. This treated pulp is fed to desliming tanks. The iron-rich fraction is drawn out and sent to flotation machines. Water is then removed from the concentrate by steam vacuum filters.

The processes used in pelletizing magnetite and hematite concentrates are essentially the same. The concentrates, along with a binder material (usually bentonite, although several U.S. producers have been testing other materials), are fed into rotating balling drums and, as the material rolls, marble-sized pellets are formed. 3/ The soft pellets are then carried by conveyor to a traveling grate, where they are dried and preheated before being deposited into a rotary kiln, which hardens the pellets at 2,400 degrees Fahrenheit using coal, natural gas, or fuel oil as a source of heat.

U.S. tariff treatment

Imports of the iron ore pellets subject to investigation are classified in TSUS item 601.24 and reported under TSUSA item 601.2450, which covers both pelletized and sintered iron ore. Imports of iron ore pellets (and of all iron ore under TSUS item 601.24) are free of duty regardless of country of origin.

1/ Postconference brief of CVRD, p. 6.

2/ Only one U.S. mine, Pea Ridge in Sullivan, MO, is underground.

3/ Although several devices are available for forming pellets, the balling drum and the so-called disc pelletizer are the most widely used.

Nature and Extent of Subsidies

On June 17, 1986, Commerce published its final affirmative countervailing duty determination on certain types of iron ore pellets from Brazil. Commerce estimated the net subsidy to be 2.09 percent ad valorem for calendar year 1984, the period for which subsidization was measured. However, Commerce adjusted the duty deposit rate to 7.94 percent ad valorem to reflect changes in CVRD's exports and total sales since the review period. Commerce also determined that critical circumstances do not exist with respect to the subject merchandise.

CVRD is the only known exporter in Brazil of iron ore pellets to the United States. Two programs were determined to confer subsidies: the income tax exemption for export earnings and import duty exemptions. 1/ Under the income tax exemption for export earnings, exporters of iron ore pellets are eligible for an exemption from income tax on a portion of profits attributable to export revenue. In 1984, CVRD took an exemption on 1983 export profits. The subsidy rate for this program was found to be 2.00 percent ad valorem. The cash deposit rate for this program was found to be 7.85 percent ad valorem, based on calculating the exemption that, absent a suspension agreement, CVRD would have received in 1985 on exports during the 1984 review period. 2/

Under the import tax exemption program, firms may be totally exempted from import duties on equipment, machinery, instruments, and appliances if similar equipment is not produced in Brazil. CVRD used this exemption for the importation of pelletizing and mining equipment during the review period. The estimated net subsidy for this program was 0.09 percent ad valorem.

U.S. Producers

Iron ore pellets are produced in the United States at pelletizing facilities located at the site of, or near, iron ore mines. The mines and pellet plants are owned either by steel producers or by partnerships or joint ventures of steel producers and merchant pellet companies. In a partnership or joint venture, the output of a pellet plant is allocated to the participants according to each one's percentage of equity ownership in the plant. The steel producers generally use their share of the output for captive consumption in steelmaking. 3/ The merchant pellet companies usually sell their share of the output to steel companies under long-term or short-

1/ The income tax exemption for export earnings has been in effect for iron ore pellets since November 1972; the import duty exemptions program has been in effect since October 1973.

2/ Commerce used this approach because of the unusually long period of time that has elapsed since the 1984 review period. This investigation is the first in which Commerce issued a final determination following the resumption of a suspended investigation.

3/ Sometimes a portion of this output is either sold to or "swapped" with other companies that produce steel.

term contracts or on a spot basis. Most long-term contracts date from the mid-1970's when forecasts for steel demand were more optimistic.

Eight firms operate pellet plants in the United States. Two firms, U.S. Steel Corp. and Inland Steel Co., are steel producers that own and operate their own pellet plants. Five firms, the Cleveland-Cliffs Iron Co., Oglebay Norton Co., Pickands Mather and Co., the M. A. Hanna Co., and the St. Joe Minerals Corp., are merchant pellet companies; 1/ most have equity ownership in some or all of the mines and pellet plants that they operate. 2/ The remaining firm, Reserve Mining Co., acts as manager/operator of a domestic mine and pelletizing plant; Reserve is neither a steel producer nor a merchant pellet company.

The Cleveland-Cliffs Iron Co. (Cleveland, OH), is a multinational corporation involved primarily in iron ore (its mining, processing, and transportation), but with dealings in forest products and oil and gas drilling and exploration as well. Cleveland-Cliffs has iron ore mining interests not only in the United States but also in Canada and Australia. In the United States, Cleveland-Cliffs operates the Tilden Mining Co., Ishpeming, MI, of which it owns 39 percent; the Empire Iron Mining Partnership, Ishpeming, MI, of which it owns 5.1 percent; and the Marquette Iron Mining Partnership, Ishpeming, MI, of which it owns 100 percent. 3/ In Canada, Cleveland-Cliffs operates and owns a 10-percent share in the Sherman Mine, Ontario, Canada (a pellet-producing operation), and operates the Adams Mine, Ontario, Canada, which also produces iron ore pellets. 4/ In Australia, Cleveland-Cliffs owns *** percent of Cliffs Robe River Iron Associates. 5/

1/ Three merchant pellet companies, Cleveland-Cliffs, Oglebay Norton, and Pickands Mather, are petitioners in this investigation. The other petitioner is the USWA. Two steel companies, McLouth and Interlake, submitted letters to the Commission indicating their support for the petition. Two other steel companies, * * * and * * *, noted in their questionnaire responses that they also support the petition. Two steel companies oppose the petition: Armco and Gulf States Steel, a new integrated steel producer that took over LTV's Alabama operations in February 1986. The other steel companies and operators did not take a position.

2/ Two of the three domestic mines operated by Hanna have closed in recent years. Hanna has an equity interest in both of these, but no ownership in the remaining U.S. mine that it operates.

3/ The Marquette mining operation has been shut down since 1981. A listing of U.S. iron ore pellet plants along with their capacity, operational status, and equity owners appears in app. C. A listing of U.S. pellet plant operators and equity owners and their domestic, Canadian, and other foreign iron ore pellet interests appears in app. D.

4/ A listing of Canadian iron ore pellet producers and their locations, capacity, operators, and owners appears in app. E.

5/ The pellet plant at Cliffs Robe River * * *. In testimony presented at the hearing, it was revealed that this pellet plant has been bought by the Chinese, who intend to move the plant to their country (transcript of the hearing, pp. 111-112).

The M. A. Hanna Co. (Cleveland, OH), is an international natural resources company involved in iron ore, oil and gas, nickel and silicon, coal, and management services. Hanna has iron ore mining interests in the United States, Canada, and * * *. Hanna owns 37.5 percent of the Butler Taconite Project, Nashwauk, MN, and operated that facility until it was shut down in June 1985. Hanna also owns 100 percent of the Groveland Mine, Iron Mountain, MI, and operated that facility until production ceased in mid-January 1981 and a permanent shutdown occurred in December 1982. Until 1982, Hanna had a 15 percent interest in the National Steel Pellet Plant in Keewatin, MN, but since then, Hanna has only managed the facility. Hanna owns a 26.77 percent interest in the Iron Ore Co. of Canada (IOC) and manages its operations. IOC owns two pellet-making plants. One, located at Seven Islands, Quebec, has not operated since a shutdown in 1981. The other, at Labrador City, Newfoundland, has been producing pellets since 1962. Hanna * * *. Through * * *, Hanna owns * * *.

The Inland Steel Co. (Chicago, IL), an integrated steel producer, owns two pellet plants. One, the Jackson County Iron Co., Black River Falls, WI, was permanently closed in April 1982. Inland's other establishment, the Inland Steel Mining Co. (Minorca Mine), is located in Virginia, MN.

The Oglebay Norton Co. (Cleveland, OH), deals with the mining, sale, and transportation of industrial minerals, iron ore, and coal. It operates two mine/pellet facilities and has an equity interest in each. One facility is the Eveleth Taconite Co., Eveleth, MN, of which Oglebay Norton owns 15 percent; the other is the Eveleth Expansion Co., Eveleth, MN, of which Oglebay Norton owns 20.5 percent.

Pickands Mather & Co. (Cleveland, OH), a wholly owned subsidiary of Moore McCormack Resources, Inc., Stamford, CT, not only mines, processes, and transports iron ore, but also mines coal and markets pig iron, ferroalloys, and coke. In the United States, Pickands Mather operates the Erie Mining Co., Hoyt Lakes, MN. It also operates and owns 15 percent of the Hibbing Taconite Co., Hibbing, MN. In Canada, Pickands Mather operates the Griffith Mine in Ontario, ^{1/} and has a 5.2 percent equity ownership in the Wabush Mines, which it also operates. In Tasmania, Australia, Pickands Mather owns *** percent of the Savage River Mines, and operates the mines through a wholly owned subsidiary.

The Reserve Mining Co. (Silver Bay, MN), operates the Reserve Mine, Silver Bay, MN. ^{2/} The facility is jointly owned by two steel producers, Armco (50 percent) and LTV (50 percent).

The St. Joe Minerals Corp. (Clayton, MO), is the sole owner and operator of the Pea Ridge iron ore mine and pellet plant in Sullivan, MO. St. Joe Minerals also produces lead, gold, silver, zinc, and coal through both its domestic and foreign operations.

^{1/} This operation was permanently closed on Mar. 31, 1986.

^{2/} Pickands Mather became the operator of the Reserve Mine on Apr. 1, 1986.

U.S. Steel Corp. (Pittsburgh, PA), a major U.S. integrated steel producer, has iron ore interests in both the United States and Canada. In the United States, U.S. Steel is the owner and operator of the Minntac plant, Mountain Iron, MN, and also owns (and operated) the Atlantic City Operation, Lander, WY, which was permanently closed in December 1983. U.S. Steel's pellet interest in Canada is through the Quebec Cartier Mining Co., a Canadian mining company wholly owned by U.S. Steel. Quebec Cartier in turn owns 8.23 percent of the Sidbec-Normines pellet plant. Sidbec-Normines shut down its mining operation in December 1984, and has since leased its pelletizing plant to Quebec Cartier, which pelletizes a portion of its Mt. Wright concentrates production for sale to the owners of Sidbec-Normines and on the open market. ^{1/}

The share of total U.S. production of iron ore pellets in 1985 by each of these eight operators is shown in the following tabulation (in percent):

<u>Firm</u>	<u>Share</u>
The Cleveland-Cliffs Iron Co-----	***
M. A. Hanna Co-----	***
Inland Steel Co-----	***
Oglebay Norton Co-----	***
Pickands Mather Co-----	***
Reserve Mining Co-----	***
St. Joe Minerals Corp-----	***
U.S. Steel Corp-----	***
Total-----	100.0

U.S. Importers

Six firms were known to have imported iron ore pellets from Brazil during the period January 1983-March 1986. Five of the six were steel firms that imported pellets for internal consumption in the production of pig iron. Two of the importing steel firms also have ownership interests in domestic pellet plants. The following tabulation shows each importer and its share of the quantity of iron ore pellets imported from Brazil during 1984 and 1985 (in percent):

^{1/} At the hearing, CVRD testified that this takeover has enabled U.S. Steel to produce pellets at variable cost and ship them to its U.S. steel plants. Allegedly, this has not only virtually eliminated U.S. Steel's need for Brazilian pellets, but has also forced other steel producers to put pressure on their iron ore suppliers to lower their prices (transcript of the hearing, pp. 150-151; prehearing brief of CVRD, p. 3).

<u>Importer</u>	<u>1984</u> <u>Share</u>	<u>1985</u> <u>Share</u>
Armco, Inc-----	***	***
Lone Star Steel Co-----	***	***
Rio Doce America-----	***	***
Shenango, Inc-----	***	***
U.S. Steel Corp-----	***	***
Weirton Steel Corp-----	***	***
Total-----	100.0	100.0

Armco, Inc., Middletown, OH, is a major U.S. steel producer and * * *. Armco has a long-term contract for both pellets and other iron ore with CVRD; the contract runs from * * * to * * *. 1/ The contract is for *** tons of iron ore, *** tons in the form of pellets and *** tons in the form of sinter feed. 2/ According to * * *, 3/ Armco entered into the contract * * *. 4/

Lone Star Steel Co., an integrated steel producer in Lone Star, TX, imported pellets from Brazil in * * * and * * *. Lone Star also has had a contract to buy pellets domestically from Pea Ridge since * * *. In an earlier questionnaire response, Lone Star noted that * * *. In its most recent questionnaire response, Lone Star stated that " * * *." 5/

Rio Doce America, Inc., New York, NY, is a U.S. subsidiary of CVRD. Rio Doce mainly performs only ancillary services in connection with CVRD's sales of iron ore products, both in pellet and other forms, to the United States. Occasionally, however, Rio Doce does act as importer of record, with title passing to the purchaser after the pellets have entered the United States.

Shenango, Inc., Pittsburgh, PA, is a producer of pig iron and ingot molds and sells these products (as well as coke) to steel companies. Shenango began to import iron ore pellets on the spot market from Brazil * * *. Shenango had a long-term contract with Pickands Mather until the end of 1982; however, Shenango has * * *.

U.S. Steel, Pittsburgh, PA, * * *. U.S. Steel has had a long-term contract for purchasing both pellets and other iron ore from CVRD since * * *. However, according to U.S. Steel's questionnaire response, " * * *." 6/

1/ * * *.

2/ According to * * *, Armco has purchased approximately *** tons of pellets from CVRD since * * * (staff telephone conversation, July 15, 1986).

3/ Staff telephone conversation, Jan. 11, 1985.

4/ Armco has equity interests in two U.S. mining/pelletizing operations. Through a subsidiary, First Taconite Co., Armco owns 50 percent of the Reserve Mining Co., Silver Bay, MN. Armco also owns 56 percent of the Eveleth Expansion Co., Eveleth, MN. In addition, Armco has had a long-term contract with Oglebay Norton for domestically produced pellets since * * *.

5/ * * *.

6/ * * *.

Weirton Steel Corp., Weirton, WV, formerly a division of National Steel Corp., began operations in January 1984. Weirton purchased pellets from Brazil * * * through the spot market. Weirton * * *.

The Brazilian Industry

Six companies are known to produce iron ore pellets in Brazil:

- (1) CVRD;
- (2) Nibrasco;
- (3) Itabasco;
- (4) Hispanobras;
- (5) Ferteco Mineracao, S.A.; and
- (6) Samarco Mineracao, S.A.

CVRD is the only Brazilian iron ore pellet producer that exported pellets to the United States during January 1983-March 1986. 1/ CVRD, established in 1942, is a mixed economy company; the Brazilian Government owns 51 percent of the company's stock, with the remaining 49 percent privately held. Nibrasco, Itabasco, and Hispanobras are all joint ventures of CVRD. 2/

CVRD and its three joint venture companies pelletize iron ore in a pelletizing complex at the Port of Tubarao, Vitoria, in the State of Espiritu Santo. CVRD itself owns and operates two pellet plants, with a current combined operating capacity of *** million long tons. 3/ Nibrasco has two pellet plants; Itabasco and Hispanobras each have one pellet plant. The entire pelletizing complex has a nominal capacity of *** million long tons. Beginning in 1986, the effective capacity increased to *** million long tons from *** million long tons as a result of operating efficiencies. 4/ Of the total tonnage, *** million long tons goes to the joint venture partners and

1/ Samarco * * *. Ferteco * * * (based on information received from the State Department).

2/ Nibrasco is a joint venture between CVRD and a consortium of Japanese steel companies. Itabasco is a joint venture between CVRD and Finsider of Italy. Hispanobras is a joint venture between CVRD and Ensidesa of Spain.

3/ Their combined capacity was *** million long tons prior to 1986. CVRD's pellet plants began operating in 1970 and 1973.

4/ At the hearing, CVRD testified that its pelletizing complex has operated at full capacity for the last 3 years and at present (transcript of the hearing, p. 143). Data submitted to the staff show capacity utilization of *** percent in 1983, *** percent in 1984, and *** percent for both 1985 and January-April 1986.

*** million long tons goes to CVRD. 1/ 2/ About 70 percent of CVRD's pellet production is committed under long-term contracts to customers outside of the United States. 3/ Table 1 shows CVRD's production, capacity, capacity utilization, and shipments.

CVRD is developing the "Carajas" mineral project in the northeastern Brazilian State of Para. The rich iron ore deposits at Carajas are equivalent to 10 times the iron ore produced in Minnesota, the principal producing area in the United States, during the past 100 years. The total costs for the Carajas project are expected to be about \$3.3 billion. 4/

Because of construction delays, the first shipments of preliminary ore production from the Carajas region began in December 1985. Carajas is scheduled to reach its full production capacity of 35 million metric tons by 1988. 5/ Some sinter fines from Carajas are already being shipped to the United States on a trial basis. 6/ Although the Carajas project does not currently have pelletizing facilities, the petitioners have been concerned that such facilities could be installed. Commerce stated in its final determination in this case that "We verified that the Carajas Mine will produce only natural iron ore, not pellets. To produce pellets from this ore would be economically unsound and a violation of the terms of CVRD's loan agreement with the World Bank." CVRD further argued in its prehearing brief (p. 67) that construction of a pellet plant would take 4 years, precluding the finding of an "imminent threat." At the hearing, the petitioners countered that although they know of no plans to pelletize Carajas ore, a pellet plant could be installed in 2 years. 7/

The following tabulation, compiled from information supplied by the State Department and by CVRD, shows pellet production by all known Brazilian producers of iron ore pellets (in 1,000 long tons):

<u>Firm</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>
CVRD-----	***	***	***
CVRD's partners-----	***	***	***
Ferteco-----	***	***	***
Samarco-----	***	***	***
Total-----	***	***	***

1/ Transcript of the hearing, pp. 143-144.

2/ The joint venture agreements for the 3 joint venture companies provide that "all or most" of the pellets from the joint venture plants be taken by the foreign partners (prehearing brief of CVRD, p. 16). Since 1984 * * *.

3/ Transcript of the hearing, p. 145.

4/ Transcript of the conference, p. 106.

5/ Transcript of the hearing, p. 28.

6/ Transcript of the hearing, p. 191.

7/ Transcript of the hearing, pp. 100 and 113.

Table 1.--Iron ore pellets: CVRD's 1/ production, capacity, capacity utilization, domestic shipments, and exports, 1983-85 and January-April 1986

Item	1983	1984	1985	Jan.-Apr.-- 1986
Production:				
Blast furnace pellets				
1,000 long tons--	***	***	***	***
Direct reduction pellets				
1,000 long tons--	***	***	***	***
Total-----do----	***	***	***	***
Capacity <u>2/</u> -----do----	***	***	***	***
Capacity utilization--percent--	***	***	***	***
Domestic shipments:				
Blast furnace pellets				
1,000 long tons--	***	***	***	***
Direct reduction pellets				
1,000 long tons--	***	***	***	***
Total-----do----	***	***	***	***
Exports to--				
United States <u>3/</u> -----do----	***	***	***	***
All other countries:				
Blast furnace pellets				
1,000 long tons--	***	***	***	***
Direct reduction pellets				
1,000 long tons--	***	***	***	***
Total-----do----	***	***	***	***

1/ Information in this table covers CVRD's 2 pellet plants, although domestic shipments and exports data also include tonnage allotted from Nibrasco to CVRD since 1984.

2/ Capacity data include both blast furnace and direct reduction pellets because CVRD makes these pellets on the same equipment.

3/ These exports consist only of blast furnace pellets.

Source: Data provided by counsel for CVRD.

Other available information on Brazil's total iron ore pellet operations during 1978-84 is shown in table 2. 1/

1/ Updated data were requested from counsel for both CVRD and Samarco, but were not received, except for certain data provided by CVRD, which are presented in table 1 and elsewhere in this section.

Table 2.--Iron ore pellets: Brazil's exports, home market sales, capacity, and sales as a share of capacity, 1978-84

Year	Sales					Capacity	Sales as a share of capacity
	Exports to--			Home market	Total		
	The	All	World				
	United	other	total				
	States	markets					
<hr/>							
	<u>-1,000 long tons-</u>					<u>Percent</u>	
1978-----	3,310	8,248	11,558	1,821	13,379	23,000	58.2
1979-----	2,375	14,469	16,844	2,260	19,104	23,000	83.1
1980-----	1,397	15,887	17,284	2,596	19,880	23,000	86.4
1981-----	1,211	15,152	16,363	1,627	17,990	23,000	78.2
1982-----	202	15,128	15,330	714	16,044	23,000	69.8
1983-----	432	13,352	13,784	773	14,557	23,000	63.3
1984-----	1,492	20,067	21,559	1,181	22,740	23,000	98.9

Source: Sales data are from table 1 of exhibit 3 of the conference, and from other information submitted by CVRD.

The Domestic Market

Channels of distribution

About 97 percent of the iron ore pellets produced in the United States are produced in northeastern Minnesota and the upper peninsula of Michigan. 1/ Pellets produced in these two States are shipped via ore vessels through the Great Lakes to major unloading ports such as Cleveland and Chicago, which are near the principal consuming areas. 2/ Information provided to the Commission by attorneys for the petitioners indicates that pellets produced in Minnesota and Michigan are consumed by steelmakers in the following areas: Illinois and Indiana (47 percent); Ohio, Pennsylvania, New York, New Jersey, and Rhode Island (30 percent); Minnesota and Michigan (14 percent); California, Colorado, and Utah (4 percent); Alabama, Kentucky, Tennessee, and Texas (3 percent); and Maryland, West Virginia, and Delaware (2 percent).

Iron ore pellets imported from Brazil are shipped directly to U.S. steel producers. The pellets are shipped to east coast or gulf coast ports and are either transported inland or, in the case of * * *, are consumed near the port of unloading.

1/ In 1985, Minnesota's mines accounted for almost *** percent of production, with Michigan's accounting for about *** percent. The primary producing areas are the Mesabi range in Minnesota and the Marquette and Menominee ranges in Michigan.

2/ The American Maritime Officers Service, the Seafarers International Union of North America (AFL-CIO), and the Transportation Institute have all sent letters to the Commission indicating that they are in support of the petition in this investigation.

Apparent U.S. consumption

Overall apparent U.S. consumption of iron ore pellets rose from 40.6 million long tons in 1983 to 53.9 million long tons in 1984, and then fell to 51.6 million long tons in 1985 (table 3). Data for January-March 1986 show an increase of 12.2 percent in consumption compared with that in January-March 1985. Captive use of pellets accounted for over 81 percent of consumption throughout the period. ^{1/}

Table 3.--Iron ore pellets: U.S. imports, U.S. domestic shipments, ^{1/} and apparent U.S. consumption, by markets, 1983-85, January-March 1985, and January-March 1986

(In thousands of long tons)					
Item	1983	1984	1985	January-March--	
				1985	1986
Commercial market:					
Imports-----	1,472	1,356	519	0	230
U.S. domestic shipments-----	3,515	5,327	5,784	268	100
Total-----	4,987	6,683	6,303	268	330
Captive market:					
Imports-----	5,897	9,740	9,255	1,283	1,215
U.S. domestic shipments-----	28,084	34,285	33,434	3,318	3,613
Total-----	33,981	44,025	42,689	4,601	4,828
Total:					
Imports-----	7,369	11,096	9,774	1,283	1,445
U.S. domestic shipments-----	33,218	42,764	41,814	3,887	4,354
Total-----	40,587	53,860	51,588	5,170	5,799

^{1/} Data for domestic swaps or exchanges are not included in domestic shipments data for either the commercial or captive markets; such data are, however, included in the figures for the total market.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

^{1/} Data on captive consumption, and to a lesser extent commercial consumption, are somewhat understated because shipments of swapped pellets are included only in the figures for total apparent consumption.

Consideration of Material Injury

The information in this section of the report has been compiled from data submitted in response to Commission questionnaires. Questionnaire responses were received from the 8 operators of U.S. pellet plants 1/ and from 16 of 18 equity owners.

U.S. production, capacity, and capacity utilization

Production of iron ore pellets increased from 35.7 million long tons in 1983 to 50.3 million long tons in 1984, and then declined to 47.5 million long tons in 1985 (table 4). During January-March 1986, production was 10.1 million long tons, compared with 10.2 million long tons during January-March 1985.

Capacity, which was 81.6 million long tons in 1983, declined to 78.7 million long tons in 1984 and 77.4 million long tons in 1985, an overall decline of 5.2 percent. Capacity was 18.9 million long tons during January-March 1986, down from the January-March 1985 level of 19.7 million long tons. Capacity utilization increased from 43.8 percent in 1983 to 63.9 percent in 1984, falling slightly to 61.4 percent in 1985. During January-March 1986, capacity utilization was 53.3 percent, up from 52.0 percent in the corresponding period of 1985.

U.S. shipments

The quantity of U.S. operators' shipments of iron ore pellets (both domestic and export) increased from 39.8 million long tons in 1983 to nearly 49.0 million long tons in 1984, then dropped to 46.5 million long tons in 1985 (table 5). 2/ During January-March 1986, shipments of pellets reached 4.2 million long tons, 49.1 percent above the level reported for January-March 1985. 3/ In 1985, 38.5 million long tons, or 82.8 percent of the total quantity of pellet shipments from pellet plants, were shipped to U.S. steel companies that were owners or equity owners. Shipments of pellets to foreign equity owners amounted to 2.2 million long tons in 1985, or 4.6 percent of total operators' shipments.

The following tabulation, based on questionnaire data from equity owners of U.S. pellet plants, shows the quantities of pellets shipped domestically

1/ One of the operators, * * *, did not provide information on * * *, which was permanently closed in * * *.

2/ Shipments of nonpelletized ore were reported by two operators, * * * and * * *. Such shipments were *** tons in 1983, *** tons in 1984, and *** tons in 1985.

3/ The operators' projected shipments for 1986, however, are 39.9 million long tons, as reported in questionnaire responses, well below the levels reported for 1984 and 1985.

Table 4.--Iron ore pellets: U.S. production, capacity, and capacity utilization, 1983-85, January-March 1985, and January-March 1986 ^{1/}

Period	Production	Capacity	Capacity utilization
	1,000 long tons	1,000 long tons	Percent
1983-----	35,742	81,600	43.8
1984-----	50,318	78,700	63.9
1985-----	47,476	77,375	61.4
Jan.-Mar.--			
1985-----	10,239	19,676	52.0
1986-----	10,053	18,863	53.3

^{1/} Data for 1983 do not include * * *, which * * *. Capacity data for all periods include * * *, which * * *.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 5.--Iron ore pellets: U.S. operators' shipments, ^{1/} 1983-85, January-March 1985, and January-March 1986

Period	Quantity	Value	Unit value
	1,000 long tons	1,000 dollars	Per long ton
1983-----	39,781	1,879,779	\$47.25
1984-----	48,978	2,327,328	47.52
1985-----	46,534	2,038,236	43.80
January-March--			
1985-----	2,836	126,028	44.44
1986-----	4,229	^{2/} 150,687	^{2/} 37.40

^{1/} Includes both domestic and export shipments.

^{2/} These data do not include * * *, which did not report the value of shipments for January-March 1986.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

for captive use, noncaptive use, and as exchanges or swaps 1/ during 1983-85, January-March 1985, and January-March 1986 (in 1,000 long tons):

<u>Domestic shipments</u>	<u>1983 1/</u>	<u>1984</u>	<u>1985</u>	<u>January-March--</u>	
				<u>1985</u>	<u>1986</u>
Captive use-----	28,084	34,285	33,434	3,318	3,613
Noncaptive use-----	3,515	5,327	5,784	268	100
Swaps-----	1,619	3,152	2,596	301	641
Total-----	33,218	42,764	41,814	3,887	4,354

1/ Shipments data for 1983 do not include * * *, which accounted for *** percent of domestic shipments in 1984 and *** percent in 1985.

Two U.S. steel producers with ownership interests in domestic pellet operations import pellets from Brazil. Each firm's domestic shipments (both captive and noncaptive) and imports from Brazil, as reported in response to the Commission's questionnaire, are reported in the following tabulation:

* * * * *

U.S. exports

Most U.S. exports of iron ore pellets are believed to be made by equity owners of domestic pellet plants. Commission questionnaire responses indicate that all exports during the period of investigation were to unrelated parties in Canada. Most exports probably represent swap arrangements or equity owner transfers (two Canadian steel producers have equity interests in U.S. pellet operations). Export data were obtained from official Commerce statistics because of inadequate questionnaire responses. Although exports of pellets are classified with other concentrated or sintered iron ore, nearly all the iron ore produced in the United States is pelletized, so it can be assumed that virtually all exports shown in the following tabulation consist of pellets (in 1,000 long tons):

	<u>Quantity</u>
1983-----	3,732
1984-----	4,793
1985-----	5,011
Jan.-Mar.--	
1985-----	275
1986-----	156

1/ It is a fairly common practice in this industry for steelmakers to exchange or "swap" pellets with one another. Swaps are generally done company to company on an iron unit basis (although they may be made on a dollar volume basis). The two main reasons behind this practice are to reduce transportation costs and to obtain specific chemical mixes of pellets for steelmaking requirements since pellets vary in chemical composition from mine to mine (transcript of the hearing, pp. 89-90).

U.S. inventories

Usually, the owners take title to their share of pellets at or near the pellet plant in the case of steel producers; merchant producers assume ownership at the delivery point. Pellet plant operators do not generally keep substantial inventories on hand at the manufacturing site. However, since the Upper Great Lakes shipping season is normally from April to December, pellets produced during January, February, and March are stockpiled at or near the plant until they can be loaded onto vessels and shipped. 1/ Consequently, inventory levels at the plant sites are often higher at the end of March than at the end of December, as shown in the following tabulation (in 1,000 long tons, according to data submitted by equity owners):

	<u>Inventories at manufacturing site</u>	<u>Inventories at receiving point</u>	<u>Total inventories</u>
As of Dec. 31--			
1982 1/-----	5,064	17,100	22,164
1983 1/-----	1,606	14,189	15,795
1984-----	4,390	13,956	18,346
1985-----	5,214	13,283	18,497
As of Mar. 31--			
1985-----	2/ 11,868	7,625	19,493
1986-----	2/ 13,344	8,320	21,664

1/ Does not include data for ***, which accounted for *** percent of domestic shipments in 1984 and *** percent in 1985.

2/ Includes inventories held by *** at the manufacturing site that had not yet been transferred to the equity owners.

U.S. employment, wages, and productivity

The number of production and related workers producing iron ore pellets in the United States increased from 6,305 in 1983 to 7,678 in 1984 and then dropped to 6,860 in 1985 (table 6). The number of such workers was 5,025 in January-March 1986, representing a decrease of 20.8 percent compared with the number in the corresponding period of 1985. 2/

The number of hours worked by production and related workers producing iron ore pellets increased 25.4 percent from 1983 to 1984, and then decreased by 14.5 percent in 1985. The number of hours worked during January-March 1986 was 14.1 percent below the number reported for January-March 1985.

Wages paid to production and related workers producing iron ore pellets increased by 25.0 percent in 1984 over 1983, and then fell by 8.7 percent in 1985. Wages paid dropped by 6.2 percent during January-March 1986 compared with wages paid in the corresponding period of 1985.

1/ Transcript of the conference, pp. 76-77.

2/ Data for ***, which accounted for *** percent of 1985 production of iron ore pellets, were not provided for January-March 1985 and January-March 1986.

Table 6.--Average number of all employees and production and related workers in U.S. establishments producing iron ore pellets, and hours worked, total hourly wages, average hourly wages, total compensation, average hourly compensation, and output per hour of production and related workers producing iron ore pellets, 1983-85, January-March 1985, and January-March 1986

Item	1983	1984	1985 ^{1/}	January-March--	
				1985	1986
Average number of employees:					
All persons-----	8,724	10,036	8,690	8,120	6,734
Production and related workers producing:					
All products-----	6,400	7,776	6,959	6,451	5,121
Iron ore pellets-----	6,305	7,678	6,860	6,346	5,025
Hours worked by production and related workers producing iron ore pellets:					
1,000 hours--	11,652	14,609	12,487	2,990	2,568
Wages paid to production and related workers producing iron ore pellets:					
1,000 dollars--	162,281	202,782	185,125	41,775	39,203
Average hourly wages of production and related workers producing iron ore pellets-----	\$13.93	\$13.88	\$14.82	\$13.97	\$15.27
Total compensation of production and related workers producing iron ore pellets-----1,000 dollars--	249,757	282,513	257,766	61,180	56,661
Average hourly compensation of production and related workers producing iron ore pellets-----	\$21.43	\$19.34	^{2/} \$21.01	\$20.46	\$22.06
Output of production and related workers producing iron ore pellets:					
long tons per hour--	3.07	3.44	3.80	3.36	3.87

^{1/} Employment information for the Butler Taconite Mine in 1985 are for 28 weeks only, since the mine shut down on June 29, 1985.

^{2/} Excluding * * *, which did not provide total compensation data for * * *.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Note.--The figures for January-March 1985 and January-March 1986 exclude data for * * *, which accounted for *** percent of pellet production in 1985.

The average hourly wage paid to workers producing iron ore pellets dropped from \$13.93 in 1983 to \$13.88 in 1984, then rose to \$15.27 during January-March 1986. Total hourly compensation, including fringe benefits, followed a similar trend. The declines after 1982 may be attributed to concessions resulting from a 41-month labor agreement entered into in March 1983 between the USWA and steel and pellet producers. ^{1/} The same wage and benefit cuts were accepted for workers in both the steel and pellet industries. The productivity of workers producing iron ore pellets increased by 23.8 percent from 1983 to 1985. During January-March 1986, productivity was up 15.2 percent over January-March 1985.

Seven of the eight operators reported specific instances of reductions in the number of production and related workers producing iron ore pellets as a result of decreased demand for pellets. In 1983, 2,600 workers were laid off; nearly 500 were not called back. In 1984, three operators reported layoffs affecting some 4,000 workers; all but 600 of those were called back. Also in 1984, another operator reported rehiring over *** workers from earlier layoffs. In June 1985, the permanent closure of the Butler Taconite Mine put an estimated *** workers out of work. Near the end of 1985, the downsizing of another pellet operation (* * *) permanently laid off *** workers. Two other operators reported temporary shutdowns or cutbacks in 1985 affecting nearly 4,000 workers; almost all of these were recalled. Production cutbacks during January-March 1986 were responsible for almost 2,200 workers being laid off, of which about 300 were for an indefinite period.

Financial experience of U.S. producers

Income-and-loss data were requested from each operator of iron ore mines concerning the total iron ore mining and pelletizing operations of the mines they operate. Further financial data were requested from each operator and/or equity owner on their commercial sales of iron ore pellets.

Operators' total mining and pelletizing operations.--Data for iron ore pellets relating to transactions with owners of mines are presented in table 7. The firms submitting such data accounted for 100 percent of shipments of iron ore pellets in 1985. Net sales are valued on the basis of published Lower Lakes prices, which do not necessarily reflect market prices. ^{2/} The operators transfer the iron ore pellets to equity owners by using some version of the Lower Lakes price to obtain the largest depletion allowance for tax purposes; depletion allowances are calculated on the basis

^{1/} The USWA represents production and related workers at all pelletizing plants except Pea Ridge, which has no union representation.

^{2/} The Lower Lakes price can be characterized as a composite of the published prices of the four merchant companies and U.S. Steel Corp. See the price section of this report for a discussion of the Lower Lakes price.

Table 7.--Income-and-loss experience of all U.S. iron ore mines and pelletizing operations, 1/ accounting years 2/ 1983-85 and interim periods ended Mar. 31, 1985, and Mar. 31, 1986

Item	1983	1984	1985	Interim period <u>3/</u> ended Mar. 31--	
				1985	1986
Net sales-----1,000 dollars--:	1,724,418	2,164,138	1,971,694	326,078	345,793
Cost of goods sold-----do-----:	1,388,520	1,544,661	1,526,254	243,364	256,082
Gross profit-----do-----:	335,898	619,477	445,440	82,714	89,711
General, selling, and admin- istrative expenses					
1,000 dollars--:	78,343	67,657	56,676	2,379	2,580
Operating income or (loss)-----:					
1,000 dollars--:	257,555	551,820	388,764	80,335	87,131
Interest expense <u>4/</u> -----do-----:	159,362	147,730	134,367	26,831	24,034
Other (income) or expense do-----:	28,712	32,235	32,254	26,464	11,885
Net income or (loss) before income taxes-1,000 dollars--:	69,481	371,855	222,143	27,040	51,212
Depreciation and amortization 1,000 dollars--:	178,529	188,030	180,357	35,475	37,208
Depletion allowance 1,000 dollars--:	***	***	***	***	***
Cash-flow or (deficit) from operations <u>5/</u> -----do-----:	***	***	***	***	***
As a share of net sales:					
Gross profit or (loss) percent--:	19.5	28.6	22.6	25.4	25.9
Operating income or (loss) percent--:	14.9	25.5	19.7	24.6	25.2
Net income or (loss) before income taxes-----percent--:	4.0	17.2	11.3	8.3	14.8
Cost of goods sold-percent--:	80.5	71.4	77.4	74.6	74.1
General, selling, and administrative expenses percent--:	4.5	3.1	2.9	0.7	0.7
Number of firms reporting--:					
Operating losses-----:	2	0	2	4	2
Net losses-----:	3	0	3	4	3

1/ These operations accounted for 100 percent of shipments of iron ore pellets in 1985. Only * * * reported its * * * operation on a cost basis.

2/ The accounting year of all but 1 operator ended on Dec. 31.

3/ No sales were reported by 3 operators during interim 1985 and interim 1986. * * *, * * *, and * * * reported some fixed costs as costs of goods sold even though no sales were reported during interim 1985. The Commission staff has shown these costs in the "other expense" line rather than in the "cost of goods sold" line in the above table.

4/ All reporting operators except * * *, * * * (its * * * operation), and * * * provided interest expense.

5/ Defined as pretax net income or loss plus depreciation, amortization, and depletion allowances.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

of gross revenues. ^{1/} Income-and-loss data on commercial sales of iron ore pellets at transaction prices are discussed later in this section.

Aggregate net sales of iron ore pellets to equity owners increased by 26 percent from \$1.7 billion in 1983 to \$2.2 billion in 1984, and then declined by 9 percent to \$2.0 billion in 1985. During the interim periods ended March 31, net sales increased from \$326.1 million in 1985 to \$345.8 million in 1986, or by 6 percent.

With respect to mines that are jointly owned, iron ore pellets are distributed to the various owners on the basis of their proportionate equity shares in each mine. Some mines recognize sales at the time iron ore pellets are produced, whereas others record sales when the pellets are shipped. Dollar valuations of sales, quantities sold, average selling prices per long ton, and the percentage distribution of total sales by types of ownership are shown in the following tabulation:

* * * * *

Aggregate operating income more than doubled from \$257.6 million in 1983 to \$551.8 million in 1984, and then dropped by 30 percent to \$388.8 million in 1985. The return on sales followed a similar trend, rising from 14.9 percent in 1983 to 25.5 percent in 1984 and then declining to 19.7 percent in 1985. During the interim period ended March 31, 1986, operating income rose to \$87.1 million, or 25.2 percent of net sales, compared with \$80.3 million, or 24.6 percent of net sales, in the corresponding period of 1985. Interest expense for this industry ranged between 6.8 and 9.2 percent of sales during the period covered by the investigation. Other expenses averaged about 1.6 percent of sales during 1983-85. Such expenses were much higher during the interim period of 1985 because three firms (* * *, * * *, and * * *) reported some fixed costs despite no sales activities in that period. Net income or loss before income taxes followed a trend similar to that of operating income or loss but such income was smaller in each period because of large interest and other expenses.

^{1/} The Internal Revenue Service allows an annual depletion allowance equal to 15 percent of gross revenues, after excluding any rents or royalties paid or incurred by the company. Such depletion allowances are limited to 50 percent of taxable income before the depletion allowance. Aggregate royalty expenses reported by the eight U.S. operators were \$64.5 million in 1983, \$95.1 million in 1984, \$86.7 million in 1985, \$14.2 million during interim 1985, and \$12.8 million during interim 1986.

The financial experience of this industry was at its worst in 1982 as U.S. production and consumption of iron ore pellets fell to their lowest levels in many years because of the severe recession that affected the iron and steel industry. Three operators (* * *, * * *, and * * *) reported either shutdown expenses or idle plant costs totaling \$113.5 million in 1983. * * * and * * * reported such costs, totaling \$*** million in 1984, \$*** million in 1985, and \$*** million during the interim period ended March 31, 1985. * * * continued to report idle plant costs of \$*** million during the interim period ended March 31, 1986.

The depletion allowance claimed for tax purposes was not recorded in the books by all operators. Almost all depletion allowances shown in the table were reported by * * *, with * * * reporting a very small amount. Cash-flow from operations rose from \$*** million in 1983 to \$*** million in 1984 and then fell to \$*** million in 1985. Such cash flow was \$*** million during the interim period ended March 31, 1986, compared with \$*** million in the corresponding period of 1985.

Net losses were sustained by three firms in 1983 and 1985; no firms reported losses in 1984. Four firms sustained net losses in interim 1985 and three firms did so in interim 1986.

Commercial iron ore pellet operations.--Questionnaire data for iron ore pellets related to commercial transactions made by operators and/or equity owners were reported both under long-term contracts and on a spot-market basis. These data are presented in table 8. U.S. producers submitting such data accounted for all known commercial shipments of iron ore pellets in 1985.

Average selling prices for spot market sales as well as for sales completed under long-term contracts during the period of investigation are derived from the data supplied in the income-and-loss section of the questionnaires. These data are shown in the following tabulation:

Item	1983	1984	1985	Interim period ended March 31--	
				1985	1986
<u>On the spot market:</u>					
Net sales---1,000 dollars--	27,686	62,950	59,864	<u>1/</u> ***	<u>2/</u> ***
Quantity sold					
1,000 long tons--	877	2,057	2,228	<u>1/</u> ***	<u>2/</u> ***
Average selling price					
per long ton--	\$31.57	\$30.60	\$26.87	<u>1/</u> \$***	<u>2/</u> \$***
<u>Under long-term contract:</u>					
Net sales---1,000 dollars--	153,310	243,182	170,464	***	***
Quantity sold					
1,000 long tons--	3,323	5,343	4,357	***	***
Average selling price					
per long ton--	\$46.14	\$45.51	\$39.12	\$***	\$***

1/ Reflects transactions of * * * only.

2/ Reflects transactions of * * * only.

Table 8.--Income-and-loss experience of U.S. equity owners 1/ on their commercial operations of iron ore pellets, accounting years 2/ 1983-85 and interim periods ended Mar. 31, 1985, and Mar. 31, 1986

Item	1983	1984	1985	Interim period <u>3/</u> ended Mar. 31--	
				1985	1986
Net sales:					
On the spot market					
1,000 dollars--	27,686	62,950	59,864	***	***
Under long-term contracts <u>4/</u>					
1,000 dollars--	153,310	243,182	170,464	***	***
Total-----do-----	180,996	306,132	230,328	***	***
Cost of goods sold-----do-----	187,548	275,540	225,626	***	***
Gross profit-----do-----	(6,552)	30,592	4,702	***	***
General, selling, and admin- istrative expenses					
1,000 dollars--	5,172	4,505	4,499	***	***
Operating income or (loss)----					
1,000 dollars--	(11,724)	26,087	203	***	***
Interest expense-----do-----	22,851	16,599	16,076	***	***
Other (income) or expense					
1,000 dollars--	(1,117)	(1,778)	2,505	***	***
Net income or (loss) before					
income taxes-1,000 dollars--	(33,458)	11,266	(18,378)	***	***
Depreciation and amortization					
1,000 dollars--	27,391	25,218	22,032	***	***
Depletion allowance-----do-----	***	***	***	***	***
Cash-flow or (deficit) from					
operations <u>5/</u> -----do-----	***	***	***	***	***
As a share of net sales:					
Gross profit or (loss)					
percent--	(3.6)	10.0	2.0	***	***
Operating income or (loss)					
percent--	(6.5)	8.5	.1	***	***
Net income or (loss) before					
income taxes-----percent--	(18.5)	3.7	(8.0)	***	***
Cost of goods sold-percent--	103.6	90.0	98.0	***	***
General, selling, and					
administrative expenses					
percent--	2.9	1.5	1.9	***	***
Number of firms reporting--					
Operating losses-----	3	***	***	***	***
Net losses-----	4	4	4	***	***

1/ These equity owners accounted for all known commercial shipments in 1985.

2/ The accounting year of all but 1 equity owner ended on Dec. 31.

3/ 3 firms reported activities during interim 1985 and interim 1986. Data for 1 firm, * * *, are excluded from the totals in both interim periods because * * *.

4/ * * * reported a selling price dispute with its customer * * * as a \$*** decrease in sales in 1985; \$*** in 1983 and \$*** in 1984 were reported as increases in costs of goods sold. These provisions are presented above as a decrease in sales for all 3 years (1983-85) for purposes of consistency and comparison.

5/ Defined as pretax net income or loss plus depreciation, amortization, and depletion allowances.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Selling prices on the spot market are generally based on world market prices, whereas long-term contracts typically use some version of the Lower Lakes price as the contractual reference. ^{1/} Average selling prices on the spot market were about 31 to 33 percent lower than those under long-term contracts during 1983-85. Average selling prices on the spot market declined from \$31.57 per long ton in 1983 to \$26.87 per long ton in 1985, or by 15 percent. Such prices under long-term contracts during the same period also decreased by 15 percent, from \$46.14 per long ton to \$39.12 per long ton. During the interim period ended March 31, 1986, average selling prices on the spot market showed a * * * of *** percent, whereas such prices under long-term contracts * * * compared with such prices in the corresponding period of 1985.

The majority of these trade sales were made under long-term contracts. As long-term contracts typically use some version of the Lower Lakes price, these data may limit the evaluation of actual profitability based on market prices, but reported trends in profitability probably provide a reasonable indication of changes in the financial condition of producers in this industry during the period covered by the investigation.

Aggregate net sales of iron ore pellets under long-term contracts increased from \$153.3 million in 1983 to \$243.2 million in 1984, or by 59 percent, then declined by 30 percent to \$170.5 million in 1985. Such sales on the spot market more than doubled from \$27.7 million in 1983 to \$63.0 million in 1984 and then fell by only 5 percent to \$59.9 million in 1985. During the interim period ended March 31, 1986, net sales on the spot market dropped by *** percent, whereas sales under long-term contracts decreased by *** percent compared with such sales in the corresponding period of 1985.

U.S. equity owners had an operating income of \$26.1 million, or 8.5 percent of net sales, in 1984, compared with an operating loss of \$11.7 million, or 6.5 percent of net sales, in 1983. In 1985, in terms of operating income, the equity owners barely broke even, reporting \$203,000 of operating income, equivalent to only 0.1 percent of net sales. For the interim periods ended March 31, the responding firms reported operating losses of \$*** in 1985 and \$*** in 1986. Operating loss as a share of net sales in the interim periods was *** percent in 1985 and *** percent in 1986.

Only one company, * * *, reported depletion allowances. Cash-flow from operations rose from a negative \$*** million in 1983 to a positive \$*** million in 1984, and then declined to a positive \$*** million in 1985. During the interim periods ended March 31, cash flow from operations was a negative \$*** in 1985 and a negative \$*** in 1986. Three firms reported an operating loss in 1983 and *** had operating losses during 1984 through March 31, 1986.

Production costs. --The Commission asked U.S. operators of mines to provide the following on an actual cost basis for 1983-85 and a projected cost basis for 1986-87: directly variable, semivariable, and fixed production costs and variable and fixed operating expenses related to iron ore pellet operations in each of their plants. None of the operators except * * * supplied semivariable production costs. ^{2/} These data, along with production in long tons and variable, fixed, and total costs per long ton, are presented on a plant-by-plant basis in table 9.

^{1/} Postconference brief of petitioners, p. 13.

^{2/} In its questionnaire response, * * * commented: " * * *."

Table 9.--Production costs of iron ore pellets, by plant, actual for accounting years 1983-85 and projected for accounting years 1986-87

* * * * *

In 1983, * * * reported very high variable, fixed, and total costs per long ton of iron ore pellets. The company attributes these high costs to * * * and * * *. Further, it reported \$*** of shutdown expenses in that year. In 1983, if * * *'s data were excluded from the aggregate data, average variable, fixed, and total costs per long ton of iron ore pellets would be \$20.85, \$18.82, and \$39.67, respectively.

Average variable costs per long ton of iron ore pellets declined by 9 percent from \$21.34 in 1983 to \$19.44 in 1985 and are projected to fall further to \$18.69 in 1986 and to \$18.28 in 1987, a decline of 6 percent from the 1985 level. During 1983-85, * * * had the lowest variable costs per long ton, whereas * * * reported the highest variable costs per long ton except in 1985. A company cannot sell its product at variable cost without incurring a loss before it reaches a breakeven point. Generally, a company may sell its product at variable cost to utilize excess capacity or reduce excess inventory.

Average fixed costs per long ton of iron ore pellets dropped by 31 percent, from \$20.94 in 1983 to \$14.52 in 1985, and are expected to rise slightly by 3 percent to \$15.03 in 1986 and then fall by 13 percent to \$13.08 in 1987. Fixed costs per long ton depend upon the total fixed costs and the level of production achieved during each period--the lower the level of production, the higher the fixed costs per long ton and vice versa.

Average total costs per long ton fell by 20 percent from \$42.29 in 1983 to \$33.96 in 1985 and are projected to decline to \$33.71 in 1986 and to \$31.36 in 1987, or by 8 percent from the 1985 level. In 1983, total costs per long ton of iron ore pellets ranged from a low of \$*** (* * *) to a high of \$*** (* * *). In 1984, total costs per long ton of iron ore pellets ranged from a low of \$*** (* * *) to a high of \$*** (* * *). In 1985, total costs per long ton of iron ore pellets ranged from a low of \$*** (* * *) to a high of \$*** (* * *).

Investment in property, plant, and equipment.--All eight U.S. operators provided data concerning their investment in facilities employed in the production of iron ore pellets, as presented in the following tabulation (in millions of dollars):

<u>Period</u>	<u>Original cost</u>	<u>Book value</u>
1983-----	4,471	2,471
1984-----	4,502	2,318
1985-----	4,395	2,146
As of March 31--		
1985-----	4,503	2,280
1986-----	4,393	2,082

Aggregate investment in productive facilities, valued at cost, remained almost steady at \$4.5 billion in 1983 and 1984 and then declined slightly by 2 percent to \$4.4 billion in 1985 and remained at that level as of March 31, 1986. The book value of such facilities generally followed the same trend as the original cost of investment.

Capital expenditures and research and development expenses.--Data relating to total capital expenditures for land, buildings, machinery, and equipment used in the production of iron ore pellets and data relating to research and development expenses are presented in the following tabulation (in thousands of dollars):

<u>Period</u>	<u>Capital expenditures</u>	<u>Research and development expenses</u>
1983-----	16,694	5,025
1984-----	15,102	4,844
1985-----	25,223	4,747
January-March--		
1985-----	3,217	1,108
1986-----	5,308	1,024

Capital expenditures declined from \$16.7 million in 1983 to \$15.1 million in 1984 and then rose to \$25.2 million in 1985. Such expenditures increased from \$3.2 million during January-March 1985 to \$5.3 million during January-March 1986. Research and development expenses fell from \$5.0 million in 1983 to \$4.7 million in 1985 and dropped to \$1.0 million in January-March 1986, from \$1.1 million in the corresponding period of 1985.

Consideration of the Threat of Material Injury

In its examination of the question of threat of material injury to an industry in the United States, the Commission may take into consideration such factors as the nature of the subsidies, the rate of increase of the subject imports, the rate of increase in U.S. market penetration by such imports, the rate of increase of imports held in inventory in the United States, the capacity of producers in the exporting country to generate exports (including the existence of underutilized capacity and the availability of export markets other than the United States), and the price depressing or suppressing effect of the subject imports on domestic prices. Information on the nature of the subsidies is presented in the section of the report entitled "Nature and Extent of Subsidies" and data on foreign producers' capacity to generate exports are presented in the section of the report entitled "The Brazilian Industry." Discussions of rates of increase in imports and their U.S. market penetration, as well as available information on their prices, are presented in the section of the report entitled "Consideration of the Causal Relationship Between the Subsidized Imports and the Alleged Material Injury." Available information on inventories of the subject imports in the United States follows.

End-of-period inventory data on Brazilian iron ore pellets were obtained from all known importers of iron ore pellets from Brazil during the period

January 1983-March 1986. 1/ Such inventories declined irregularly during the period of investigation, as shown in the following tabulation:

<u>Inventories</u> <u>(1,000 long tons)</u>	
As of Dec. 31--	
1982-----	***
1983-----	***
1984-----	***
1985-----	***
As of Mar. 31--	
1985-----	***
1986-----	***

Consideration of the Causal Relationship Between the Subsidized Imports and the Alleged Material Injury

U.S. imports

U.S. imports of iron ore pellets are classified under item 601.2450 of the TSUSA, which also includes other concentrated iron ore. Almost all of the iron ore pellets imported into the United States are from Canada and Brazil. The import data presented in this section were compiled from data submitted in response to Commission questionnaires, and are believed to account for most, if not all, of U.S. imports of iron ore pellets from January 1983 to March 1986.

Imports from all sources.--Imports of iron ore pellets increased from 7.4 million long tons in 1983 to 11.1 million long tons in 1984, then dropped to 9.8 million long tons in 1985 (table 10). The level of imports increased 12.6 percent during January-March 1986 over the corresponding period of 1985. The average unit value of pellet imports fell from \$48.78 per long ton in 1983 to \$45.73 per long ton in 1985. During the first quarter of 1986, the average unit value of pellet imports rose to \$46.35. Canada was by far the major source of pellets throughout the period, accounting for *** to *** percent of imports during 1983-85. In 1985, almost 83 percent of the imports of iron ore pellets from Canada were from equity partnerships.

Imports from Brazil.--Imports of iron ore pellets from Brazil increased from 254,000 long tons in 1983 to nearly 1.4 million long tons in 1984 before declining to 737,000 long tons in 1985. Brazil's share of total imports increased from 3.4 percent in 1983 to 12.2 percent in 1984, falling to 7.5 percent in 1985. Imports for January-March 1986 were 43.2 percent lower than the level reported in January-March 1985. The average unit value of iron ore pellets imported from Brazil decreased throughout the period of investigation, from \$44.56 per long ton in 1983 to \$29.47 per long ton in January-March 1986.

1/ * * * and * * * accounted for the bulk of the inventories reported.

Table 10.--Iron ore pellets: U.S. imports for consumption, 1983-85, January-March 1985, and January-March 1986

Source	1983	1984	1985	January-March--	
				1985	1986
Quantity (1,000 long tons)					
Brazil-----	254	1,355	737	285	162
Canada-----	***	***	***	***	***
All other <u>1/</u> -----	***	***	***	***	***
Total-----	7,369	11,096	9,774	1,283	1,445
Value (1,000 dollars) <u>2/</u>					
Brazil-----	11,318	50,782	26,955	9,002	4,774
Canada-----	***	***	***	***	***
All other <u>1/</u> -----	***	***	***	***	***
Total-----	359,479	532,974	446,997	59,091	66,972
Unit value (per ton) <u>2/</u>					
Brazil-----	\$44.56	\$37.48	\$36.57	\$31.59	\$29.47
Canada-----	***	***	***	***	***
All other <u>1/</u> -----	***	***	***	***	***
Average-----	48.78	48.03	45.73	46.06	46.35

1/ * * *.

2/ The reported values of imports reflect the cost of delivering pellets to the importers' receiving points. Value and unit value data should therefore be viewed with caution because inland transportation costs vary depending on the distances involved.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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

Rio Doce, in response to the Commission's importer's/purchaser's questionnaire, submitted data on the ports of entry of imports of iron ore pellets from Brazil. The four ports and their shares of total imports for January 1983-March 1986 were Baltimore, MD (** percent); Philadelphia, PA (** percent); Mobile, AL (** percent); and New Orleans, LA (** percent).

Market penetration

Imports from all sources.--Imports of all iron ore pellets as a share of total apparent consumption increased from 18.2 percent in 1983 to 20.6 percent in 1984, and then fell to 18.9 percent in 1985 (table 11). During January-March 1985 and January-March 1986, the market share held by imports remained about the same, at 24.8 percent and 24.9 percent, respectively. ^{1/} Imports from Canada accounted for the largest share, *** percent in 1985, and *** percent in January-March 1986. The import share of the commercial market decreased from 29.5 percent in 1983 to 8.2 percent in 1985, then reached 69.7 percent in January-March 1986. The import share of the captive market ranged from a low of 17.4 percent in 1983 to a high of 27.9 percent in January-March 1985.

Imports from Brazil.--Overall market penetration of iron ore pellet imports from Brazil rose from 0.6 percent in 1983 to 2.5 percent in 1984, and then declined to 1.4 percent in 1985. Imports of Brazilian pellets fell from a high of 5.5 percent in January-March 1985 to 2.8 percent in January-March 1986. Market penetration by pellets from Brazil in the commercial market during 1983-85 ranged from 0 in 1983 to a high of 3.2 percent in 1984. Such imports accounted for 49.0 percent of commercial market consumption in January-March 1986. In the captive market, penetration by imports from Brazil was at its highest in January-March 1985, at 6.2 percent, and remained below 3 percent during 1983-85 and in January-March 1986.

Prices

The vast majority, perhaps 80 percent or more, of iron ore produced in the United States is consumed by steel companies that obtain the pellets through equity ownership in the iron ore mine and pelletizing plants. The bulk of the noncaptive pellets sold in the United States are purchased by steel companies through long-term contracts with other steel companies, merchant pellet producers, or foreign producers. Spot sales and short-term contract sales account for a smaller portion of total iron ore shipments in the United States. The Commission requested price data by type of sale, i.e., spot market, short-term contract, ^{2/} or long-term contract, both f.o.b. mine or c.i.f. port of entry, and delivered, for all noncaptive sales of iron ore pellets in the U.S. market since January 1984. Questionnaire responses are believed to account for virtually all noncaptive sales of pellets in the United States since January 1984.

^{1/} The higher import penetration during the January-March time periods generally corresponds to the time period of adverse weather conditions on the Great Lakes when shipping is limited.

^{2/} For purposes of the price section of this report, short-term contracts are contracts lasting one year or less. Short-term contract sales have been combined with spot market sales, since the two types of sales generally function the same and have similar price data.

Table 11.--Iron ore pellets: Ratios of the quantity of imports and of domestic shipments to apparent U.S. consumption, by markets and selected sources, 1983-85, January-March 1985, and January-March 1986 ^{1/}

(In percent)					
Item	1983	1984	1985	January-March--	
				1985	1986
Commercial market:					
Imports from Brazil----	0	3.2	0.7	0	49.0
Imports from Canada----	***	***	***	0	***
Total imports-----	29.5	20.3	8.2	0	69.7
Domestic shipments-----	70.5	79.7	91.8	100.0	30.3
Total-----	100.0	100.0	100.0	100.0	100.0
Captive market:					
Imports from Brazil----	0.7	2.6	1.6	6.2	0
Imports from Canada----	***	***	***	***	***
Total imports-----	17.4	22.1	21.7	27.9	25.2
Domestic shipments-----	82.6	77.9	78.3	72.1	74.8
Total-----	100.0	100.0	100.0	100.0	100.0
Total:					
Imports from Brazil----	0.6	2.5	1.4	5.5	2.8
Imports from Canada----	***	***	***	***	***
Total imports-----	18.2	20.6	18.9	24.8	24.9
Domestic shipments-----	81.8	79.4	81.1	75.2	75.1
Total-----	100.0	100.0	100.0	100.0	100.0

^{1/} The market share held by imports in the commercial and captive markets may be slightly overstated because swaps were not included in the apparent consumption calculation for these 2 markets. (Swaps were included in the overall apparent consumption calculation.)

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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

Published Lower Lakes price.-- This price is a commercial list price and is the composite of the published prices of the four large merchant producers and U.S. Steel Corp. per iron unit for pellets delivered to Cleveland, OH. 1/ The published Lower Lakes price is a list price for iron ore pellets and does not necessarily reflect the actual transaction prices for pellets. Although the published price is used as a reference price in negotiations, there is evidence of widespread discounting below the published price, as described below under long-term contracts and spot market sales. 2/ A price series of the published Lower Lakes price is presented in table 12 with a world market price series, the price per long ton delivered to Rotterdam, Holland, for comparing trends between 1977 and 1985. The world market is described below.

As shown, the published Lower Lakes price increased 57 percent from 1977 to 1985. In contrast, world prices declined by 16 percent during the period. From 1982 to 1985, the published Lower Lakes price remained unchanged, while world prices declined by 12 percent.

World market.--The world market contains a number of markets, through which bargaining for iron ore is conducted and deals are concluded. Among these, a few have key importance since the contracts and prices that are agreed upon there tend strongly to influence dealings in other locations. The ore prices agreed on by the German steelmakers through their ore importers naturally influence the price of ore in other nearby markets. Ore prices to Rotterdam, for example, will generally have the same price as ore delivered to western Germany, less a transfer charge for the barge haul up the Rhine.

Another key market is Japan, whose steel companies are major importers of iron ore and have a significant influence on the world market. In comparison, the U.S. market is significantly less important in the world market due to the smaller volume of ore imported; most iron ore used in the United States is produced in U.S. and Canadian mines for captive consumption at domestic steel mills.

The main ore type sold in the world market, and the primary iron input in Europe and Japan, is sinter feed. Pellets are also traded on the world market, but in smaller volumes. The price of pellets has declined relative to the price of sinter feed over the past several years, as pellets have come to be viewed as expensive raw material, and steel makers, particularly the Japanese, reportedly intend to reduce the price premium paid for pelletized iron ore (table 13).

1/ Iron ore is traditionally priced on a per iron unit basis, which is one percent of iron in a long ton of iron ore. The price per iron unit can be obtained by dividing the price per ton by the percentage of iron in each long ton, usually approximately 64 percent.

2/ In 1977, the U.S. Department of Justice initiated an investigation into price-setting procedures for Lake Superior iron ores. In March 1980, Justice announced that it was dropping its investigation and that no antitrust action would be brought. A reason for not bringing antitrust action was that * * *. (U.S. Department of Justice, Economic Policy Memorandum/Recommendation, July 31, 1979, p. 85).

Table 12.--Iron ore pellets: Published Lower Lakes and world prices, by years, 1977-85

Year	Lower Lakes price		World price	
	Amount	Index	Amount	Index
	Per iron unit:	1977=100	Per iron unit:	1977=100
1977-----	\$0.555	100.00	\$0.527	100.00
1978-----	.609	109.74	.514	97.53
1979-----	.678	122.17	.533	101.16
1980-----	.737	132.80	.599	113.66
1981-----	.805	145.05	.510	96.78
1982-----	.869	156.58	.500	94.88
1983-----	.869	156.58	.453	85.96
1984-----	.869	156.58	.427	81.02
1985-----	.869	156.58	.441	83.68

Source: Compiled from data submitted by respondents, verified by data published in Skilling's Mining Review, and the Iron Ore Manual of the Tex Report Co.

Note.--The published Lower Lakes price is a list price for pellets delivered to Cleveland, OH, and the world market price presented is that of pellets delivered to Rotterdam, Holland.

Table 13.--Iron ore pellets and sinter feed: Relative prices of iron ore pellets and sinter feed for sales to Europe and Japan, by years, 1977-85

Year	Europe <u>1/</u>			Japan <u>2/</u>		
	Sinter feed	Pellets	Premium for pellets	Sinter feed	Pellets	Premium for pellets
1977-----	\$0.234	\$0.435	\$0.201	\$0.206	\$0.393	\$0.187
1978-----	.219	.381	.162	.212	.375	.163
1979-----	.239	.402	.163	.231	.385	.154
1980-----	.286	.478	.192	.276	.462	.186
1981-----	.286	.437	.151	.297	.497	.200
1982-----	.330	.483	.153	.348	.543	.195
1983-----	.295	.396	.101	.304	.430	.126
1984-----	.266	.366	.100	.267	.383	.116
1985-----	.270	.366	.096	.270	.371	.101

1/ Prices to Europe are for CVRD Brazilian iron ore, per iron unit, f.o.b. Brazil.

2/ Prices to Japan are for Australian iron ore, per iron unit, f.o.b. Australia.

Source: Iron Ore Manual, -1985-86 and 1981-82, published by the Tex Report Co., Ltd.

Recent price negotiations in the world market. 1/--CVRD, as a major supplier to both the Japanese and the European markets, has played a central role in world market prices in the past few years along with Canadian and Australian suppliers.

In concluding the 1984 price negotiations in Europe, Canadian ore became the leader in the price market. The c.i.f. Rotterdam prices were cut by 6.5 percent in 1984, reflecting the slack performance of steel mills in European countries. In Europe, West German and Canadian iron ore shippers agreed in December 1984 to keep the price unchanged for 1985. Other ore suppliers, excluding the Canadians, united with CVRD, the largest supplier of sinter feed, as the leader. In late March 1985, the West German steelmakers finally gave way to CVRD and consented to a price hike of 1.6 percent, and with this momentum, other suppliers won price hikes in price negotiations.

In the Japanese market in 1984, as in the past, the price leader was CVRD, which reduced the price by 12 percent from the previous year. Following in CVRD's footsteps, MRB of Brazil, Carol Lake of Canada, and India negotiated their respective prices. In early 1985, Japanese steelmakers reached agreement with India to keep prices unchanged, following similar agreements reached in Europe between West German steelmakers and Canadian suppliers. At that time, most users believed that 1985 ore prices would be kept unchanged both in Japan and Europe. However, in the Japanese market, CVRD and Japanese steelmakers eventually agreed to a 1.6-percent price increase. Thereafter, prices of Australian iron ore, Indian iron ore, and New Zealand iron sand were raised.

U.S. captive consumption and transfer pricing.--All major U.S. steel producers have equity ownership positions in iron ore mines and the adjacent pelletizing facilities in the United States. For integrated steel producers, the transfer of iron ore pellets between the ore-producing and ore-consuming stage is an internal affair, and the price at which ore is transferred largely affects the reported profitability at each stage. Because transfer pricing is an internal matter, tax considerations have the greatest influence on the transfer price.

Tax regulations, primarily through depletion allowances, appear to give integrated steel producers a large incentive to transfer iron ore at the highest allowable price. In reporting depletion allowances for tax purposes, the integrated steel producers reportedly utilize the published Lower Lakes price. The published Lower Lakes price is also used for intercompany transfer of pellets through swap arrangements.

Long-term contracts for U.S.-produced iron ore pellets.--The Commission requested copies of all long-term contracts effective since January 1984 for iron ore pellets sold in the United States, and information concerning quarterly prices, as well as the date, terms, initiator, and effect of any renegotiation or amendments to each original price agreement. The price agreements for long-term contracts for U.S.-produced iron ore pellets are in terms of some form of the Lower Lakes price, with most specifying the

1/ The discussion of price negotiations in Europe and Japan is based on information in the Tex Report, Iron Ore Manual, for 1984-85 and 1985-86.

published price. Various methods of providing effective discounts below the published Lower Lakes price to the purchasers in the long-term contract sales have been used extensively. As described below, the types of discounting utilized render questionable the validity of long-term contract prices for U.S.-produced iron ore for purposes of comparison with import prices. 1/ As with any long-term contract, the agreements reflect the market conditions and expectations of the buyer and seller at the time of negotiation.

The majority of long-term contracts effective since January 1984 for iron ore pellets sold in the United States were negotiated in the mid-to-late 1970's. It was during this period that many new mines in the United States were being established, and some older mines were expanded. Most industry analysts at the time were predicting large increases in demand for finished steel and a shortage of iron ore required for its production.

Many of the long-term contracts between the U.S. iron ore merchants and U.S. steel producers were negotiated in conjunction with the larger negotiations of equity ownership agreements in the new mines, as well as agreements for transporting the iron ore on the Great Lakes. Although all of such long-term iron ore pellet contracts by the merchant producers are written in terms of the Lower Lakes price, it is probable that discounts in the form of equity sales below market prices, reductions in transportation and handling charges, as well as other complicated arrangements resulting in effective discounts may have been negotiated as part of the original agreement or subsequent renegotiation. Such discounts could be characterized as an apparent effort to avoid jeopardizing the seller's depletion allowance. Discounts of this nature are extremely difficult to identify and by their very nature impossible to be assigned an accurate dollar value. 2/

* * * * *

Other types of discounting reported by sellers and purchasers of U.S. iron ore pellets in long-term contract sales include favorable Great Lakes boat rates, using the sellers' own Great Lakes fleets, and better terms and extension of payments. Because discounting of this sort is so widespread, the long-term contract prices reported to the Commission by purchasers and sellers of U.S. iron ore pellets considered in isolation do not reflect actual effective transaction prices for long-term contract sales.

1/ In contrast, the two major long-term contracts for Brazilian-produced ore, accounting for approximately *** percent of imports in 1984, stipulate that * * *.

2/ Discounting below the published Lower Lakes price is not a recent development. A survey in 1942 by the U.S. Office of Price Administration found that the actual prices of iron ore sales averaged 7 percent below the published price for long-term contract sales, and 3 percent below for spot market sales. "In as much as these figures refer to a period of fairly tight supplies, it is not unreasonable to assume that the difference between the published and actual prices of Midwest sales has tended to widen over the years as supplies have become more readily available." From Gerald Manners, The Changing World Market for Iron Ore, 1950-1980, The Johns Hopkins Press, 1971.

Long-term contracts for Brazilian-produced iron ore pellets.--

* * * * *

Short-term contract and spot market sales.--Unlike transfer pricing for captive consumption or long-term contracts with set prices, short-term contract and spot market prices tend to reflect contemporaneous market conditions. Most major U.S. steel producers are integrated and have equity ownership in U.S. and Canadian mining operations. Because production of steel has fallen far short of projections at the time many mines were established, most companies have pellet production capacity in excess of their ore requirements. Exacerbating the problem for some steel companies is the fact that their equity ownership is a minority position in an iron ore mining partnership, giving the affected company very little flexibility in decreasing pellet production as its steel output and resultant iron ore needs decline. Additionally, some steel producers have long-term contracts with either merchant iron ore producers or other steel producers.

The only purchasers in the spot and short-term contract market are a few small independent, nonintegrated steel producers with iron ore needs beyond the quantity specified in their long-term contracts, if any. These facts describe a market with many firms seeking to sell large quantities of pellets, and relatively few firms buying a rather small quantity of pellets.

Relative prices of U.S.-produced and imported iron ore pellets.--Because transportation costs are decisive in determining the final delivered price to a purchaser, and prices can differ significantly from location to location, the key commercial price is that of iron ore delivered, c.i.f., to the blast furnace. Although it is most appropriate to compare prices on a delivered basis to particular locations, this is not possible for a large part of the imported Brazilian iron ore. Because of inland transportation costs, the Brazilian pellets are primarily sold to steel plants located nearer to east coast and gulf coast ports, whereas steel plants located near the Great Lakes are supplied by U.S.- and Canadian-produced pellets (see the "Transportation costs" section of this report). Coastal steel producers also utilize Canadian iron ore pellets.

Complicating the situation is the fact that the two major importers are integrated steel producers that alternatively source their iron ore through captive supply or through long-term contracts, ostensibly at the published Lower Lakes price. As described above, these prices are of little value for comparison with the Brazilian pellet prices.

Comparisons of competitive transaction prices are possible for sales to several independent steel producers located in the Pittsburgh, PA, area. These steel producers purchase their iron ore requirements through short-term contract and spot market sales and have been supplied primarily by U.S. pellets, but also by Canadian and Brazilian pellets.

In addition, the f.o.b. mill and delivered prices to the Lower Lakes for short-term contract and spot market sales of U.S.-produced iron ore pellets

and the c.i.f. port-of-entry prices for imported pellets ^{1/} provide some insight into relative price levels (table 14). Comparisons generally show the U.S. and Canadian pellets being sold at lower prices than the prices of pellets imported from Brazil.

The delivered price of iron ore pellets to the Pittsburgh area is the best direct comparison of prices for the imported and U.S. product. The delivered price of the Brazilian pellets was *** percent higher than the delivered price of U.S.-produced pellets sold on the spot market during April-June 1984. In July-September 1984, the Brazilian price decreased by *** percent, leaving the imported price *** percent below that of the U.S. product during that period.

The delivered price of U.S. pellets sold on the spot market in the Pittsburgh area dropped by *** percent from 1984 to 1985, and further by *** percent during January-March 1986. The lowest prices reported for U.S.-produced pellets in 1985 and 1986 were for sales by * * * and * * *, * * * steel producers with excessive pellet production capacity. There have been no sales of Brazilian pellets in the Pittsburgh area since 1984. The delivered prices of Canadian pellets sold through the spot market were lower than the delivered prices of both the U.S. pellets and Brazilian pellets in 1984. The delivered prices of the Canadian pellets have decreased similar to the U.S. product prices since 1984.

Additional data are available for imports from Brazil at the ports of entry. The c.i.f. port-of-entry prices for Brazilian pellets delivered to both east coast and gulf coast ports have been relatively stable since January 1984, staying within a range of \$*** to \$*** per iron unit. This reflects the stability of world market prices for pellets during 1984 and 1985. In comparison, the f.o.b. mine price for spot market sales of U.S. pellets increased by *** percent, from \$*** per iron unit in January-March 1984 to \$*** per iron unit during October-December 1984. Thereafter, the U.S. f.o.b. mine price per iron unit decreased by *** percent to \$*** during October-December 1985.

The spot market price of U.S. pellets delivered to Lower Lakes ports followed a pattern similar to that of the f.o.b. mine prices, but fluctuated by lesser percentages. The c.i.f. prices of Canadian pellets delivered to Lower Lakes ports were lower than those of the U.S.-produced pellets in 1984 delivered to the Lower Lakes, by *** percent in April-June 1984, *** percent in July-September 1984, and *** percent in October-December 1984. Prices for Canadian pellets delivered to the Lower Lakes were at the same level or greater than the prices of U.S. pellets delivered to the Lower Lakes in 1985 and January-March 1986.

^{1/} Included in the Brazilian weighted-average prices are sales pursuant to annually renegotiated long-term contracts, which for pricing purposes function like short-term contracts.

Table 14.--Iron ore pellets: U.S., Brazilian, and Canadian weighted-average prices, per iron unit, by type of sale, quarterly, January 1984-March 1986

Period	U.S. product					Brazilian product			Canadian product <u>1/</u>	
	Long-term contract		Spot market <u>2/</u>			C.i.f. port		Delivered	C.i.f.	Delivered
	F.o.b. mine	Delivered Lower Lakes	F.o.b. mine	Delivered Lower Lakes	Delivered Pittsburgh area	East coast	Gulf coast	Pittsburgh area	Lower Lakes port	Pittsburgh area
1984:										
Jan.-Mar-----	-	-	***	***	***	***	***	***	***	***
Apr.-June-----	\$0.71	\$0.87	***	***	***	***	***	***	***	***
July-Sept-----	.72	.91	***	***	***	***	***	***	***	***
Oct.-Dec-----	.68	.89	***	***	***	***	***	***	***	***
1985:										
Jan.-Mar-----	-	-	***	***	***	***	***	***	***	***
Apr.-June-----	.68	.89	***	***	***	***	***	***	***	***
July-Sept-----	.67	.86	***	***	***	***	***	***	***	***
Oct.-Dec-----	.66	.84	***	***	***	***	***	***	***	***
1986:										
Jan.-Mar-----	-	-	***	***	***	***	***	***	***	***

1/ Canadian product prices are for spot market sales.

2/ Included in the spot market are short-term contract sales.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Transportation costs

Because iron ore pellets are characterized by a very low value-to-weight ratio, transportation costs are significant in all shipments of iron ore. Most of the iron ore pellets used in the United States are consumed by steel companies located in or near Chicago, Cleveland, or Pittsburgh. There are also some steel production plants around the gulf coast, and on the east coast near Philadelphia. U.S. producers have an inland transportation cost advantage to the lower Great Lakes, whereas Brazilian pellets have an inland transport cost advantage over virtually all U.S. producers to Pittsburgh and the coastal consuming areas. The exception is a relatively small mine in Missouri that is well located to supply the gulf coast.

Because of their location near ports on the upper Great Lakes, U.S. producers of iron ore have a transportation cost advantage over Brazilian pellets in the lower Great Lakes. Only one sale of Brazilian pellets, * * *.

It appears that the importers of Brazilian pellets in the Pittsburgh area have an inland transportation cost advantage over U.S. producers. The two importers of Brazilian pellets located in the Pittsburgh area, Shenango and Weirton, rail the pellets in from east coast ports. Shenango reported rail transport costs from the port of Baltimore of \$*** per iron unit, and Weirton reported * * * rail cost from Philadelphia. Transportation costs available from Shenango indicate that the total transportation cost for U.S. pellets, including Great Lakes boat costs and rail costs from ports near Cleveland, is approximately \$*** per iron unit.

Armco, * * *, uses the Brazilian pellets at its Ashland, KY, steel plant. Armco reported rail transport costs of \$*** per iron unit from the port of Baltimore. Transport costs from Minnesota to Middletown, OH, were \$*** per iron unit in 1984 and \$*** per iron unit in 1985, * * * greater than the transport costs from Baltimore to Ashland for the Brazilian pellets. Because * * *, the transportation costs from Minnesota to Ashland would probably be * * *.

U.S. Steel imports Brazilian pellets for use at its plants in Fairless Hills, PA, and Fairfield, AL. Information provided by U.S. Steel indicates that inland transportation costs from U.S. Steel's Minntac pellet plant to Fairfield are \$*** per ton, or approximately \$*** per iron unit. Inland transportation costs for the Brazilian pellets are reportedly \$*** per ton to Fairfield, or \$*** per iron unit, * * * less than that of the Minntac pellets. Transport costs to Fairless Hills are * * *.

Lone Star Steel, whose steel plant is in Lone Star, TX, reported inland transport costs of \$*** per iron unit for its pellets imported from Brazil through * * *. Lone Star also purchases iron ore from Pea Ridge in Missouri, which is well located to supply pellets to Texas. The transportation costs of the Pea Ridge pellets to Lone Star have been \$*** per iron unit since 1983.

Lost sales

A discussion of each of the U.S. firms that have purchased Brazilian iron ore pellets in the U.S. market from January 1983 to March 1986 is presented below. 1/

* * * * *

Lost revenues

Three U.S. producers (* * *) provided allegations of lost revenues due to competition from Brazilian imports involving *** U.S. purchasers. The staff contacted all of the customers involved in these allegations.

* * * * *

Exchange rates

Quarterly data reported by the International Monetary Fund indicate that during January 1983-December 1985 the nominal value of the Brazilian cruzeiro depreciated relative to the U.S. dollar in every quarter by an overall 96.0 percent (table 15). 2/ Because the level of inflation in Brazil was vastly higher than that in the United States over this period, the real value of the Brazilian currency vis-a-vis the dollar fluctuated but ended the period in October-December 1985 at approximately the same real value as in January-March 1983. 3/

1/ In the petitioners' prehearing brief, * * * is reported to have lost sales to * * *. * * * was also reported to have lost sales to * * * and * * *; both companies indicated in response to Commission questionnaires that * * *.

2/ International Financial Statistics, March 1986.

3/ As part of a recent initiative to reduce inflation in Brazil, the cruzado replaced the cruzeiro as Brazil's official currency. The cruzado is worth 1,000 cruzeiros. Because the cruzeiro was the official currency up to the first or second quarter of 1986, the Brazilian currency is still referred to as the cruzeiro for the purposes of this discussion.

Table 15.--Exchange rates: 1/ Indexes of the nominal and real exchange rates between the U.S. dollar and the Brazilian cruzeiro, and indexes of producer prices in the United States and Brazil, 2/ by quarters, January 1983-December 1985

Period	U.S.	Brazil	
	Producer Price Index	Producer Price Index	Nominal exchange rate index 3/
			US dollars/cruzeiros
1983:			
January-March-----	100.0	100.0	100.0
April-June-----	100.3	132.2	68.5
July-September-----	101.3	189.4	51.1
October-December-----	101.8	266.9	37.6
1984:			
January-March-----	102.9	351.8	28.6
April-June-----	103.6	467.6	21.5
July-September-----	103.3	623.9	16.3
October-December-----	103.0	871.7	11.9
1985:			
January-March-----	102.9	1,201.4	8.7
April-June-----	103.0	1,536.6	6.2
July-September-----	102.2	2,018.1	4.8
October-December-----	102.9	2,858.4	3.6

1/ Based on exchange rates expressed in U.S. dollars per Brazilian cruzeiro.

2/ The producer price indexes are aggregate measures of inflation at the wholesale level in the United States and Brazil. Producer prices in the United States increased by 2.9 percent during January 1983-December 1985 compared with increases in the same period of 2,757.8 percent in Brazil.

3/ The real value of a currency is the nominal value adjusted for the difference between inflation rates as measured here by the producer price indexes in the United States and Brazil.

Source: International Monetary Fund, International Financial Statistics, April 1985 and March 1986.

APPENDIX A

FEDERAL REGISTER NOTICES

[Investigation No. 701-TA-235 (Final)]

Iron Ore Pellets From Brazil

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701-TA-235 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of iron ore pellets,¹ provided for in item 801.24 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Brazil. Commerce will make its final subsidy determination in this investigation on or before May 29, 1985, and the Commission will make its final injury determination by July 19, 1985 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, August 15, 1984).

EFFECTIVE DATE: March 22, 1985.

FOR FURTHER INFORMATION CONTACT: Cynthia Wilson (202-623-0291), Office of Investigations, U.S. International Trade Commission, 701 E Street NW, Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671)

are being provided to manufacturers, producers, or exporters in Brazil of certain types of iron ore pellets. The investigation was requested in a petition filed on December 20, 1984, by the Cleveland-Cliffs Iron Co., Oglebay Norton Co., Pickands Mather & Co., and the United Steelworkers of America. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of the subject merchandise (50 FR 6074, Feb. 13, 1985).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.)

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, August 15, 1984), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report

A public version of the prehearing staff report in this investigation will be placed in the public record on May 24, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on June 10, 1985, at the U.S. International Trade Commission Building, 701 E Street NW.,

Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on May 31, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on June 4, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 5, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, August 15, 1984)).

Written submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing brief must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on June 17, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 17, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 49 FR 32569, August 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.)

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for

¹ For purposes of this investigation, the term "iron ore pellets" covers fine particles of iron oxide, hardened by heating and formed into balls from ¼-inch to ¾-inch in diameter, for use in blast furnaces to obtain pig iron, provided for in item 801.2450 of the Tariff Schedules of the United States Annotated (TSUSA). The term does not include pellets for use in electric furnaces and containing not over 3 percent by weight of silica.

confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569 August 15, 1984).

Authority

This investigation is being conducted under authority of the Tariff act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984).

Issued: April 11, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-0930 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

25478

Federal Register / Vol. 50, No. 118 / Wednesday, June 19, 1985 / Notices

(Investigation No. 701-TA-235 (Final))

**Iron Ore Pellets From Brazil;
Suspension of Final Countervailing
Duty Investigation**

AGENCY: International Trade
Commission.

ACTION: Suspension of final
countervailing duty investigation.

SUMMARY: Effective June 10, 1985, the United States Department of Commerce suspended its countervailing duty investigation involving iron ore pellets from Brazil (50 FR 24285). The basis for the suspension is an agreement to renounce all benefits provided by the Government of Brazil which the Department of Commerce finds to constitute subsidies on exports of iron ore pellets to the United States. Accordingly, the United States International Trade Commission hereby gives notice of the suspension of its countervailing duty investigation No. 701-TA-235 (Final) involving imports from Brazil of iron ore pellets, provided for in Item 601.24 of the Tariff Schedules of the United States.

EFFECTIVE DATE: June 14, 1985.

FOR FURTHER INFORMATION CONTACT:
Cynthia Wilson (202-523-0291), Office of
Investigations, U.S. International Trade
Commission.

This notice is published pursuant to
§ 207.40 of the Commission's Rules of
Practice and Procedure (19 CFR 207.40).

Issued: June 14, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-14777 Filed 6-18-85; 8:45 am]

BILLING CODE 7530-00-8

[Investigation No. 701-TA-235 (Final)]

Iron Ore Pellets From Brazil

AGENCY: U.S. International Trade Commission.

ACTION: Continuation of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the continuation of final countervailing duty investigation No. 701-TA-235 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of iron ore pellets,¹ provided for in item 601.24 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Brazil. Commerce will make its final subsidy determination in this investigation on or before June 13, 1986, and the Commission will make its final injury determination by July 28, 1986 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Cynthia Wilson (202-523-0291), Office of

¹ For purposes of this investigation, the term "iron ore pellets" covers fine particles of iron oxide hardened by heating and formed into balls from 3/8-inch to 5/8-inch in diameter, for use in blast furnaces to obtain pig iron, reported for statistical purposes in item 801.2450 of the Tariff Schedules of the United States Annotated (TSUSA). The term does not include pellets for use in electric furnaces unless such pellets contain more than 3 percent of weight by silica.

Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce published notice in the *Federal Register* on March 31, 1986 (51 FR 10906), that the suspension agreement concerning iron ore pellets from Brazil (which was published in the *Federal Register* on June 10, 1985 (50 FR 24265)) has been cancelled because of Brazil's withdrawal from the agreement. As a consequence, Commerce has resumed its countervailing duty investigation as if its affirmative preliminary determination under section 703(b) of the Tariff Act of 1930 were made on the date of the publication of its notice to resume the investigation.

The investigation was originally requested in a petition filed on December 20, 1984 by the Cleveland-Cliffs Iron Co., Oglebay Norton Co., Pickands Mather & Co., and the United Steelworkers of America. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined on February 4, 1985, that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (50 FR 8074, Feb. 13, 1985).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the *Federal Register*. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3

of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff Report

A public version of the prehearing staff report in this investigation will be placed in the public record on June 3, 1986, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on June 19, 1986, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on June 2, 1986. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on June 5, 1986, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 13, 1986.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). The rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedure described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on June 26, 1986. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 26, 1986.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority. This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: April 9, 1986.

Kenneth R. Mason,
Secretary.

[FR Doc. 86-8457 Filed 4-15-86; 8:45 am]

BILLING CODE 7020-02-01

SUMMARY: We determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of certain types of iron ore pellets. The estimated net subsidy is 2.09 percent *ad valorem*. However, we are adjusting the duty deposit rate to reflect the changes that have occurred in export and total sales for Companhia Vale do Rio Doce (CVRD) since the review period. Therefore, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of iron ore pellets from Brazil that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond on entries of this product in the amount equal to 7.94 percent *ad valorem*. In addition, we determine that "critical circumstances" do not exist with respect to the subject merchandise.

We have notified the U.S. International Trade Commission (ITC) of our determination.

The Department of Commerce (the Department), Companhia Vale do Rio Doce (CVRD), the only known exporter in Brazil of iron ore pellets to the United States, and the Government of Brazil entered into a suspension agreement on May 29, 1985. On June 10, 1985, the respondents requested that we continue the investigation. On December 18, 1985, the Government of Brazil notified the Department that CVRD was withdrawing from the suspension agreement. On March 31, 1986, we published a notice of cancellation of the suspension agreement and resumption of the suspended investigation. Therefore, the affirmative preliminary determination of countervailing duties published on March 22, 1985, has been in effect of March 31, 1986.

EFFECTIVE DATE: June 17, 1986.

FOR FURTHER INFORMATION CONTACT: Loc Nguyen or Peggy Clarke, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0167 (Nguyen) or (202) 377-4412 (Clarke).

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Brazil of iron ore pellets.

(C-351-408)

Final Affirmative Countervailing Duty Determination; Iron Ore Pellets From Brazil

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

For purposes of this investigation, the following programs are found to confer subsidies:

- Income Tax Exemption for Export Earnings
- Import Duty Exemptions

We determine the estimated net subsidy to be 2.09 percent *ad valorem*. However, we are adjusting the duty deposit rate to reflect the changes that occurred in export and total sales for CVRD since the review period; thus, the cash deposit rate is 7.94 *ad valorem*.

Case History

On December 20, 1984, we received a petition from the Cleveland-Cliffs Iron Company, Oglebay Norton Company, Pickands Mather & Company, and the United Steelworkers of America on behalf of the U.S. iron ore pellets industry. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Brazil of iron ore pellets directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure or threaten material injury to a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on January 9, 1985, we initiated such an investigation (50 FR 2322). We stated that we expected to issue a preliminary determination by March 15, 1985.

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On February 4, 1985, the ITC determined that there is a reasonable indication that these imports materially injure, or threaten material injury to, a U.S. industry (50 FR 5286).

We presented a questionnaire concerning the allegations of the Government of Brazil in Washington, D.C., on January 25, 1985. On February 27, 1985, we received a response to the questionnaire.

There is only one known exporter in Brazil of iron ore pellets to the United States, Companhia Vale do Rio Doce (CVRD), for which we have received information from the Government of Brazil.

On March 15, 1985, we issued our preliminary determination in this investigation (50 FR 11527). We preliminarily determined that benefits constituting subsidies within the meaning of the countervailing duty law were being provided to CVRD.

Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. On April 17, a hearing was held. We received briefs from the parties to the proceeding.

Verification of the response was done in Rio de Janeiro on April 23 through April 30, 1985.

On May 29, 1985, a suspension agreement was signed by the Department, CVRD, and the Government of Brazil.

On June 10, the respondents requested a continuation of the investigation.

On December 18, 1985, the Government of Brazil notified the Department of CVRD's withdrawal from the suspension agreement.

On March 31, 1986, we published a notice of cancellation of the suspension agreement and resumption of the suspended investigation. Therefore, the affirmative preliminary determination of countervailing duties published on March 22, 1985, has been in effect since March 31, 1986.

Scope of the Investigation

The product covered by this investigation is iron ore pellets. Iron ore pellets are defined, for purposes of this proceeding, as fine particles of iron oxide, hardened by heating and formed into balls of $\frac{1}{8}$ " to $\frac{3}{8}$ " for use in blast furnaces to obtain pig iron. Pellets for use in electric furnaces and containing not over three percent by weight of silica are excluded.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice to "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 28, 1984, issue of the Federal Register (49 FR 18008).

For purposes of this determination, the period for which we are measuring subsidization ("the review period") is calendar year 1984.

Based upon our analysis of the petition, the responses to our questionnaire, our verification, and comments submitted by interested parties, we determined the following:

1. Programs Determined To Confer Subsidies

We determined that subsidies are being provided to manufacturers, producers, or exporters in Brazil of iron

ore pellets under the following programs:

A. Income Tax Exemption for Export Earnings

Under Decree-Law 1240, exporters of iron ore pellets are eligible for an exemption from income tax on a portion of profits attributable to export revenue. Because a firm must export to be eligible for this exemption, we determine it to be a countervailable subsidy. CVRD took an exemption from income tax payable in 1984 on Export profits earned in 1983. We indexed that portion as required under Brazilian tax law, and multiplied it by CVRD's effective corporate tax rate to find the benefit.

To find CVRD's effective tax rate, we took the base tax liability and added or subtracted all surcharges or deductions used by CVRD. We allocated the benefit over the best information estimate of 1984 exports of the products eligible for the exemption. To find the best information estimate, we took the ratio of 1983 promoted exports to 1983 total sales and applied it to 1984 total sales. We determine the estimated net subsidy from this program to be 2.00 percent *ad valorem*.

This is the first time the Department has issued a final determination following the resumption of a suspended investigation. We find that substantial changes have occurred in export in total sales for CVRD since the review period. So that the deposit rate will more accurately reflect the estimated duties on future entries, we have calculated the deposit rate for the income tax exemption for export earnings by estimating the tax exemption that CVRD would have received in 1985 on exports occurring during the 1984 review period had there been no suspension agreement. We emphasize that the circumstances of this case are unique. We have not decided that this approach would be proper under other circumstances.

We determine the cash deposit rate for this program to be 7.85 *ad valorem*.

B. Import Tax Exemptions

Decree Law 1287 allows a 100 percent exemption from import duties and IPI tax on equipment, machinery, appliances or instruments, spare parts, etc., provided similar equipment is not produced in Brazil. This program is part of the mining-industry incentives administered by the "Grupo Executivo da Industrial de Mineracao" ("GEIMI") of the Ministry of Mines and Energy. Firms must have projects approved by GEIMI to qualify for the import duty exemption. Because no evidence was

provided to demonstrate that firms other than CVRD were exempted from duties and taxes on imports under Decree-Law 1287, we find this program to be limited to a specific enterprise or industry or group of enterprises or industries, and, hence, countervailable.

We verified that CVRD used this exemption for the importation of pelletizing and mining equipment during the review period. We divided the amount of the exemption taken in 1984 by the relevant sales during the same period to find an estimated net subsidy of 0.09 percent *ad valorem*.

II. Programs Determined not To Confer Subsidies

A. Minerals Tax Incentives

Decree-Law 1038, as amended by Decree-Law 1172 and Decree 66694, established a tax on minerals ("I.U.M."). Iron ore pellets are subject to this tax. The tax for iron ore pellets sold domestically is 15 percent of the ex-mine price plus the value added from marginal processing for transport (this includes pelletizing). The tax for exported iron ore pellets is 7.5 percent. The 7.5 percent tax is charged on 60 percent of the f.o.b. price.

Petitioners allege that the different tax for exports confers a subsidy on the exporters of iron ore pellets. Petitioners also allege that payment of this tax exempts a firm from paying a portion of certain direct taxes such as social security taxes and property taxes and that this exemption also confers a subsidy.

We verified that I.U.M. is an indirect tax paid at the time of transfer of the produce. Further, we verified that payment of the I.U.M. did not exempt CVRD from any of its direct tax liabilities. Since under both U.S. law and the General Agreement on Tariffs and Trade, a government may rebate or exempt firms from payment indirect taxes borne by the exported product, we determine that the lower tax rate upon exports does not confer a countervailable subsidy.

B. Depletion Allowance

Petitioner allege that the 20 percent depletion allowance for mineral projects granted by Decree-Law 1096 and extended by Decree-Law 1779 confers a subsidy on the manufacturers and producers of iron ore pellets.

We verified that any firm owning a mine is eligible for the depletion allowance. The firm has the option of taking a depletion allowance equal to the greater of:

1. The percentage of the total reserves extracted during the tax year times the original value of the mine; or

2. 20 percent of the ex-mine value of the minerals extracted during the tax year.

In the past, we have found that depreciation allowances, *per se*, are not countervailable. Because the depletion allowance, which is comparable to a depreciation allowance on minerals, is part of the normal tax practice in Brazil and because there is no indication that it favors exports over domestic products, we determine this program not to be countervailable.

C. BNDES/FINAME Loans

Petitioners allege that loans received from the National Economic and Social Development Bank (BNDES) and its subsidiary, the Special Agency of Industrial Financing (FINAME), confer a subsidy on the manufacturers and producers of iron ore pellets. In support of this allegation, petitioners argue that iron ore pellet producers, as part of the metallurgy sector, received a disproportionate share of BNDES and FINAME loans.

In earlier determinations, we have found BNDES and FINAME loans to be provided to more than a specific enterprise or industry or group of enterprises or industries, and hence not countervailable (see, for example, "Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Products from Brazil", 49 FR 17938). Information received and verified in this case supports our earlier conclusion. For example, in the period 1978-84, the BNDES system, including BNDES and FINAME, provided loans to the industrial, agricultural, and energy sectors.

We have also examined whether the metallurgy sector has received a disproportionate share of the loans made by the BNDES system. Going back as far as 1975, we have found that the metallurgy sector accounts for 4.3 percent, on average, of BNDES loans to the industrial sector. Further, industrial financing as a share of the BNDES portfolio has been declining over much of this period. Therefore, we concluded that the metallurgy sector has not received a disproportionate share of the BNDES system loans.

Because BNDES/FINAME loans are provided to more than a specific enterprise or industry or group of enterprises or industries and there is no evidence of *de facto* selectivity in application, we find that these loans do not confer a benefit on producers of iron ore pellets in Brazil.

D. ICM State Tax Incentives

Petitioners allege that CVRD receives a rebate of the ICM state value-added tax similar to the IPI export credit premium.

Also, under Decree 1600-N, anyone selling (final stage sales only) goods in the state of Espirito Santo must pay a 17 percent ICM. Of this, 5 percent is rebated; the firm receives 4.5 percent while the other 0.5 percent goes to the bank. This rebate must be invested in corporations located in and sponsored by the state of Espirito Santo.

Because the ICM is an indirect tax, the non-excessive rebate of this tax does not confer a countervailable subsidy. Therefore, we determine that this program is not countervailable.

Further, by its terms, the rebate/reinvestment program applies to all firms selling final stage products in Espirito Santo. Therefore, we determine that the rebates are not provided to a specific enterprise or industry or group of enterprises or industries, and, thus, are not countervailable.

E. Tax Incentives Reserves

The balance sheet in CVRD's annual report listed a "tax incentives reserve." We stated in our preliminary determination that we needed more information on this reserve.

At verification, we received that information. The "tax incentives reserve" contains the investments made by CVRD through the investments credit program for the national income tax and the ICM tax incentives program in Espirito Santo. We have determined that neither of these programs provides a countervailable subsidy (see, our discussion of ICM State Tax Incentives, above, and our notice of "Final Affirmative Countervailing Duty Determination: Carbon Steel Plate from Brazil," 38 FR 2568, January 20, 1983).

F. Government Loan Guarantees

Petitioners allege that the Brazilian government guarantees long-term loans in foreign currency on terms that are inconsistent with commercial considerations and, therefore that these guarantees are countervailable.

We verified that CVRD has not received any government-guaranteed commercial loans since 1974. However, some government-guaranteed commercial loans taken out in 1973 and 1974 are still outstanding. We found no evidence that commercial guarantees were available in 1973 and 1974. Further, we verified that CVRD had non-guaranteed loans taken out in 1974, and still outstanding, that bear the same interest rates as the guaranteed loans.

In determining whether government-loan guarantees are countervailable, we look at whether the costs and other terms of the government guarantees are less than for commercially provided guarantees; and whether the government guarantee allow a firm to receive better terms on the loan than it would without the guarantee. We had no commercial guarantees from the same period with which to compare costs, so we based our decision on the other criterion. Since CVRD was able to get the same interest rate, at the same time, or commercial loans without any guarantees, we determine that the government guarantees do not confer a countervailable subsidy on producers and exporters of iron ore pellets.

III. Programs Determined Not To Be Used

We determine that producers or exporters in Brazil of iron ore pellets did not use the following programs listed in our notice of initiation.

A. IPI Export Credit Premium

Petitioners allege that under the Portaria Ministerial No. 78, as amended by Portaria Ministerial No. 252, exporters of iron ore pellets receive a cash reimbursement from the Government of Brazil based on the "adjusted" f.o.b. price of the exported merchandise.

We verified that producers of iron ore pellets are not eligible for the IPI credit premium. Accordingly, we determine that this program was not used by the producers of the product under investigation.

B. Financing for Storage of Export Merchandise Program: Resolution 330 of the Banco Central do Brazil

Resolution 330 provides financing for up to 80 percent of the value of the merchandise placed in a specified bonded warehouse and destined for export. We verified that CVRD was not eligible for this program because Resolution 330 is applicable only to certain "manufactured" products listed by the Ministry of Finance. Therefore, we determine that this program was not used by the producers of the product under investigation.

C. FINEX Export-Financing Program: Resolution 68

Resolution 68 states that the Department of Foreign Commerce of the Banco do Brazil, S.A. (CACEX), may draw upon the resources of the Fundo de Financiamento a Exportacao (FINEX) to extend dollar-denominated loans to foreign buyers of Brazilian goods and cruzeiro-denominated loans to

exporters. Financing is granted on a transaction-by-transaction basis.

We verified that the respondent was not eligible for this kind of financing because it is provided only with respect to "manufactured" products. Therefore, we determine that this program was not used by the producers of the product under investigation.

D. The CDI Program: Exemption of IPI Tax and Customs Duties on Imported Equipment

Article 13 of Decree Law No. 1137 granted duty-free treatment and an exemption from the IPI tax on certain imported machinery under appropriate circumstances. Accelerated depreciation was also granted on domestic machinery. This legislation was amended by Article 9 of Decree Law No. 1428 of December 2, 1975, which reduced the maximum benefit on imported machinery to an exemption of 80 percent of the customs duties and 80 percent of the IPI tax. The accelerated depreciation for domestic equipment continued.

We verified that CVRD did not receive any benefits under this program during the review period. Therefore, we determine that this program was not used by the producers of the product under investigation during the review period.

E. The BEFLEX Program: Decree-Laws 77065 and 1219

The comissao para a Concessao de Beneficios Fiscais a Programas Especiais de Exportacao (Commission for the Granting of Fiscal Benefits to Special Export Programs, or BEFLEX) grants at least three categories of benefits to Brazilian exporters:

- Under Decree-Law 77065, BEFLEX may reduce by 70 to 90 percent import duties and the IPI tax on the importation of machinery, equipment, apparatus, instruments, accessories, and tools necessary for special export programs approved by the Ministry of Industry and Trade, and may reduce by 50 percent import duties and the IPI tax on imports of components, raw materials, and intermediary products;

- Under article 13 of Decree No. 1219, BEFLEX may extend the carry-forward period for tax losses from 4 to 6 years; and

- Under article 14 of the same decree, BEFLEX may allow special amortization of pre-operational expenses related to approved projects. We verified that the respondent did not participate in this program. Accordingly, we determine that this program was not used during the review period.

F. The CIEX Program: Tax Reductions on Export-Production Equipment: Decree-Law 1428

Decree-Law 1428 authorized the Comissao para Incentivos a Exportacao (Commission for Export Incentives, or CIEX) to reduce import taxes and the IPI tax up to 10 percent on certain equipment for use in import production. We verified that CVRD did not receive any benefits under this program. Accordingly, we determine that this program was not used by the producers of the product under investigation during the review period.

G. Accelerated Depreciation of Equipment: Decree Law 1137

Pursuant to Decree-Law 1137, any company which purchases Brazilian-made capital equipment and has an expansion project approved by the CDI may depreciate this equipment at twice the rate normally permitted under Brazilian tax laws. We verified that CVRD did not participate in this program during the review period. Therefore, we determine that this program was not used by the producers of the product under investigation during the review period.

H. Working Capital Financing for Exports: Resolutions 674 and 882/950

Petitioners allege that the Government of Brazil provides preferential short-term financing for working capital to companies with qualifying export performance. We verified that the respondent was not eligible for this kind of financing since such financing is only authorized for certain "manufactured" products. Therefore, we determine that this program was not used by the producers of the product under investigation.

I. Export Financing Under CIC-CREGE 14-11 Circular

Under its CIC-CREGE 14-11 circular ("14-11"), the Banco do Brazil provides 180- and 360-day cruzeiro loans for export financing for manufactured products. We verified that the respondent was not eligible for this kind of financing, since such financing is only authorized for certain "manufactured" products. Therefore, we determine that this program was not used by the producers of the product under investigation.

J. The PROEX Program: Export Promotion Credit

Petitioners allege that short-term credits for exports were established under the Programa de Financiamento a Producao para a Exportacao (PROEX),

previously referred to as the Apoio a Exportacao Program. We verified that CVRD was not eligible for and did not receive any loans under this program. Accordingly, we determine that this program was not used by the producers of the product under investigation.

K. Tax Deduction for Financial Transactions Related to the Recuperation of Capital Expended in Prospecting Mineral Deposits: Decree 58-400

We verified that this program was available only to individual taxpayers. Furthermore, this program is no longer in effect. Therefore, we determine that this program was not used by the producers of the product under investigation.

L. Carajas Mines Incentives

Petitioners allege that iron ore pellet producers and exporters benefit from several programs relating to the Carajas Mine.

We verified that the Carajas Mine will produce only natural iron ore, not pellets. To produce pellets from this ore would be economically unsound and a violation of the terms of CVRD's loan agreement with the World Bank. Since our investigation deals only with iron ore pellets, we determine that these incentives did not provide benefits to the production or exportation of iron ore pellets.

M. Credit Against IPI Liability on Equipment Necessary for Mining Development: Decree 83.263 and Subsidy Reserve

Petitioners allege that producers and exporters of iron ore pellets receive benefits from these credits. This program is administered by GEIMI. Any producer with an approved project for exploration, mining, or processing of minerals may receive a rebate of the IPI tax paid on the purchase of related capital equipment.

In our preliminary determination, we said that we needed more information on the "subsidy reserve" listed on the balance sheet of CVRD's annual report. We verified that this reserve contained the credits received under Decree 83.263.

We also verified that CVRD did not receive any credits for its pelletizing equipment or for equipment for its mines. Since our investigation deals only with iron ore pellets, we determined that this program does not provide benefits to the production or exportation of iron ore pellets.

Petitioners' Comments

Comment 1. Petitioners argue that the Brazilians' withdrawal from the

suspension agreement constituted a violation of the agreement because neither CVRD nor the Government of Brazil served notice of withdrawal on the petitioners. Further, petitioners submit that the notification of withdrawal was defective, alleging that the Government of Brazil is not authorized to submit the withdrawal on behalf of CVRD. Petitioners also allege that CVRD and the Government of Brazil have failed to file certifications as required by the suspension agreement. Additionally, petitioners allege that the Department should make the suspension of liquidation retroactive to all unliquidated entries of iron ore pellets made on or after December 31, 1985, which is 90 days before publication of the notice of suspension of liquidation on March 31, 1986. Lastly, petitioners assert that the appropriate period of investigation is not calendar year 1984, but 1985, the period immediately preceding termination of the agreement.

DOC Position. The notification of withdrawal from the suspension agreement was made by the Government of Brazil on behalf of CVRD pursuant to section V of the suspension agreement. The notification was a government-to-government act within the context of the agreement. Section V, which requires the Government of Brazil to notify the Department if it alters its position with respect to the agreement, does not require notification of all parties. Additionally, the withdrawal provision of Article IV(2) does not prohibit the Government of Brazil from submitting a withdrawal on CVRD's behalf. Based on the foregoing, we determine that the withdrawal did not constitute a violation of the agreement, but was made in accordance with the provisions of section IV(2).

With respect to the filing of certifications, we determine that both CVRD and the Government of Brazil have substantially complied with the filing requirements set forth in the agreement.

Further, we complied with the terms of section 704(i) by requiring a resumption of the suspension of liquidation on or after the date of publication of the cancellation of the agreement. Applied to these facts, section 704(i) provides for suspension of liquidation of entries made after the date we published notice of the determination that the agreement was no longer in force.

Lastly, we disagree with the petitioner's suggestion that the period of review be changed for purposes of this determination. The petition was filed in December 1984 to cover imports of iron

ore pellets from Brazil occurring in 1984. The ITC made an affirmative preliminary injury determination based on imports during that period and we issued an affirmative preliminary countervailing duty finding for benefits bestowed during the period. Section 704(i) of the Act contemplates that the new investigation which is to be "resume[d]" is the one which was suspended.

Further, petitioners' reliance on *Leather Wearing Apparel from Argentina: Termination of Suspension Agreement and Issuance of Countervailing Duty Order* (48 FR 11480) is misplaced. In that case, the Department issued a final affirmative determination, upon request, covering the original period, while the Department's review of the period immediately preceding the termination of the agreement was an administrative review of the agreement, conducted pursuant to section 751 of the Act.

Comment 2. Petitioners request that the Department, in making its final determination, not take into account any reductions in subsidies due to the implementation of the suspension agreement.

DOC Position. Consistent with section 704(j) of the statute, the Department, in making its final determination, continued the investigation without regard to the effects of the suspension agreement.

Comment 3. Petitioners argue that the Department should find BNDES/FINAME loans to be a subsidy for several reasons. First, BNDES/FINAME loans are granted at below market rates for "normal lending." Second, BNDES runs a specific lending program for the mineral sector with subsidized interest rates. Third, the Court of International Trade (see, *Bethlehem Steel Corp. v. United States*, 590 F. Supp. 1237 (1984)) has rejected the rationale that generally available benefits are not subsidies. Finally, even if the general availability doctrine were applicable, BNDES/FINAME loans are not generally available.

Department's Position. We disagree. We do not consider programs made available to more than a specific enterprise or industry or group of enterprises or industries to be countervailable. Petitioners' reliance on *Bethlehem Steel Corp.* is misplaced since the Court in that case upheld our determination that a generally available tax benefit is not countervailable. The Court's further comments on general availability are dicta and do not affect the Court's earlier approval of our general availability test in *Carlisle Tire*

and Rubber Co. v. United States, 564 F. Supp. 834 (1983).

We found that the minerals sector did not receive a disproportionate share of the BNDES/FINAME financing and that such financing was available to a broad spectrum of the economy. Therefore, these loans are provided to more than a specific enterprise or industry, or group of enterprises or industries. Thus, the interest rate is irrelevant. Finally, we verified that CVRD borrowed no funds through the lending program specifically for the minerals sector.

Comment 4. Petitioners state that the subsidies to the Carajas mine project should be included in our calculations because there is no evidence on the record the Carajas will never produce pellets. Additionally, they argue that it is unclear whether the Carajas subsidies are specifically tied to production from the Carajas project or whether they benefit the company as a whole. Unless these subsidies can be specifically linked to the Carajas project they should be countervailed.

Department's Position. We verified that CVRD does not intend to produce pellets at Carajas. The information supporting this finding is on the record. The Carajas subsidies alleged by petitioners (infrastructure, regional tax benefits) are, by definition, for the Carajas project. Since the programs are for the Carajas project and the Carajas project will not produce pellets, we did not consider these programs. If this factual situation were to change, such change would be addressed in any subsequent reviews under section 751 of the Act.

Comment 5. Petitioners argue that the scope of the investigation should include natural ore as well as pellets. They claim that natural ore was included in the petition since the items listed in the Tariff Schedules of United States Annotated (TSUSA) included the natural ore as did the petitioners' discussion of threat of material injury.

Department's Position. We disagree that the scope of the investigation properly includes natural ore. The TSUSA items listed in the petition are basket items including several products clearly outside the scope of this investigation (e.g., sinter fines, ore mud, chips, etc.). Therefore, the mere fact that a product falls under the TSUSA items listed does not mean that it is included in the scope.

We based the scope of our investigation on the written product description which included processed pellets only. The discussion of natural iron ore in describing the threat of material injury is not sufficient for the Department to include this product

within the scope of the investigation. Further, we note that the petitioners, in a January 27, 1985, letter, agreed with our limiting the scope of the investigation to processed pellets.

Comment 6. Petitioners argue that, even if the scope of the investigation is limited to processed pellets, both TSUSA items 601.2450 and 601.2430 should be included in the scope, since processed pellets are entering the United States under both TSUSA items.

Department's Position. It is the written description, not the TSUSA item, that determines the scope of the investigation. We have emphasized this in our instructions to the Customs Service and have not included any TSUSA items in the scope section of this notice. Therefore, any of the subject merchandise entered, even if entered under the wrong TSUSA item, would be liable for countervailing duties.

Comment 7. Petitioners argue that low-silica pellets for use in electric furnaces should be included in the scope. Low-silica pellets compete directly with the domestically-produced products since U.S. pellet producers could extract silica from their pellets if the price were right. Further, low-silica pellets could be used in blast furnaces, with additional processing. Finally, petitioners argue that the exclusion creates a potential for customs fraud; since low- and high-silica pellets look the same, an importer could declare that the imported product is low-silica even if it is not.

Department's Position. The product description included in the petition covers pellets "for use in blast furnaces." Thus, pellets for use in electric furnaces are implicitly excluded. We have clarified this in our statement of scope. Further, petitioners admit that there is no U.S. producer of low-silica pellets and that such pellets could not be used in a blast furnace without adjustments to the blast furnace. Thus, low-silica pellets should not be included within the scope, since, without further processing, they cannot be used in blast furnaces. Additionally, the two types of pellets have different chemical compositions which serve as legitimate means of separating the two types for Customs purposes.

Comment 8. Petitioners claim that all of CVRD's loans have government guarantees under Decree 6,404, whether there is an explicit loan guarantee or not. This decree states that the government will not allow any mixed-economy company to fail on its financial obligations.

Department's Position. We do not agree that this decree acts as a loan guarantee. Under normal international

commercial practices, the liability of a government for the debts of a mixed-economy company (a company with partial government ownership) is not considered a guarantee. We note that lenders that normally require government guarantees (such as the World Bank and various countries' Ex-Im-like banks) did do in CVRD's case as well. Finally, the obligation the government assumed through Decree 6,404 is not the same as the obligation it would assume in a loan guarantee.

Comment 9. Petitioners claim that the respondents provided an inadequate response on loan guarantees. Therefore, the Department should use the best information available to determine the subsidy from this program. The petitioners provided a sample calculation which used LIBOR plus a spread plus a risk premium to find the appropriate benchmark interest rates for foreign currency-denominated loans. For cruzeiro-denominated loans, petitioners used the rate for 180 days working capital loans as reported in the *Gazeta Mercantil*.

Department's Position. In our questionnaire, we asked only about government loan guarantees on commercial loans. We verified that the respondents accurately reported every commercial loan with a government loan guarantee that was outstanding during the review period. Thus, the respondents did provide an adequate response.

Comment 10. Petitioners claim that the Department failed to investigate an allegation concerning accelerated depreciation for railroads. Additionally, the Department failed to explain why it did not investigate this allegation. Petitioners argue that, since CVRD owns rail lines which are used for transporting pellets, the pellets are subsidized by the accelerated depreciation for rail equipment allowed under Brazilian federal tax law.

Department's Position. The accelerated depreciation for rail lines is similar to the accelerated depreciation for ships, which we have said we would not investigate (see our response to Petitioners' Comment 23). This program is specifically tied to a product (rail lines) other than the product under investigation. To the extent that the accelerated depreciation would create preferential transport prices for the ore transported on the rail lines, we would consider the benefits from the program. However, petitioners provided no information that preferential prices existed. Further, the accelerated depreciation is available to all owners of rail equipment in Brazil and there is

no reason to believe that CVRD's transport prices are any different from those available to other lines. Therefore, there was no basis to investigate this allegation.

Comment 11. Petitioners support the Department's preliminary determination on the I.U.M. tax. Petitioners argue that the I.U.M. is a direct tax because it is assessed on the value of the ore at the time of extraction. Additionally, the I.U.M. exempts mineral firms from paying social security and property taxes on their minerals. Finally, the petitioners argue that, even if the I.U.M. were an indirect tax, it fails to meet the Department's linkage test for an allowable rebate of indirect taxes.

Department's Position. We have reversed our preliminary determination and now find the lower I.U.M. tax upon exports not to be countervailable. We found that this tax was an indirect tax and, furthermore, that payment of the I.U.M. did not exempt the firm from any direct tax liabilities (see the program description in this notice). As to the linkage test, this program is similar to but is not a rebate of indirect taxes. It is a partial exemption of the indirect tax itself. As such, it is automatically linked.

Comment 12. Petitioners argue that the Department's methodology in calculating the income tax exemption for export earnings, i.e., allocating the benefit to the period in which the tax is filed (thus, in effect, lagging a year), is incorrect. They argue that the Department should calculate the value of the benefit by allocating the benefit to exports in the year the benefit was earned (current basis). Petitioners assert that calculation on a current basis is consistent with the policy of the countervailing duty statute, which is to eliminate the distortion of market forces caused by the subsidies, because the current basis countervails precisely the amount of subsidy conferred on any particular export.

They further argue that, with respect to this program in particular, Brazilian tax and accounting practices have changed, thus eliminating the original reasons for using a lagged calculation. In the past, the Department lagged this program because inflation reduced the value of the benefit between the time the benefit was earned and the time it was received. Now, however, the Brazilian government indexes the firm's tax liabilities. Thus, the benefit is no longer affected by inflation. Further, CVRD accrues its tax liability on a current basis in its accounts. Therefore, the company arguably knows its tax liability during the fiscal year, allowing it to account for the benefit in its export prices on a current basis.

Finally, petitioners argue that, in this case, all parties have admitted each shipment receives a specific, verifiable subsidy. By allowing CVRD to renounce the benefit only on shipments of iron ore pellets to the United States in the suspension agreement, the Department has recognized that each shipment "generates a discrete subsidy that is directly tied to that shipment and can be calculated with precision." Therefore, it is appropriate to apply that discrete subsidy to the shipment generating it.

Department's Position. We disagree. For five years it has been the Department's policy to lag income tax benefits. The statute requires us to countervail the actual net subsidy received. Since in an income tax program, the actual subsidy cannot be known until after the tax return is filed, our method appropriately allows us to base our calculation on the actual subsidy. This is consistent with the statute.

Further, although a firm may accrue an income tax liability in its accounts during the fiscal year, this is at best an estimate of the firm's final tax liability. That does not allow the firm to know the extent of any tax exemption. We addressed this issue in the final results of administrative review on float glass from Italy (48 FR 25255, June 6, 1983). At that time we stated:

[w]hether the exemption is partial or complete, the exact benefit for a particular tax year cannot be known until the firm's books have been closed, because it is only then that the firm can determine with finality its taxable income. The Department, therefore, maintains that it must allocate income tax benefits to the year in which the total income is knowable.

To accept argument that benefits should be considered conferred when a firm is able to adjust its cash flow or business efforts with regard to estimated tax liabilities would saddle the Department with the prohibitive burden of determining exactly when each company under review may or should be able to account for potential benefits, and determining when subsequent reconciliations are possible. We doubt the wisdom of attempting such a subjective approach.

Additionally, the Department has not found the tax program in this case to be shipment specific. While eligibility for the exemption is dependent on exports of certain products, the value of the benefit is dependent on the firm's overall profitability (not the profitability of any specific shipment). Thus, no particular shipment generates a discrete, calculable subsidy amount. However, by removing a product from eligibility for the benefit, we remove the effect the subsidy would have on that product. Thus, while it is reasonable to allow CVRD to renounce the eligibility of

shipments of iron ore pellets to the United States, this in no way implies that the benefit is shipment specific.

Comment 13. Petitioners argue that if the Department does continue to lag the benefits from the income tax exemption, it must index that exemption to reflect the true value of the subsidy. Even Brazilian tax law requires that the tax liability be indexed. The Department should do the same.

Department's Position. We agree. Because indexation of tax liabilities is required under Brazilian law, we have indexed the exemption according to that system.

Comment 14. Petitioners argue that the Department used the wrong denominator in its calculation of the income tax benefit. The program is product specific because only those exports containing at least a 50 percent value added over the raw mineral ore are eligible. The petitioners contend that, because the program is product specific, the Department should use exports of only the product under investigation as the denominator.

Department's Position. We agree that we should use exports of only those products eligible for the exemption as our denominator and have done so. However, products other than pellets are eligible for the exemption, so our denominator includes more than just pellet exports.

Comment 15. Petitioners contend that, since the response did not contain the requested reconciliation between financial statements and the claimed taxable profit, the Department should use the best information available to find the profit to which the tax exemptions applied. Petitioners contend that the best information on profit should be the pre-tax profit from the consolidated income statement in the annual report rather than the figure supplied in the response.

Department's Position. In our questionnaire, under this program, we requested the profit figure to which the exemption is applied. Respondents provided that figure and we verified its accuracy. Therefore, there is no reason to use best information in this situation.

Comment 16. Petitioners argue that the Department used an incorrect tax rate in calculating the income tax benefit. There is a 10 percent surcharge on any taxable profit in excess of 60,000 times one ORTN. Thus, the true tax rate for the income exemption is 45 percent, not 35 percent.

Department's Position. As described in the program description section of this notice, we used CVRD's effective corporate income tax rate. Thus, we

considered both the additions to (including the surcharge) and deductions from the base rate to find an effective tax rate.

Comment 17. Petitioners support the Department's preliminary decision not to accept the investment credits as a reduction in the income tax rate. The petitioners state that there are three reasons for not accepting the investment credits: the use of the tax incentives does not reduce the actual benefit of the tax subsidy; the incentives reduce tax owed, not tax rates; and considering it would be impractical administratively.

Department's Position. As stated in our response to Comment 16, we used the surcharges and credits to find the effective tax rate. This includes the investment credits. CVRD has demonstrated that it has earned returns from these investments. Therefore, we have determined that the investment credits should not be considered a part of the firm's corporate income tax liability and have deducted the investment credits in calculating CVRD's effective tax rate.

Concerning the petitioner's argument that the investment credit reduces the tax owed, not the tax rate, this is correct in normal terms. However, an effective tax rate compares the actual tax owed to the total taxable profit to find the percentage paid out in taxes. Finally, it is no more of an administrative burden to consider the investment credits than it is to consider the excess profit surcharge.

Comment 18. Petitioners argue that we should determine that the investment credits allowed on income tax provides a countervailable benefit. They argue that these credits are not generally available because certain industries are exempted from the program.

Department's Position. We disagree. This program has been determined to be available to more than a specific enterprise or industry or group of enterprises or industries in past cases. See our "Final Affirmative Countervailing Duty Determination: Carbon Steel Plate from Brazil" (48 FR 2588, January 20, 1983).

Comment 19. Petitioners contend that the Department should investigate government equity infusions into CVRD. Since the time of the decision not to initiate on equity infusions, the petitioners have submitted two new equity allegations. One concerned government purchases in the secondary market; the other, a decision by the government to reinvest its dividends in the company.

Department's Position. As stated in our notice of initiation, government equity investments are not

countervailable *per se*. There must be a showing that such investments are inconsistent with commercial considerations. There is no evidence to believe that such a situation exists with regard to CVRD whether the government is investing new funds or reinvesting its dividends. Regarding the Brazilian government's purchase of CVRD's shares in the secondary market, any benefit that could possibly arise would accrue to the owners of those shares, not to CVRD.

Comment 20. Petitioners allege that Decree Law No. 1940 expressly exempts exports from payment of FINSOCIAL (one of the social security taxes) and that CVRD receives a countervailable benefit from this. If CVRD did not demonstrate at verification that it refused to take advantage of this export subsidy, then the Department should determine that a subsidy was received through this program.

Department's position. This allegation was submitted only five days before the suspension of investigation and after verification. Therefore, the Department will not consider it for the final determination. If appropriate, it will be considered in any eventual review under section 751 of the Act.

Comment 21. Petitioners state that the import duty exemptions under Decree-Law 1287, found during verification, should be determined to be countervailable. Further, because the exemption reduces the cost to CVRD of capital equipment, the benefit should be treated as a grant from the Brazilian government to CVRD. As such, it should be allocated over the average useful life of equipment. The Department should look at the exemptions received in the last 10 years to countervail the total subsidy under the Department's grant methodology.

Department's Position. We agree that the exemption is countervailable. However, our practice is to allocate the benefits of such exemptions to the year in which the exemptions occur, because of their recurring nature. Therefore, in calculating the subsidy, we have considered only exemptions that occurred during the review period.

Comment 22. Petitioners argue that the Department did not adequately examine the credits against IPI liability program under Decree 83,283. Petitioners argue that this program reduces the cost of capital equipment and should be treated as a grant. As such, it is not sufficient for the Department to verify that this program was not used during the review period. The Department should have verified whether it was used anytime in the last 10 years.

Department's Position. We disagree. As with the duty exemptions discussed in Comment 21, we would not allocate benefits from this program over time. Therefore, it is appropriate to consider only benefits received during the review period.

Comment 23. Petitioners argue that the Department should have investigated their allegation that CVRD's exports of iron ore pellets benefit from a program allowing accelerated depreciation for vessels constructed in Brazil. They argue that CVRD wholly owns DOCENAVE, a shipping firm, and therefore receives benefit from DOCENAVE's accelerated depreciation which constitutes a countervailable subsidy.

DOC Position. We disagree. This program is specifically tied to a product other than the product under investigation. CVRD and DOCENAVE file separate tax returns and we verified that CVRD did not claim any accelerated depreciation under this program. DOCENAVE, *per se*, is not subject to this investigation. To the extent that the accelerated depreciation would create preferential transport prices for the ore transported in DOCENAVE's ship, we would consider this. However, petitioners neither provided any information that preferential prices existed nor alleged that they existed. Further, the accelerated depreciation is available to all owners of Brazilian made ships. Thus, there is no reason to believe that DOCENAVE charges different freight rates to CVRD than to other firms or that it charges different freight rates than other shipping firms do. Therefore, there was no reason to investigate this program.

Respondents' Comments

Comment 1. The Government of Brazil and CVRD ("the respondents") argue that the Department incorrectly determined that I.U.M. tax to be countervailable in the preliminary determination. They argue that the I.U.M. tax is an indirect tax and that the payment of the I.U.M. does not exempt a firm from any of its direct tax obligations. Therefore, any non-excessive rebate does not constitute a countervailable subsidy.

DOC Position. We verified that the I.U.M. is an indirect tax paid at the time of transfer of the product. Further, we verified that payment of the I.U.M. did not exempt CVRD from any of its direct tax liabilities. Since, under both U.S. law and the General Agreement on Tariffs and Trade, a government may rebate or exempt firms from paying indirect taxes

borne by exported products, we agree with respondents' argument that the lower tax rate the company pays on its exports does not confer a countervailable subsidy.

Comment 2. Respondents argue that the Department overstated the benefit from the income tax exemption for export earnings. Brazilian federal tax laws permit corporations to invest 26 percent of taxes owed in certain specified corporations. The Brazilian government claims that this provision results in an effective reduction of the corporate income tax rate, which directly diminishes the benefit from the income tax exemption. Additionally, respondents have shown during verification that CVRD received dividends from these investments.

DOC Position. We agree. We verified that Brazilian federal tax laws permit corporations to invest 26 percent of their taxes owed in certain specified corporations. We also verified that CVRD did use the amount allowed to invest in certain programs. Further, we verified that CVRD has received dividends from these investments. Therefore, in computing the income tax exemption, we have calculated CVRD's effective tax rate, taking into account the 35 percent base tax rate, the 10 percent surcharge, the 26 percent of taxes eligible for investment and all other deductions and surcharges claimed by CVRD. See also our response to petitioner's comment 16.

Comment 3. Respondents claim that benefits derived from income tax exemption for export earnings should be allocated over total revenue rather than export revenue. Under this program, a Brazilian exporter receives an exemption from income tax liabilities at the end of the fiscal year based upon a ratio of export revenue to total revenue, provided that the firm has made an overall profit. The respondents argue that, because the determining factor in a firm's eligibility for this benefit is its overall profitability for a given year, the benefit accrues to the operations of the whole firm and not just to exports. Thus, by allocating the benefits only to export revenue, the Department overstates the value of the subsidy.

DOC Position. We disagree. When a firm must export to be eligible for benefits under a subsidy program, and when the amount of the benefit received is tied directly or indirectly to the firm's level of exports, that program confers an export subsidy. The fact that the firm as a whole must be profitable to benefit from the program does not detract from the program's basic function as an export subsidy. Therefore, the Department will continue to allocate the

benefits under this program over export revenues instead of total revenues.

Comment 4. Respondents argue that indexation of the income tax exemption would overstate the amount of the subsidy. Because indexation does not occur until the year in which tax is paid, it has no effect on the amount of tax liability or on the values of any of the amounts used to calculate the exemption.

DOC Position. We disagree. The Department has maintained that it must allocate tax benefits to the year in which the total income and tax liability are known. Therefore, the benefits of the income tax exemption are allocated to the year in which the taxes are paid. Brazilian law requires that the tax liability be fully indexed through ORTN, and we have used the indexed figure in calculating the benefits.

Comment 5. Respondents support the Department's decision to calculate the benefits from the income tax exemption for export earnings based on the year in which the tax return is filed. They argue that any benefits from the program are received when the tax savings occur, which happens with the filing of the tax return. Further, the Department's methodology is consistent with past practice. Finally, they refute the petitioners' contention that CVRD knows its tax liability during the fiscal year, prior to filing the tax return, because even if CVRD keeps a running estimate during the fiscal year, it cannot anticipate all the factors that might affect its overall profitability. For example, the 1979 and 1983 maxi-devaluations seriously reduced most firms' profits in those years.

DOC Position. We agree. See our response to Petitioners' Comment 12.

Comment 6. Respondents argue that the income tax exemption for export earnings does not provide a shipment specific benefit. They state that the exemption is tied to the total operations of the company. Further, they state that, contrary to petitioners' assertions, they never argued that the program was shipment specific, but merely that removal of those exports from the products included in export earnings would eliminate the effect of the benefit on exports to the United States.

DOC Position. We agree. See our response to Petitioners' Comment 12.

Comment 7. Respondents argue that the 7.5 percent I.U.M. charged on exports should be considered an allowable offset for the income tax exemptions. The law allows the Department to deduct "any application fee, deposit, or similar payment paid in order to qualify for, or to receive, the

benefit of the subsidy" (19 U.S.C. 1677(6)(a)). Since the firm must pay the 7.5 percent I.U.M. tax on all iron ore product exports and must export to qualify for the income tax exemption, the I.U.M. tax should be considered a "similar payment" as discussed above.

DOC Position. We disagree. The I.U.M. is an indirect tax, payable on both domestic and export sales. Just because the rate for export sales is different from the rate for domestic sales does not qualify the I.U.M. tax charged on exports as something different from the I.U.M. tax charged on domestic sales:

Comment 8. Respondents argue that Decree-Law 6,404 has no impact on a mixed-economy company's ability to borrow and does not act as a government loan guarantee. Under Brazilian law, a commercial guarantee creates joint and several liability. The government's obligation under D.L. 6,404 to creditors of mixed-economy companies is not one of joint or several liability since recourse to the government may only occur after the attachment and sale of all the company's available assets. Further, under international commercial practice the liability of a government for the debts of a mixed-company is not treated as a commercial guarantee.

DOC Position. We agree; see our response to Petitioners' Comment 8.

Comment 9. Respondents support the Department's preliminary determination not to consider subsidies to the Carajas mine project because Carajas is not, and will not be, producing iron ore pellets. It was demonstrated during verification that Carajas has no intention of producing pellets for the following reasons: the iron content is insufficient to allow the natural lumpy ore to be sold for use in blast furnaces; pelletizing the ore would be uneconomical; and, building pelletizing facilities would violate CVRD's loan commitments to the World Bank.

DOC Position. We agree. Since the Carajas subsidies are for the Carajas project only, as alleged by the petitioner, and since we verified that CVRD does not intend to produce pellets at Carajas, we did not consider these programs.

Comment 10. Respondents support the Department's definition of the scope of the investigation. The definition is consistent with the product description in the petition. Further, the product description need not be defined in reference to a specific tariff classification. Finally, they argue that the ITC's preliminary injury determination covered only processed iron ore pellets. Therefore, there is no

preliminary injury determination on natural ore and the Department does not have the authority to make a determination on a product without a preliminary injury determination existing on that product.

DOC Position. See our response to Petitioners' Comment 5.

Comment 11. Respondents argue that, in calculating the subsidy from the income tax exemption, the Department should calculate the tax liability as if CVRD had taken all deductions allowed under the Brazilian tax code. This should be compared to their actual liability to find the subsidy.

DOC Position. Respondents themselves have submitted that "the most practical way of calculating the benefit of a tax subsidy is to measure the difference between tax paid and tax otherwise payable but for the exemption." We have done just that. We do not take into account all deductions allowed under the Brazilian Tax Code if these deductions have not been taken during the review period.

Comment 12. Georgetown Industries, a party to the proceeding, supports the Department's exclusion of low-silica pellets for use in electric furnaces from the scope of this investigation. Low-silica pellets have a different chemical composition and different end use from the pellets covered by the investigation. Additionally, petitioners have submitted that there is no domestic production of this product and that to use the imported low-silica pellets in a blast furnace would require adjustments to the furnace. For these reasons, Georgetown Industries argues that low-silica pellets should not be included in the scope.

DOC Position. We agree. See our response to Petitioners' Comment 7.

Final Negative Determination of Critical Circumstances

Petitioners allege that critical circumstances exist within the meaning of section 703(e)(1) of the Act, with respect to iron ore pellets from Brazil. In determining whether critical circumstances exist, we examine whether there is a reasonable basis to believe or suspect that:

- (a) the alleged subsidy is inconsistent with the Agreement; and
- (b) there have been massive imports of the subject merchandise over a relatively short period.

In this case, information on the record does not indicate that imports of the merchandise under investigation were massive over a relatively short period within the meaning of section 703(e)(1) of the Tariff Act of 1930. Therefore, we determine that critical circumstances do

not exist with respect to iron ore pellets from Brazil.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determination. During this verification, we followed normal procedures, including meetings and inspection of documents with government officials, and inspection of the records of the company exporting the merchandise under investigation to the United States.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all unliquidated entries of iron ore pellets from Brazil entered, or withdrawn from warehouse, for consumption, on or after March 31, 1986. As of the date of publication of this notice in the Federal Register, the Customs Service should require a cash deposit or bond of 7.94 percent *ad valorem* for each such entry of this merchandise. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 705(c) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non privileged and non confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure or threaten material injury to a U.S. industry 45 days after the date of publication of this notice. If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that injury exists, we will issue a countervailing duty order, directing Customs officers to assess a countervailing duty on iron ore pellets from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of the suspension of liquidation as indicated in the "Suspension of Liquidation" section of this notice, in accordance with sections 701(a)(1) and 751 of the Act.

This notice is published pursuant to section 705(d) of the Act [19 U.S.C. 1671d(d)].

Paul Freedenberg,

Assistant Secretary for Trade Administration.

June 10, 1986.

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APPENDIX B

LIST OF WITNESSES APPEARING AT THE COMMISSION'S HEARING

TENTATIVE CALENDAR OF PUBLIC HEARING

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

Subject : Iron Ore Pellets from Brazil

Inv. No. : 701-TA-235 (Final)

Date and time: June 19, 1986 - 10:00 a.m.

Sessions were held in connection with the investigation in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

Congressional appearances:

Honorable James L. Oberstar, United States Representative,
State of Minnesota

Honorable Robert W. Davis, United States Representative,
State of Michigan

In support of the imposition of countervailing duties:

Jones, Day, Reavis & Pogue--Counsel
Washington, D.C.
on behalf of

The Cleveland-Cliffs Iron Company, Cleveland, Ohio;
Oglebay Norton Company, Cleveland, Ohio;
Pickands Mather & Company, Cleveland, Ohio; and
United Steelworkers of America, AFL-CIO, Pittsburgh,
Pennsylvania

George N. Chandler, II, Vice President, Coal & Ore
Sales, Pickands Mather & Co.

John L. Selis, Vice President, Oglebay Norton
Company

Eldon Kirsch, Minnesota District Director,
United Steelworkers of America, AFL-CIO

Mark W. Love, Vice President, Economic Consulting
Services, Inc.

Carl B. Frankel, Esq., United Steelworkers of
America, AFL-CIO

Frank S. Forysthe, Executive Vice President,
The Cleveland-Cliffs Iron Co.

Thomas F. Cullen, Jr.--OF COUNSEL

- more -

In opposition to the imposition of countervailing duties:

Briger & Associates--Counsel

New York, N.Y.

Porter, Wright, Morris & Arthur--Counsel

Washington, D.C.

on behalf of

Companhia Vale do Rio Doce

Eliezer Batista da Silva, Chairman, Rio Doce
International

Bernado Szpiegel, Commercial Director, Companhia Vale
do Rio Doce

David L. Waring, Commercial Director, Companhia
Vale do Rio Doce

Peter F. Marcus, Paine Webber, Inc.

Paul W. Marshall, Marshall Bartlett, Inc.

Briger & Associates

Peter L. Briger)
Andrew W. Sheldrick }--OF COUNSEL

Porter, Wright, Morris & Arthur

Susan G. Braden--OF COUNSEL

APPENDIX C

U.S. IRON ORE PELLET OPERATIONS

Table C.--U.S. iron ore pellet operations: Location, capacity in 1985, ^{1/} recent shutdowns, operators, and owners and their shares of ownership

Plant, location, and start-up	: 1985 : capacity :	: Shutdowns	: Operator	: Owner and : share of : ownership : 2/
	: <u>Million</u> :			
	: <u>long</u> :			
	: <u>tons</u> :			
Atlantic City Operation, Lander, WY (1962)	: 1.6 :	: Permanently shut down, : December 1983	: U.S. : Steel	: U.S. : Steel : (100)
Butler Taconite Project, Nash- wauk, MN (1966)	: 2.7 :	: Temporary shutdowns: : 1983: Jan.-Apr. : Oct.-Dec. : 1984-85: Nov.-Mar. : Permanently shut down: : June 1985	: Hanna : : : :	: Hanna : (37.5) : Inland : (38) : Wheeling : Pitts- : burgh : (24.5)
Empire Iron Mining Partnership, Ishpeming, MI (1963; expansions in 1966, 1975, and 1980)	: 8.0 :	: No shutdowns	: Cleve- : land- : Cliffs	: Cleveland : Cliffs : (5.1) : Inland : (40) : LTV : (35) <u>3/</u> : McLouth : (9.95) : Wheeling- : Pitts- : burgh : (9.95)
Erie Mining Co., Hoyt Lakes, MN (1957)	: 8.0 :	: Temporary shutdowns: : 1983: Jan.-Apr. : Oct.-Dec. : 1984: Jan. : 1984-85: Dec.-Mar.	: Pickands : Mather : : :	: Bethlehem : (45) <u>4/</u> : Interlake : (10) <u>4/</u> : LTV : (35) <u>4/</u> : Stelco <u>5/</u> : (10) <u>4/</u>

See footnotes at end of table.

Table C.--U.S. iron ore pellet operations: Location, capacity in 1985, ^{1/} recent shutdowns, operators, and owners and their shares of ownership--
Continued

Plant, location, and start-up	: 1985 : capacity	: : Shutdowns	: Operator	: Owner and : share of : ownership : 2/
	: <u>Million</u>			
	: <u>long</u>			
	: <u>tons</u>			
Eveleth Expansion	: 3.6	: Temporary shutdown:	: Oglebay	: Oglebay
Co., Eveleth, MN		: 1983: Aug.-Oct.	: Norton	: Norton
(1976)		: 1985: June-Oct.		: (20.5)
				: Stelco
				: (23.5)
				: Armco
				: (56)
Eveleth Taconite	: 2.3	: Temporary shutdowns:	: Oglebay	: Oglebay
Co., Eveleth, MN		: 1983: Aug.-Oct.	: Norton	: Norton
(1964)		: 1985: June-Oct.		: (15)
				: Rouge
				: Steel
				: (85)
Groveland Mine,	: 2.0	: Permanently shut down:	: Hanna	: Hanna
Iron Mountain,		: Dec. 1982		: (100)
MI				
(1963)				
Hibbing Taconite	: 8.1	: Temporary shutdowns:	: Pickands	: Bethlehem
Co., Hibbing, MN		: 1983: Jan.-Apr.	: Mather	: (62.3) <u>6/</u>
(1976)		: Oct.-Dec.		: LTV
		: 1984: Jan.-Feb.		: (16) <u>6/</u>
		: 1984-85: Nov.-Mar.		: Pickands
				: Mather
				: (15) <u>6/</u>
				: Stelco
				: (6.7) <u>6/</u>
Jackson County	: 0.9	: Permanently shut down:	: Inland	: Inland
Iron Co., Black		: April 1982	: Steel	: Steel
River Falls, WI				: (100)
(1968)				

See footnotes at end of table.

Table C.--U.S. iron ore pellet operations: Location, capacity in 1985, 1/
recent shutdowns, operators, and owners and their shares of ownership--
Continued

Plant, location, and start-up	1985 capacity	Shutdowns	Operator	Owner and share of ownership 2/
	<u>Million</u>			
	<u>long</u>			
	<u>tons</u>			
Minntac, Mountain Iron, MN: (1967)	18.5	Temporary shutdowns: 1983: Jan., Sept. 1984-85: Nov.-Jan. 1985: June-Aug. 1985-86: Dec.-Jan.	U.S. Steel	U.S. Steel (100)
Minorca Mine, Virginia, MN (1978)	2.6	Temporary shutdowns: 1983: Aug.-Oct. Dec. 1984: Jan.-Feb. Jul.-Aug. 1984-85: Nov.-Feb. 1985: June-Aug. 1986: Jan.-Mar.	Inland Steel	Inland Steel (100)
National Steel Pellet Plant, Keewatin, MN (1967)	4.0	Temporary shutdown: 1983: Jan.-Mar.	Hanna	National Steel Corp. (100)
Pea Ridge Mine, Sullivan, MO (1964)	1.7	Intermittent shutdown: 1983: Jan.-Feb. Temporary shutdown: 1985: May	Pea Ridge Iron Ore	St. Joe Minerals (100)
Republic Mine, Marquette Iron Mining Partner- ship, Ishpeming, MI (1956) <u>7/</u>	2.7	Temporary shut down: Oct. 1981 to present	Cleve- land- Cliffs	Cleve- land- Cliffs (100)
Reserve Mine, Silver Bay, MN (1955)	8.4	Temporary shutdowns: 1983: Apr.-Dec. 1985: Jul.	Reserve Mining <u>8/</u>	Armco (50) LTV (50)

See footnotes at end of table.

Table C.--U.S. iron ore pellet operations: Location, capacity in 1985, 1/
recent shutdowns, operators, and owners and their shares of ownership--
Continued

Plant, location, and start-up	1985 capacity	Shutdowns	Operator	Owner and share of ownership
	<u>Million</u>			2/
	<u>long</u>			
	<u>tons</u>			
Tilden Mining Co., Ishpeming, MI (1974)	8.0	Temporary shutdowns: 1983: Sept. 1984: Aug., Nov. 1985: Aug.	Cleve- land- Cliffs	Algoma (30) 9/ Cleveland Cliffs (39) LTV (12) Sharon (5) Stelco (10) Wheeling Pitts- burgh (4)

1/ The capacity shown for pellet operations that have shut down is the fully operational capacity prior to closure.

2/ Percentages of ownership are shown in parentheses.

3/ Representing the combined ownership of Jones & Laughlin Steel Corp. and Republic Steel since June 1984.

4/ In May 1986, LTV acquired 100 percent ownership of Erie Mining Co. as a result of equity interest exchanges with Bethlehem, Stelco, and Interlake.

5/ Stelco is the Steel Company of Canada, a major Canadian integrated steel producer.

6/ In May 1986, LTV gave up its equity share in Hibbing Taconite. The new equity shares for this operation are as follows: Bethlehem, 70.3 percent; Pickands Mather, 15 percent; and Stelco, 14.7 percent.

7/ Pelletizing of iron ore at this mine site began in 1956; the current partnership organization was formed in 1962.

8/ Pickands Mather took over as operator of Reserve Mine as of April 1, 1986.

9/ Algoma Steel Corp. is a Canadian integrated steel producer.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

APPENDIX D

U.S. PELLET PLANT EQUITY OWNERS AND OPERATORS:
THEIR ROLES IN PELLET PLANT OPERATIONS IN THE UNITED STATES,
CANADA, AND OTHER COUNTRIES

Table D.--U.S. pellet plant equity owners and operators: Their roles in pellet plant operations in the United States, Canada, and other countries

Firm	Role in U.S. pellet operations <u>1/</u>	Role in Canadian pellet operations <u>2/</u>	Role in pellet operations in countries other than the United States and Canada
Algoma Steel Corp. Sault Ste. Marie, Ontario, Canada	Equity owner--Tilden Mine (30)	None <u>3/</u>	N/A <u>4/</u>
Armco, Inc. Middletown, OH	Equity owner--Reserve Mining Co. (50) Equity owner--Eveleth Expansion (56)	None	None
Bethlehem Steel Bethlehem, PA	Equity owner--Erie Mining Co. (45) <u>5/</u> Equity owner--Hibbing Taconite (62.3) <u>5/</u>	Equity owner--IOC (20.26) (24.6) <u>5/</u>	None <u>6/</u>
Cleveland-Cliffs Iron Co. Cleveland, OH	Equity owner/operator--Tilden Mine (39) Equity owner/operator--Empire Mine (5.1) Equity owner/operator--Republic Mine (100) <u>8/</u>	Equity owner/operator--Sherman Mine (10) Operator--Adams Mine	Equity owner--Cliffs Robe River Iron Association, Australia (***) <u>7/</u>
Inland Steel Co. Chicago, IL	Equity owner/operator--Minorca Mine (100) Equity owner/operator--Jackson Co. Iron Co. (100) <u>9/</u> Equity owner--Butler Taconite Project (38) Equity owner--Empire Mine (40)	Equity owner--Wabush Mine (10.2)	None
Interlake Steel Co. Oak Brook, IL	Equity owner--Erie Mining Co. (10) <u>10/</u>	Equity owner--Wabush Mine (10.2)	None
LTV Steel Co. Cleveland, OH	Equity owner--Tilden Mine (12) Equity owner--Erie Mining Co. (35) <u>11/</u> Equity owner--Hibbing Taconite (16) <u>11/</u> Equity owner--Reserve Mining Co. (50) Equity owner--Empire Mine (35)	Equity owner--IOC (12.58) (15.4) <u>11/</u> Equity owner--Wabush Mine (15.6)	None

See footnotes at end of table.

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Table D.--U.S. pellet plant equity owners and operators: Their roles in pellet plant operations in the United States, Canada, and other countries--Continued

Firm	Role in U.S. pellet operations <u>1/</u>	Role in Canadian pellet operations <u>2/</u>	Role in pellet operations in countries other than the United States and Canada
M. A. Hanna Co. Cleveland, OH	Equity owner/operator--Butler Taconite (37.5) Equity owner/operator--Groveland Mine (100) <u>14/</u> Operator--National Steel Pellet Plant	Equity owner/operator--IOC <u>12/</u> (26.77) (23.0)	None <u>13/</u>
McLouth Steel Products Corp. Trenton, MI	Equity owner--Empire Mine (9.95)	None	None
National Steel Co. Pittsburgh, PA	Equity owner--National Steel Pellet Plant (100)	Equity owner--IOC (18.99) (23.0)	None
Oglebay Norton Co. Cleveland, OH	Equity owner/operator--Eveleth Taconite Co. (15) Equity owner/operator--Eveleth Expansion Co. (20.5)	None	None
Pickands Mather & Co. <u>15/</u> Cleveland, OH	Equity owner/operator--Hibbing Taconite (15) Operator--Erie Mining Co.	Equity owner/operator--Wabush Mines (5.2) Operator--Griffith Mine <u>16/</u>	Equity owner--Savage River Mines, Australia (***)
Reserve Mining Co. Silver Bay, MN	Operator--Reserve Mine <u>15/</u>	None	None
Rouge Steel Co. Dearborn, MI	Equity owner--Eveleth Taconite (85)	None	None
Sharon Steel Corp. Sharon, PA	Equity owner--Tilden Mine (5)	None	None
St. Joe Minerals Corp. Clayton, MO	Equity owner/operator--Pea Ridge Mine (100)	None	None
Steel Company of Canada (Stelco) Toronto, Canada	Equity owner--Erie Mining Co. (10) <u>17/</u> Equity owner--Eveleth Expansion (23.5) Equity owner--Hibbing Taconite (6.7) <u>17/</u> Equity owner--Tilden Mine (10)	Equity owner--Griffith Mine <u>16/</u> (100) Equity owner--Wabush Mine (25.6)	N/A <u>4/</u>

See footnotes at end of table.

Table D.--U.S. pellet plant equity owners and operators: Their roles in pellet plant operations in the United States, Canada, and other countries--Continued

Firm	Role in U.S. pellet operations ^{1/}	Role in Canadian pellet operations ^{2/}	Role in pellet operations in countries other than the United States and Canada
U.S. Steel Corp. Pittsburgh, PA	Equity owner/operator--Minntac Mine (100) Equity owner/operator--Atlantic City Operation (100) ^{18/}	Owner of Quebec Cartier Mining Co. (QCM) (100); QCM is equity owner/operator of Sidbec-Normines (8.23) ^{19/}	None
Wheeling-Pittsburgh Steel Corp. Pittsburgh, PA	Equity owner--Butler Taconite (24.5) Equity owner--Empire Mine (9.95) Equity owner--Tilden Mine (4)	Equity owner--IOC (4.86) (6.1) Equity owner--Wabush Mine (10.2)	None

^{1/} Percentages of ownership are shown in parentheses.

^{2/} Percentages of ownership are shown in the first set of parentheses; share of production appears in the second set.

^{3/} Algoma owns the MacLeod Mine in Canada, from which only sinter is produced.

^{4/} Not available.

^{5/} In May 1986, Bethlehem gave its interest in Erie Mining Co. to LTV Steel, and in turn acquired additional interest in the Hibbing Taconite Co. (bringing its equity share to 70.3 percent) and in IOC (bringing its equity share to 32.84 percent).

^{6/} * * *

^{7/} Pellet plant mothballed in 1980.

^{8/} Mine and pellet plant temporarily closed since 1981.

^{9/} Facility shut down in April 1982.

^{10/} In May 1986, Interlake exchanged its 10 percent in Erie Mining Co. with LTV Steel in return for certain raw material purchase and sales contract agreements.

^{11/} In May 1986, LTV acquired 100 percent ownership of Erie Mining Co. as a result of exchanges with Bethlehem, Interlake, and Stelco. LTV gave to Bethlehem its interest in IOC and one-half its equity interest in the Hibbing Taconite Mine. LTV received a 10 percent interest in a Stelco subsidiary; in exchange, Stelco received the other half of LTV's interest in Hibbing Taconite. LTV gave Interlake raw material purchase and sales contract agreements in exchange for Interlake's 10 percent share of Erie Mining Co.

^{12/} Hanna also used to manage IOC's pellet plant at Sept Iles, Quebec, which closed in 1981.

^{13/} * * *

^{14/} Facility shut down in December 1982.

^{15/} Pickands Mather took over as the operator of the Reserve Mine on April 1, 1986.

^{16/} The Griffith Mine operation was permanently closed on March 31, 1986.

^{17/} In May 1986, Stelco exchanged its 10 percent interest in the Erie Mining Co. with LTV Steel, and in turn acquired additional interest in Hibbing Taconite, bringing its equity share to 14.7 percent. Stelco also gave LTV a 10 percent interest in a Stelco subsidiary.

^{18/} Facility shut down in December 1983.

^{19/} Mine closed in December 1984. Pellet plant is still operating, pelletizing ore from QCM's Mt. Wright Mine.

Source: Compiled from information submitted in response to questionnaires of the U.S. International Trade Commission; from Canadian Iron Ore Industry Statistics 1984; and from industry sources.

APPENDIX E

CANADIAN IRON ORE PELLET OPERATIONS

Table E.--Canadian iron ore pellet operations: Location, start-up dates, 1985 capacity, operators, and owners and their shares of ownership

Plant, location, and start-up	1985 capacity	Operator	Owner and share of ownership <u>1/</u>
	<u>Million</u>		
	<u>long</u>		
	<u>tons</u>		
Adams Mine Kirkland Lake, Ontario (1964)	1.1	Cleveland- Cliffs	Dofasco (100)
Griffith Mine <u>2/</u> Red Lake, Ontario (1968)	1.5	Pickands Mather	Stelco (100)
Iron Ore Co. of Canada (IOC)			
Carol Lake Labrador City, Newfoundland (1962)	10.2	Hanna	Dofasco (6.07) (7.7) Bethlehem (20.26) (24.6) Hanna (26.77) (23.0) LTV (12.58) (15.4) <u>3/</u> National (18.99) (23.0) Wheeling-Pittsburgh (4.86) (6.1) Hollmin Resources Ltd. (7.15) (0) Labrador Mining and Exploration (3.32) (0)
Knob Lake <u>4/</u> Sept Iles, Quebec (1973)	6.0	Hanna	Same as for Carol Lake
Sherman Mine Temagami, Ontario (1968)	1.1	Cleveland- Cliffs	Dofasco (90) Tetapago (10) <u>5/</u>

See footnotes at end of table.

Table E.--Canadian iron ore pellet operations: Location, start-up dates, 1985 capacity, operators, and owners and their shares of ownership--
Continued

Plant, location, and start-up	1985 capacity	Operator	Owner and share of ownership <u>1/</u>
	<u>Million</u> <u>long</u> <u>tons</u>		
Sidbec-Normines <u>6/</u> Port Cartier, Quebec (1976; expansion in 1986)	6.0 <u>7/</u>	Quebec Cartier	British Steel Corp. (41.67) Quebec Cartier Mining Co. (8.23) <u>8/</u> Sidbec (50.10)
Wabush Mines Ltd. Pointe Noire, Quebec (1966)	6.0	Pickands Mather	Dofasco (16.4) Finsider (6.6) Inland (10.2) Interlake (10.2) LTV (15.6) Pickands Mather (5.2) Stelco (25.6) Wheeling-Pittsburgh (10.2)

1/ The first set of numbers in parentheses indicates equity share; if there is a second set, that indicates the share of production allotted to the equity owner.

2/ The Griffith Mine closed permanently in March 1986.

3/ In May 1986, LTV's ownership interest in IOC was transferred to Bethlehem, giving Bethlehem an equity share of 32.84 percent and a production share of 40.0 percent.

4/ The pellet plant at Sept Iles has been inoperative since 1981.

5/ Wholly-owned subsidiary of Cleveland-Cliffs.

6/ Sidbec-Normines Mine at Fire Lake, Quebec, was closed in 1984. Starting in January 1985, the pellet plant at Port Cartier was leased under a 15-year contract to Quebec Cartier Mining Co. to pelletize Mt. Wright iron production. * * *.

7/ Pellet plant capacity was increased to 7.0 million long tons in 1986.

8/ Wholly-owned subsidiary of U.S. Steel Corp.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; Canadian Iron Ore Industry Statistics 1984; and from Energy, Mines and Resources Canada.

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