

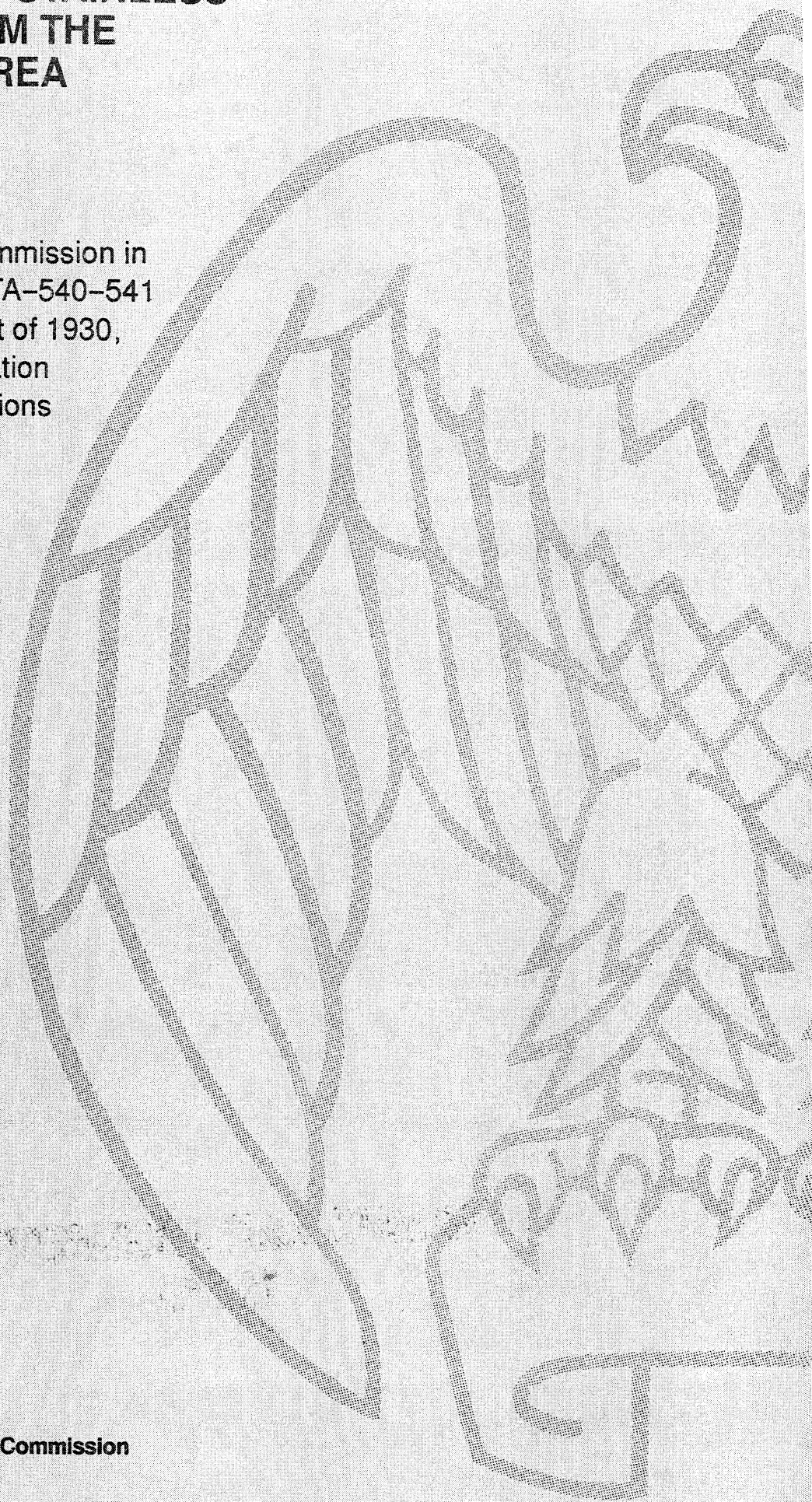
CERTAIN WELDED STAINLESS STEEL PIPES FROM THE REPUBLIC OF KOREA AND TAIWAN

Determinations of the Commission in
Investigations Nos. 731-TA-540-541
(Final) Under the Tariff Act of 1930,
Together With the Information
Obtained in the Investigations

USITC PUBLICATION 2585

December 1992

**United States International Trade Commission
Washington, DC 20436**



UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONERS

Don E. Newquist, Chairman

Peter S. Watson, Vice Chairman

David B. Rohr

Anne E. Brunsdale

Carol T. Crawford

Janet A. Nuzum

Robert A. Rogowsky,
Director of Operations

Staff assigned:

Olympia DeRosa Hand, Investigator

Nancy Fulcher, Commodity-Industry Analyst

Michael Anderson, Economist

Jim Stewart, Accountant

Anjali Singh, Attorney

George Deyman, Supervisory Investigator

**Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436**

CONTENTS

	<u>Page</u>
Determination.....	3
Views of the Commission.....	5
Dissenting views of Commissioners Brunsdale and Crawford.....	29
Information obtained in the investigations.....	I-1
Introduction.....	I-3
Background.....	I-3
Previous Commission antidumping and countervailing duty investigations concerning welded stainless steel pipes.....	I-4
Nature and extent of sales at LTFV.....	I-4
The product.....	I-5
Description.....	I-5
Manufacturing processes.....	I-8
Uses.....	I-10
Substitute products.....	I-10
U.S. tariff treatment.....	I-11
U.S. producers.....	I-11
U.S. importers.....	I-13
Channels of distribution.....	I-13
Consideration of alleged material injury to an industry in the United States.....	I-14
U.S. producers' capacity, production, and capacity utilization....	I-14
U.S. producers' shipments.....	I-14
U.S. producers' inventories.....	I-14
U.S. employment, compensation, and productivity.....	I-18
Financial experience of U.S. producers.....	I-19
Operations on A-312 pipes.....	I-19
Operations on all pipes and tubes.....	I-22
Capital expenditures.....	I-22
Investment in productive facilities.....	I-24
Research and development expenses.....	I-24
Impact of imports on capital and investment.....	I-24
Consideration of the question of threat of material injury.....	I-25
U.S. importers' inventories.....	I-27
Ability of foreign producers to generate exports and the availa- bility of export markets other than the United States.....	I-27
Korea.....	I-27
Taiwan.....	I-27
Dumping in third countries.....	I-29
Operation of the voluntary restraint arrangement with respect to Korea.....	I-29
Unilateral agreement with respect to Taiwan.....	I-31
Consideration of the causal relationship between imports of the subject merchandise and alleged material injury.....	I-31
U.S. imports.....	I-31
Apparent consumption and market penetration of LTFV imports.....	I-33
Prices.....	I-36
Market characteristics.....	I-36
Questionnaire price data.....	I-37
U.S. producers' and importers' prices.....	I-38
Korean pipes.....	I-38
Taiwanese pipes.....	I-41

CONTENTS

	<u>Page</u>
Information obtained in the investigations--Continued	
Consideration of the causal relationship between imports of the subject merchandise and alleged material injury--Continued	
Prices--Continued	
Questionnaire price data--Continued	
Purchaser price data.....	I-42
Korean pipes.....	I-42
Taiwanese pipes.....	I-45
Exchange rates.....	I-46
Lost sales and lost revenues.....	I-46
Appendix A. <u>Federal Register</u> notices.....	A-1
Appendix B. List of witnesses.....	B-1
Appendix C. Summary of data collected by the Commission.....	C-1
Appendix D. Comments received from producers on the impact of imports of welded A-312 pipes from the Republic of Korea and Taiwan on their growth, investment, ability to raise capital, and development and production efforts.....	D-1
Appendix E. Data on the industry in Taiwan.....	E-1
Appendix F. Import data on Sweden.....	F-1

Tables

1. Pipes and tubes: Producers' product lines, shares of reported 1991 production of pipes and tubes and A-312 pipes, plant locations, and position on the petition, by firms.....	I-12
2. Pipes and tubes: U.S. capacity, production, and capacity util- ization, by products, 1989-91, January-June 1991, and January- June 1992.....	I-15
3. Pipes and tubes: Shipments by U.S. producers, by products and by types, 1989-91, January-June 1991, and January-June 1992.....	I-16
4. Pipes and tubes: End-of-period inventories of U.S. producers, by products, 1989-91, January-June 1991, and January-June 1992.....	I-17
5. Average number of U.S. production and related workers producing pipes and tubes, hours worked, total compensation paid to such employees, and hourly total compensation, productivity, and unit labor costs, by products, 1989-91, January-June 1991, and January-June 1992.....	I-18
6. Income-and-loss experience of U.S. producers on their A-312 pipe operations, accounting years 1989-91, January-June 1991, and January-June 1992.....	I-20
7. Income-and-loss experience of U.S. producers on their A-312 pipe operations, by firms, accounting years 1989-91, January-June 1991, and January-June 1992.....	I-21
8. Income-and-loss experience (on a per-ton basis) of the U.S. producers on their A-312 pipe operations, accounting years 1989-91, January- June 1991, and January-June 1992.....	I-22
9. Income-and-loss experience of the U.S. producers on their operations producing all pipes and tubes, accounting years 1989-91, January- June 1991, and January-June 1992.....	I-23
10. Income-and-loss experience of U.S. producers on their pipe and tube operations, by firms, accounting years 1989-91, January-June 1991, and January-June 1992.....	I-24

CONTENTS

Tables--Continued

	<u>Page</u>
11. Pipes and tubes: Capital expenditures by U.S. producers, by products, accounting years 1989-91, January-June 1991, and January-June 1992.....	I-24
12. Pipes and tubes: Value of assets of U.S. producers, by products, accounting years 1989-91.....	I-24
13. Pipes and tubes: Research and development expenses of U.S. producers, by products, accounting years 1989-91, January-June 1991, and January-June 1992.....	I-24
14. A-312 pipes: End-of-period inventories of U.S. importers, by sources, 1989-91, January-June 1991, and January-June 1992.....	I-28
15. A-312 pipes: Korea's capacity, production, inventories, and shipments, 1989-91, January-June 1991, January-June 1992, and projected 1992-93.....	I-28
16. A-312 pipes: Taiwan's capacity, production, inventories, and shipments, 1989-91, January-June 1991, January-June 1992, and projected 1992-93.....	I-28
17. A-312 pipes: Korea's and Taiwan's aggregate capacity, production, inventories, and shipments, 1989-91, January-June 1991, January-June 1992, and projected 1992-93.....	I-29
18. A-312 pipes: U.S. imports, by sources, 1989-91, January-June 1991, and January-June 1992.....	I-32
19. Pipes and tubes: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, by products, 1989-91, January-June 1991, and January-June 1992.....	I-34
20. Product 1: Weighted-average net f.o.b. prices and quantities for sales to distributors reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992.....	I-39
21. Product 2: Weighted-average net f.o.b. prices and quantities for sales to distributors reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992.....	I-39
22. Product 3: Weighted-average net f.o.b. prices and quantities for sales to distributors reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992.....	I-40
23. Product 4: Weighted-average net f.o.b. prices and quantities for sales to distributors reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992.....	I-40
24. Product 1: Weighted-average net f.o.b. purchase prices, U.S. point of shipment, quantities reported by distributors from domestic producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992.....	I-43
25. Product 2: Weighted-average net f.o.b. purchase prices, U.S. point of shipment, quantities reported by distributors from domestic producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992.....	I-43

CONTENTS

Tables--Continued

Page

26. Product 3: Weighted-average net f.o.b. purchase prices, U.S. point of shipment, quantities reported by distributors from domestic producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992.....	I-44
27. Product 4: Weighted-average net f.o.b. purchase prices, U.S. point of shipment, quantities reported by distributors from domestic producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992.....	I-44
28. Exchange rates: Indexes of nominal and real exchange rates of selected currencies, and indexes of producer prices in those countries, by quarters, January 1989-June 1992.....	I-47
C-1. A-312 pipes: Summary data concerning the U.S. market, 1989-91, January-June 1991, and January-June 1992.....	C-3
C-2. All pipes: Summary data concerning the U.S. market, 1989-91, January-June 1991, and January-June 1992.....	C-4
C-3. All pipes and tubes: Summary data concerning the U.S. market, 1989-91, January-June 1991, and January-June 1992.....	C-5
C-4. Pressure tubes: Summary data concerning the U.S. market, 1989-91, January-June 1991, and January-June 1992.....	C-6
C-5. Mechanical tubes: Summary data concerning the U.S. market, 1989-91, January-June 1991, and January-June 1992.....	C-6
C-6. Grade 409 tubes: Summary data concerning the U.S. market, 1989-91, January-June 1991, and January-June 1992.....	C-6
C-7. All pipes plus pressure tubes: Summary data concerning the U.S. market, 1989-91, January-June 1991, and January-June 1992.....	C-7
F-1. A-312 pipes: U.S. imports from Sweden, 1989-91, January-June 1991, and January-June 1992.....	F-3

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

DETERMINATION AND VIEWS OF THE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731-TA-540-541 (Final)

CERTAIN WELDED STAINLESS STEEL PIPES FROM THE REPUBLIC OF KOREA AND TAIWAN

Determinations

On the basis of the record¹ developed in the subject investigations, the Commission determines,² pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from the Republic of Korea and Taiwan of certain welded stainless steel pipes,³ provided for in subheadings 7306.40.10 and 7306.40.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective June 22, 1992, following a preliminary determination by the Department of Commerce that imports of certain welded stainless steel pipes from the Republic of Korea and Taiwan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's

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

² Commissioners Brunsdale and Crawford dissenting with respect to the investigation involving the Republic of Korea. Commissioner Brunsdale dissenting and Commissioner Crawford not participating with respect to the investigation involving Taiwan.

³ The subject product is defined as welded austenitic stainless steel pipes that meet the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A-312. The merchandise covered by the scope of the investigations also includes welded austenitic stainless steel pipes made

investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of July 29, 1992 (57 F.R. 33521). The hearing was held in Washington, DC, on November 10, 1992, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION¹

Based on the information obtained in these final investigations, we determine that an industry in the United States is materially injured by reason of less than fair value (LTFV) imports of ASTM A-312 pipes from the Republic of Korea and Taiwan.²

I. Like Product and the Domestic Industry

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of the subject imports, the Commission must first define the "like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930 (the "Act") defines the relevant domestic industry as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product"³ In turn, the statute defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation"⁴

The Commission's determination of what is the appropriate like product or products in an investigation is a factual determination, to which it applies the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.⁵ Generally, the Commission disregards minor variations between the articles subject to an investigation and looks

¹ See Dissenting Views of Commissioners Brunsdale and Crawford.

² Material retardation of a domestic industry by reason of the subject imports is not an issue in these investigations, and therefore will not be discussed further.

³ 19 U.S.C. § 1677(4)(A).

⁴ 19 U.S.C. § 1677(10).

⁵ See, e.g., Asociacion Colombiana de Exportadores de Flores, et al. v. United States, 693 F. Supp. 1165, 1169 (Ct. Int'l Trade 1988).

for clear dividing lines between possible like products.⁶

In its final determinations, the Department of Commerce (Commerce) defined the class or kind of merchandise subject to investigation as welded austenitic (chromium-nickel) stainless steel pipe "that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A-312. The merchandise covered by the scope of the investigation also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM A-312."⁷

In the preliminary investigations, the Commission found a single like product consisting of all welded stainless steel pipes and tubes, noting that it would revisit this issue in any final investigations.⁸ Petitioners argue that the like product should be identical to the articles subject to investigation, namely, ASTM A-312 pipes only. In the alternative, petitioners assert that the Commission should, at a minimum, not include mechanical tubes (also referred to as "ornamental" tubes) and grade 409 tubes within the like product.⁹ Respondents argue that the like product should include all welded stainless steel pipes and tubes.¹⁰

We note at the outset that although the Commission is bound by Commerce's determination as to what imported articles are subject to our

⁶ S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

⁷ Final Determination of Sales at Less Than Fair Value: Certain Welded Stainless Steel Pipe From the Republic of Korea and Taiwan, 57 Fed. Reg. 53693, 53706 (Nov. 12, 1992).

⁸ See Certain Welded Stainless Steel Pipes from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-540 and 541 (Preliminary), USITC Pub. 2474 (Jan. 1992) at 9 n.26 (Vice Chairman Watson and Commissioner Crawford did not participate in the preliminary investigations).

⁹ Petitioners' Prehearing Brief at 27-33.

¹⁰ Korean Respondents' Prehearing Brief at 3-14.

investigation, the Commission determines which domestic product(s) are like the imported articles within Commerce's scope.¹¹ Even where there is a domestic product identical to the imported article subject to investigation, the Commission may find the like product to be broader than the scope of the investigation.¹² Whether to define the like product as broader than Commerce's scope, therefore, is a factual determination based upon the Commission's traditional six factor analysis.¹³ Congress directed the Commission to look for "clear dividing lines among possible like products" and stated that "[t]he requirement that a product be 'like' the imported article should not be interpreted in such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other"¹⁴

After considering the possible like product alternatives presented in these investigations, we conclude that the like product is composed of all

¹¹ See Torrington Co. v. United States, 938 F.2d 1278, 1280 (Fed. Cir. 1991); Algoma Steel Corp., Ltd. v. United States, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), aff'd 865 F.2d 240 (Fed. Cir. 1989), cert. denied, 109 S.Ct. 3244 (1989); Badger-Powhatan, Div. of Figgie Int'l v. United States, 608 F. Supp. 653, 657 (Ct. Int'l Trade 1985).

¹² See, e.g., Certain Electric Fans from the People's Republic of China, Inv. No. 731-TA-473 (Final), USITC Pub. 2461 (Dec. 1991) at 8; Minivans from Japan, Inv. No. 731-TA-522 (Preliminary), USITC Pub. 2402 (July 1991) at 11-12.

¹³ Minivans from Japan, Inv. No. 731-TA-522 (Preliminary), USITC Pub. 2402 (July 1991) at 11-12. In defining the like product, the Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability of the products; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) the use of common manufacturing facilities and production employees; and, where appropriate, (6) price. No single factor is dispositive, and the Commission may consider other factors it deems relevant based upon the facts of a particular investigation. See, e.g., Calabrian Corp. v. United States, 794 F. Supp. 377, 382 n.4 (Ct. Int'l Trade 1992); Torrington Co. v. United States, 747 F. Supp. 744 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991).

¹⁴ S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

welded stainless steel pipes and pressure tubes.¹⁵ We do not include grade 409 or mechanical tubes in the like product. We find that the dividing lines between A-312 pipes and other types of welded stainless steel pipes and pressure tubes are not clear, while A-312 pipes are clearly distinct from mechanical and grade 409 tubes.

Non-A-312 Pipes¹⁶

Petitioners argue that the Commission should exclude all non-A-312 pipes from the like product, while respondents argue that they should be included. We include non-A-312 welded stainless steel pipes in the like product, finding that they overlap with A-312 pipes in terms of their physical characteristics, end uses, channels of distribution, manufacturing processes, and production employees.¹⁷

¹⁵ ASTM A-249, A-269, A-270, and A-688 are pressure tube classifications. Report at I-6 n.11 and I-13; Petition at 21.

¹⁶ Non-A-312 pipes include ASTM A-358, A-409, and A-778. Production volumes are relatively small for these non-A-312 pipes compared with the production of A-312 pipes. Conference transcript, testimony of George Werner, p. 24; Report at C-3 and C-4.

¹⁷ Petitioners assert that the Commission should give greater weight to three like product factors: physical characteristics, end use, and interchangeability. They base this argument on the language of the statute which defines the like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to investigation" (Emphasis added). They argue that interchangeability is a critical factor as well since articles that are substitutable for the imported product will be more affected by the imports. Petitioners' Posthearing Brief, Responses to Commission Questions at 1.

We agree with the petitioners that these three factors are important for the Commission to consider, but do not agree that other factors should necessarily be accorded less weight. Moreover, the courts have upheld the Commission's longstanding consideration of other factors as well (channels of distribution, customer and producer perceptions of the products, common manufacturing facilities and production employees, and price). See, e.g., Calabrian Corp. v. United States, 794 F. Supp. 377, 382 n.4 (Ct. Int'l Trade 1992); Torrington Co. v. United States, 747 F. Supp. 744 (Ct. Int'l Trade 1990), aff'd. 938 F.2d 1278 (1991); Asociacion Colombiana de Exportadores de Flores, et al. v. United States, 693 F. Supp. 1165, 1170 (Ct. Int'l Trade 1988). Recently, in Chung Ling Co., Ltd. v. United States, the court stated

(continued...)

In general, the physical characteristics of A-312 pipes and non-A-312 pipes are similar. They all are made of austenitic stainless steel, although they may differ in wall thickness and other characteristics inasmuch as they are manufactured to different ASTM specifications.¹⁸ We consider these differences, however, to be minor.

With respect to end uses, all types of welded stainless steel pipes are used as conduits to transport liquids and gases in industrial facilities.¹⁹ A-312 pipes are used in a wider range of industries than the other types of welded stainless steel pipes. We note that there is some overlap in uses between A-312 pipes and non-A-312 pipes (both A-312 and A-778 pipes are used to convey liquids in the paper industry).

The extent to which the different welded stainless steel pipe products are interchangeable is limited since they are manufactured to specific industry standards.²⁰ We note, however, that complete interchangeability has never been dispositive for purposes of the like product determination.²¹

¹⁷ (...continued)

that it is not within the province of the courts to change the priority of the relevant like product factors and "[i]t is within the Commission's discretion . . . to determine the overall significance of any particular factor or piece of evidence." Ct. No. 90-10-00528, slip op. 92-120 (Ct. Int'l Trade July 28, 1992) at 25-26 (citing Maine Potato Council v. United States, 613 F. Supp. 1237 (Ct. Int'l Trade 1985)).

¹⁸ Report at I-10.

¹⁹ Report at I-10.

²⁰ A pipe meeting a more stringent ASTM specification could be used in an application calling for a pipe that has met less rigorous standards. For example, A-312 pipes can generally be used in applications that require A-778 pipes because A-312 pipes meet more demanding tolerances regarding pressure and temperature requirements. In practice, however, substitution between different pipe products is not typically done because the customer would be paying more to use a pipe which exceeds the desired specifications.

²¹ In previous investigations, the Commission has found products to be "like" within the meaning of the statute, despite a lack of interchangeability. See, e.g., Sulfanilic Acid from the People's Republic of China, Inv. No. 731-TA-538 (Preliminary), USITC Pub. 2457 (Nov. 1991) at 7.

(continued...)

Petitioners also argue that customers and producers generally perceive the various types of pipes as different; this is to be expected given that they are manufactured to different and exacting specifications. We note that pipe products generally share the same channels of distribution, primarily being sold directly to distributors.²²

Significantly, A-312 pipes and non-A-312 pipes can generally be produced on the same manufacturing equipment using the same production employees. Five of the nine responding U.S. producers of A-312 pipe also produce A-778 pipe or A-358 pipe, with significant overlap in the manufacturing equipment and employees producing A-778 and A-312 pipes.²³ Finally, we recognize that prices of the different pipe products may differ (e.g., A-778 and A-409 pipes are generally less expensive than A-312 pipes).²⁴

On balance, we find that the similarities in physical characteristics, end uses, channels of distribution, manufacturing processes, and production employees between welded stainless steel pipe products are sufficient to warrant the conclusion that non-A-312 pipes are like the imported A-312 pipes.

²¹ (...continued)

In Industrial Nitrocellulose from Brazil, Japan, People's Republic of China, Republic of Korea, United Kingdom, West Germany, and Yugoslavia, the Commission stated that "[t]o the extent that the various grades are not completely interchangeable, we should note that, in the past, the Commission has not required complete interchangeability to include products in one like product." Inv. Nos. 731-TA-439-445 (Preliminary), USITC Pub. 1989 (Nov. 1989) at 6. We note that even within the A-312 pipe category, there is not "complete" interchangeability among all diameters of A-312 pipe. Petitioners' argument here could be interpreted to require the Commission to distinguish between pipes on the basis of diameter, which could open the door to numerous inappropriate like product possibilities.

²² Report at I-13.

²³ Report at I-13. Although most pipes are annealed, we recognize that A-778 pipes are not annealed and, unlike A-312 pipes, they are welded with filler material. Report at I-8. However, we find these differences to be minor given the general overlap in production processes, manufacturing facilities, and employees.

²⁴ Petitioners' Prehearing Brief at 19.

Pressure Tubes

We have included pressure tubes in the like product because of the significant similarities in physical characteristics, end uses, channels of distribution, and production processes of pressure tubes and A-312 (and other types of welded stainless steel) pipes.²⁵ First, with respect to physical characteristics, pressure tubes share the same chemical composition as A-312 pipes, since they are also austenitic, and they conform to specifications similar to those for A-312 pipes.²⁶ Indeed, A-312 pipes are more similar to pressure tubes in this respect than they are to other welded stainless steel pipe products. Both pressure tubes and A-312 pipes come in a range of diameters, thicknesses, and lengths, with some overlap in wall sizes.²⁷

A-312 pipes and pressure tubes generally have different end uses. There is evidence in the record, however, that both are used for the same general purpose, i.e., to transport fluids or gases in applications where pressure, heat, and corrosion resistance are necessary, such as in the food, chemical, and paper industries.²⁸

Pressure tubes and A-312 pipes are sold through common channels of

²⁵ "Certain industry officials indicated that the choice of the term 'pipes' or 'tubes' is often a matter of semantics rather than a specific reference to the characteristics of a particular type of tubular product." "There are no absolutes when attempting to define these products." Report at I-7.

²⁶ Hearing Tr. at 86; Korean Respondents' Posthearing Brief at 3 and 7. Officials at three different pipe and tube distributing companies confirm this fact. All three stated that a pressure tube specification may be very close to that for an A-312 pipe.

²⁷ Report at I-5 to I-8; Welded Steel Tube Institute, "Technical Bulletin #2;" Field visit notes (Aug. 20, 1992).

²⁸ Welded Steel Tube Institute, "Technical Bulletin #2;" Report at I-13 to I-14; Hearing Tr. at 29. For example, the ASTM specifications for A-312 pipes and A-269 tubes state that both are intended for general corrosion resistance and high temperature service. We recognize, however, that tubes are used to a large extent in heat exchangers, condensers, boilers, and water heaters.

distribution, although we recognize that more pressure tubes are sold directly to end users than are A-312 pipes due to the more customized nature of tube products.²⁹ In general, distributors maintain inventories of both A-312 pipes and the more common sizes of pressure tubes.³⁰

Welded stainless steel pipes and pressure tubes share common manufacturing facilities, production processes, and employees.³¹ Seven out of the nine responding U.S. producers of A-312 pipes stated that they also produce A-249 and A-269 tubes using the same or similar manufacturing processes and production employees, at least through the welding stage.³² Both pipes and tubes are formed and welded in the same general manner; producers change the forming dies to adjust for differences in diameter.³³ After the welding stage, however, there are differences; tubes usually undergo supplemental processing such as cold drawing, cold working, and additional annealing. Nonetheless, there is evidence that not all tubes are cold-drawn, and some smaller diameter pipes also undergo additional processing.³⁴

We note that A-312 pipe prices are generally lower than tube prices due to the higher volume production lots of pipes, and to the additional processing and higher manufacturing costs of tubes.³⁵ Also, because A-312 pipes and pressure tubes are manufactured to different and very specific ASTM classifications, they generally are not interchangeable. Further, customer and producer perceptions of these products differ. We do not, however, find

²⁹ Report at I-13 to I-14.

³⁰ Report at I-14.

³¹ Hearing Tr. at 12.

³² Report at I-11 to I-13.

³³ Report at I-7; Hearing Tr. at 90. Both pipes and tubes share the following production and finishing steps: form, weld, anneal, straighten, cut, pickle, and inspect. Field visit notes (Aug. 20, 1992).

³⁴ Report at I-9 to I-13.

³⁵ Report at I-7 to I-8; Hearing Tr. at 32.

these differences to be dispositive. The similarities in physical characteristics, end uses, channels of distribution, manufacturing processes, and production employees lead us to conclude that pressure tubes are like the imported A-312 pipes.

Mechanical Tubes³⁶

Petitioners argue that mechanical tubes are not like A-312 pipes. Respondents argue that mechanical tubing should be included in the like product, but acknowledge that there are more differences between mechanical tubes and A-312 pipes than between pressure tubes and A-312 pipes.³⁷ Based on our analysis of the traditional like product factors, we find that, unlike pressure tubes, mechanical tubes are quite distinct from A-312 pipes, and we therefore determine that they are not part of the like product.

First, regarding physical characteristics, mechanical tubes are thinner and lighter than A-312 pipes and are generally not heat treated (or annealed); thus, they are not as strong as A-312 pipes.³⁸ Unlike A-312 pipes, mechanical tubes may be rectangular or square shaped.³⁹ In addition, they are considered to be of lower quality than pressure tubes since they are designed for light structural or ornamental use only.⁴⁰

Mechanical tubes and A-312 pipes serve very distinct end uses.⁴¹ Mechanical tubes have structural or ornamental uses,⁴² and are never used to

³⁶ Mechanical tubes (also known as ornamental tubes) are classified under ASTM A-554.

³⁷ Hearing Tr. at 91.

³⁸ Report at I-6 n.11; Hearing Tr. at 33, 91; Petitioners' Prehearing Brief at 27.

³⁹ Report at I-6 n.11; Hearing Tr. at 33.

⁴⁰ Report at I-7 n.11 and I-10.

⁴¹ Hearing Tr. at 92.

⁴² For example, they are used to make furniture, moldings, appliance handles, and handrailings. Report at I-10; Petitioners' Prehearing Brief at 28.

transmit fluids and gases, as are A-312 pipes.⁴³

There are significant differences in the manufacturing processes of mechanical tubes versus A-312 pipes. As noted, mechanical tubes, unlike A-312 pipes, do not undergo an annealing process. Mechanical tubes do not have a smooth and flush weld bead, and are sometimes not straightened after welding.⁴⁴ Mechanical tubes may also be polished, whereas A-312 pipes are not generally polished.⁴⁵ Furthermore, mechanical tubes are not subject to the rigorous pressure resistance testing that A-312 pipes must undergo.⁴⁶ Only one of the nine responding U.S. producers of A-312 pipes also produces mechanical tubes.⁴⁷

Finally, mechanical tube prices are lower than A-312 pipe prices because mechanical tubes are less costly to produce.⁴⁸

Since mechanical tubes and A-312 pipes differ significantly in their physical characteristics, end uses, customer perceptions, manufacturing processes, and price, we find that mechanical tubes are not like the imported A-312 pipes.⁴⁹

⁴³ Accordingly, these products are not interchangeable, nor do they even share the same general end uses, and customers do not perceive mechanical tubes to be like, or even similar to, A-312 pipes. Hearing Tr. at 33; Petitioners' Prehearing Brief at 28. Mechanical tubes and A-312 pipes do, however, share common channels of distribution since they are both sold to distributors. Report at I-13.

⁴⁴ Report at I-6 n.11.

⁴⁵ Field visit notes (Aug. 20, 1992).

⁴⁶ Hearing Tr. at 33-34.

⁴⁷ Report at I-12 (Table 1).

⁴⁸ Hearing Tr. at 34.

⁴⁹ We note that this finding is consistent with previous Commission pipe and tube determinations where mechanical tubes have been found to be separate like products. See Certain Circular, Welded, Non-Alloy Steel Pipes and Tubes from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela, Inv. Nos. 731-TA-532 through 537 (Final), USITC Pub. 2564 (Oct. 1992) at 15-17 (Commission found mechanical tubing that is not cold-drawn or cold-rolled to be a separate like product from standard and structural pipes); Certain
(continued...)

Grade 409 Tubes

Petitioners also argue that grade 409 tubes are not like A-312 pipes. Respondents argue for their inclusion in the like product, but admit that there are more differences between grade 409 tubes and A-312 pipes than between pressure tubes and A-312 pipes.⁵⁰

Based on the information developed in these final investigations, we determine that there are compelling reasons to find that grade 409 tubes are not a part of the like product.⁵¹ To begin with, grade 409 tubes and A-312 pipes have significant differences in physical characteristics. Their chemical compositions are different -- grade 409 tubes are ferritic whereas A-312 pipes are austenitic.⁵² Furthermore, compared with A-312 pipes, grade 409 tubes meet lower performance standards and have thinner walls.⁵³

The end uses of these products are also completely distinct. Grade 409 tubes are almost all used to convey automotive exhaust, while A-312 pipes are

⁴⁹ (...continued)

Welded Carbon Steel Pipes and Tubes from the Republic of Korea, Inv. Nos. 701-TA-168 (Final), USITC Pub. 1345 (Feb. 1983) at 5; and Certain Welded Steel Pipes and Tubes from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-131 and 132 (Preliminary), USITC Pub. 1389 (June 1983) at 7.

⁵⁰ Hearing Tr. at 92; Korean Respondents' Posthearing Brief at 8.

⁵¹ Although the Commission included grade 409 tubes in the like product in the preliminary investigations, it specifically noted that it intended to revisit this issue in any final investigations because, in the prior investigations involving stainless steel pipes and tubes from Sweden, the Commission had excluded grade 409. See Stainless Steel Pipes and Tubes from Sweden, Inv. No. 731-TA-354 (Final), USITC Pub. 2033 (Nov. 1987) at 6-7; Stainless Steel Pipes and Tubes from Sweden, Inv. No. 701-TA-281 (Final), USITC Pub. 1966 (April 1987) at 7.

⁵² Report at I-6 n.11; Hearing Tr. at 35; Petitioners' Prehearing Brief at 30. Austenitic pipes and tubes contain chromium and nickel, while ferritic tubes contain no nickel and generally have higher levels of chromium. Austenitic pipes and tubes are more stress resistant and more ductile than ferritic tubes and they can also withstand heat, pressure, and corrosion better. Petitioners' Prehearing Brief at 30.

⁵³ Report at I-6 n.11 and I-8; Hearing Tr. at 34; Petitioners' Posthearing Brief, Responses to Commission Questions, at 7.

used primarily to transport fluids and gases in processing facilities.⁵⁴ Grade 409 tubes are not interchangeable with A-312 pipes as they are not pressure-tested or as corrosion resistant as A-312 pipes.⁵⁵

The channels of distribution of these products are also completely distinct. Grade 409 tubes are all sold directly to end users, whereas A-312 pipes are sold to distributors.⁵⁶

According to the U.S. producers' responses to Commission questionnaires, three out of nine U.S. producers of A-312 pipes also produce grade 409 tubes with some overlap in production processes, manufacturing equipment, and production employees.⁵⁷ Nonetheless, the record contains evidence that there are differences in the production processes and manufacturing facilities for grade 409 tubes and A-312 pipes.⁵⁸ For example, virtually all grade 409 tubing is produced in large volumes using high frequency welding mills, whereas A-312 pipes cannot be made using high frequency welding.⁵⁹ Furthermore, grade 409 producers' manufacturing equipment cannot produce A-312 pipes because they do not have the additional horsepower to roll-form the A-312 pipes' thicker walls.⁶⁰

On balance, we find that the differences between grade 409 tubes and A-312 pipes support a determination not to include grade 409 tubes in the like product. Therefore, for purposes of these final investigations, we determine

⁵⁴ Report at I-6 n.11.

⁵⁵ Report at I-6 n.11; Hearing Tr. at 35; Petitioners' Prehearing Brief at 30.

⁵⁶ Report at I-13 and I-14.

⁵⁷ Report at I-12 (Table 1). Petitioners, however, claim that only one domestic producer of A-312 pipes produces significant quantities of grade 409 tubes.

⁵⁸ Hearing Tr. at 35.

⁵⁹ Petitioners' Posthearing Brief, Responses to Commission Questions at 7.

⁶⁰ Id.

that the like product consists of all welded stainless steel pipes and welded stainless steel pressure tubes, and we define the domestic industry as the manufacturers of these products.

II. Condition of the Domestic Industry

In determining whether there is material injury to a domestic industry by reason of the LTFV imports, the Commission is directed to consider "all relevant economic factors that have a bearing on the state of the industry in the United States" ⁶¹ These include production, consumption, shipments, inventories, capacity utilization, market share, employment, wages, productivity, financial performance, capital expenditures, and research and development. ⁶² No single factor is determinative, and the Commission considers all relevant factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry." ⁶³

With respect to the conditions of competition distinctive to the industry producing welded stainless steel pipes and pressure tubes (hereinafter referred to generally as "pipes and tubes"), we first note that U.S. consumption of pipes and tubes is driven by the demand in the downstream industries (e.g., the chemical industry, the pulp/paper industry, and the energy industry). ⁶⁴ Demand in these industries has generally been increasing. U.S. consumption of pipes and tubes (by quantity) increased by over ten percent from 1989 to 1991, but decreased by four percent in January to June (interim) 1992 compared with interim 1991. ⁶⁵

Another notable condition of competition affecting the domestic industry

⁶¹ 19 U.S.C. § 1677(7)(C)(iii).

⁶² Id.

⁶³ Id.

⁶⁴ Report at I-36.

⁶⁵ Report at C-7 (Table C-7).

was the worldwide decline in prices of nickel and ferrochromium, which are raw materials used in the production of austenitic pipes and tubes.⁶⁶

Although some of the economic indicators that the Commission normally considers in assessing the condition of the domestic industry were mixed during the period of investigation, overall they revealed an industry experiencing difficulties. Domestic production, capacity, and productivity experienced overall, but modest, increases from 1989 to 1991.⁶⁷ These increases were not as great as the increase in domestic consumption, and the market share of U.S. producers consequently decreased 6.9 percentage points from 1989 to 1990 and 3.1 percentage points from 1990 to 1991 (10.0 percentage points overall from 1989 to 1991).⁶⁸

The information regarding other economic performance indicators was more clearly symptomatic of an industry in distress. For example, U.S. shipments by quantity increased 4.0 percent from 1989 to 1990, and then decreased 6.1 percent from 1990 to 1991 (an overall decrease of 2.4 percent from 1989 to 1991).⁶⁹ By total value, U.S. shipments decreased 9.5 percent from 1989 to 1990, and continued to decrease 12.1 percent from 1990 to 1991 (an overall decrease of 20.5 percent from 1989 to 1991).⁷⁰ The average unit value of U.S.

⁶⁶ See Korean Respondents' Prehearing Brief at 21-22; Taiwan Respondents' Prehearing Brief at 4-6; and Petitioners' Posthearing Brief at 9-11.

⁶⁷ Report at C-7 (Table C-7). These factors also increased from interim 1991 to interim 1992. Id. We are inclined to give relatively less weight to interim period comparisons given that subject imports decreased dramatically during interim 1992, following institution of these investigations. We find no evidence to suggest that subject imports decreased for reasons other than the institution of these investigations. See USX Corp. v. United States, 655 F. Supp. 487, 492 (Ct. Int'l Trade 1987); Philipp Bros., Inc. v. United States, 640 F. Supp. 1340, 1346 (Ct. Int'l Trade 1986).

⁶⁸ Domestic producers' market share increased in interim 1992 when subject imports declined significantly, relative to interim 1991. Report at C-7 (Table C-7).

⁶⁹ Report at C-7 (Table C-7).

⁷⁰ Report at C-7 (Table C-7).

shipments decreased 13.0 percent from 1989 to 1990 and 6.3 percent from 1990 to 1991 (a total decrease of 18.5 percent from 1989 to 1991).⁷¹ Although end-of-period inventories (by quantity) declined by 8.6 percent from 1989 to 1990, as a result of the subsequent decline in shipments, coupled with increases in production and capacity, end-of-period inventories increased dramatically -- by 46.5 percent -- from 1990 to 1991.⁷² The ratio of end-of-period inventories to shipments decreased 1.3 percentage points from 1989 to 1990 and then increased 4.8 percentage points from 1990 to 1991.⁷³

The number of production and related workers increased from 1989 to 1990 by 3.5 percent, but then decreased 6.3 percent from 1990 to 1991; hours worked increased somewhat (0.6 percent) from 1989 to 1991, but then also decreased 2.2 percent from 1990 to 1991; similarly, total compensation paid increased from 1989 to 1990 (1.8 percent), then decreased 2.9 percent from 1990 to 1991.⁷⁴

The poor health of this industry is even more apparent from an evaluation of its financial indicators. Operating income decreased 34.7 percent from 1989 to 1990, and 38.4 percent from 1990 to 1991 -- an overall decline of 59.8 percent from 1989 to 1991.⁷⁵ During 1989 to 1991, an

⁷¹ U.S. shipments rebounded when comparing interim 1992 with interim 1991. Report at C-7 (Table C-7). We note that the overall drop in values and unit values may be attributable in part to the fact that 1989 values and unit values included nickel and chromium surcharges. Report at I-14.

⁷² End-of-period inventories also increased (by 5.5 percent) when comparing interim 1991 with interim 1992. Report at C-7 (Table C-7).

⁷³ The ratio of inventories to shipments also increased slightly (0.3 percent) from interim 1991 to interim 1992. Report at C-7 (Table C-7).

⁷⁴ During interim 1992 compared with interim 1991, the number of production and related workers, hours worked, and total compensation paid decreased by 5.8, 8.4, and 3.5 percent, respectively. Report at C-7 (Table C-7).

⁷⁵ There was also a decrease of 26.9 percent when comparing interim 1992 with interim 1991. Report at C-7 (Table C-7).

increasing number of domestic producers showed operating losses.⁷⁶ Net sales decreased 10.4 percent from 1989 to 1990, and 9.4 percent from 1990 to 1991, with an overall decrease of 18.8 percent between 1989 to 1991.⁷⁷ Operating income as a ratio to net sales decreased 3.2 percentage points from 1989 to 1990, and 2.7 percentage points from 1990 to 1991 (an overall 5.9 percentage point decrease from 1989 to 1991).⁷⁸ Capital expenditures decreased irregularly while research and development expenses increased irregularly throughout the period of investigation.⁷⁹ Based on their analysis of the information in the record, Chairman Newquist and Commissioner Rohr conclude that the domestic industry is currently experiencing material injury.⁸⁰

III. Cumulation

In determining whether there is material injury by reason of LTFV imports, the Commission is required to assess cumulatively the volume and effect of imports from two or more countries subject to investigation if such imports are reasonably coincident with one another and "compete with each other and with like products of the domestic industry in the United States market."⁸¹ Cumulation is not required, however, when imports from a subject

⁷⁶ Report at I-29 (Table 6).

⁷⁷ In addition, there was a slight increase of 0.3 percent in interim 1992 as compared with interim 1991. Report at C-7 (Table C-7).

⁷⁸ Operating income as a ratio to net sales also decreased 2.3 percent in interim 1992 as compared with interim 1991. Report at I-24 (Table C-7).

⁷⁹ Report at I-35 and I-37.

⁸⁰ Vice Chairman Watson and Commissioner Nuzum do not reach a separate conclusion of material injury based solely upon the condition of the industry.

⁸¹ 19 U.S.C. § 1677(7)(C)(iv)(I); Chaparral Steel Co. v. United States, 901 F.2d 1097 (Fed. Cir. 1990). In assessing whether imports compete with each other and with the domestic like product, the Commission generally has considered four factors:

- (1) the degree of fungibility between the imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and

(continued...)

country are negligible and have no discernible adverse impact on the domestic industry.⁸²

In its preliminary determinations, the Commission found that the "evidence clearly indicates that the subject imported products compete with each other and with the domestic product."⁸³ The evidence obtained in these final investigations continues to support the Commission's earlier decision to cumulate the imports from Korea and Taiwan.^{84 85}

⁸¹ (...continued)

other quality related questions;

(2) the presence of sales or offers to sell in the same geographic markets of imports from different countries and the domestic like product;

(3) the existence of common or similar channels of distribution for imports from different countries and the domestic like product; and

(4) whether the imports are simultaneously present in the market.

See Fundicao Tupy S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade 1988), aff'd, 859 F.2d 915 (Fed. Cir. 1988). While no single factor is determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the imports compete with each other and with the domestic like product. See, e.g., Granges Metallverken AB v. United States, 716 F. Supp. 17 (Ct. Int'l Trade 1989). Only a "reasonable overlap" of competition is required. See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50, 52 (Ct. Int'l Trade 1989).

⁸² 19 U.S.C. § 1677(7)(C)(v). In determining whether imports are negligible, the statute directs the Commission to consider all relevant economic factors including whether: (I) the volume and market share of the imports are negligible; (II) sales transactions involving the imports are isolated and sporadic; and (III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression. Id.

⁸³ See USITC Pub. 2474 at 10.

⁸⁴ Neither petitioners nor respondents have argued that the Commission should alter its earlier decision to cumulate imports for purposes of its present material injury determinations.

⁸⁵ We note that an antidumping duty order was recently imposed on imports of welded stainless steel pipe and tube from Sweden and, thus, we considered whether the unfairly traded imports from Sweden entering the United States prior to that order should be cumulated with the imports subject to these investigations. 57 Fed. Reg. 52761 (November 5, 1992). The antidumping order on Swedish pipes and tubes was issued on November 5, 1992, within the time

(continued...)

We find that the Taiwan, Korean, and U.S. A-312 pipe products are fungible as they must all meet the same ASTM specifications and are all generally sold as commodity products.⁸⁶ All U.S. producers, and a majority of importers of pipes from Taiwan and Korea, reported that they sell A-312 pipes throughout the continental United States, and almost all A-312 pipes are sold through the same channels of distribution.⁸⁷ In addition, imports from Taiwan and Korea have been simultaneously present in the market.⁸⁸

The market penetration rates of imports from Korea and Taiwan are

⁸⁵ (...continued)

period the Commission has found sufficiently "recent" to warrant cumulation of imports subject to a recent final order. The Commission's application of the recent order exception is based on a recognition of the fact that imports entered prior to the issuance of a recent final order may have a continuing adverse effect on the domestic industry. See Chaparral Steel Co. v. United States, 901 F.2d. 1097 (Fed. Cir. 1990). That rationale does not apply in the unique circumstances of this case, however. Although the antidumping order was issued in November 1992, liquidation of imports from Sweden was suspended as of December 7, 1990. 55 Fed. Reg. 51745 (Dec. 17, 1990). Further, imports from Sweden, which accounted for approximately one percent of U.S. consumption of welded stainless steel pipes and tubes in 1990, declined dramatically following the suspension of liquidation, accounting in 1991 for less than .01 percent of domestic consumption. Report at F-3. We therefore conclude that these imports are negligible and have no discernible impact on the domestic industry. Neither petitioners nor respondents have argued that the Commission should cumulate imports from Sweden in this case.

⁸⁶ See Report at I-5. The Korean respondents, however, have argued that Korean A-312 pipe is different from U.S. A-312 pipe since most U.S. A-312 pipes are "fully-finished;" in other words, they have the weld beading removed along the welding line on the interior of the pipe. Hearing Tr. at 89, 97-100. In any event, according to all U.S. importers and distributors, U.S. producers, and three out of five end-users, A-312 pipes from Taiwan and Korea are viewed as interchangeable with one another and with U.S.-produced A-312 pipes. Seven out of eight responding producers, and eight out of ten responding importers, stated that quality differences between U.S.-produced A-312 pipes and Taiwan and Korean A-312 pipes are not a major factor affecting domestic sales. Report at I-37; Hearing Tr. at 25, 47, 56. However, almost half of the distributors reported that the quality of the Korean products was not acceptable in certain end uses. Nonetheless, we find that only a small percent of domestically consumed A-312 pipes is applied to these end uses. See Economic Memorandum at 16. Thus, overall, we conclude that the record evidence supports a finding that the products are indeed fungible.

⁸⁷ Report at I-13 and I-36.

⁸⁸ Report at I-32 (Table 18); Petitioners' Prehearing Brief at 34.

considerably higher than in previous investigations where the Commission has found imports to be negligible, and furthermore, imports from these two countries were neither isolated nor sporadic.⁸⁹ The legislative history also indicates this exception should be applied with "particular care in situations involving fungible products, where a small quantity of low-priced imports can have a very real effect on the market."⁹⁰ Thus, we determine that application of the negligible imports exception is not warranted in these investigations.

IV. Material Injury by Reason of LTFV Imports

In determining whether the domestic industry is materially injured by reason of the imports under investigation, the statute directs the Commission to consider:

(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, but only in the context of production operations within the United States.⁹¹

In making this determination, the Commission may consider "such other economic factors as are relevant to the determination"⁹² However, the

⁸⁹ See, e.g., Certain Circular, Welded, Non-Alloy Steel Pipes and Tubes from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela, Inv. Nos. 731-TA-532 through 537 (Final), USITC Pub. 2564 (Oct. 1992) at 28-29. In these investigations, imports from Korea increased from 0.5 percent of domestic consumption (by quantity) in 1989 to 5.2 percent in 1991, but decreased from 7.9 percent of the market in interim 1991 to 2.0 percent in interim 1992; imports from Taiwan increased from 3.5 percent in 1989 to 9.4 percent in 1991, and decreased from 9.6 percent in interim 1991 to 5.7 percent in interim 1992. Report at C-7 (Table C-7).

⁹⁰ H.R. Rep. No. 40, 100th Cong., 1st Sess., pt. 1, at 130 (1987); see also H.R. Rep. 576, 100th Cong., 2d Sess. 621 (1988).

⁹¹ 19 U.S.C. § 1677(7)(B)(i).

⁹² 19 U.S.C. § 1677(7)(B)(ii).

Commission is not to weigh causes.⁹³ The Commission need not determine that imports are "the principal, a substantial or a significant cause of material injury."⁹⁴ Rather, a finding that imports are a cause of material injury is sufficient.^{95 96}

Cumulated subject imports increased 303.4 percent (by quantity) from 1989 to 1991.⁹⁷ We find strong evidence of displacement of the domestic like product by subject imports. Despite an increase in apparent U.S. consumption, U.S. producers' share of consumption decreased by 10.0 percentage points (by quantity) while the subject imports increased their share of consumption by 10.6 percentage points (by quantity) from 1989 to 1991. The volume of subject imports, and the increase in that volume, both absolutely and relatively, are significant.

In evaluating the effects of the subject imports, we find that the low prices of these imports have resulted in significantly increased import penetration levels and have suppressed and depressed domestic prices of pipes and tubes.⁹⁸ U.S. producers' selling prices to distributors of A-312 pipes declined significantly, between 20.5 and 27.5 percent during the ten quarters

⁹³ See, e.g., Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988).

⁹⁴ S. Rep. No. 249, 96th Cong., 1st Sess. 57 and 74 (1979).

⁹⁵ See e.g., Metallwerken Nederland, B.V. v. United States, 728 F. Supp. 731, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988).

⁹⁶ Views on the proper standard of causation of Vice-Chairman Watson are most recently set out in Certain Circular, Welded, Non-Alloy Steel Pipes and Tubes from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela, Inv. Nos. 731-TA-532 through 537 (Final), USITC Pub. 2564 (Oct. 1992) at 33-34 n.148.

⁹⁷ The quantity of cumulated imports decreased 58.0 percent in interim 1992 compared with interim 1991. Report at C-7 (Table C-7). As noted above, we have given relatively less weight to interim period comparisons due to the dramatic decrease in subject imports subsequent to the filing of the petition. See, supra, note 67.

⁹⁸ Report at I-36 and I-46.

examined.⁹⁹ U.S. importers' prices of subject imports also declined continuously during this period.¹⁰⁰ The evidence reveals that out of 36 available price comparisons, the Korean product undersold domestic A-312 pipe prices in 34 instances by margins ranging from 5.1 to 27.5 percent; the Taiwan product undersold the domestic product in 34 out of 40 possible price comparisons with margins ranging from 0.1 to 17.5 percent.¹⁰¹ Purchase prices also generally declined for the domestic, Korean, and Taiwan A-312 pipes.¹⁰²

The evidence shows that domestic producers lost sales to, and/or had to lower their prices to compete with, the subject imports.¹⁰³ This contributed to a decrease in the value of their shipments, market share, and net sales; a substantial decrease in operating income; and a dramatic increase in inventories. In addition, we note that a domestic producer of pipes and tubes shut down one of its plants due in part to the adverse impact of unfairly traded imports from Korea and Taiwan.¹⁰⁴

As noted above, subject imports are fungible with domestically produced A-312 pipes, which constitute approximately half of all domestic production of the like product.¹⁰⁵ In this regard, we find it noteworthy that the domestic

⁹⁹ Report at I-38 to I-40.

¹⁰⁰ Prices for Korean A-312 pipes decreased by 6.6 to 18.3 percent, and prices for Taiwan A-312 pipes decreased by 16.8 to 34.7 percent. Report at I-38 and I-41.

¹⁰¹ Report at I-38 and I-41.

¹⁰² Purchase prices for the U.S. products declined between 23.2 and 29.0 percent; between 6.6 and 32.0 percent for the Korean products; and between 5.8 and 30.8 percent for the Taiwan products. Report at I-42. We recognize that some of the reduction of domestic prices is attributable to the decline in the prices of the input products nickel and ferrochromium. However, the overall price decline of the domestic products was greater than the decrease in these input costs. Petitioners' Post-Hearing Brief at 9-11.

¹⁰³ See Report at I-46. See also company-specific allegations of negative effects of imports at D-3.

¹⁰⁴ Letter to Paul Bardos from David Hartquist (Nov. 25, 1992).

¹⁰⁵ Report at C-1, C-2 and C-4.

producers of A-312 pipes experienced a significantly greater decrease in the value of net sales, operating income, and operating income as a percentage of net sales, compared with domestic pressure tube producers.¹⁰⁶ This difference between the financial performance of A-312 pipe producers and pressure tube producers can be explained at least in part by the fact that the A-312 producers had to compete directly with increasing volumes of more fungible subject imports.

Based on the foregoing, we find that the domestic industry is materially injured by reason of the subject imports from Korea and Taiwan.

V. Critical Circumstances

The Department of Commerce found critical circumstances with respect to two Taiwan producers, Jaung Yuann Enterprise Co., Ltd. and Yeun Chyang Industrial Co., Ltd.¹⁰⁷ In accordance with 19 U.S.C. § 1673d(b)(4)(A)(i), when Commerce makes an affirmative determination with respect to critical circumstances, the Commission must determine "whether retroactive imposition of antidumping duties on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time." The Commission must evaluate whether "the effectiveness of the antidumping duty order would be materially impaired if retroactive duties were not imposed."¹⁰⁸ An affirmative critical circumstances determination by the Commission results in the retroactive application of the antidumping duty order for a period of 90 days prior to the suspension of liquidation, which in these investigations

¹⁰⁶ Report at C-3 (Table C-1) to C-4 (Table C-4).

¹⁰⁷ Final Determination of Sales at Less Than Fair Value: Certain Welded Stainless Steel Pipe From the Republic of Korea, 57 Fed. Reg. 53708 (Nov. 12, 1992).

¹⁰⁸ 19 U.S.C. § 1673d(b)(4)(A)(ii).

occurred on June 22, 1992.¹⁰⁹

The legislative history of the critical circumstances provision states that the purpose of the provision is to: (1) provide prompt relief for the domestic industry suffering from large volumes of imports or a surge in imports over a short period; and (2) deter exporters from attempting to circumvent the antidumping statute.¹¹⁰

In Extruded Rubber Thread from Malaysia, the Commission stated:

A surge in imports can occur as a result of an attempt to circumvent the antidumping statute immediately after the initiation of an investigation and, where Commerce finds critical circumstances, we would be required to consider that surge. The adverse impact of such a surge can continue to affect the domestic industry during and after the 90-day period during which retroactive duties can be imposed. If, however, the surge itself dissipates before the 90-day period begins, retroactive imposition of duties cannot meaningfully "prevent recurrence of material injury" resulting from that surge since the duties cannot reach those imports, and, therefore, cannot affect the impact of those LTFV imports on the domestic industry.¹¹¹

There is no evidence in the record that imports from Jaung Yuann and Yeun Chyang surged during or after the 90-day period prior to the suspension of liquidation.¹¹² We do not find that the imposition of retroactive duties in these investigations is necessary to prevent the recurrence of material injury, or that the effectiveness of the antidumping duty order on subject imports from Taiwan will be materially impaired if we do not impose retroactive duties. Therefore, we do not find critical circumstances to exist in these investigations.

¹⁰⁹ 19 U.S.C. § 1673d(c)(4); 57 Fed. Reg. 27731 (June 22, 1992).

¹¹⁰ See H. Rep. No. 317, 96th Cong., 1st Sess. 63 (1979).

¹¹¹ Inv. No. 731-TA-527 (Final), USITC Pub. 2559 (Sept. 1992) at 26.

¹¹² Report at I-28 (Table 16).

DISSENTING VIEWS OF COMMISSIONERS BRUNSDALE AND CRAWFORD
Investigation Nos. 731-TA-540-541 (Final)
December 18, 1992

Based on the evidence gathered in these investigations, we find that the domestic industry producing welded stainless steel pipes and pressure tubes is not materially injured by reason of dumped imports of certain welded stainless steel pipes from the Republic of Korea. Commissioner Brunsdale also finds that the domestic industry is not materially injured by reason of dumped imports of certain welded stainless steel pipes from Taiwan.¹ We join in the majority's discussion and findings regarding the like product and domestic industry, and the conclusions reached on cumulation.²

I. MATERIAL INJURY BY REASON OF LTFV IMPORTS

In making its determination, the statute directs the Commission to consider the volume of subject imports, the effect of subject imports on domestic prices, and the impact of subject imports on the domestic industry. In addition, it "may consider such other economic factors as are relevant to the determination

¹ Commissioner Crawford did not participate in the investigation involving certain welded stainless steel pipes from Taiwan.

² Although Commissioner Crawford did not participate in the investigation of dumped imports from Taiwan, in accordance with the statute, she cumulates Taiwanese imports with Korean imports in the Korean investigation.

regarding whether there is material injury by reason of imports."³

The statute requires that we find material injury to the domestic industry "by reason of" the dumped imports. In assessing the effect of dumped imports, we compare the current condition of the domestic industry to that which would have existed had imports been sold at fair value. Then, taking into account the condition of the industry, we determine whether the resulting change in circumstances constitutes material injury.

A. Conditions of Competition

The statute directs the Commission to evaluate relevant economic factors in the "context of the business cycle and conditions of competition that are distinctive to the affected industry."⁴

The demand for welded stainless steel pipes depends on the level of initial construction and replacement of existing facilities in the process industries.⁵ The product is used as a conduit to transmit liquids and gases from one process to another within a production facility. Major end uses include digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines, and paper process

³ 19 U.S.C. §1677(7)(B).

⁴ 19 U.S.C. §1677(7)(C).

⁵ See Report at I-36.

machines.⁶ The demand for pressure tubes included in the like product depends on the level of industrial activity in its end-use markets, the process industries. End uses include a wider range of applications from less demanding structural uses to more critical applications, such as heating and cooling apparatus.⁷

U.S. producers and Korean and Taiwanese importers sell most of their pipes to distributors which then resell pipe to end users. Distributors maintain inventories of the most common pipes and special order the less frequently requested pipes. End users usually purchase small quantities of pipe as needed.

ITC staff estimated the elasticity of demand for stainless steel pipes and pressure tubes to be in the range of 0.3 to 0.7. There are few, if any, applications where substitute products made from plastics and other advanced materials can be used in the same applications as welded stainless steel pipes and pressure tubes. Properties imparted by stainless steel, such as corrosion resistance, strength, and temperature resistance, generally are not imparted by other substitute materials. Carbon and other relatively lower-priced steel pipes are not functional substitutes for stainless steel pipes. Seamless pipes and tubes are not commercially interchangeable with welded pipes and tubes, principally due to price and technical difficulties. Based on this evidence, we agree with staff's elasticity of demand estimate.

⁶ See Report at I-10.

⁷ See Report at I-10.

Substitutability also is a critical factor in determining the volume, price effects, and impact of the subject imports on the domestic like product. Price is almost always important in any purchase decision and was cited by parties to this investigation as the primary factor in a purchaser's sourcing decision.⁸ Quality and delivery terms also were cited as important factors, but were considered secondary to price in the purchase decision.⁹

The staff estimates the elasticity of substitution between certain imported welded stainless steel pipes (A-312 pipes) and the domestic like product to be between 1.7 and 3.7. Differences in lead times between domestic and subject products and some "Buy American" policies limit substitutability.¹⁰ The imported and domestic A-312 pipes, however, are substitutable in most applications, and compete directly in the domestic market.

However, there are certain critical use applications, such as nuclear power plants, certain chemical operations, pipe threading applications, and federal contracting, where subject A-312 pipes cannot be readily substituted for the domestic A-312 pipe. Non-price factors, such as quality assurances and federal restrictions on foreign sourcing, severely restrict the substitutability of the subject imports and domestic products. While we have no precise figure, staff estimates that these

⁸ See Report at I-36.

⁹ See Report at I-37.

¹⁰ See Memorandum EC-P-087, p.19.

applications represent a small portion of the total market for A-312 pipes.

There is no substitutability between subject A-312 pipes and domestic non-A-312 pipes and pressure tubes. Since domestic A-312 pipes represented less than 40 percent of quantity of welded stainless steel pipes and pressure tubes shipped in 1991, the lack of substitutability lowers the overall elasticity of substitution between the subject imports and the domestic like product.

In aggregate, the low to moderate range of elasticities of substitution estimated by staff reflects a weighted average of the degree of substitutability between the subject imports and various components of the domestic like product. In conducting our analysis, we conservatively considered an elasticity of substitution at the high end of the range estimated by the Commission staff.

B. Volume Effects

In determining whether subject imports have caused material injury to the domestic industry, the statute directs the Commission to consider "whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."¹¹

The volume and market share of subject pipes imported from

¹¹ 19 U.S.C. §1677(7)(C)(i).

Korea and Taiwan increased over the period of investigation, but accounted for less than 15 percent by value of the market in 1991. The market share of fairly traded imports declined slightly during the period of investigation to less than 10 percent of the market in 1991¹² while domestic producers still accounted for the vast majority of the market by value in 1991.¹³

Dumping margins are one factor we consider in assessing the impact of the dumped imports on prices in the United States of the like product, and ultimately, on domestic producers. The higher the dumping margin the greater the difference between the dumped price of imports and their price at fair value. This, in turn, affects the magnitude of the increase in unfair imports. We note that the dumping margins estimated by Commerce for Korea were between 2.6 and 7.8. Taiwanese dumping margins were between 3.5 and 31.9. Staff estimates the weighted-average margin to be 15.5.

The overall quantity demanded of certain welded stainless steel pipes is not likely to be affected by relatively small changes in price. These pipes are inputs into various downstream construction projects and they appear to have no close substitutes. Consequently, small changes in price will not cause end users to increase their purchase of pipes.

¹² See Report at I-28, Table 12.

¹³ In the interim period, domestic share increased significantly.

C. Price Effects

In evaluating the effects of subject imports on the price of the domestic like product, the statute directs the Commission to consider whether there is significant price underselling by the subject imports and whether the subject imports depress prices to a significant degree, or prevent to a significant degree, price increases that otherwise would have occurred.¹⁴

The price comparison data for both subject and domestic A-312 pipes show a consistent price decline during the period of investigation, with both Taiwanese and Korean import prices tending to decline faster than domestic prices. The cost of goods sold on a per ton basis increased during the period of investigation.

Price comparison data also show persistent high margins of underselling during the entire period of investigation. These persistently high margins are inconsistent with the behavior of near commodity-type products, thus suggesting that factors other than price may be captured in the price differentials observed.

Certain purchasers claimed that they prefer to purchase the domestic product even if the price is slightly higher because lead times are shorter and quality is higher.¹⁵ Another said that the U.S. producers have a quality advantage because they can manufacture a full-finished pipe that is not available from

¹⁴ 19 U.S.C. §7) (C) (ii).

¹⁵ See Report at I-71.

foreign sources.¹⁶ Still another producer pointed to longstanding supplier relationships as a reason for preferring the domestic product.¹⁷ These statements seem to be reflected in the reported price comparison data.

In addition, we note that underselling data only compare prices of the largest domestic sale and the largest import sale for each period, and therefore, may not be completely reliable. They show U.S. A-312 pipe selling for a price premium throughout the period of investigation.¹⁸ For these reasons, we place little weight in this determination on the underselling data collected.

D. Impact of the Subject Imports on the Domestic Industry

In evaluating the condition of the domestic industry, the statute directs us to consider "all relevant economic factors which have a bearing on the state of the industry in the United States."¹⁹ Specifically, we consider, among other factors, domestic consumption, production, shipments, market share, capacity utilization, employment, wages, productivity, domestic prices, profits, cash flow, the ability to raise capital,

¹⁶ See Report at I-72.

¹⁷ See Report at I-72.

¹⁸ Of course, we know the imports were dumped only between June 1, 1991 and November 30, 1991.

¹⁹ 19 U.S.C. §1677(7)(C)(iii).

investment, and development and production efforts.²⁰ In addition, the Commission considers the particular nature of the industry under investigation, including any "business cycle and conditions of competition that are distinctive to the affected industry."²¹

Domestic capacity increased during the period of investigation, with interim 1992 capacity at a higher level than the 1991 level. Similarly, domestic production was at a higher level in 1991 than the level achieved in 1989. Interim 1992 production was virtually the same as interim 1991. In addition, export shipments became a significant component of shipments during the period of investigation. Although the number of employees declined over the period of investigation, we note that the significant increase in productivity may explain part of this decline. Research and development expenditures and capital expenditures in 1991 and interim 1992 were at levels above those reported in earlier periods.

We recognize that some of the 1989 financial data reported by domestic producers, notably net sales, are distorted due to the surcharge placed on domestic prices to compensate producers for increased raw material costs. The effect of this surcharge is to inflate the net sales data for 1989 in comparison with net sales data reported in later periods.

²⁰ Id.

²¹ Id.; see also H.R. Rep. No. 317, 96th cong., 1st Sess. 36 (1979); S. rep. 249, 96th Cong., 1st Sess. at 88 (1979).

Central to our consideration of the impact of LTFV imports on the domestic industry is the fact that impact flows from changes in volume and price brought about by the competition between the subject imports and the like product. If the subject imports had been traded fairly, it is unlikely that demand for the domestic like product would have increased significantly. Imports account for a relatively small share of the domestic market, thus even a large percentage reduction in their sales would account for only a small percentage increase in domestic sales of the like product. In addition, given the size and range of the margins found by Commerce, it is likely that some customers would have continued to buy imported pipe even at the fairly traded price. Those who would not have purchased the higher-priced subject imports may have turned to fairly traded imports as well as the domestic product.

Capacity utilization reported by the domestic industry has been low, but relatively constant. The considerable unused capacity, the increasing exports, and an inability to shift into the manufacture of other products using stainless steel pipe and tube machinery and equipment, are key factors in the high elasticity of domestic supply characterizing the domestic industry.²² In this competitive industry with a relatively high elasticity of supply, it is unlikely that imports had a significant effect on the price of the domestic like product.

²² Staff estimates the elasticity of domestic supply to be in the range of 5 to 10.

For these reasons, we determine that the domestic industry producing welded stainless steel pipes and pressure tubes is not materially injured by reason of the subject welded stainless steel pipe imports from Korea. Commissioner Brunsdale also determines that the domestic industry producing welded stainless steel pipes and pressure tubes is not materially injured by reason of the subject welded stainless steel pipe imports from Taiwan.

III. THREAT OF MATERIAL INJURY BY REASON OF THE SUBJECT IMPORTS

If the Commission determines that no industry in the United States is being materially injured by the dumped imports, it must consider whether an industry is threatened with material injury by reason of such imports.²³ A threat of material injury must be real and actual injury must be imminent. The Commission's determination may not be based on mere conjecture or supposition.²⁴

The statute lists ten factors we must consider.²⁵ We have reviewed all the factors that are statutorily required, but will discuss only those that we considered most determinative in this investigation. The individual country data are confidential so we will discuss only the aggregate data.

²³ 19 U.S.C. § 1673b(a) (1) (B).

²⁴ 19 U.S.C. § 1677(7) (F) (ii); see Citrosuco Paulista v. United States, 704 F. Supp. 1075 (CIT 1988).

²⁵ 19 U.S.C. § 1677(7) (F) (i). Factors (1) (9) and (10) are not relevant in this investigation.

The first is whether there has been a rapid increase in the market penetration of imports and the likelihood that the penetration will increase to an injurious level. Imports from Korea and Taiwan increased substantially between 1989 and 1990.²⁶ Between 1990 and 1991 imports from Korea and Taiwan actually fell, and during the interim period, imports from these countries declined substantially. There is no reason to believe that the market penetration of unfair imports will rise to injurious levels.

A second important factor is whether there has been any buildup of subject import inventories in the United States. Evidence in the record indicates no significant buildup of inventories of either Korean or Taiwanese subject imports, and inventories declined substantially during the interim period.²⁷

There was substantial capacity added to the Korean and Taiwanese industries in 1990 and a small increase in capacity in 1991. Further small increases are projected.²⁸ The majority of production is not sent to the United States. Thus, while in theory these countries could increase imports to the United States, drawing such a conclusion would be mere supposition.

We conclude that a domestic industry is not threatened with material injury by reason of dumped imports from Korea and Taiwan. After examining all the statutory factors we do not find

²⁶ See Report at I-29.

²⁷ See Report at I-28.

²⁸ See Report at I-27-29.

that the threat of injury is real or that actual injury is imminent.

INFORMATION OBTAINED IN THE INVESTIGATIONS

INTRODUCTION

Following preliminary determinations by the U.S. Department of Commerce (Commerce) that imports of certain welded stainless steel pipes¹ (A-312 pipes) from the Republic of Korea (Korea) and Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV) (57 F.R. 27731, June 22, 1992), the U.S. International Trade Commission (the Commission), effective June 22, 1992, instituted investigations Nos. 731-TA-540-541 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the Federal Register on July 29, 1992 (57 F.R. 33521).² The hearing was held in Washington, DC, on November 10, 1992.³

Commerce's final LTFV determinations were made on November 12, 1992. The applicable statute directs that the Commission make its final injury determinations within 45 days after the final determinations by Commerce.

Background

These investigations result from a petition filed by Avesta Sandvik Tube, Inc. (Avesta), Schaumburg, IL; Bristol Metals (Bristol), Bristol, TN; Damascus Tubular Products (Damascus), Greenville, PA; Trent Tube Division, Crucible Materials Corp. (Trent), East Troy, WI; and the United Steelworkers of America on November 18, 1991, alleging that an industry in the United States is materially injured or threatened with material injury by reason of

¹ For purposes of these investigations, the subject product is defined as welded austenitic stainless steel pipes that meet the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A-312. The merchandise covered by the scope of the investigations also includes welded austenitic stainless steel pipes made according to the standards of other nations which are comparable to ASTM A-312. The subject product is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. The subject product is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for the subject product include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines, and paper process machines. Imports of the subject product are classifiable under the Harmonized Tariff Schedule (HTS) subheadings 7306.40.10 and 7306.40.50. The HTS subheadings are provided for convenience and Customs purposes; the written description of the product is dispositive.

² Copies of cited Federal Register notices are presented in app. A.

³ A list of witnesses who attended the hearing is presented in app. B.

LTFV imports of A-312 pipes from Korea and Taiwan.⁴ In response to that petition the Commission instituted investigations Nos. 731-TA-540-541 (Preliminary) under section 733 of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) and, on January 3, 1992, determined that there was a reasonable indication of such material injury.

Previous Commission Antidumping and Countervailing Duty Investigations Concerning Welded Stainless Steel Pipes

The Commission has conducted two other antidumping investigations concerning welded stainless steel pipes. The first investigation, No. AA1921-180,⁵ covered imports of welded stainless steel pipes and tubes from Japan, and resulted in a negative determination by the Commission in July 1978. The second investigation, No. 731-TA-354 (Final), covered imports of welded stainless steel pipes and tubes from Sweden and, following a court remand, resulted in an affirmative determination.⁶

The Commission also conducted a countervailing duty investigation (No. 701-TA-281 (Final)), on stainless steel pipes and tubes from Sweden, and reached a negative determination in that investigation.⁷

NATURE AND EXTENT OF SALES AT LTFV

Commerce's affirmative final LTFV determinations in these investigations were based primarily on respondents' data for Korea and on respondents' data or best information available for Taiwan. U.S. price was based on purchase price and exporters' sales price calculations, and foreign market value was derived from home market sales and constructed value for Korea and for two firms in Taiwan. The following tabulation shows the final dumping margins (in percent) calculated for each country:

⁴ Petitioners also alleged "critical circumstances" (including massive imports over a relatively short period) on imports of A-312 pipes from Taiwan, pursuant to section 733(e) of the Tariff Act of 1930 and sections 353.12(b)(12) and 353.16 of Commerce's regulations.

⁵ Welded Stainless Steel Pipe and Tube from Japan, USITC Pub. 899, July 1978.

⁶ Stainless Steel Pipes and Tubes from Sweden, USITC Pub. 2033, November 1987. This investigation also involved seamless stainless steel pipes and tubes for which the Commission's original final determination was affirmative. The original negative determination with respect to welded stainless steel pipes and tubes was appealed to the U.S. Court of International Trade and remanded to the Commission for further consideration. On remand, the Commission determined that an industry in the United States was materially injured by reason of imports of welded stainless steel pipes and tubes from Sweden found by Commerce to have been sold in the United States at LTFV. Welded Stainless Steel Pipes and Tubes from Sweden, USITC Pub. 2304, August 1990. The case was appealed at the U.S. Court of Appeals for the Federal Circuit, which affirmed the Commission's affirmative remand determination. Trent Tube Div., Crucible Materials Corp. v. United States, No. 91-1173 (Fed. Cir. July 27, 1992).

⁷ Stainless Steel Pipes and Tubes from Sweden, USITC Pub. 1966, April 1987.

Korea

Sammi Metal Products Co., Ltd.....	7.75
Pusan Steel Pipe Co., Ltd.....	2.55
All other exporters/producers.....	6.83

Taiwan

Chang Tieh Industry Co., Ltd.....	0.00
Jaung Yuann Enterprise Co. Ltd.....	31.90 ¹
Ta Chen Stainless Pipe Co., Ltd.....	3.51
Yeun Chyang Industrial Co., Ltd.....	31.90 ¹
All other exporters/producers.....	19.94

¹ Commerce made affirmative determinations of "critical circumstances" for these firms.

THE PRODUCT**Description**

The welded stainless steel pipes from Korea and Taiwan that are the subject of these investigations are produced according to standards and specifications set forth by the American Society for Testing and Materials (ASTM) in product designation A-312. This designation covers both seamless and welded austenitic (chromium-nickel) pipes; however, only the welded product is subject to these investigations. Because A-312 pipes must meet particular specifications regarding raw material usage, method of manufacture, tolerances, and dimension, the imported and domestic products are essentially fungible.⁸

In previous Commission investigations, the terms "pipes" and "tubes" have been used interchangeably.⁹ However, some industry sources consider pipes to be products produced in large quantities in a few standard sizes and tubes to be products made to customers' specifications for dimensions, finish, chemical composition, and mechanical properties. In these investigations petitioners assert that only A-312 pipes constitute the product that is "like" the imported product. According to petitioners, stainless steel seamless pipe

⁸ Transcript of the Commission's staff conference (hereinafter "conference transcript"), Dec. 10, 1991, testimony of William Grant, p. 25; and transcript of the Commission's hearing (hereinafter, "hearing transcript"), Nov. 10, 1992. Respondents have argued that domestic A-312 pipe is mostly bead welded, while Korean A-312 pipe is not. Respondents' posthearing brief, appendix p. 12. Bead welding appears to be a by-product of the domestic production process that is not required for the A-312 specification. Petitioners' posthearing brief, pp. 3-4. There is no evidence that bead welding is an important physical difference between the imported and domestically-produced product.

⁹ See Stainless Steel Pipes and Tubes from Sweden, USITC Pub. 2033, November 1987.

products, non-A-312 pipe products,¹⁰ and any tube products¹¹ should not be included within the like product definition.¹²

¹⁰ Non-A-312 pipes ("other pipes") include other ASTM specifications for welded stainless steel pipes such as A-358, A-409, and A-778. According to the petitioner, these other ASTM designations involve pipes of generally larger size and lower quality than the subject A-312 pipes (Petition, p. 19). Data for other pipes are presented in app. C of this report.

¹¹ Petitioners asserted that ASTM A-249 pressure tubing embodies the tubing specifications that most closely parallel A-312 pipes (Petition, p. 21). ASTM A-269, A-270, and A-688 tubing are also types of welded austenitic stainless steel pressure tubing similar to A-312 pipes (submission by petitioners, July 22, 1992, p. 2). Nonetheless, petitioners have not considered any tubes to be included within the like product definition.

Petitioners assert that mechanical/ornamental tubing, ASTM A-554, is of a lower quality than pressure tubing and as a result cannot serve as pressure tubing and also should not be included within the like product definition (submission by petitioners, July 22, 1992, p. 4). Petitioners further assert that mechanical/ornamental tubing is much thinner and lighter than A-312 pipe, and in some instances is not round like A-312 pipe. It may be rectangular, or square, in shape. According to petitioners' testimony at the hearing, "these different physical characteristics of mechanical/ornamental tubing reflect the different end uses served. While A-312 pipe transports fluid in chemical processing facilities, mechanical/ornamental tubing is used either for structural or ornamental purposes, such as furniture and hand railings. Mechanical tubing could never be substituted for an A-312 pipe because it is simply not capable of withstanding pressure as an A-312 pipe must in chemical processing facilities" (hearing transcript, testimony of George Werner, p. 33).

Petitioners further testified that "the production process mechanical/ornamental tubing must undergo is much simpler than that of A-312 pipe, given the less sophisticated nature of that type of tubing. Mechanical/ornamental tubing is generally not annealed. The weld bead is not smooth and flush. It may not even be straightened subsequent to the forming and welding process. It is not subject to rigorous testing for pressure resistance that must be done to A-312 pipe" (hearing transcript, testimony of George Werner, p. 33).

Other tube products that petitioners asserted should be excluded from the like product definition include ferritic and martensitic tubing, which are of "straight chromium" steel, as opposed to austenitic tubing, which is a chromium-nickel alloy. The ferritic and martensitic tubing lack the corrosion resistance of austenitic tubing and, according to petitioners, are not interchangeable with austenitic tubing. Grade 409 tubing, different from ASTM A-409 pipe, is an example of ferritic tubing and is used principally for automotive exhaust systems. It is not pressure tested and it cannot be used in any applications that require austenitic tubing (submission by petitioners, July 22, 1992, p. 4, and hearing transcript, testimony of George Werner, p. 53.) Petitioners further testified that grade 409 tubing producers tend to be limited to a discrete group of companies that manufacture Grade 409 tube products in many instances for captive consumption, and do not make A-312 pipe (hearing transcript, testimony of George Werner, p. 34).

Data collected for pressure tubing, mechanical/ornamental tubing, and grade 409 tubing are presented in app. C.

¹² Conference transcript, testimony of David Hartquist, p. 9.

Petitioners alleged that there are important differences in the physical characteristics and uses of pipes compared with tubes. For example, petitioners asserted that pipes generally have thicker walls and are sold in a limited number of standard dimensions, or nominal sizes, according to a schedule of pipe dimensions; that pipes tend to be used as conduits to transmit liquids or gases; in contrast, that tubes generally are manufactured to exact dimensions and other physical characteristics specified by the customer; and that tubes are generally used in heating and cooling applications.¹³

Respondents state that stainless tubes should be included in the like product in these investigations because they and stainless pipes are manufactured largely with common machinery, by the same employees, and using the same basic production process.¹⁴

Fieldwork and telephone interviews conducted during these final investigations revealed that both sides were essentially correct. Although there are differences between pipes and tubes in physical dimensions and end uses, the products share a number of similarities in production processes, machinery, and employees. Certain industry officials indicated that the choice of the term "pipes" or "tubes" is often a matter of semantics rather than a specific reference to the characteristics of a particular type of tubular product.¹⁵

Pipes generally have thicker walls, standard diameters and lengths, and are produced in high volumes. Tubes generally have thinner walls, a wide variety of dimensions, and are produced in small quantities. However, there is some overlap in physical characteristics, and while pipes are generally distinguishable from tubes, there are no absolutes when attempting to define these products.

Pipes and tubes are generally made with similar production processes (at least through the welding stage), sometimes on the same production lines. Pipe and tube producers can generally produce either product on their mills, with die changes for different diameter specifications. The critical factor is the diameter of the product, not whether it is a pipe or a tube. However,

¹³ Conference transcript, testimony of George Werner, pp. 16-17, and petition, p. 22; and information obtained during field visits ***.

¹⁴ Postconference brief of the Korean respondents, p. 7, and hearing transcript, testimony of G. Brian Busey, pp. 86-88. Respondents testified at the hearing that mechanical/ornamental tubes (ASTM A-554) are within the same like product, but that "as you move away from the particular austenitic pressure tubing, there are more differences" (hearing transcript, p. 91). Respondents stated that there is overlap in terms of common manufacturing and production processes, but that the end uses are different (hearing transcript, testimony of G. Brian Busey, p. 91). With respect to grade 409 tubing, respondents testified that "although there are some additional differences between it and the A-312 and the other austenitic tube, the 249 and 269 ASTM classifications, we still think it's not a clearly divisible like product. It is not a neatly segregated item" (hearing transcript, testimony of G. Brian Busey, p. 92).

¹⁵ Field visit to ***, and telephone interviews with respondents to Commission questionnaires.

it is generally more cost effective to keep pipe production lines dedicated due to higher volume orders for pipes than for tubes. The generally higher price of tubes compared with pipes is attributable in part to the lower volume production lots and in part to value added by additional production steps, including cold drawing, cold working, and further annealing.¹⁶

Within the different ASTM pipe categories, there are differences in physical characteristics and overlaps in production resources. For example, A-312 pipes are welded using no filler material, and are annealed (heat treated) and hydrostatically tested. A-778 pipes are welded using filler material and are not annealed or hydrostatically tested. In general, A-312 pipes can withstand greater pressure and consequently have heavier walls than A-778 pipes. Both are sometimes produced on the same machinery and equipment.¹⁷

Among the various tube products, there are similar production methods and different physical specifications. A-249 and A-269 pressure tubes are generally produced on the same production machinery (in fact many tubes are produced to both specifications), with A-249 tubes undergoing additional processes designed for greater pressure applications. Grade 409 tubes are lower-quality tubes meant to convey automotive exhaust. They are sometimes produced on the same production lines as the pressure tubing. A-554 mechanical/ornamental tubing is also of a lower quality, designed for light structural and ornamental applications that do not require conveyance of liquids or gases. There is a small degree of overlap in production facilities between this type of tubing and pressure tubing. Occasionally, tube distributors will request multiple specification tubing, suitable for A-249, A-269, or A-554 applications.¹⁸

As used in this report, the terms "pipes" and "tubes" refer to welded stainless steel pipes and tubes unless otherwise specified.

Manufacturing Processes

There are three primary methods for producing welded tubular products: the continuous-mill process, the press brake process, and the spiral-weld process. Both pipes and tubes are made using these production methods. The ASTM sets forth specific requirements regarding the materials, method of manufacture, finishing operations, and testing to which welded pipe must conform in order to qualify as A-312 pipe.¹⁹ Because A-312 pipe must meet certain production and performance standards, domestic and foreign production processes for this product are believed to be essentially the same.

¹⁶ Petitioners' prehearing brief, p. 25, and petitioners' posthearing brief, appendix p. 9.

¹⁷ Field visits ***, and telephone interviews with industry sources.

¹⁸ Multiple specifications allow for maximum distributor flexibility in product offerings; however, the product would be produced to the highest specification, and therefore would be unusually expensive when used for the lower specification applications. Field visit to ***.

¹⁹ Petition, exhibit 6.

The continuous-mill process, which is the principal method of producing welded stainless pipes and tubes, begins with coils of cold-rolled sheet, strip, or plate. The coil has been annealed and pickled and produced to the dimensional, physical, and metallurgical limits specified by the pipe and/or tube producer. The coil is guided through a series of paired forming rolls. As it progresses through these rolls, its cross-sectional profile is changed into a tubular shape with the butted edges ready for welding.

The welding process most frequently used is tungsten inert gas (TIG) welding. Major advantages of the TIG method are the absence of filler material (A-312 pipe must be welded without filler material), complete fusion of butted edges, and shielding of the weld area.²⁰

Following the welding process, pipe is generally annealed (A-778 pipe is not), then cut to random length, pickled, tested hydrostatically, and stenciled.²¹ The term "full finished" is often used to describe the final finishing processes that are applied to A-312 pipes. However, petitioners and respondents differ in their definition of full finishing. Petitioners define the term as meaning that the pipe is annealed and pickled.²² Respondents describe the term as meaning the removal or smoothing of the interior weld bead prior to annealing.²³

The continuous-mill production process for welded stainless tubing is fundamentally the same as that for welded pipe up through the welding process, although the equipment required to produce each product sometimes differs in size and in tooling.²⁴ Welded tubing and some smaller diameter pipes generally undergo additional processes and refinements including cold drawing, cold working, and further annealing.²⁵

Another method of manufacturing welded stainless pipes and tubes is the press brake process in which a steel coil is cut to length and scored, or marked, in specified increments along the coil's end. A hammer press is

²⁰ The Welded Steel Tube Institute, "Technical Bulletins #2 and #6."

²¹ Petitioners' postconference brief, p. 21, and field visits ***. It should be noted that for certain non-A-312 tubular products, standards governing dimensional accuracy, uniformity, and metallurgical structure may differ, depending primarily on end use. For example, ornamental tubing requires superior surface quality but is typically delivered as-welded (i.e., no further refinement of the weld), unannealed, and without pressure testing. (The Welded Steel Tube Institute, "Technical Bulletin #2").

²² Hearing transcript, testimony of George Werner, p. 54.

²³ Hearing transcript, testimony of Richard Boltuck, p. 97, and respondents' prehearing brief, p. 29. According to petitioners, no additional working, such as bead finishing or polishing, is required under the A-312 specification. Petitioners also assert that most domestic producers have in-line capability for interior bead working, which has a negligible value added because it is an integral part of the welding process (petitioners' posthearing brief, appendix p. 2).

²⁴ Conference transcript, testimony of William Grant and George Werner, pp. 42-44, and ***.

²⁵ Petitioners' postconference brief, p. 22, The Welded Steel Tube Institute, "Technical Bulletin #2," ***, and petitioners' posthearing brief, appendix p. 9.

manually placed on the coil at each score, gradually bending the sheet into a cylindrical shape. The resulting pipe or tubular product is subsequently welded (with filler material) and can also be annealed. The press brake process is labor-intensive, but conforms more easily to the production of a broader range of sizes and smaller-volume orders than the continuous mill method.²⁶

A third method of welded pipe and tubular product manufacture is the infrequently used spiral-weld process in which a steel strip is spiraled and welded along the spiral. This process can be used to produce products of any size diameter, but the looped weld running throughout the product, rather than along a single longitudinal weld, is reportedly a disadvantage in terms of weld refinement and potential end use.²⁷

Uses

Welded stainless steel pipes, both domestic and imported, are generally used as conduits to transport liquids and gases from one process to another in a process industry facility. Major uses for A-312 pipes include digester lines, pharmaceutical production lines, petrochemical stock lines, automotive paint lines, and various processing lines such as those in breweries, paper mills, and general food facilities.²⁸ Other types of austenitic pipes appear to be less broadly used: for example, A-358 pipes, a specialized heavier-wall product category, are used primarily in highly critical applications such as nuclear power plants and liquified natural gas facilities, and A-778 pipes are used in less demanding pressure applications and are generally categorized as paper mill pipes.²⁹

Tubes, on the other hand, have a wider range of applications than pipes, ranging from less demanding structural uses to more critical applications. They are often used to transform products from one product form to another as in chemical processing.³⁰ A-249 and A-269 tubes are used primarily in heating and cooling apparatus such as heat exchangers, condensers, boilers, and feed water heaters. Grade 409 tubes are mainly used in automotive tailpipe applications. A-554 tubes are generally used for mechanical/ornamental applications, such as furniture, moldings, and appliance handles.³¹

Substitute Products

There are few, if any, instances in which pipe made of substitute materials such as plastics and other advanced materials can be used in the same applications as welded stainless steel pipes. Properties imparted to the pipe by stainless steel, such as corrosion resistance, strength (e.g., ability

²⁶ Field visit to ***.

²⁷ Field visit to ***.

²⁸ Petition, p. 9, field work and telephone interviews, August-September 1992.

²⁹ Conference transcript, p. 23, and ***.

³⁰ Hearing transcript, testimony of David Hartquist, pp. 122-123.

³¹ Petition, p. 22, fieldwork and telephone interviews, August-September 1992.

to withstand pressure), and temperature resistance, generally are not imparted by the use of plastics. Similarly, carbon steel and other relatively lower-priced steel pipes are not functional substitutes for stainless steel pipes.³²

Although there is some overlap in the end uses for welded and seamless stainless pipes and tubes, the two types of tubular products are generally not commercially interchangeable, principally because of price and technical differences. Seamless tubes tend to be more expensive to produce and are more commonly used in demanding applications that require exceptional strength, high pressure containment, and a great degree of reliability.³³

U.S. Tariff Treatment

Imports of welded ASTM A-312 stainless steel pipes from Korea and Taiwan are classified for tariff purposes in subheadings 7306.40.10 and 7306.40.50 of the Harmonized Tariff Schedule of the United States (HTS), covering specified tubes, pipes, and hollow profiles of stainless steel, of circular cross section.

The column 1-general (most-favored-nation) rate of duty for the subject stainless steel pipes, applicable to the products of Korea and Taiwan, is 7.6 percent ad valorem for pipes having a wall thickness of less than 1.65mm and 5 percent ad valorem for those having a wall thickness of 1.65mm or more.

U.S. PRODUCERS

There are 31 known producers of welded stainless steel pipes and tubes in the United States.³⁴ Sixteen firms, accounting for 87 percent of estimated 1991 total pipe and tube production, and 82 percent of estimated 1991 total A-312 pipe production, responded with usable data to the Commission questionnaire.³⁵ Data coverage in this report includes *** unless otherwise noted. Responding producers' plant locations, product lines, production shares and positions regarding the petition are presented in table 1.

Of the ***.³⁶ The pipe and tube producers are capable of handling larger diameter pipes and tubes than the firms producing only tubes; most of the industry is capable of producing small diameter pipes and tubes down to 1/2 inch; some tube producers only manufacture miniature instrumentation tubing of 1/8 to 1/2 inch in diameter. The pipe and tube producers all have some degree of overlap in the production machinery and personnel used to produce pipe and tube. In addition, there is overlap in the production

³² Conference transcript, testimony of William Grant and George Werner, pp. 63-64, and petitioners' prehearing brief, pp. 58-59.

³³ Stainless Steel Pipes and Tubes from Sweden, USITC Pub. 2033, November 1987.

³⁴ Petitioners assert that there are more producers of Grade 409 tubes only, for example, Arvin Automotive and Walker Exhaust, and of ornamental tubing, for example, Phoenix, Inductoweld, and Acme. ***. Petitioners' prehearing brief, pp. 28 and 31.

³⁵ ***.

³⁶ ***.

Table 1

Pipes and tubes: Producers' product lines, shares of reported 1991 production of pipes and tubes and A-312 pipes, plant locations, and position on the petition, by firms

Firm	Product produced	Outside diameter sizes <u>Inches</u>	Share of 1991 rep. pipe & tube prod. <u>Percent</u>	Share of 1991 reported A-312 pipe production <u>Percent</u>	Plant location	Position on petition
<u>Pipe producers:</u>						
Bristol.....	A,B	0.5-48.0	***	***	Bristol, TN	Petitioner
Davis Pipe...	A,B	2.0-36.0	***	***	Blountville, TN	***
<u>Pipe & tube producers:</u>						
Alaskan.....	B,G	2.0-120.0	***	***	Seattle, WA	***
Avesta.....	A,C,D,F	0.5-36.0	***	***	Wildwood, FL	Petitioner
Damascus 1/..	A,B,D,F	0.3-8.0	***	***	Greenville, PA	Petitioner
LTV Steel....	A,D,E	0.1-6.6	***	***	Cleveland, OH	***
Swepeco.....	A,B,D	5.0-48.0	***	***	Clifton, NJ	***
Trent.....	A,D	0.1-90.0	***	***	East Troy, WI	Petitioner
United.....	A,D,F,G	0.3-4.0	***	***	Beloit, WI	***
Webco.....	A,D	0.3-1.3	***	***	Mannford, OK	***
<u>Tube Producers:</u>						
Allegheny....	D,G	0.6-3.0	***	***	Claremore, OK	***
Falls Steel..	F	2.0-3.0	***	***	Newton Falls, OH	***
Greenville...	D	0.1-1.4	***	***	Greenville, PA	***
Plymouth.....	D	0.1-1.5	***	***	West Monroe, LA	***
Rath Mfg.....	D	0.5-4.0	***	***	Janesville, WI	***
Tube Prod....	F	1.5-3.0	***	***	Troy, OH	***
					Louisville, KY	***

A: A-312 pipe.

B: A-778 pipe.

C: A-358 pipe.

D: A-249 and A-269 tube.

E: A-554 mechanical/ornamental tube.

F: Grade 409 tube.

G: Other tube (i.e., A-778, A-270).

1/ Damascus shut down its plant on Nov. 19, 1992. It does not know whether or when its plant will reopen.

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

resources of producers manufacturing A-312 and A-778 pipes; and among pressure, mechanical/ornamental, or grade 409 tubing.

The 4 petitioners accounted for 41 percent of 1991 pipe and tube production, and 77 percent of 1991 A-312 pipe production. Producers supporting the petition accounted for 71 percent of 1991 pipe and tube production, those taking no position accounted for ***, and one firm *** opposed the petition.

One producer, ***, imported A-312 pipes from Korea and Taiwan. Its 1991 imports from both countries totaled ***.

U.S. IMPORTERS

There are 22 known importers of A-312 pipe from Korea and Taiwan. Twelve importers, accounting for 100 percent of imports from Korea, 64 percent of imports from Taiwan, and 82 percent of imports from both sources combined, responded to the Commission questionnaire with usable data. Data coverage in this report include all 12 firms unless otherwise noted.

CHANNELS OF DISTRIBUTION

Information obtained in response to the Commission's questionnaires on the channels of distribution of the various pipes and tubes in 1991 is presented in the following tabulation (in percent based on quantity):

<u>Item</u>	<u>U.S. producers' sales to--</u>		<u>U.S. importers' sales to--</u>	
	<u>Distributors</u>	<u>End users</u>	<u>Distributors</u>	<u>End users</u>
<u>Pipes</u>				
A-312 pipes.....	***	***	***	***
Other pipes.....	***	***	***	***
All pipes.....	94.3	5.7	100.0	0.0
<u>Tubes</u>				
Pressure tubes.....	***	***	***	***
Mechanical tubes...	***	***	***	***
Grade 409 tubes....	***	***	***	***
Other tubes.....	***	***	***	***
All tubes.....	46.1	53.9	40.5	59.5

The channels of distribution differ somewhat between A-312 pipes and pressure and grade 409 tubes.³⁷ U.S. manufacturers and importers of Korean and/or Taiwanese product sell virtually all of their A-312 pipe to distributors, who then resell to end users in process industries. Due to the

³⁷ Pressure tubes include, but are not limited to, ASTM A-249, A-269, A-270, and A-668 tubes.

specialized nature of tubing products, a majority of tubing is sold directly to end users.³⁸

Both A-312 pipes and pressure tubes are used in initial construction or in the replacement of existing facilities. Consequently, the market is characterized by end users that purchase small quantities of pipes and/or tubes for their purposes as needed. Distributors usually maintain inventories of the most frequently used sizes and schedules (denoting wall thickness) of pipes, generally less than 6 inches and schedule 40 and lower, and order from importers and domestic manufacturers those sizes and schedules which are less common. Some distributors also inventory the more common sizes of pressure tubes, but in smaller quantities than A-312 pipes.

CONSIDERATION OF ALLEGED MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES³⁹

U.S. Producers' Capacity, Production, and Capacity Utilization

Data for U.S. production, capacity, and capacity utilization for A-312 pipes and all pipes and tubes are summarized in table 2. In general, these indicators experienced little change during the period for which data were collected for either product category, with the exception of a substantial increase in pipe and tube capacity in interim 1992.

U.S. Producers' Shipments

U.S. producers' shipments of A-312 pipes and all pipes and tubes are presented in table 3. For both product categories, U.S. shipments experienced slight declines in quantities and larger declines in both unit values and total values from 1989 to 1991. Unit values in 1989 included surcharges levied on nickel and chromium. Between the interim periods, unit values continued to decline while total quantities and values increased.

U.S. Producers' Inventories

Data on U.S. producers' end-of-period inventories of A-312 pipes and all pipes and tubes are presented in table 4. Inventories of both product categories increased substantially between 1989 and 1991, and increased slightly between the interim periods.

³⁸ Nearly all the distributors responding to the question concerning a comparison of the physical dimensions and technical specifications of pipes and tubes indicated that austenitic tubes have tighter physical tolerances and are manufactured to any outside diameter, whereas pipes have specific standard dimensions and are of a heavier wall thickness.

³⁹ Summary data for this section of the report are presented in app. C.

Table 2

Pipes and tubes: U.S. capacity, production, and capacity utilization, by products, 1989-91, January-June 1991, and January-June 1992

Item	1989	1990	1991	Jan.-June--	
				1991	1992
<u>End-of-period capacity (short tons)</u>					
A-312 pipes.....	60,299	63,904	63,432	31,887	32,246
All pipes and tubes.....	133,633	136,859	138,392	69,507	77,656
<u>Production (short tons)</u>					
A-312 pipes.....	38,103	41,012	39,016	21,158	22,001
All pipes and tubes.....	86,507	89,410	89,393	46,468	47,292
<u>End-of-period capacity utilization (percent)</u>					
A-312 pipes.....	63.2	64.2	61.5	66.4	68.2
All pipes and tubes.....	64.7	65.3	64.8	67.1	60.9

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

Table 3

Pipes and tubes: Shipments by U.S. producers, by products and by types, 1989-91, January-June 1991, and January-June 1992

Item	1989	1990	1991	Jan.-June-- 1991	1992
Quantity (short tons)					
A-312 pipes:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	37,494	40,633	36,263	19,269	21,792
Exports.....	***	***	***	***	***
Total.....	***	***	***	***	***
All pipes and tubes:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	84,930	88,522	83,925	43,577	46,560
Exports.....	1,545	2,000	2,804	1,204	1,270
Total.....	86,475	90,522	86,729	44,781	47,830
Value (1,000 dollars)					
A-312 pipes:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	183,162	169,119	133,601	72,274	76,194
Exports.....	***	***	***	***	***
Total.....	***	***	***	***	***
All pipes and tubes:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Subtotal.....	419,142	385,662	342,338	175,054	182,308
Exports.....	9,812	9,811	13,375	5,792	5,587
Total.....	428,954	395,473	355,713	180,846	187,895
Unit value (per short ton)					
A-312 pipes:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Average.....	\$4,885	\$4,162	\$3,684	\$3,751	\$3,496
Exports.....	***	***	***	***	***
Average.....	***	***	***	***	***
All pipes and tubes:					
Company transfers.....	***	***	***	***	***
Domestic shipments.....	***	***	***	***	***
Average.....	4,935	4,357	4,079	4,017	3,916
Exports.....	6,351	4,906	4,770	4,811	4,398
Average.....	4,960	4,369	4,101	4,038	3,928

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

Table 4

Pipes and tubes: End-of-period inventories of U.S. producers, by products, 1989-91, January-June 1991, and January-June 1992

	<u>Jan. - June - -</u>				
<u>Item</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1991</u>	<u>1992</u>
	<u>Quantity (short tons)</u>				
A-312 pipes.....	***	***	***	***	***
All pipes and tubes.....	9,060	7,978	10,824	10,071	10,366
	<u>Ratio to U.S. shipments (percent)</u>				
A-312 pipes.....	***	***	***	***	***
All pipes and tubes.....	11.7	9.9	14.2	12.7	12.4

Note.--Ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

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

U.S. Employment, Compensation, and Productivity

Data on employment and productivity are shown in table 5. The number of production workers producing A-312 pipes remained fairly constant during the period for which data were collected, while the number tended to decline for all pipes and tubes.

Table 5

Average number of U.S. production and related workers producing pipes and tubes, hours worked, 1/ total compensation paid to such employees, and hourly total compensation, productivity, and unit labor costs, 2/ by products, 1989-91, January-June 1991, and January-June 1992

Item	1989	1990	1991	Jan. -June--	
				1991	1992
Number of production and related workers (PRWs)					
A-312 pipes.....	563	615	562	574	577
All pipes and tubes.....	1,673	1,712	1,598	1,612	1,518
Hours worked by PRWs (1,000 hours)					
A-312 pipes.....	1,134	1,191	1,200	621	590
All pipes and tubes.....	3,421	3,452	3,337	1,693	1,553
Total compensation paid to PRWs (1,000 dollars)					
A-312 pipes.....	15,864	16,817	16,093	8,360	9,104
All pipes and tubes.....	46,786	47,601	46,740	23,820	22,662
Hourly total compensation paid to PRWs					
A-312 pipes.....	\$13.99	\$14.12	\$13.41	\$13.46	\$15.43
All pipes and tubes.....	13.68	13.79	14.01	14.07	14.59
Productivity (short tons per 1,000 hours)					
A-312 pipes.....	33.6	34.4	32.5	34.1	37.3
All pipes and tubes.....	25.3	25.9	26.8	27.4	30.4
Unit labor costs (per short ton)					
A-312 pipes.....	\$416	\$410	\$412	\$395	\$414
All pipes and tubes.....	541	532	523	513	479

1/ Consists of hours worked plus hours of paid leave time.

2/ On the basis of total compensation paid.

Note.--Ratios are calculated using data of firms supplying both numerator and denominator information.

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

Financial Experience of U.S. Producers

Seven producers,⁴⁰ representing *** percent of estimated U.S. A-312 pipe production in 1991, submitted usable financial data on A-312 pipes, and 14 producers,⁴¹ accounting for *** percent of estimated production of all pipes and tubes, submitted data on all pipes and tubes.

Nine producers⁴² provided financial data on all pipes; nine⁴³ on pressure tubes; five⁴⁴ on A-409 tubes; and ***⁴⁵ on mechanical/ornamental tubes. These data are presented in appendix C.

Data for Avesta and Trent were verified by the ITC staff. The data as submitted were reliable. Avesta and Trent combined accounted for approximately *** percent of reported A-312 net sales in 1991.

The trends for all companies combined for net sales, operating income, and the operating income margins, as shown in the following tables, were all downward from 1989 to 1990 and from 1990 to 1991 for operations on A-312 pipes and all pipes and tubes. The trends for all companies combined for operating income and for operating income margins continued downward for interim 1992 compared to interim 1991 despite an upward trend in net sales values.⁴⁶

Operations on A-312 Pipes

Income-and-loss data for the seven producers of A-312 pipes are shown in table 6. Net sales of A-312 pipes decreased *** percent from *** in 1989 to *** in 1990, and decreased an additional *** percent to *** in 1991.

Operating income was *** in 1989, *** in 1990, and *** in 1991. Operating income margins were 9.6 percent in 1989, 5.5 percent in 1990, and 0.8 percent in 1991. Net sales of *** for the six-month period ended June 30, 1992 were *** percent more than the net sales of *** for the six-month period ended June 30, 1991. However, the operating income continued its downward trend, resulting in a loss of *** in the 1992 interim period compared to income of *** in interim 1991. The reporting producers of A-312 pipes experienced an operating loss margin as a percent of sales of 0.4 percent in interim 1992, compared with an operating income margin of 4.4 percent in interim 1991.

Net sales, operating income (loss), and operating income (loss) margins for A-312 pipes are presented in table 7 for the seven producers separately.

⁴⁰ The companies are ***. All pipe operations were used for ***.

⁴¹ The companies are ***.

⁴² The companies are ***.

⁴³ The companies are ***.

⁴⁴ The companies are ***.

⁴⁵ ***.

⁴⁶ As shown in the subsequent discussion of unit values per ton, quantities of A-312 pipe sold in interim 1992 increased but the average net sales price decreased when compared to interim 1991.

Table 6

Income-and-loss experience of U.S. producers on their A-312 pipe operations, accounting years 1989-91, January-June 1991, and January-June 1992

Item	1989	1990	1991	Jan.-June--	
				1991	1992
Value (1,000 dollars)					
Net sales.....	***	***	***	***	***
Cost of goods sold.....	***	***	***	***	***
Gross profit.....	***	***	***	***	***
Selling, general, and administrative expenses.....	***	***	***	***	***
Operating income or (loss).....	***	***	***	***	***
Interest expense.....	***	***	***	***	***
Other income (expense), net....	***	***	***	***	***
Net income or (loss) before income taxes.....	***	***	***	***	***
Depreciation and amortization..	***	***	***	***	***
Cash flow <u>1</u> /.....	***	***	***	***	***
Ratio to net sales (percent)					
Cost of goods sold.....	***	***	***	***	***
Gross profit.....	***	***	***	***	***
Selling, general, and administrative expenses.....	***	***	***	***	***
Operating income or (loss).....	9.6	5.5	0.8	4.4	(0.4)
Net income or (loss) before income taxes.....	***	***	***	***	***
Number of firms reporting					
Operating losses.....	***	***	***	***	***
Net losses.....	***	***	***	***	***
Data.....	6	6	7	7	7

1/ Cash flow is defined as net income or loss plus depreciation and amortization.

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

Table 7

Income-and-loss experience of U.S. producers on their A-312 pipe operations, by firms, accounting years 1989-91, January-June 1991, and January-June 1992

Item	1989	1990	1991	Jan.-June--	
				1991	1992
	Value (1,000 dollars)				
Net sales:					
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
Total.....	***	***	***	***	***
Operating income (loss):					
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
Total.....	***	***	***	***	***
	Share of net sales (percent)				
Operating income (loss):					
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
Average.....	9.6	5.5	0.8	4.4	(0.4)

1/ Not applicable.

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

*** companies ***⁴⁷ realized lower net sales values in 1991 compared to 1990 and 1989. *** incurred lower operating income margins in 1991 compared to 1990. The trends for interim 1992 compared to interim 1991 were more mixed, with *** showing increased net sales values in interim 1992. However, *** realized operating income margin increases in interim 1992 compared to interim 1991. Raw materials are a significant variable cost and were approximately *** percent of cost of goods sold in 1991. *** indicated in the questionnaire

response that they purchase the raw material used in the production of A-312 pipes from unrelated suppliers.

The income-and-loss experience on an average per-ton basis for A-312 pipes is presented in table 8. The sales value decreased in each period, from *** per ton in 1989 to *** in 1990, *** in 1991, and *** in interim 1992. The cost of goods sold decreased by *** per ton *** in interim 1992 compared to 1989, but the average sales value decreased by *** per ton ***, which contributed to a reduction from an operating income margin of 9.6 percent in 1989 to an operating loss margin of 0.4 percent in interim 1992. The A-312 pipe is sold in various sizes and lengths and, therefore, the product mix may have an effect on any per-ton analysis.

Table 8

Income-and-loss experience (on a per-ton basis) of the U.S. producers on their A-312 pipe operations, accounting years 1989-91, January-June 1991, and January-June 1992

* * * * * * *

Operations on All Pipes and Tubes

Income-and-loss data for the 14 producers' operations on all pipes and tubes are shown in table 9. Net sales decreased *** percent from *** in 1989 to *** in 1990, and decreased an additional *** percent to *** in 1991. Operating income was *** in 1989, *** in 1990, and *** in 1991. Operating income margins were 11.7 percent in 1989, 8.1 percent in 1990, and 5.6 percent in 1991. Net sales of *** for the six-month period ended June 30, 1992 were *** percent more than the net sales of *** for the six-month period ended June 30, 1991. The operating income was *** in the 1992 interim period compared to *** in interim 1991. The operating income margin as a percent of sales was 7.8 percent in interim 1991 and 6.3 percent in interim 1992.

Net sales, operating income (loss), and operating income (loss) margins for all pipes and tubes are presented in table 10 for the 14 producers separately. *** companies realized lower net sales values in 1991 compared to 1989 and *** had lower net sales in 1991 compared to 1990. *** of the companies incurred lower operating income margins in 1991 compared to 1990. The trends for interim 1992 compared to interim 1991 were more mixed with *** companies showing increased net sales values in interim 1992. However, only *** companies realized operating income margin increases in interim 1992 compared to interim 1991. Raw materials are a significant variable cost and were approximately *** percent of cost of goods sold in 1991. *** of the companies indicated in the questionnaire response that they purchase the raw material used in the production of all pipes and tubes from unrelated suppliers. ***.

Capital Expenditures

Capital expenditures provided by the producers for A-312 pipes and all pipes and tubes are shown in table 11. Capital expenditures for A-312 pipes

Table 9

Income-and-loss experience of the U.S. producers on their operations producing all pipes and tubes, accounting years 1989-91, January-June 1991, and January-June 1992

Item	1989	1990	1991	Jan. - June - -	
				1991	1992
Value (1,000 dollars)					
Net sales.....	***	***	***	***	***
Cost of goods sold.....	***	***	***	***	***
Gross profit.....	***	***	***	***	***
Selling, general, and administrative expenses.....	***	***	***	***	***
Operating income.....	***	***	***	***	***
Interest expense.....	***	***	***	***	***
Other expense, net.....	***	***	***	***	***
Net income before income taxes.....	***	***	***	***	***
Depreciation and amortization..	***	***	***	***	***
Cash flow <u>1/</u>	***	***	***	***	***
Ratio to net sales (percent)					
Cost of goods sold.....	***	***	***	***	***
Gross profit.....	***	***	***	***	***
Selling, general, and administrative expenses.....	***	***	***	***	***
Operating income.....	11.7	8.1	5.6	7.8	6.3
Net income before income taxes.....	***	***	***	***	***
Number of firms reporting					
Operating losses.....	***	***	***	***	***
Net losses.....	***	***	***	***	***
Data.....	14	14	14	13	13

1/ Cash flow is defined as net income or loss plus depreciation and amortization.

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

Table 10

Income-and-loss experience of U.S. producers on their pipe and tube operations, by firms, accounting years 1989-91, January-June 1991, and January-June 1992

* * * * * * *

Table 11

Pipes and tubes: Capital expenditures by U.S. producers, by products, accounting years 1989-91, January-June 1991, and January-June 1992

* * * * * * *

provided by ***⁴⁸ ***. Twelve producers⁴⁹ provided capital expenditures for all pipes and tubes.

Investment in Productive Facilities

The investments in productive facilities for the producers are presented in table 12 for operations on their A-312 pipes and all pipes and tubes.

Table 12

Pipes and tubes: Value of assets 1/ of U.S. producers, by products, accounting years 1989-91

* * * * * * *

Research and Development Expenses

*** reported research and development expenses for A-312 pipe operations as presented in table 13. *** reported research and development expenditures for all pipes and tubes.

Table 13

Pipes and tubes: Research and development expenses of U.S. producers, 1/ by products, accounting years 1989-91, January-June 1991, and January-June 1992

* * * * * * *

Impact of Imports on Capital and Investment

The Commission requested the U.S. producers to describe any actual or potential negative effects of imports of A-312 pipes from Korea and Taiwan on their growth, development and production efforts, investment, and ability to raise capital (including efforts to develop a derivative or improved version of the product). Their comments are presented in appendix D.

⁴⁸ ***.

⁴⁹ *** did not provide interim data.

CONSIDERATION OF THE QUESTION OF
THREAT OF MATERIAL INJURY

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. § 1677(7)(F)(i)) provides that--

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant economic factors⁵⁰--

(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,

(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,

⁵⁰ Section 771(7)(F)(ii) of the act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

(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 final orders under section 736, are also used to produce the merchandise under investigation,

(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.⁵¹

Items (I) and (IX) are not relevant to these investigations. Information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the causal relationship between imports of the subject merchandise and alleged material injury," and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in the section entitled "Consideration of alleged material injury to an industry in the United States." Available information on U.S. inventories of the subject products (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets, follows.

⁵¹ Section 771(7)(F)(iii) of the act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

U.S. Importers' Inventories

Table 14 presents the end-of-period inventories of U.S. importers of A-312 pipes. Inventories increased substantially from 1989 to 1991, then decreased substantially from interim 1991 to interim 1992.

Ability of Foreign Producers to Generate Exports and the Availability of Export Markets Other than the United States

The Commission requested information from counsel for producers of A-312 pipes in Korea and Taiwan.⁵² The data supplied by counsel for the foreign producers are presented in tables 15, 16, and 17.

Korea

According to counsel for Lucky Metals, Pusan Steel Pipe Co., Ltd., and Sammi Metal Products Co., Ltd., these three firms account for approximately 95 percent of both Korean production of A-312 pipes and exports of A-312 pipes to the United States.⁵³ Data from these producers are presented in table 15. The individual producers accounted for the following shares of 1991 reported exports to the United States: ***.

There is substantial excess capacity in the Korean pipe and tube industry, although producers project decreases in their exports to the United States in 1992 and 1993.⁵⁴

Taiwan

During the preliminary investigations, according to counsel for Ta Chen Stainless Pipe Co., Ltd., Chang Tieh Industry Co., Ltd., Jaung Yuann Enterprise Co., Ltd., and Yeun Chyang Industrial Co., Ltd., these four firms accounted for approximately *** of both Taiwanese production of A-312 pipes and exports of A-312 pipes to the United States. Ta Chen and Chang were not represented by counsel and did not provide data in response to Commission questionnaires in these final investigations. Accordingly, data presented in table 16 are for Jaung and Yeun, which accounted for approximately *** of total 1991 production in Taiwan, and for which Commerce found critical circumstances.⁵⁵ ***.⁵⁶

⁵² The Commission also requested additional information from the U.S. embassy in Seoul and the American Institute in Taiwan (AIT). Updated information to supplement data supplied by the embassy and the AIT during the preliminary investigations is presented in app. E. Data supplied by counsel for the foreign producers appear to be more product-specific than data supplied by the embassy and the AIT.

⁵³ Conference transcript, p. 113.

⁵⁴ Petitioner claims that respondents' reported capacity does not match publically available data appearing in Metal Bulletin, which estimate Korean capacity to be 83,000 tons, half of which is used to supply domestic demand. Petitioners' prehearing brief, p. 91.

⁵⁵ Reported 1991 exports for these two firms were *** of imports from Taiwan.

Table 14

A-312 pipes: End-of-period inventories of U.S. importers, by sources, 1989-91, January-June 1991, and January-June 1992

Item	1989	1990	1991	Jan.-June--	
				1991	1992
	Quantity (short tons)				
Korea.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Subtotal.....	253	669	1,363	1,051	297
Other sources.....	***	***	***	***	***
Total.....	***	***	***	***	***
	Ratio to U.S. shipments of imports (percent)				
Korea.....	***	***	***	***	***
Taiwan.....	***	***	***	***	***
Average.....	13.2	11.6	17.8	10.4	6.8
Other sources.....	***	***	***	***	***
Average.....	***	***	***	***	***

Note.--Ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

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

Table 15

A-312 pipes: Korea's capacity, production, inventories, and shipments, 1989-91, January-June 1991, January-June 1992, and projected 1992-93

* * * * *

Table 16

A-312 pipes: Taiwan's reported capacity, production, inventories, and shipments, 1989-91, January-June 1991, January-June 1992, and projected 1992-93

* * * * *

***.⁵⁷ Data from producers in Taiwan and Korea combined are presented in table 17.

⁵⁶ (...continued)

⁵⁶ According to data from the preliminary investigations, 1991 shares of exports to the United States for all 4 reporting firms were the following: ***. Commerce found no dumping for Chang Tieh in its final determination.

⁵⁷ Petitioner claims that respondents' reported capacity does not match publically available data, which estimate Taiwanese capacity to be 74,000

Table 17

A-312 pipes: Korea's and Taiwan's aggregate capacity, production, inventories, and shipments, 1989-91, January-June 1991, January-June 1992, and projected 1992-93

Item	1989	1990	1991	Jan.-June--		Projected--	
				1991	1992	1992	1993
Quantity (short tons)							
Capacity.....	27,903	37,119	41,933	21,316	21,364	42,279	42,279
Production.....	18,920	28,117	29,288	16,305	13,090	27,585	27,122
End-of-period inventories....	3,598	3,583	2,014	3,003	2,233	2,902	2,405
Shipments:							
Home market.....	10,437	13,345	16,229	8,539	9,087	16,525	16,766
Exports to--							
The United States.....	3,459	9,912	8,810	5,645	1,530	3,706	3,200
All other markets.....	3,873	4,875	5,818	2,701	2,255	6,466	7,503
Total exports.....	7,332	14,787	14,628	8,346	3,785	10,172	10,703
Total shipments.....	17,769	28,132	30,857	16,885	12,872	26,697	27,469
Ratios and shares (percent)							
Capacity utilization.....	67.8	75.7	69.8	76.5	61.3	65.2	64.2
Inventories to production....	19.0	12.7	6.9	9.2	8.5	10.5	8.9
Inventories to total ship- ments.....	20.2	12.7	6.5	8.9	8.7	10.9	8.8
Share of total quantity of shipments:							
Home market.....	58.7	47.4	52.6	50.6	70.6	61.9	61.0
Exports to--							
The United States.....	19.5	35.2	28.6	33.4	11.9	13.9	11.6
All other markets.....	21.8	17.3	18.9	16.0	17.5	24.2	27.3

Note.--Partial-year inventory ratios are annualized.

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

Dumping in Third Countries

On August 2, 1991, Canada made its final determination imposing antidumping duties of 18.2 percent on imports from Taiwan of welded stainless steel pipes of certain sizes and wall thicknesses with the specification A-312, SA-312,⁵⁸ or equivalent specifications.⁵⁹

Operation of the Voluntary Restraint Arrangement With Respect to Korea

Stainless steel pipe exports from Korea to the United States were subject to voluntary restraint arrangements (VRAs) between October 1, 1984 and March 31, 1992. As part of the program to bring the VRAs into effect, U.S. producers withdrew pending unfair trade petitions and the U.S. Government

⁵⁸ The specification SA-312 is prescribed by The American Society of Mechanical Engineers (ASME).

⁵⁹ Petition, Exhibits 11 and 12.

suspended antidumping and countervailing duties on covered products. The VRA program was to have ended September 30, 1989; however, in July 1989, as part of the Steel Trade Liberalization Program (STLP), the President announced that VRAs would be extended for 2-1/2 years. The program was terminated on March 31, 1992.

When the VRAs were extended in 1989, the United States sought to address the causes of unfair trade and to eliminate subsidies to, and overcapacity in, the steel industry. These agreements sought to include commitments by countries to prohibit export and production subsidies specifically for steel products, to reduce tariffs and non-tariff barriers to steel trade, and to establish an effective dispute-settlement mechanism. The bilateral consensus agreements were to be multilateralized within the General Agreements on Tariff and Trade (GATT) through incorporation in the Uruguay Round of negotiations.⁶⁰ As envisioned, negotiations were to be completed by December 1990 with the new agreement called the Multilateral Steel Agreement (MSA). On March 31, 1992, negotiations on a Multilateral Steel Agreement were suspended without agreement, although considerable progress had been made. Negotiators have reportedly agreed to continue to meet bilaterally and multilaterally, but no definite time schedule has been set.

Under the VRAs, governments agreed to limit their steel exports to the U.S. market over specified time periods. Foreign governments issued to their industries export certificates that were required to be presented to U.S. Customs officials upon entering the products into the United States. Some of the VRAs set fixed tonnage limits. Others, such as the VRA with Korea, limited exports to a certain share of U.S. domestic consumption, based on consumption forecasts. Since final consumption could only be determined following the termination of a period, adjustments for overshipping or undershipping were carried forward to a subsequent period. The VRAs also provided for flexibility, wherein a limited amount of tonnage could be shifted between categories or carried forward to a subsequent period upon consultation with the United States.

Stainless steel welded pipes were provided for in Korea's VRA in a subcategory, "other pipe and tube," which also included tube products, seamless pipes, non-stainless steel pipe, and other pipe products not subject to these investigations. Korean exports for this subcategory were not binding, as is shown in the following tabulation, based on export certificate data and final consultations for each period conducted by Commerce's Office of Agreements Compliance (in metric tons, except as noted):

<u>VRA restraint period</u>	<u>Adjusted VRA ceiling</u>	<u>Exports to the United States</u>	<u>Percent of VRA filled</u>
1988 (12 months).....	68,799	62,989	91.6
Jan.-Sept. 1989 (9 months).....	62,936	14,389	22.9
Oct. 1989-Dec. 1990 (15 months).. <td>91,233</td> <td>54,924</td> <td>60.2</td>	91,233	54,924	60.2
Jan. 1991-Mar. 1992 (15 months).. <td>169,062</td> <td>***¹</td> <td>***¹</td>	169,062	*** ¹	*** ¹

¹ Estimated by the U.S. Department of Commerce.

⁶⁰ Press Release of USTR, Dec. 12, 1989, and accompanying STEEL TRADE LIBERALIZATION PROGRAM (Fact Sheet).

Stainless steel pipes and tubes were subject to unilateral export restraints for part of the period for which data were collected in the investigations. The Government of Korea imposed a unilateral embargo on all exports of stainless steel pipes and tubes to the United States from April 22, 1991, to August 21, 1991.⁶¹ When the embargo was lifted, Korea announced that, during 1991, it would unilaterally limit to 3,500 metric tons its exports to the United States of all stainless steel pipes and tubes.⁶² ***.

Unilateral Agreement with Respect to Taiwan

There have been no VRAs between Taiwan and the United States. However, through letters dated November 16, 1989, and December 7, 1990, from the Coordination Council for North American Affairs (CCNAA) to the American Institute in Taiwan, the CCNAA established unilateral restraints on steel exports to the United States. These self-restraints, which extended through March 31, 1992, included a specific limit of 800 metric tons per month for stainless steel pipes and tubes, which is equivalent to an annual limit of 9,600 metric tons. It may be difficult to draw a conclusion as to how "binding" Taiwan's unilateral restraint was on the specific subject products because the subcategory "stainless steel pipes and tubes" includes tube products, seamless pipes, and other pipe products not subject to these investigations. Imports of the subject pipes alone from Taiwan in 1991 totaled 8,343 metric tons.

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

U.S. Imports

The Commission received import data in response to its questionnaire to U.S. importers, but the resulting data coverage was incomplete, accounting for approximately 82 percent of estimated total U.S. imports from Korea and Taiwan in 1991. Accordingly, the import data presented in table 18 consist of official U.S. import statistics of the U.S. Department of Commerce. However, even these data have some limitations. For example, the official statistics encompass not only A-312 pipes, but also include unknown quantities of other pipes and tubes. For the purposes of these investigations it is assumed that A-312 pipes account for 100 percent of U.S. imports under the HTS subheadings reserved for welded stainless steel pipes and tubes; although this may somewhat overstate the amount of imports of A-312 pipes, it is believed that imports of other pipes and tubes are quite small.⁶³ Imports from Taiwan are also slightly overstated because they include A-312 pipes from Chang Tieh, which are fairly traded and which accounted for an estimated *** percent of

⁶¹ Korea allowed exporters of stainless steel pipes and tubes a 2-week grace period, until May 5, 1991, to allow for export of products that were previously readied for shipment.

⁶² Postconference brief of the Korean respondents, p. 22.

⁶³ The HTS subheadings in the petition, in the Commission's notice of institution, and in Commerce's notice of initiation exclude certain welded stainless steel pipes and tubes of over 406.4mm. Although A-312 pipes of over 406.4mm are included within the scope of these investigations, imports of certain products over 406.6mm are not included in the official statistics presented herein. However, imports of products over 406.4mm are believed to be very small.

Table 18

A-312 pipes: U.S. imports, by sources, 1989-91, January-June 1991, and January-June 1992

Item	1989	1990	1991	Jan. - June - -	
				1991	1992
Quantity (short tons)					
Korea.....	444	3,328	5,074	4,083	973
Taiwan.....	3,095	7,979	9,197	4,938	2,812
Subtotal.....	3,538	11,307	14,271	9,022	3,785
Other sources.....	9,819	10,738	10,260	3,907	5,205
Total.....	13,357	22,045	24,531	12,929	8,990
Value (1,000 dollars)					
Korea.....	1,422	9,906	15,172	12,060	2,605
Taiwan.....	13,271	26,531	29,305	15,634	8,419
Subtotal.....	14,693	36,437	44,477	27,694	11,025
Other sources.....	41,377	40,271	33,472	15,505	19,682
Total.....	56,070	76,708	77,949	43,199	30,706
Unit value (per short ton)					
Korea.....	\$3,206	\$2,977	\$2,990	\$2,953	\$2,678
Taiwan.....	4,288	3,325	3,186	3,166	2,995
Average.....	4,152	3,223	3,117	3,070	2,913
Other sources.....	4,214	3,750	3,262	3,969	3,781
Average.....	4,198	3,480	3,178	3,341	3,416

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

Source: Compiled from official statistics of the U.S. Department of Commerce.

1991 imports. Chang Tieh did not begin exporting to the United States until 1991.

From 1989 to 1991, the quantity of imports of A-312 pipes increased substantially from both subject countries. During the interim periods, imports declined dramatically from both sources. Imports from Sweden, which fall under a recent antidumping duty order (September 1992) are presented in appendix F. Suspension of liquidation for imports from Sweden occurred in December 1990, and antidumping duties are to be assessed on imports as of that date.

Apparent Consumption and Market Penetration of LTFV Imports

Table 19 presents data on apparent U.S. consumption of A-312 pipes and all pipes and tubes, and imports of A-312 pipes from Korea, Taiwan, and all other countries as a share of apparent consumption. From 1989 to 1991, consumption of both product categories increased in quantity and decreased in value, reflecting a general decline in unit values for domestic shipments and imports. Imports from Korea and Taiwan substantially increased their shares of consumption during this period, at the expense of U.S. producers' shares. This trend reversed between the interim periods.

Table 19

Pipes and tubes: U.S. shipments of domestic product, U.S. imports, 1/ and apparent U.S. consumption, by products, 1989-91, January-June 1991, and January-June 1992

Item	1989	1990	1991	Jan.-June--	
				1991	1992
				Quantity (short tons)	
A-312 pipes:					
Producers' U.S. shipments..	37,494	40,633	36,263	19,269	21,792
U.S. imports from--					
Korea.....	444	3,328	5,074	4,083	973
Taiwan.....	3,095	7,979	9,197	4,938	2,812
Subtotal.....	3,538	11,307	14,271	9,022	3,785
Other sources.....	9,819	10,738	10,260	3,907	5,205
Total.....	13,357	22,045	24,531	12,929	8,990
Apparent consump-					
tion.....	50,851	62,678	60,794	32,198	30,782
All pipes and tubes:					
Producers' U.S. shipments..	84,930	88,522	83,925	43,577	46,560
U.S. imports from--					
Korea (subject A-312)....	444	3,328	5,074	4,083	973
Taiwan (subject A-312)...	3,095	7,979	9,197	4,938	2,812
Subtotal.....	3,538	11,307	14,271	9,022	3,785
Other sources.....	9,819	10,738	10,260	3,907	5,205
Total.....	13,357	22,045	24,531	12,929	8,990
Apparent consump-					
tion.....	98,287	110,567	108,456	56,506	55,550
				Value (1,000 dollars)	
A-312 pipes:					
Producers' U.S. shipments..	183,162	169,119	133,601	72,274	76,194
U.S. imports from--					
Korea.....	1,422	9,906	15,172	12,060	2,605
Taiwan.....	13,271	26,531	29,305	15,634	8,419
Subtotal.....	14,693	36,437	44,477	27,694	11,025
Other sources.....	41,377	40,271	33,472	15,505	19,682
Total.....	56,070	76,708	77,949	43,199	30,706
Apparent consump-					
tion.....	239,232	245,827	211,550	115,473	106,900
All pipes and tubes:					
Producers' U.S. shipments..	419,142	385,662	342,338	175,054	182,308
U.S. imports from--					
Korea (subject A-312)....	1,422	9,906	15,172	12,060	2,605
Taiwan (subject A-312)...	13,271	26,531	29,305	15,634	8,419
Subtotal.....	14,693	36,437	44,477	27,694	11,025
Other sources.....	41,377	40,271	33,472	15,505	19,682
Total.....	56,070	76,708	77,949	43,199	30,706
Apparent consump-					
tion.....	475,212	462,370	420,287	218,253	213,014

Table and footnote continued on next page.

Table 19--Continued

Pipes and tubes: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, by products, 1989-91, January-June 1991, and January-June 1992

Item	1989	1990	1991	Jan. -June - -	
				1991	1992
Share of the quantity of U.S. consumption (percent)					
A-312 pipes:					
Producers' U.S. shipments..	73.7	64.8	59.6	59.8	70.8
U.S. imports from--					
Korea.....	.9	5.3	8.3	12.7	3.2
Taiwan.....	6.1	12.7	15.1	15.3	9.1
Subtotal.....	7.0	18.0	23.5	28.0	12.3
Other sources.....	19.3	17.1	16.9	12.1	16.9
Total.....	26.3	35.2	40.4	40.2	29.2
All pipes and tubes:					
Producers' U.S. shipments..	86.4	80.1	77.4	77.1	83.8
U.S. imports from--					
Korea (subject A-312)....	.5	3.0	4.7	7.2	1.8
Taiwan (subject A-312)...	3.1	7.2	8.5	8.7	5.1
Subtotal.....	3.6	10.2	13.2	16.0	6.8
Other sources.....	10.0	9.7	9.5	6.9	9.4
Total.....	13.6	19.9	22.6	22.9	16.2
Share of the value of U.S. consumption (percent)					
A-312 pipes:					
Producers' U.S. shipments..	76.6	68.8	63.2	62.6	71.3
U.S. imports from--					
Korea.....	.6	4.0	7.2	10.4	2.4
Taiwan.....	5.5	10.8	13.9	13.5	7.9
Subtotal.....	6.1	14.8	21.0	24.0	10.3
Other sources.....	17.3	16.4	15.8	13.4	18.4
Total.....	23.4	31.2	36.8	37.4	28.7
All pipes and tubes:					
Producers' U.S. shipments..	88.2	83.4	81.5	80.2	85.6
U.S. imports from--					
Korea (subject A-312)....	.3	2.1	3.6	5.5	1.2
Taiwan (subject A-312)...	2.8	5.7	7.0	7.2	4.0
Subtotal.....	3.1	7.9	10.6	12.7	5.2
Other sources.....	8.7	8.7	8.0	7.1	9.2
Total.....	11.8	16.6	18.5	19.8	14.4

1/ Includes imports from Taiwan's Chang Tieh Industry Co., Ltd., whose exports to the United States were found to be fairly traded in Commerce's final determinations. Chang Tieh's exports accounted for an estimated *** percent of 1991 imports from Taiwan. It did not export before 1991.

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

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

Prices

Market Characteristics

Demand for stainless steel pipes depends mainly on the general level of industrial activity in process industries (such as chemicals, pulp and paper, food and beverages, and pharmaceuticals) that require the transfer of corrosive liquids, solids, and gases. Similarly, demand for stainless steel tubes depends on the level of industrial activity in end-use markets for tubes. End users' purchases of A-312 pipes vary depending on the level of new and replacement construction at processing facilities. The majority of domestic producers and importers indicated decreasing demand for A-312 pipes during the latter part of the period for which data were collected in the investigations.

Sales of U.S.-produced A-312 pipes are transacted on both an f.o.b. and delivered basis depending on the order size and supplier. Four of the responding U.S. producers sell A-312 pipes mainly on an f.o.b. mill basis, while five producers commonly sell on both an f.o.b. and a delivered basis depending on the quantities involved in the transaction. For example, *** sells on an f.o.b. basis for quantities up to 10,000 lbs and on a delivered basis for quantities over 10,000 lbs and *** reported that orders under 15,000 lbs are sold on an f.o.b. basis. Six of the seven responding importers sell on an f.o.b. U.S. port or dock basis,⁶⁴ while one importer sells on a delivered basis.

Price lists for A-312 pipes generally function as a basis to determine discounts based on quantity purchased and current market prices. Six of 11 producers⁶⁵ reported publishing price lists and seven out of nine producers reported that they typically discount from these price lists; three producers indicated increasing discounts during the period examined. *** reported that during the period January 1989-June 1992 its discounts increased from *** to *** percent. *** reported that discount levels have increased from *** percent in 1989 to *** percent in 1992. No importers reported publishing price lists although one indicated that it uses U.S. manufacturers' price lists as a basis for establishing discounts. Other importers base their quotes on current market prices and profit goals.

U.S. producers of A-312 pipes sell on a spot basis, although *** sell approximately *** percent and *** percent on contract, respectively. Lead times between order and delivery to a customer range from 3-5 days to 4 weeks for shipments from inventory and from 2 to 10 weeks for shipments of orders that cannot be filled by existing inventory. Most importers sell on a spot basis, while three importers (***) sell exclusively on a contract basis. Lead times for A-312 pipe orders range from less than a week for shipments from inventory to 1-6 months for deliveries from Korean or Taiwanese producers.

All of the U.S. producers reported that they sell A-312 pipes throughout the continental United States. The majority of the importers also sell to a national market, although three sell only in the West, Midwest, or East. Six out of 10 producers and 4 out of 8 importers responding to transportation cost

⁶⁴ However, two importers reported that sales of large quantities may also be on a delivered basis.

⁶⁵ Two producers did not respond to this particular question.

questions reported that transportation costs are an important factor in their customers' purchase decisions. However, reported transportation costs in the United States account for only a small percentage of the total delivered cost of A-312 pipes, between 1 and 3 percent for the majority of importers and producers.

The majority of importers stated that non-price factors such as quality and delivery time influence purchasing decisions greatly or somewhat, whereas the majority of responding producers said that non-price factors influence purchasing decisions somewhat or a little. When asked specifically about quality, 7 out of 8 responding producers and 8 out of 10 importers said that quality differences between the U.S. product and imports were not a major factor affecting domestic sales. Two importers indicated that differences in quality between the Korean and Taiwanese products and the U.S.-produced product were a significant factor in their sales. These firms stated that the market perception of the Korean and Taiwanese quality is a slight disadvantage and that for critical usage, domestic end users prefer domestic product because of its quality assurance. All importers and distributors and three out of five end users⁶⁶ indicated that the Taiwanese and Korean products are used interchangeably with U.S.-produced A-312 pipes.

Questionnaire Price Data

The Commission requested U.S. producers and importers to report net U.S. f.o.b. selling prices for sales of A-312 pipes and A-249 tubes to unrelated U.S. distributors,⁶⁷ as well as the total quantity shipped and the total net f.o.b. value shipped in each quarter to all unrelated U.S. distributors. The price data were requested for the largest single sale and for total sales of the products specified, by quarters, from January 1990 through June 1992.⁶⁸ Importers were also requested to report separately for each of these products imported from Korea and from Taiwan. Distributors were requested to provide data on their net f.o.b. purchase prices from U.S. producers and importers for A-312 pipes and A-249 tubes. The products for which pricing data were requested are as follows:

PRODUCT 1: ASTM-A-312, welded, grade AISI 304 pipes, 1-inch schedule 40

PRODUCT 2: ASTM-A-312, welded, grade AISI 304 pipes, 2-inch schedule 40

PRODUCT 3: ASTM-A-312, welded, grade AISI 304 pipes, 2-inch schedule 10

PRODUCT 4: ASTM-A-312, welded, grade AISI 316L pipes, 2-inch schedule 40

⁶⁶ Two end users cited quality concerns with Korean and Taiwanese products.

⁶⁷ Importers were not requested to report selling prices for A-249 tubes.

⁶⁸ Data were not collected for 1989 because of the price distortions caused by surcharges on nickel and chromium that affected the prices of stainless steel pipes and tubes. In late 1987, disruptions in the production of nickel caused nickel prices to rise from \$3 per pound in December 1987 to \$8 per pound in December 1988, and surcharges on nickel were introduced. In addition, surcharges on chromium began in May 1988. These surcharges were in effect until the second quarter of 1989.

PRODUCT 5: ASTM-A-249, welded, grade AISI 304 tubes, 2-inch-by-0.049-inch (average wall).

U.S. Producers' and Importers' Prices

Seven domestic producers and 10 importers provided pricing data for sales of the 5 requested products in the U.S. market, although not necessarily for all 5 products or all quarters over the period examined. Weighted-average f.o.b. prices for products 1-4 are shown in table 20-23.⁶⁹ Prices decreased throughout the period examined for products 1-4 sold by U.S. producers and importers of Korean and/or Taiwanese product. U.S. producers' selling prices to distributors decreased between 20.5 percent and 27.5 percent for products 1-4 during the period examined. Importers' prices to distributors for products 1-4 during the same period decreased between 6.6 and 18.3 percent for the Korean product and between 16.8 and 34.7 percent for the Taiwanese product.

Weighted-average prices for U.S.-produced product 1 (1-inch schedule 40 pipes) decreased by 27.5 percent during the period examined, from \$360 to \$261 per hundred feet. Prices for product 2 (2-inch schedule 40 pipes) decreased by 21.3 percent, from \$642 to \$505 per hundred feet, and prices for product 3 (2-inch schedule 10 pipes) decreased by 23.4 percent, from \$499 to \$382 per hundred feet. Prices for product 4 (grade 316L, 2-inch schedule 40 pipes) decreased by 20.5 percent from \$858 to \$682 per hundred feet during January 1990-June 1992. Reported quantities sold for these products fluctuated unevenly; quarterly average quantities (feet) shipped were 97,418; 81,891; 75,140; and 63,018 for products 1-4, respectively.

Korean pipes.--Weighted-average prices for the specified A-312 pipes imported from Korea generally declined over the period examined, with some fluctuations. Prices for grade AISI 304 1-inch schedule 40 pipes declined unevenly from *** per hundred feet during the period examined. Corresponding quantities purchased fluctuated downward from *** feet during January-March 1991 to *** feet during April-June 1992. Average quarterly purchases reported were 39,148 feet. Prices for 2-inch schedule 40 pipes declined unevenly from *** per hundred feet, an 18.3 percent decline during the period examined. Reported quantities shipped were 28,606 feet on average per quarter. Prices for 2-inch schedule 10 pipes declined irregularly from *** per hundred feet, a 13.1 percent decline. Reported average quarterly purchases were 7,839 feet. Prices for grade AISI 316L pipes, 2-inch schedule 40 sold to distributors fluctuated unevenly, but decreased 6.6 percent during the period examined. Reported quarterly quantities shipped ranged from *** feet, an average of 6,530 feet per quarter.

Price comparisons were possible between domestic and Korean pipes sold to distributors in 36 of the 40 quarters for products 1-4 during the 10 quarters examined. In 34 out of 36 instances for the specified products, the Korean product was priced below the domestic product by margins ranging from 5.1 percent to 27.5 percent. Margins of overselling of 0.3 and 4.6 percent were

⁶⁹ Importers were not requested to report selling prices of imports for A-249 tubes (product 5). U.S. producers' weighted-average selling prices to distributors for product 5 decreased 19.1 percent, from \$215 to \$174 per 100 feet, during the period examined.

Table 20

Product 1: 1/ Weighted-average net f.o.b. prices and quantities for sales to distributors reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992

Period	United States		Korea			Taiwan		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	Per hundred feet	Feet	Per hundred feet	Feet	Percent	Per hundred feet	Feet	Percent
1990:								
Jan.-Mar.....	\$360	100,108	***	***	***	***	***	***
Apr.-June.....	351	106,648	***	***	***	***	***	***
July-Sept.....	328	130,103	***	***	***	***	***	***
Oct.-Dec.....	332	77,143	***	***	***	***	***	***
1991:								
Jan.-Mar.....	320	75,197	***	***	***	***	***	***
Apr.-June.....	314	74,991	***	***	***	***	***	***
July-Sept.....	306	124,095	***	***	***	***	***	***
Oct.-Dec.....	277	77,881	***	***	***	***	***	***
1992								
Jan.-Mar.....	299	91,629	***	***	***	***	***	***
Apr.-June.....	261	116,389	***	***	***	***	***	***

1/ ASTM-A-312, welded, grade AISI 304 pipes, 1-inch schedule 40.

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

Table 21

Product 2: 1/ Weighted-average net f.o.b. prices and quantities for sales to distributors reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992

Period	United States		Korea			Taiwan		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	Per hundred feet	Feet	Per hundred feet	Feet	Percent	Per hundred feet	Feet	Percent
1990:								
Jan.-Mar.....	\$642	106,009	***	***	***	***	***	***
Apr.-June.....	591	106,447	***	***	***	***	***	***
July-Sept.....	628	69,382	***	***	***	***	***	***
Oct.-Dec.....	595	90,114	***	***	***	***	***	***
1991:								
Jan.-Mar.....	615	48,559	***	***	***	***	***	***
Apr.-June.....	594	74,977	***	***	***	***	***	***
July-Sept.....	563	86,284	***	***	***	***	***	***
Oct.-Dec.....	524	80,806	***	***	***	***	***	***
1992:								
Jan.-Mar.....	505	65,479	***	***	***	***	***	***
Apr.-June.....	505	90,849	***	***	***	***	***	***

1/ ASTM-A-312, welded, grade AISI 304 pipes, 2-inch schedule 40.

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

Table 22

Product 3: 1/ Weighted-average net f.o.b. prices and quantities for sales to distributors reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992

Period	United States			Korea			Taiwan		
	Price Per hundred feet	Quantity Feet	Margin Percent	Price Per hundred feet	Quantity Feet	Margin Percent	Price Per hundred feet	Quantity Feet	Margin Percent
1990:									
Jan.-Mar.....	\$499	105,335	***	***	***	***	***	***	***
Apr.-June.....	488	113,792	***	***	***	***	***	***	***
July-Sept.....	482	96,560	***	***	***	***	***	***	***
Oct.-Dec.....	492	33,726	***	***	***	***	***	***	***
1991:									
Jan.-Mar.....	469	79,693	***	***	***	***	***	***	***
Apr.-June.....	465	26,762	***	***	***	***	***	***	***
July-Sept.....	421	41,390	***	***	***	***	***	***	***
Oct.-Dec.....	435	64,408	***	***	***	***	***	***	***
1992:									
Jan.-Mar.....	392	83,046	***	***	***	***	***	***	***
Apr.-June.....	382	106,697	***	***	***	***	***	***	***

1/ ASTM-A-312, welded, grade AISI 304 pipes, 2-inch schedule 10.

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

Table 23

Product 4: 1/ Weighted-average net f.o.b. prices and quantities for sales to distributors reported by U.S. producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992

Period	United States			Korea			Taiwan		
	Price Per hundred feet	Quantity Feet	Margin Percent	Price Per hundred feet	Quantity Feet	Margin Percent	Price Per hundred feet	Quantity Feet	Margin Percent
1990:									
Jan.-Mar.....	\$858	70,945	***	***	***	***	***	***	***
Apr.-June.....	884	63,000	***	***	***	***	***	***	***
July-Sept.....	840	73,905	***	***	***	***	***	***	***
Oct.-Dec.....	834	72,341	***	***	***	***	***	***	***
1991:									
Jan.-Mar.....	820	46,637	***	***	***	***	***	***	***
Apr.-June.....	792	47,486	***	***	***	***	***	***	***
July-Sept.....	769	40,151	***	***	***	***	***	***	***
Oct.-Dec.....	691	50,518	***	***	***	***	***	***	***
1992:									
Jan.-Mar.....	678	72,197	***	***	***	***	***	***	***
Apr.-June.....	682	93,003	***	***	***	***	***	***	***

1/ ASTM-A-312, welded, grade AISI 316L pipes, 2-inch schedule 40.

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

reported in two quarters for product 4.⁷⁰ In each of the 10 possible price comparisons for 1-inch schedule 40 pipes, the Korean product was priced below the domestic product with margins ranging from 10.6 to 27.5 percent. Margins of underselling for 2-inch schedule 40 pipes ranged between 5.1 and 22.0 percent, and margins of underselling for 2-inch schedule 10 pipes ranged from 8.8 to 23.2 percent. In 7 of the 9 possible price comparisons for grade 316L, 2-inch schedule 40 pipes, the Korean product was priced below the domestic product with margins ranging from 11.5 to 21.5 percent. In two instances the Korean product was priced above the domestic product by 0.3 and 4.6 percent.

Taiwanese pipes.--Weighted-average prices for the specified A-312 pipes imported from Taiwan declined 34.7, 27.1, 16.8, and 19.2 percent, respectively, for products 1-4 over the period examined. Prices for grade AISI 304, 1-inch schedule 40, declined unevenly from *** per hundred feet during the period examined. Corresponding quantities purchased fluctuated irregularly from *** feet during January-March 1990 to *** feet during April-June 1992. Prices for 2-inch schedule 40 pipes declined by a smaller amount (27.1 percent) during the period examined. Reported quantities sold for Taiwanese product fluctuated widely, but on a quarterly basis averaged 39,472 feet during the period examined. Prices for 2-inch schedule 10 pipes declined irregularly from *** per hundred feet between January-March 1990 and January-March 1992, then increased to *** per hundred feet on smaller quantities *** sold during the final quarter of the period examined. Average quarterly shipments were 18,569 feet. Reported prices for grade AISI 316L, 2-inch schedule 40 pipes sold to distributors fluctuated downward unevenly from *** per hundred feet, a 19.2 percent decline during the period examined. Reported quarterly quantities shipped ranged from *** feet, an average of 23,881 feet.

Price comparisons for products 1-4 were possible between domestic and Taiwanese pipes sold to distributors in all of the 40 quarters during the period for which data were collected. In 34 out of 40 instances the Taiwanese product was priced below the domestic product by margins ranging from 0.1 percent to 17.5 percent. Margins of overselling in 6 instances ranged from 0.2 to 15.3 percent. In 8 of the 10 possible price comparisons for 1-inch schedule 40 pipes, the Taiwanese product was priced below the domestic product, with margins ranging from 4.6 to 17.5 percent. During 2 of the 10 periods examined, the Taiwanese product was priced above the domestic product by margins of 0.9 and 0.2 percent. Margins of underselling for 2-inch schedule 40 pipes ranged between 2.8 and 12.7 percent. In one instance the Taiwanese product was priced above the domestic product by 1.5 percent. Margins of underselling for 2-inch schedule 10 pipes ranged from 0.1 to 17.5 percent. During January-March 1990 and April-June 1992 the Taiwanese product was priced *** percent above the domestic product.⁷¹ Price comparisons of grade 316L, 2-inch schedule 40 pipes showed margins of underselling ranging from 0.3 to 14.2 percent. In one instance the Taiwanese product was priced above the domestic product by 0.8 percent.

⁷⁰ Margins of overselling were reported for product 4 on quantities of *** for the Korean product and *** for the domestic product.

⁷¹ Domestic and Taiwanese product shipped during April-June 1992 amounted to 106,697 and *** feet, respectively.

Purchaser Price Data

Purchase prices for the domestically produced and imported A-312 pipes and A-249 tubes from Korea and Taiwan were based on weighted-average net f.o.b. prices reported by distributors in questionnaire responses. Fifteen distributors purchasing domestic and Korean- and/or Taiwanese-produced A-312 pipes provided usable price data for January 1990-June 1992, but not necessarily for each product or for each quarter of the period.⁷² Weighted-average f.o.b. purchase prices for products 1-4 are shown in tables 24-27. Purchase prices generally decreased throughout the period examined for products 1-4 sold by U.S. producers and importers of Korean and Taiwanese products. Purchase prices for domestic products decreased between 23.2 percent and 29.0 percent for products 1-4 during the period examined. Purchase prices for imported products 1-4 during the same period decreased between 6.6 and 32.0 percent for the Korean products and 5.8 and 30.8 percent for Taiwanese products 1-4.

Weighted-average purchase prices for U.S.-produced 1-inch schedule 40 pipes reported by distributors fluctuated between *** per hundred feet, but declined 23.2 percent over the period examined. Prices for 2-inch schedule 40 pipes decreased unevenly by 29.0 percent from *** per hundred feet. Prices for 2-inch schedule 10 pipes and grade 316L, 2-inch schedule 40 pipes fluctuated but decreased by 23.9 and 23.7 percent, respectively, during the period examined. Reported quantities purchased for products 1-4 fluctuated. Quarterly averages (in feet of pipe purchased) were 9,262; 9,365; 6,945; and 5,334, respectively.

Korean pipes.--Weighted-average purchase prices for the specified A-312 pipes imported from Korea were reported for 21 of the 40 possible quarters. These prices generally declined over the period examined, with some fluctuations. Prices for grade AISI 304 1-inch schedule 40 pipes declined unevenly from *** per hundred feet during the period examined. Corresponding quantities purchased fluctuated unevenly from *** feet during July-September 1990 to *** feet during April-June 1992. Average reported quarterly purchases reported were 14,652 feet. Prices for 2-inch schedule 40 pipes declined unevenly from *** per hundred feet, a 26.6 percent decline during the period examined. On a quarterly basis, quantities purchased were 11,546 feet on average. Prices for 2-inch schedule 10 pipes were reported for 3 of the possible 10 quarters. These prices were *** feet, respectively. Similarly, purchase prices for grade AISI 316L, 2-inch schedule 40 pipes sold to distributors were reported for three quarters. These prices were *** per hundred feet, on quantities of *** feet, respectively. Overall, reported purchase prices for Korean products 3 and 4 *** percent, respectively.

Price comparisons were possible between domestic and Korean pipes sold to distributors in 21 of the 40 quarters examined for products 1-4. In 19 out of 21 instances the Korean product was priced below the domestic product by

⁷² Purchases of Korean or Taiwanese A-249 tubes were not requested. One purchaser, ***, reported purchases of the specified A-249 domestic tubes for three quarters, *** per hundred feet, respectively.

Table 24

Product 1: 1/ Weighted-average net f.o.b. purchase prices, U.S. point of shipment, quantities reported by distributors from domestic producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992

Period	United States			Korea			Taiwan		
	Price Per hundred feet	Quantity Feet	Price Per hundred feet	Price Per hundred feet	Quantity Feet	Margin Percent	Price Per hundred feet	Quantity Feet	Margin Percent
1990:									
Jan.-Mar.....	***	***	***	***	***	4.8	***	***	16.1
Apr.-June.....	***	***	***	***	***	18.6	***	***	22.5
July-Sept.....	***	***	***	***	***	17.7	***	***	14.4
Oct.-Dec.....	***	***	***	***	***	28.1	***	***	20.2
1991:									
Jan.-Mar.....	***	***	***	***	***	22.9	***	***	9.3
Apr.-June.....	***	***	***	***	***	17.0	***	***	14.9
July-Sept.....	***	***	***	***	***	3/	***	***	3/
Oct.-Dec.....	***	***	***	***	***	3/	***	***	6.9
1992:									
Jan.-Mar.....	***	***	***	***	***	10.6	***	***	(3.2)
Apr.-June.....	***	***	***	***	***	15.8	***	***	21.3

1/ ASTM-A-312, welded, grade AISI 304 pipes, 1-inch schedule 40.

2/ Data not available.

3/ Margins not calculated.

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

Table 25

Product 2: 1/ Weighted-average net f.o.b. purchase prices, U.S. point of shipment, quantities reported by distributors from domestic producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992

Period	United States			Korea			Taiwan		
	Price Per hundred feet	Quantity Feet	Price Per hundred feet	Price Per hundred feet	Quantity Feet	Margin Percent	Price Per hundred feet	Quantity Feet	Margin Percent
1990:									
Jan.-Mar.....	***	***	***	***	***	12.9	***	***	27.7
Apr.-June.....	***	***	***	***	***	3/	***	***	32.3
July-Sept.....	***	***	***	***	***	10.1	***	***	18.5
Oct.-Dec.....	***	***	***	***	***	21.6	***	***	20.9
1991:									
Jan.-Mar.....	***	***	***	***	***	22.4	***	***	17.3
Apr.-June.....	***	***	***	***	***	15.1	***	***	15.6
July-Sept.....	***	***	***	***	***	3/	***	***	11.0
Oct.-Dec.....	***	***	***	***	***	3/	***	***	6.5
1992:									
Jan.-Mar.....	***	***	***	***	***	17.8	***	***	10.4
Apr.-June.....	***	***	***	***	***	10.0	***	***	4.1

1/ ASTM-A-312, welded, grade AISI 304 pipes, 2-inch schedule 40.

2/ Data not available.

3/ Margins not calculated.

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

Table 26

Product 3: 1/ Weighted-average net f.o.b. purchase prices, U.S. point of shipment, quantities reported by distributors from domestic producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992

Period	United States			Korea			Taiwan		
	Price	Quantity	Per	Price	Quantity	Per	Price	Quantity	Margin
	hundred	Feet	hundred	Per	Feet	hundred	Per	Feet	Percent
	feet		feet	feet		feet	feet		
1990:									
Jan.-Mar.....	***	***	***	***	***	***	***	***	(9.0)
Apr.-June.....	***	***	***	***	***	***	***	***	19.4
July-Sept.....	***	***	***	***	***	***	***	***	17.4
Oct.-Dec.....	***	***	***	***	***	***	***	***	17.1
1991:									
Jan.-Mar.....	***	***	***	***	***	***	***	***	10.0
Apr.-June.....	***	***	***	***	***	***	***	***	11.8
July-Sept.....	***	***	***	***	***	***	***	***	20.5
Oct.-Dec.....	***	***	***	***	***	***	***	***	6.4
1992:									
Jan.-Mar.....	***	***	***	***	***	***	***	***	3/
Apr.-June.....	***	***	***	***	***	***	***	***	3/

1/ ASTM-A-312, welded, grade AISI 304 pipes, 2-inch schedule 10.

2/ Data not available.

3/ Margins not calculated.

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

Table 27

Product 4: 1/ Weighted-average net f.o.b. purchase prices, U.S. point of shipment, quantities reported by distributors from domestic producers and importers, and margins of under/(over)selling, by quarters, January 1990-June 1992

Period	United States			Korea			Taiwan		
	Price	Quantity	Per	Price	Quantity	Per	Price	Quantity	Margin
	hundred	Feet	hundred	Per	Feet	hundred	Per	Feet	Percent
	feet		feet	feet		feet	feet		
1990:									
Jan.-Mar.....	***	***	***	***	***	***	***	***	3.8
Apr.-June.....	***	***	***	***	***	***	***	***	12.0
July-Sept.....	***	***	***	***	***	***	***	***	15.3
Oct.-Dec.....	***	***	***	***	***	***	***	***	17.0
1991:									
Jan.-Mar.....	***	***	***	***	***	***	***	***	14.5
Apr.-June.....	***	***	***	***	***	***	***	***	7.7
July-Sept.....	***	***	***	***	***	***	***	***	11.2
Oct.-Dec.....	***	***	***	***	***	***	***	***	3.5
1992:									
Jan.-Mar.....	***	***	***	***	***	***	***	***	9.1
Apr.-June.....	***	***	***	***	***	***	***	***	(8.6)

1/ ASTM-A-312, welded, grade AISI 316L pipes, 2-inch schedule 40.

2/ Data not available.

3/ Margins not calculated.

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

margins ranging from 4.8 percent to 28.1 percent. Margins of overselling in 2 instances were 2.2 and 1.3 percent for product 3 and 4, respectively.⁷³ In each of the 8 possible price comparisons for 1-inch schedule 40 pipes, the Korean product was priced below the domestic product with margins ranging from 4.8 to 28.1 percent. Margins of underselling for 2-inch schedule 40 pipes ranged between 10.0 and 21.6 percent. Margins of underselling in 2 instances were 10.7 and 24.4 percent for 2-inch schedule 10 pipes, while one instance of overselling (2.2 percent) was reported on reduced quantities purchased of *** Korean product. Purchase price comparisons of grade 316L, 2-inch schedule 40 pipes showed two margins of underselling of 12.1 and 14.7 percent, and one instance in which the Korean product was priced above the domestic product by 1.3 percent.

Taiwanese pipes.--Weighted-average prices for the specified A-312 pipes imported from Taiwan declined 28.0, 5.8, 30.8, and 8.9 percent, respectively for products 1-4 over the period examined. Prices for grade AISI 304 1-inch schedule 40 pipes declined unevenly from *** per hundred feet during the period examined. Corresponding quantities purchased fluctuated irregularly, but on average, were 9,478 feet per quarter. Prices for 2-inch schedule 40 pipes declined by a smaller amount (5.8 percent) during the period examined. Reported quantities sold for Taiwanese product fluctuated widely, but on a quarterly basis averaged 7,290 feet during the period examined. Prices for 2-inch schedule 10 pipes declined steadily from *** per hundred feet between January-March 1990 and October-December 1991, on average quarterly shipments of 5,057 feet. There were no reported purchases of Taiwanese product 3 in 1992. Reported purchase prices for grade AISI 316L, 2-inch schedule 40 pipes declined unevenly from *** per hundred feet between January-March 1990 and January-March 1992, then increased 18.4 percent to *** per hundred feet on sharply declining quantities purchased, *** feet. Average quarterly shipments were 6,175 feet.

Price comparisons were possible between domestic and Taiwanese pipes sold to distributors in 37 of the 40 quarters examined for products 1-4. In 34 out of 37 instances the Taiwanese product was priced below the domestic product by margins ranging from 3.5 percent to 32.3 percent. Margins of overselling in 3 instances ranged from 3.2 to 9.0 percent. In 8 of the 9 possible price comparisons for 1-inch schedule 40 pipes, the Taiwanese product was priced below the domestic product with margins ranging from 6.9 to 22.5 percent. During the first quarter of 1992, the Taiwanese product was priced above the domestic product by 3.2 percent. Margins of underselling for 2-inch schedule 40 pipes ranged between 4.1 and 32.3 percent. Margins of underselling for 2-inch schedule 10 pipes ranged from 6.4 to 20.5 percent. During January-March 1990 the Taiwanese product was priced 9.0 percent above the domestic product. Price comparisons of grade 316L, 2-inch schedule pipes showed margins of underselling ranging from 3.5 to 17.0 percent. During the second quarter of 1992, the Taiwanese product was priced above the domestic product by 8.6 percent.

⁷³ Margins of overselling were reported for product 3 on quantities of *** feet for Korean and domestic product, respectively, and for product 4 on quantities of *** feet for Korean and domestic product, respectively.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the currencies of the two countries subject to these investigations fluctuated in relation to the U.S. dollar over the period from January-March 1989 through April-June 1992 (table 28).⁷⁴ The nominal value of the Korean currency depreciated by 13.5 percent while the Taiwanese currency appreciated 9.9 percent. When adjusted for movements in producer price indexes in the United States and the specified countries, the respective values of the Korean and Taiwanese currencies depreciated 7 percent and less than 1 percent during the period for which data were collected.

Lost Sales and Lost Revenues

Among the eight domestic producers responding to questions concerning lost sales and lost revenues in the final investigations,⁷⁵ ***. The Commission was able to contact three of the five purchasers listed in the allegations.

* * * * *

⁷⁴ International Financial Statistics, September 1992.

⁷⁵ *** did not respond to the particular questions. *** reported that they had not lost sales or revenues. *** reported lost sales and revenues of welded A-312 pipes due to competition from imports from Korea or Taiwan over the period examined but could not provide details for these allegations; in order to investigate such allegations, the Commission requests information such as the accepted and rejected price quotes, or the dates and quantities involved in each transaction. Also, *** commented that potential customers rejected bids because prices for imported product were *** percent below domestic prices, but did not specify the country of origin for these imports. *** reported a decrease in sales due primarily to downward pricing pressure created by the allegedly low-priced imports from Korea and Taiwan.

Table 28

Exchange rates:¹ Indexes of nominal and real exchange rates of selected currencies, and indexes of producer prices in those countries,² by quarters, January 1989-June 1992

Period	U.S. producer price index	Korea			Taiwan		
		Producer price index	Nominal exchange rate index	Real exchange rate index ³	Producer price index	Nominal exchange rate index	Real exchange rate index ³
1989:							
January-March.....	100.0	100.0	100.0	100.0	100.0	100.0	100.0
April-June.....	101.8	100.8	101.6	100.6	99.7	105.3	103.1
July-September.....	101.4	100.7	101.3	100.6	97.9	107.4	103.7
October-December...	101.8	101.2	100.7	100.1	96.6	106.5	101.0
1990:							
January-March.....	103.3	101.8	98.1	96.7	96.1	105.6	98.3
April-June.....	103.1	104.0	95.4	96.3	96.9	102.8	96.6
July-September.....	104.9	105.5	94.7	95.2	98.8	101.5	95.6
October-December...	108.1	108.2	94.7	94.8	99.8	101.5	93.7
1991:							
January-March.....	105.9	109.8	93.9	97.3	99.2	101.7	95.3
April-June.....	104.8	110.0	93.4	98.0	98.7	101.4	95.5
July-September.....	104.7	110.6	92.4	97.7	98.0	103.3	96.7
October-December...	104.8	111.5	89.9	95.7	96.5	106.2	97.7
1992:							
January-March.....	104.6	112.5	88.4	95.1	94.7	109.7	99.4
April-June.....	105.6	113.6 ⁴	86.5	93.0 ⁴	95.4 ⁵	109.9 ⁵	99.3 ⁵

¹ Exchange rates expressed in U.S. dollars per unit of foreign currency.

² Producer price indexes--intended to measure final product prices--are based on period-average quarterly indexes presented in line 63 of the International Financial Statistics.

³ The real exchange rate is derived from the nominal rate adjusted for relative movements in producer prices in the United States and the specified countries.

⁴ Derived from Korean price data reported for April-May only.

⁵ Derived from Taiwanese exchange rate and price data reported for April-May only.

Note.--January-March 1989 = 100. The real exchange rates, calculated from precise figures, cannot in all instances be derived accurately from previously rounded nominal exchange rate and price indexes.

Source: International Monetary Fund, International Financial Statistics, September 1992.

APPENDIX A
FEDERAL REGISTER NOTICES

material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the Republic of Korea and Taiwan of certain welded stainless steel pipes,¹ provided for in subheadings 7308.40.10 of 7308.40.50 of the Harmonized Tariff Schedule of the United States.

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

DATE: *Effective Date:* June 22, 1992.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa Hand (202-205-3182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain welded stainless steel pipes from the Republic of Korea and Taiwan are being sold in the United States at less than fair value within the meaning

[Investigations Nos. 731-TA-540 and 541 (Final)]

Certain Welded Stainless Steel Pipes From the Republic of Korea and Taiwan

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of final antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-TA-540 and 541 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with

¹ The merchandise subject to these investigations is welded austenitic stainless steel pipe (WSSP) that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A-312. The merchandise covered by the scope of the investigations also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM A-312. WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines, and paper process machines. Imports of WSSP are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7308.40.1000, 7308.40.5010, 7308.40.5030, 7308.40.5050, and 7308.40.5070. Although these subheadings include both pipes and tubes, the scope of these investigations is limited to welded austenitic stainless steel pipes. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on November 18, 1991, by Avesta Sandvik Tube, Inc.; Bristol Metals; Damascus Tubular Products; Trent Tube Division, Crucible Materials Corp.; and the United Steelworkers of America.

Participation in the Investigations and Public Service List

Persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the *Federal Register*. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

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

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

Staff Report

The prehearing staff report in these investigations will be placed in the nonpublic record on October 27, 1992, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on November 10, 1992, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 3, 1992. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on November 6, 1992, at the U.S.

International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.13(f), and 207.23(b) of the Commission's rules.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is November 3, 1992. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is November 18, 1992; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before November 18, 1992. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

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

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

By order of the Commission.

Issued: July 23, 1992.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-17909 Filed 7-28-92; 8:45 am]

BILLING CODE 7020-02-M

Case History

Since the issuance of our notice of preliminary determination and postponement of final determination 57 FR 27731 (June 22, 1992), the following events have occurred.

Verification of respondents' responses to the Department of Commerce's (the Department) questionnaires regarding sales information took place in Korea in July 1992. Verification of respondents' responses to the Department's questionnaires regarding cost of production (COP) information took place in Korea in June and July of 1992.

We received requests for a public hearing from Pusan Steel Pipe Co., Ltd. (PSP) and Sammi Metal Products Co., Ltd. (SMP), on June 30, 1992, and from petitioners on June 29, 1992. PSP, SMP, and petitioners filed case briefs on September 21, 1992, and filed rebuttal briefs on September 28, 1992. A public hearing was held on September 30, 1992.

Scope of Investigation

The merchandise subject to this investigation, WSSP, is austenitic stainless steel pipe that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A-312.

WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines and paper process machines.

Imports of these products are currently classifiable under the following United States Harmonized Tariff Schedule (HTSUS) subheadings: 7306.40.5005, 7306.40.5015, 7306.40.5045, 7306.40.5060 and 7306.40.5075. Although these subheadings include both pipes and tubes, the scope of this investigation is limited to welded austenitic stainless steel pipes. The HTSUS subheadings are provided for convenience and customs purposes. Our written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is June 1, 1991, through November 30, 1991.

Such or Similar Comparisons

We have determined that all the products covered by this investigation

similar merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made comparisons on the basis of: (1) Specification or alloy (*i.e.*, ASTM A-312 specification or equivalent national standard); (2) size (*i.e.*, nominal pipe size); (3) finish (*i.e.*, hot or cold); (4) wall thickness schedule; and (5) end finish (*i.e.*, plain end or bevelled end). We made adjustments for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

We made sales comparisons on the basis of theoretical weight, the weight basis on which respondents reported that U.S. sales were made.

Fair Value Comparisons

To determine whether sales of WSSP from Korea to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We calculated USP using the methodology described in the preliminary determination, with the following exceptions:

A. PSP

1. We excluded two of PSP's U.S. sales of returned goods from our calculations. (See *Comment 10*).

2. We recalculated credit expenses on purchase price sales from the date of shipment from Korea to the date of payment by the customer. (See *Comment 6*). Where dates of shipment from Korea were not reported, we used as best information available (BIA) the weighted-average credit period calculated for all U.S. sales.

3. We recalculated the U.S. interest rate for purchase price sales based on the results of verification.

B. SMP

1. We recalculated the U.S. interest rate on purchase price sales based on changes from verification.

2. We recalculated credit expenses on purchase price sales from the date of shipment from Korea to the date of payment by the customer. (See *Comment 6*).

3. We recalculated SMP's difference in merchandise adjustments (difmers) for similar products based on changes in the variable cost of manufacturing from

International Trade Administration

(A-550-610)

Final Determination of Sales at Less Than Fair Value: Certain Welded Stainless Steel Pipe From the Republic of Korea

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

EFFECTIVE DATE: November 12, 1992.

FOR FURTHER INFORMATION CONTACT: John Gloninger, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-2778.

FINAL DETERMINATION: We determine that certain welded stainless steel pipe (WSSP) from the Republic of Korea (Korea) is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of

Foreign Market Value

We calculated FMV using the methodology described in the preliminary determination, with the following exception:

SMP

We recalculated indirect selling expenses and the home market interest rate based on the results of verification.

Cost of Production

Based on petitioners' allegations, and in accordance with section 773(b) of the Act, we investigated whether PSP and SMP had made home market sales at less than their respective COP.

If over 90 percent of a respondent's sales of a given model were at prices above the COP, we did not disregard any below-cost sales because we determined that the respondent's below-cost sales were not made in substantial quantities over an extended period of time. If between ten and 90 percent of a respondent's sales were at prices above the COP, we disregarded only the below-cost sales. Where we found that more than 90 percent of respondent's sales were at prices below the COP, we disregarded all sales for that model and calculated FMV based on constructed value (CV). In such cases, we determined that the respondent's below-cost sales were made in substantial quantities and were over an extended period of time. We calculated the COP based on the sum of a respondent's cost of materials, fabrication, general expenses, and packing. The submitted COP and CV data was relied upon, except in the following instances where the costs were not appropriately quantified or valued:

PSP

1. For both COP and CV, the Department adjusted PSP's submitted material costs to reflect the POI requisition value. (See *PSP Cost Comment 1*).

2. For both COP and CV, the Department increased PSP's submitted labor and overhead costs (excluding slitting) to correct the effect of respondent's overstatement of the POI production quantity. (See *PSP Cost Comment 2*).

3. For both COP and CV, the Department adjusted PSP's G&A expense calculation used for the preliminary determination, to exclude freight for export sales, include miscellaneous non-operating and extraordinary income and expense items, and include the total amount of duty drawbacks reported for 1991.

4. For both COP and CV, the Department adjusted PSP's interest

expense calculation used for the preliminary determination, to include interest income from short-term deposits, and to include the total amount of duty drawbacks reported for 1991.

5. The Department revised PSP's interest expense adjustment for CV (for both exporters sales price (ESP) and purchase price transactions) used for the preliminary determination, by including trade notes receivable in the calculation, which reduced COP interest expense by an amount attributable to maintaining accounts receivable to avoid double counting imputed credit.

6. We converted the submitted COP and CV data, which were based on actual weight, to theoretical weight, by applying the submitted conversion factors. (See *PSP Cost Comment 3*).

SMP

1. For both COP and CV, the Department adjusted respondent's submitted POI material costs for Sammi Chicago Corporation (SSC) relating to the manufacture of cold-rolled steel coil, to reflect material costs as recorded in SSC's monthly Cost of Sales Statements (verification Exhibit 10). (See *SMP Cost Comment 8*).

2. For both COP and CV, the Department adjusted SSC's submitted G&A calculation to include amortization of deferred charges reported in its 1991 audited financial statements, and to exclude amounts for business promotion, advertising and export expense. (See *SMP Cost Comment 5*).

3. For CV only, the Department used the submitted transfer prices between SSC and SMP for purchases of cold-rolled steel coil where the transfer price was above the computed COP. Additionally, for CV, the Department used the submitted transfer price between SSC and SMP for slitting services where the transfer price was above the computed COP.

4. For both COP and CV, the Department adjusted SMP's G&A expense used for the preliminary determination to exclude all gain on the sale of its forging factory and adjacent land areas. (See *SMP Cost Comment 2*).

5. The Department revised SMP's CV interest expense calculation used for the preliminary determination, by including trade notes receivable in the calculation which reduced COP interest expense by an amount attributable to maintaining accounts receivable to avoid double counting imputed credit.

6. We converted the submitted COP and CV data, which were based on actual weight, to theoretical weight, by applying the submitted conversion factors. (See *SMP Cost Comment 1*).

In accordance with section 773(e)(1)(B)(i) of the Act, we included in CV the greater of a company's reported general expenses, adjusted as detailed above, or the statutory minimum of 10 percent of cost of manufacture (COM). For profit, we used the statutory minimum of eight percent of the total of COM and general expenses because, for each of the respondents, actual profit on home market sales was less than eight percent. See section 773(e)(1)(B)(ii) of the Act.

Currency Conversion

We made currency conversions in accordance with 19 CFR 353.60(a) based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we verified information provided by respondents by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Interested Party Comments

Comment 1: Petitioners state that the Department should disallow a duty drawback adjustment on all U.S. sales because our analysis results in unfair comparisons. First, petitioners claim that in making this adjustment, the Department did not determine whether there was an amount equal to these import duties included in the home market prices that were used to calculate FMV. As a result, the Department's preliminary analysis unfairly compares U.S. prices that are inclusive of import duties with an average FMV derived from home market prices that are both inclusive and exclusive of import duties.

According to petitioners, this is not an "apples-to-apples" comparison, which is a fundamental goal of the statute, as stated by the court in *Smith-Corona Group v. United States*, 713 F.2d 1568, 1578 (Fed. Cir. 1983), cert. denied, 465 U.S. 1022 (1984). To make a fair comparison, the Department should not adjust U.S. price upward for duty drawback, unless import duties are included in the home market prices. Therefore, there must be on the record evidence of the amount of imported raw material that was used by respondents to manufacture domestically sold merchandise. Petitioners state that both SMP and PSP ignored the Department's requests for this information, and that

without this information, a fair, "apples-to-apples" comparison is not possible.

Secondly, petitioners claim that respondents did not establish that there were sufficient imports of coil to account for all exports of WSSP to the United States. Petitioners recognize that the Department does not require that "raw materials used in producing the exported merchandise actually come from imported sources, but rather assesses whether there were sufficient imports of relevant raw materials to account for the duty drawback received on the exports of the manufactured product." See Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, 57 FR 42,942, 42, 946 (Sept. 11, 1992). (Circular Welded Pipe from Korea). In this case, petitioners argue that neither SMP nor PSP has satisfied the requirement that they demonstrate that sufficient raw material imports can be linked to the U.S. exports at issue because they never answered the Department's questions as to the quantity and value of raw materials purchased from foreign sources for production of domestically sold WSSP.

Although respondents have shown that they received duty drawback on U.S. sales, petitioners assert that the Department does not know whether there were sufficient imports of raw materials to account for duty drawback received. Petitioners further point out that the evidence of record in this investigation differs significantly from that in the recently completed investigation of Circular Welded Pipe from Korea. In that case, the Korean respondents, including PSP, responded to the agency's questions as to the quantity and value of raw materials purchased from foreign sources for domestic sales. The agency, thus, was able to ensure that there were sufficient imports of the relevant raw materials to account for the drawback received. Here, petitioners claim, no such conclusion is possible. Therefore, respondents' claims should be denied in full.

Thirdly, petitioners contend that the respondents' assignments of duty drawback to U.S. export sales were arbitrary. Petitioners question respondents' method of assigning the duty drawback amounts to individual U.S. sales because it is clear that the merchandise identified in the import permits have no correlation to the export sale. SMP and PSP have stated that they cannot trace the imported raw material coils to the pipe manufactured from those coils, and it is unclear how SMP and PSP have assigned duty

drawback to individual export sales. Also, there is a significant variance in duty drawback amounts claimed between the various products and different sales.

For example, petitioners compared two sales in PSP's transaction margin data set of the same product and from the same invoice, and the duty drawback amounts were different. According to respondents, the duty drawback for identical products varies depending on how the duty paid on the imported raw materials is assigned by respondent to a sale. Respondents assert that different duty drawback amounts are associated with the same raw materials, depending upon whether the materials are direct or indirect imports.

Petitioners argue that to the extent that respondents can assign drawback amounts to export sales as they see fit, it is possible for respondents to manipulate prices and costs. Petitioners state that the Court of International Trade (CIT) recognized this potential for manipulating dumping margins in drawback substitution situations: "In most drawback substitution situations, there is potential for skewing antidumping calculations by granting excessive rebates or otherwise . . . *Far East Machinery Co., Ltd. v. United States*, 699 F. Supp. 309, 315 n. 12 (CIT 1988). The Court further noted its concern that the agency needed to "tighten its standards for permitting the type of adjustment at issue here", citing as an example the Department's failure to look at whether duties were allocated over all exports, not merely U.S. exports.

Petitioners claim that it is noteworthy that the Department did not examine at verification the extent to which SMP or PSP assigned duty drawback amounts to non-U.S. exports. These companies may very well have decided to assign all duty drawback amounts to U.S. exports elevate these prices, while at the same time claiming no duty drawbacks on third country exports.

Given the facts outlined above, petitioners state that, to the extent the Department determines it will grant any duty drawback adjustment, it should average the drawback amounts received over all U.S. sales to avoid the disproportionate and distortive impact that the arbitrary assignment of these drawbacks to individual sales has on dumping margins.

Respondents contend that the Department should grant a duty drawback adjustment on all U.S. sales. First, they claim that the adjustments are not predicated on proof that an amount equal to the rebated duties is

included in the home market price. Respondents state that petitioners argue that without such proof, duty drawback adjustments undermine "apples-to-apples" comparisons. No authority or precedent is cited for this argument. In fact, respondents contend, petitioners are unable to cite any authority for this test in the Act, or in a judicial or administrative decision.

Respondents point out that section 773 of the Tariff Act mandates that the U.S. price be adjusted by the amount of any import duties that have been rebated or not collected by reason of exportation. Respondents contend that unlike adjustments for rebated or uncollected taxes for which the statute expressly limits the adjustment to the amount of such taxes imposed on home market sales, section 773 places no such qualification on adjustments for duty drawback.

Second, respondents claim that the legal test for duty drawback adjustments is clear. The CIT has consistently upheld the Department's two-pronged test for duty drawback adjustments, which requires: (1) That the import and duty rebate are directly linked to, and dependent upon, one another; and (2) that the company can demonstrate that there were sufficient imports of imported raw materials to account for the duty drawback received on the export of the manufactured product. According to respondents, neither of these prongs implies the "condition" petitioners seek to impose.

Furthermore, respondents state that they have established, and the Department has verified, that there were sufficient imports of coil to account for all U.S. exports of pipe through verification of the individual drawback applications for several sales randomly selected by the Department. Respondents state that the Department verified that, under the drawback system, respondents must link a documented export of pipe to a documented importation of steel coil suitable for use in the manufacture of the exported pipe. Furthermore, Korean customs authorities review these documents to verify that: The imported coil is suitable for the exported pipe; that the duties have been paid on the import; and that the import duties have not been previously rebated. Respondents claim that this individual drawback application system ensures that the Department's second prong is satisfied.

Respondents note that the information relating to aggregate quantities and values of imported raw materials is irrelevant. The Department has stated

that "it is not the Department's practice to account for a sufficient amount of imported coil to cover all products under the review sold to third countries, as well as the United States." Circular Welded Carbon Steel Pipes and Tubes from Taiwan, 53 FR 41,218 (1988). Also, asking for the total quantities of imported raw materials used for domestic and export sales is another way of asking whether there were sufficient imports in the aggregate to cover a drawback. Since the respondents have shown on a sale-by-sale basis that there are sufficient imports to cover duty rebates on exports, the same must hold true on an aggregate basis.

Respondents also claim that there is no evidence on the record that respondents can, or did, manipulate the assignment of duty drawback. Petitioners' arguments should be dismissed as a legal matter by the Department since they seek to require respondents to demonstrate that specific imports were actually physically incorporated into the exported product on a sale-by-sale basis. Respondents state that under the principle of drawback substitution, this is neither required nor is it feasible. Respondents submit that the drawback procedures they followed are the standard operating procedures established under Korean law, which were in place long before this dumping action was filed.

Furthermore, the variation in drawback amounts associated with different products was examined by the Department during verification. These differences in duty payments are the result of the fact that some imports were imported by PSP or SMP themselves, while others were indirect purchases.

In sum, respondents contend that petitioners' claim that respondents may have chosen to match import permits to export permits in such a way as to maximize the calculation of U.S. price for purposes of a possible antidumping duty investigation is without merit. The verified record demonstrates that the respondents have established that the two-pronged test for duty drawback has been met and thus their duty drawback claims should be allowed as submitted.

Department Position

We agree with respondents. Section 772(d)(1)(B) of the Act requires an upward adjustment to U.S. price by "the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States." Based on the legislative history of the antidumping law, the CIT has

interpreted the purpose of this adjustment as follows:

(1) to prevent dumping margins from arising because the exporting country rebates import duties and taxes for raw materials used in exported merchandise, the antidumping law provides for an offsetting adjustment in the calculation of United States price.

Far East Machinery Co., Ltd. v. United States, 12 C.I.T. 428, 430 (1988), citing, *Carlisle Tire & Rubber Co. v. United States*, 10 C.I.T. 301 (1986), and S. Rep. No. 16, 67th Cong., 1st Sess. 12 (1921). Furthermore, an adjustment for duty drawback is required under the General Agreement on Tariffs and Trade (GATT), art. VI, para. 4, because duty drawback encourages international trade.

In determining whether a duty drawback adjustment is appropriate, the Department applies a two-prong test establishing that: (1) The import duty and rebate are directly linked to, and dependent upon, one another; and (2) that the company claiming the adjustment can demonstrate that there were sufficient imports of the imported raw materials to account for the drawback received on the exported product. The CIT has consistently found this test to be reasonable. *Far East Machinery Co., Ltd. v. United States*, 12 C.I.T. 972 (1988) (*Far East Machinery*); *Carlisle Tire & Rubber Co. v. United States*, 11 C.I.T. 168 (1987) (*Carlisle Tire*).

Based on information in the responses to the Department's questionnaire and on findings at verification, the respondents' methodologies for calculating a duty drawback adjustment meet both elements of this test. With respect to the first prong of the test, the CIT has stated that duty drawback "may give rise to an adjustment to United States price provided import duties are actually paid and rebated, and there is a sufficient link between the cost to the manufacturer (import duties paid) and the claimed adjustment (rebate granted)." *Far East Machinery*, 12 C.I.T. at 976, quoting *Huffy Corp. v. United States*, 10 C.I.T. 214 (1986). There is no dispute that the first prong of the test has been met in this case. At verification, we confirmed that duties on imported raw materials were, in fact, paid and rebated upon export of the manufactured product. Accordingly, respondents were able to establish the necessary link between duties imposed and rebated. We note that the finding in this case is consistent with prior cases involving imports from Korea (see, *Carlisle Tire*).

The second prong of the test encompasses the principle of drawback

substitution. With respect to this portion of the test, the CIT has agreed that "there is no requirement that specific input be traced from importation through exportation before allowing drawback on duties paid." *Far East Machinery*, 12 C.I.T. at 975. Therefore, like governments applying duty drawback programs, the Department does not attempt to determine whether raw materials used in producing the exported merchandise actually came from imported stock, but rather assesses whether there were sufficient imports of relevant raw material to account for the duty drawback received on the exports of the manufactured product. The Department verified respondents' drawback applications, which documented sufficient imports of raw materials to account for the drawback claimed. In each drawback application reviewed by the Department, it was shown on import permits that sufficient imports of appropriate coils existed for the claimed exported amounts of finished pipe. Therefore, respondents have met the second requirement for a drawback adjustment.

We do not agree with the petitioners that respondents' assignment of duty drawback rebates was arbitrary. We carefully examined at verification the documents used by SMP and PSP in the regular course of business to link import permits to export permits. For example, verification exhibit DD-1 contains a worksheet which SMP maintains and updates on a regular basis. In the column on the left margin, SMP lists all import permits by grade (e.g., 304, 304L, 316, or 316L), size (2.5 mm., 3.0 mm., etc.), and date. Along the top row, SMP lists all export permits in chronological order. As explained in our verification report, when a drawback application is prepared, SMP records the export permit and links it to an import permit by drawing down on the first available import permit with the appropriate grade and size. If there is not enough coil in the first appropriate import permit to cover the claimed exported amount of finished pipe, then SMP draws down the remaining balance from the next appropriate import permit. We verified this procedure and disagree with petitioners that this type of assignment is arbitrary.

Other claims by petitioners do not speak to the test traditionally applied by the Department, but rather seek to impose additional requirements for duty drawback claims, which are not required by the statute, the regulations, or past Department practice. There is no basis for petitioners' argument that the Department should not make a duty

drawback adjustment, unless it determines that the cost of products sold in the home market includes duties on imported raw materials. The only requirements of section 772(d)(1)(B) are (1) "import duties imposed", and (2) rebate, or non-collection, of those duties "by reason of the exportation of the merchandise to the United States." The statute mandates the adjustment without reference to whether products sold in the home market are made with imported raw materials. Where such requirements for adjustment are intended, they have been expressed in the statute (see, e.g., section 772(d)(1)(C) allowing adjustment to USP for value added tax (VAT) only if the VAT has been charged and paid on merchandise sold in the home market). Therefore, we disagree with petitioners that the Department should add a third prong to the test for drawback adjustments requiring examination of the relative usage of imported materials in export and home market sales.

Comment 2: Respondents claim that they properly calculated CV by including import duties, and furthermore, that there is nothing in the statute or regulations that requires that the amount of the average duty included in CV equal the amount of the adjustment to USP for duties rebated upon export. Respondents also argue that the Department's decision in *Standard Pipe from Korea* to include duties in CV, but deny the claim for duty drawback, was based on BIA because respondents did not report CV exclusive of import duties as requested in a deficiency letter. In this case, however, respondents point out that the Department did not request that CV be reported exclusive of duties. Therefore, the use of BIA in this case is not appropriate.

Respondents state that section 773(e) of the Act specifically states that the cost of materials should be exclusive of any internal taxes, but that it does not state specifically that these costs should be exclusive of duties. In fact, respondents continue, the Department's cost questionnaire states that material costs should include "duties and other expenses normally associated with obtaining the materials", and that for CV, respondents should "include import duties." Respondents claim that calculating a separate cost for domestic and export merchandise produced in the same facilities goes against one of the Department's basic rules of obtaining identical costs for identical products.

Secondly, respondents state that the statutory provision for the calculation of U.S. price does not limit the amount of

duty drawback that is allowed to the amount included in FMV. According to respondents, the Department has never made the level of duty in FMV a requirement for granting a duty drawback adjustment to U.S. price. Nowhere in the statute or in the Department's two-pronged test, maintain respondents, is there an exception for circumstances in which FMV is based on CV.

Respondents cite a past case, Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea ("PET Film"), 56 FR 16,305 (1991) (Final Affirm. Determination), in which they claim the Department recognized that no correlation between duty paid and duty rebated is required.

Petitioners state that respondents' CVs for each product are flawed when used for comparison to U.S. sales. Because the actual amount of duty included in the material costs is an average of all duties paid, allocated over all coil, both foreign and domestic, the amount of duty rebated upon exportation of pipe will differ from the amount of duty used in the CVs reported. To the extent that the Department accepts respondents' drawback adjustments, petitioners contend that as BIA, all CV comparisons should be denied duty drawback adjustments to U.S. price.

Petitioners contend that the Department should deny the drawback adjustment to U.S. price in CV comparisons as it did in the recent case, *Circular Welded Pipe*. In this case, petitioners continue, the Department is confronted with a data base that contains exactly the same defects, i.e., "unspecified duties are included in CV, as compared with specified, but unequal duties on the U.S. side. Petitioners contend that the Department cannot rely on this data base for its final comparison merely because it did not ask respondents to exclude duties in responding to the cost questionnaire. Because the evidence of record establishes that the duties included in CV do not correlate to the duty rebates claimed, it would be unfair and inconsistent with *Circular Welded Pipe from Korea* to grant a drawback adjustment to U.S. price. Accordingly, petitioners urge the Department to deny an adjustment to U.S. price for the duty drawback amounts reported in CV calculations. To establish a reasonable link between the duties imposed and those rebated, there must be a correlation between the duty allocation in CV and the allowable drawback adjustment. By definition, therefore, argue petitioners, the duty included in

the CV has to correlate to the U.S. price adjustment. In this case, as respondents admit, there is no correlation.

Department Position

We disagree with petitioners. The Department did not request that respondents in this investigation report CV exclusive of import duties, as we did in the *Circular Welded Pipe from Korea* case. In this case, respondents reported their material costs inclusive of duties, and did not identify the amount of duty included in the material cost of specific pipes. Therefore, it is impossible for the Department to exclude the duty from the reported CV, even though it was refunded upon exportation. Because we did not instruct respondents to report their material costs exclusive of import duties, and in fact instructed them in our cost questionnaire to include import duties, it would be inappropriate for us to use BIA and deny the drawback adjustment to U.S. price in CV comparisons as we did in the recent case, *Circular Welded Pipe from Korea*.

It is not true that the average duties included in CV do not correlate with the actual drawbacks granted and reported in USP. As outlined in our position to *Comment 1* of this notice, respondents have supported on the record that: (1) The import duties paid link directly to the rebates granted, and (2) they reported sufficient amounts of coil to account for the exports of pipe. Therefore, we disagree with petitioners that the duty included in CV does not correlate to the drawback granted on USP.

Moreover, it is common practice for the Department to calculate CV based on average costs, and compare the CV to USP, which is based on transaction-specific charges. Therefore, we have granted respondents adjustment to USP for duty drawback when compared to CV since they have followed the Department's explicit instructions and have satisfied the requirements of the Department's two-pronged test.

Comment 3: Petitioners state that the Department should continue to rely on theoretical prices in sales comparisons. In its response, SMP urged the Department to rely on its prices on an "actual weight" basis. Petitioners argue, however, that these "actual" weights do not reflect the true weight of the pipe. Rather, they are derived figures based on averages for wall thickness of the coil. Furthermore, the Department preliminarily found it appropriate to compare sales on the basis of theoretical weight, and no information at verification provided any reason to alter this decision.

Respondents state that they have reported sales charges and adjustments on a theoretical weight basis, and therefore, petitioners' arguments are moot.

Department Position

Given the Department's general preference for making sales comparisons on the basis on which U.S. sales were made, we made comparisons on the basis of theoretical weight. The use of theoretical weight as the basis for comparison purposes is consistent with the Department's practice with respect to pipe and tube cases. We agree with petitioners that prices and charges should be calculated on the basis of theoretical weight, and have done so for our final determination.

Comment 4: Petitioners contend that there is no basis in the record for any upward adjustment to U.S. price for VAT forgiven upon exportation of the subject merchandise. The statute provides that the Department should adjust U.S. price upward for forgiven home market taxes "only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation." Thus, the statute clearly states that any upward adjustment to U.S. price is restricted to those situations in which it has been established that the amount of taxes in question has been "passed through" to the home market customer and not absorbed by the manufacturer. The CIT has held that, prior to making an upward adjustment to U.S. price for forgiven home market taxes, the Department must measure the amount of the tax that was actually passed through to customers in the home market and limit the adjustment to that amount.

In this investigation, rather than measure the tax absorption, the Department assumed that 100 percent of the VAT was passed through to the customers in the Korean market. The court has stated that this assumption defeat(s) the express will of Congress." *Zenith Electronics Corp. v. United States*, 755 F. Supp. 397, 407-08 (Ct. Int'l Trade 1990), appeal docketed, No. 92-1043-1046 (Fed. Cir. argued Aug. 3, 1992). Thus, the adjustment is contrary to law.

Petitioners further claim that there is no basis in law for a circumstance of sale adjustment to FMV for the difference in VAT between home market and U.S. sales. The CIT has disallowed any circumstance of sale adjustment to foreign market value for the difference in taxes incurred on home market sales but not on U.S. sales of the subject merchandise. *Zenith Electronics Corporation v. United States*, 633 F.

Supp. 1382 (Ct. Int'l Trade, 1986) (*Zenith I*) and *Zenith Electronics Corporation v. United States*, 770 F. Supp. 648 (Ct. Int'l Trade, 1991) (*Zenith II*), 633 F. Supp. at 1399. Therefore, the Department should not make any adjustment to FMV for VAT incurred on home market sales but not on export sales.

Respondents claim that the Department should continue to grant their claimed adjustments for VAT forgiven on U.S. sales, and that this adjustment is in complete accordance with antidumping law and the Department's practice. Respondents note that the Department considered and rejected the same arguments advanced by petitioners in the Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al., 57 FR 28,360, 28,419 (1992), and therefore, urge the Department not to alter its practice for purposes of the final determination in this investigation.

Department Position

We agree with respondents that the VAT adjustment is in complete accordance with antidumping law and the Department's past practice. We do not agree with the CIT's decisions in *Zenith I* and *Zenith II*, and have appealed this issue on its merits. Therefore, consistent with our long-standing practice, we have not attempted to measure the amount of tax incidence in the Korean home market. See *Color Television Receivers, Except for Video Monitors, From Taiwan; Final Results of Antidumping Duty Administrative Review*, 57 FR 92, 20241 (1992).

We do not agree that the statutory language, limiting the amount of adjustment to the amount of commodity tax "added to or included in the price" of WSSP sold in the Korean home market, requires the Department to measure the home market tax incidence. We are satisfied that the record shows that the tax was charged and paid on the home market sales.

We also disagree with petitioners that there is no basis in law for a circumstance of sale (COS) adjustment to FMV for differences in VAT payments. We do a COS adjustment in order to neutralize the effect of the ad valorem tax rate, relying on the Department's broad statutory authority to make adjustments for such differences in the circumstances of sale. As stated in *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.*, 57 FR 28,360, 28,419 (1992), because all home market sales were reported net of VAT, we added the same VAT amount to FMV as

that calculated for U.S. price. This is the same as calculating the actual home market tax and then performing a COS adjustment to FMV to eliminate the difference between the tax in each market. Therefore, the respondents are entitled to the adjustment to U.S. price.

Comment 5: Petitioners claim that the Department should use the best information available for SMP sales requiring a difference in merchandise adjustment (difmer). Petitioners argue that SMP has repeatedly failed to answer the agency's questions regarding how the difmers were derived, and that SMP's numerous revisions to its difmers raise serious questions as to the credibility of its data.

Petitioners summarized these revisions claiming that: (1) SMP originally claimed there were no difmers; (2) next, SMP asserted there were differences on an "actual" weight basis and provided such data; (3) then, SMP claimed there were not differences on an "actual" weight basis, but that there are differences on a theoretical weight basis; and (4) SMP asserted that the differences reported on a theoretical basis needed to be revised. Petitioners contend that it is difficult to attach any credibility to adjustment data that have been revised four times over the course of this case.

According to petitioners, it is equally disturbing that SMP failed to explain how the reported difmers were developed. Despite the Department's request for this information, SMP ignored the request. Even at verification, petitioners argue, SMP did not provide any explanation as to the materials, labor and overhead comprising the components of its difmer calculations. In the absence of this information, the difmers cannot be used. Petitioners further claim that, although the Department's verification report states that no discrepancies were noted in the data provided, it never suggested that an explanation for these figures was provided.

At this point, petitioners contend, the Department should use BIA in lieu of the difmer information. To the extent the adjustment proposed would reduce FMV to SMP's advantage, the adjustment should be denied, and to the extent an adjustment is necessary to increase FMV, the Department should use the highest weighted-average margin otherwise found for such sales. Alternatively, petitioners claim the Department should use twenty percent of the home market cost data for the difmer as BIA.

SMP contends that the Department should accept SMP's difmers. SMP does

not dispute that it was slow in developing the record regarding the calculation of the reported difmers. Nevertheless, SMP notes that at verification the Department verified SMP's compliance with the Department's model match criteria and found "no discrepancies."

During the cost verification, the Department verified the material, labor and overhead costs for U.S. and home market products. Also, during the sales verification, SMP described that the physical differences between matches of similar merchandise were based on differences in total variable cost of manufacture including the cost of materials, direct labor and variable overhead. This information was reported in its May 18, 1992 difmer submission and was verified during the cost verification. Therefore, SMP contends, the record demonstrates that the Department verified the difmer information and that the use of BIA is unwarranted.

Department Position

We agree with respondents that use of BIA in this instance is unwarranted. While it is true that throughout this investigation respondent submitted conflicting information concerning its difmers and revised it several times, the difmer information contained in its last submission on May 18, 1992 was successfully verified during the cost and sales verifications.

In the sales verification report, it states that the Department verifies selected several difmer adjustments at random and examined the calculation of each adjustment. No discrepancies were noted in these calculations. The difmer exhibits contained in this report show clearly the reasonableness and accuracy of the similar matches SMP used in its analysis.

Furthermore, during the cost verification, the Department verified the material, labor and overhead costs that SMP reported for both U.S. and home market products. As stated by respondent and verified by the Department, SMP computed its difmer based on the difference in variable manufacturing costs by product. These costs were verified and explained in the Department's cost verification report. Therefore, we have accepted SMP's reported difmers and have used them in our final margin analysis.

Comment 6: Petitioners claim that the credit expenses reported by SMP must be adjusted to reflect proper shipment dates and bank charges. Specifically, petitioners note that the Department states in its verification report that SMP deducted an amount for bank charges

incurred for letters of credit from its interest expenses. However, the report also states that "SMP had no documents to support these charges." In light of this failure, petitioners contend that the Department should recalculate SMP's interest ratio based on the gross amount of interest.

Secondly, petitioners state that it is long-standing Department practice in purchase price situations to calculate credit based on the time of shipment from the foreign company's factory because the terms of sale are established prior to the shipment of the merchandise from the foreign production sites. Therefore, the Department should not calculate imputed U.S. credit expenses according to SMP's reported methodology, i.e., based on the number of days between the date of posting in SMP's accounts receivable ledger and the date of payment by the U.S. customer.

Respondents argue that the Department should calculate imputed credit on purchase price sales from the date the merchandise arrives in the United States, the date when an invoice is issued and an accounts receivable is posted to respondents' books. First, respondents contend that credit is not extended to a customer until an accounts receivable comes into existence, and that the Department verified that accounts receivable are not entered into respondents' books until the merchandise arrives in the United States. Therefore, the credit period does not begin until the merchandise arrives in the United States. It is only then that the seller incurs an opportunity cost as a result of not having access to the payment. Since respondents maintain title to the merchandise until it arrives in the United States, it makes no sense to impute a credit cost while the products are on the water.

Petitioners counter that whether the Department's methodology reflects respondents' bookkeeping practices is beside the point. Credit is an imputed expense because the Department does not rely on each company's bookkeeping practice.

Respondents further state that if its argument is rejected, the Department should use SMP's letter of credit and banking charges as the proper measure of actual credit costs while the merchandise is on the water, since these charges reflect the cost to SMP of borrowing to finance the "receivable." Respondents contend there is no reason why the Department may not use actual costs when they are documented and verified on the record, and therefore, the Department should use SMP's letter of credit and banking charges as the

appropriate measure of credit expenses for the period the merchandise is on the water.

Petitioners contend that since SMP was unable to substantiate its letter of credit and bank charges, they cannot be used as a measure of actual credit costs.

Finally, if the Department imputes credit costs for the entire period from shipment in Korea to payment by the customer, SMP urges the Department to deduct SMP's letter of credit and banking charges from the imputed interest cost to avoid double-counting. Since the Department's imputation of credit is intended to be a surrogate for the total borrowing costs that would have been incurred had the respondent actually borrowed in the market to fund the transaction, the imputed rate would include the letter of credit and associated banking costs. As a result, including these costs in the calculation of direct selling expenses would result in double counting of the expenses.

Respondents further argue that petitioners' statement that terms of sale are established prior to shipment of the merchandise from the foreign production site misses the point. The fact is that the risk of loss of merchandise remains on the respondents during shipment to the U.S. port. This case should be contrasted to other cases in which the Department has used the date of shipment from the home market as the starting date for imputed credit. These cases turn on the fact that this date coincides with the date an account receivable is entered in the seller's books and the seller has transferred title to the purchaser, fulfilling its obligations to the purchaser. Respondents claim that the Department has verified that these circumstances are not present in this investigation with relation to either respondent and thus, would not be justified in imputing credit during this period.

SMP further contends that contrary to the statement in the Department's verification report, SMP did provide documents verifying the calculation of bank charges used in its interest rate calculation. SMP explained that these bank charges were calculated by subtracting actual interest expenses incurred by SCC during 1991 from total interest expenses in 1991 as shown on SCC's audited financial statement. Since these borrowings are all inclusive, the actual interest paid comprises total interest charges and the remainder represents other non-interest banking charges related to these borrowings. Since the total interest related expenses are derived from SCC's audited financial statements, the only figures requiring

direct verification were the actual interest payments for the POI. According to SMP, these documents were provided and the actual expenses were verified.

Department Position

We agree with petitioners regarding the appropriate credit period. Contrary to respondents' assertions, the Department's long-standing practice is to calculate credit on purchase price sales from the time that the merchandise is shipped from the foreign production site. See, e.g., Final Determination of Sales at Less Than Fair Value: 3.5" Microdisks and Coated Media from Japan, 54 FR 6433 (February 10, 1989). Because terms of sale are established prior to the shipment of the merchandise from the foreign production sites, respondents incur credit expenses on these sales from that shipment date, regardless of when the final invoices to the customers are issued. We have calculated the credit period on all purchase price sales from the date of shipment from Korea to the date of payment.

Furthermore, we disagree with respondents that the deduction of banking charges and letter of credit charges constitutes double-counting. These charges were incurred because respondent arranged with its agent in the United States to finance the sale with a letter of credit. The additional banking and letter of credit charges associated with these sales do not cover the time that payment was outstanding, but rather represent additional charges incurred in arranging for the transaction. It is Department practice to make an adjustment for differences in circumstances of sale for differences in credit costs, based on the fact that the period of time between the shipment and payment varies in respective markets. Expenses incurred in arranging for a letter of credit are not surrogates for this COS adjustment.

Furthermore, we disagree with SMP that the Department did verify the bank charges that were deducted from total interest expenses. In the Department's verification report, it states that "SMP deducted banking charges for this amount from interest. According to company officials, these charges were for bank charges for letters of credit. However, SMP had no documents to support these charges." (Department sales verification report for SMP at page 24). The total interest expense reported in SMP's worksheet in the verification exhibit *U.S. Credit Expenses* is taken directly from SCC's income statement for 1991. The deduction from this total interest amount for bank charges is not

supported in SCC's income statement. In fact, under SCC's *Operating Expense*, there is a category for "Bank Charges," and the amount reported does not match the amount SMP deducted from its total interest expenses reported in this same income statement. There is no explanation in the exhibit to clarify this difference, nor is there any information in the verification report which verifies the total amount SMP deducted. SMP's claim that the difference between interest expenses reported in its response and those reported in SCC's income statement must be bank charges is not a valid one without supporting documents. The fact that Department verifiers examined invoices for interest expenses during 1991 for three different banks which equaled the amount reported in its response, does not account for or explain the difference between the amount reported in its income statement and its response to the Department's questionnaire. Therefore, we have recalculated SMP's U.S. interest rate without deducting the reported bank charges as outlined in the Department's sales verification report.

Comment 7: Petitioners claim that SMP failed to report transaction-specific data for foreign inland freight on U.S. sales, and that this should lead to the use of BIA. SMP provided averages for foreign inland freight claiming that it could not calculate transaction-specific freight costs. According to petitioners, however, Department verifiers found that certain freight charges could be traced to specific sales. Petitioners note that of the two entries selected for verification from SMP's transportation subledger, both entries for freight charges were directly traceable to individual sales. Petitioners contend that submission of average costs rather than transaction-specific charges is distorting and can artificially lower the dumping margin. As BIA, then, petitioners state that the Department should deduct the highest amount reported in SMP's data base for foreign inland freight on U.S. sales.

SMP maintains that it was not possible for it to calculate a transaction-specific freight charge. The fact that the Department verifiers showed SMP was able to calculate a sales-specific freight charge for two sales does not lead to the conclusion that it could do so for all sales. In fact, SMP states, the Department confirmed at verification that SMP could not have reported sales-specific inland freight charge for many sales because one of SMP's freight companies charges SMP a flat fee per month for deliveries—regardless of the product, quantity, or frequency. Given

this arrangement, SMP contends that there was no way to calculate a sales-specific freight charge for every sale. Therefore, SMP claims, it used the only alternative, which was to calculate an average and to apply that average to all sales.

Department Position

We agree with respondent that it could not calculate a sales-specific freight charge for every sale. However, petitioners are correct in their assertion that for many sales, SMP could have calculated a sales-specific freight charge, but only for home market sales, and not for U.S. sales. The narrative on pages 22 and 23 of SMP's sales verification report relates to both home market and U.S. inland freight expenses. This section of the report was mislabeled as "U.S. Charges and Adjustments", but the narrative clearly states that inland freight was calculated by "destination" for home market sales. The destinations referred to in the report are clearly home market destinations: Kyung Kee, Changwon, and Pusan. Therefore, it was not made clear in the report how SMP segregated its reporting of freight records in its responses. This is made clear, however, in its responses to the Department's questionnaires.

In the verification report, we show how certain freight charges in the home market could have been calculated on a sales-specific basis for certain sales. However, as stated in its April 19, 1992 response and as verified by the Department, SMP could not match individual U.S. sales to specific inland bulk shipments from the plant to the port. The Department confirmed this by examining SMP's freight records, which record only the quantity and freight paid for export sales. Therefore, SMP could not reasonably match U.S. sales to a bulk delivery to the port in Korea.

We examined SMP's total freight charges for every month during the POI reported in its response and checked these amounts to those reported in its transportation subledger, and we noted no discrepancies. We also noted that the subledger detail was broken out by destination, and by whether the shipments were domestic or export. The totals under category of exports to Pusan for each month matched those reported in its response. Therefore, we accept SMP's reported U.S. freight expenses on an average basis.

As for home market freight charges, we discovered at verification that SMP could have reported sales-specific charges for certain home market sales. We do not agree with respondent's statement in its April 9, 1992 response

that it calculated inland freight "using the most precise information available . . ." or that "(f)reight cannot be derived on a shipment-by-shipment basis." As the verification report states, an allocation of freight charges to an individual transaction was possible for both transactions examined during verification.

However, as explained in the report, SMP could not calculate sales-specific charges for all home market sales because certain sales shipped to the Changwon area were shipped via a carrier which charged SMP a flat fee every month for deliveries, regardless of the product, quantity or frequency. The last line of the transportation subledger in the verification exhibit *Freight-1* shows this charge. Since we cannot determine using SMP's sales and transportation records how many home market sales were shipped via this particular carrier, we have accepted SMP's average home market freight charges as reported.

Comment 8: Petitioners argue that no offset should be made for SMP's home market indirect selling expenses because the data could not be verified. SMP reported these expenses based on total salaries, bonuses and severance benefits. According to petitioners, however, during verification SMP could not produce any financial statements to support its reported numbers. It is standard verification procedure to tie all expense claims to the financial statements. It is not enough to provide worksheets that explain how an expense is calculated. In the absence of verified data, petitioners contend that no offset should be allowed.

SMP claims that at verification it demonstrated that its offset ratio was derived by dividing total indirect selling expenses by total sales of pipe and tube. Although the verification report states that SMP did not produce financial statements supporting these selling expenses, this data was originally reviewed and verified by the Department at the cost verification. In fact, SMP argues, the total expenses shown in the cost verification report are directly traceable to SMP's 1991 audited financial statement. Given that these specific expense items are traceable to its audited financial statements, SMP submits that there is no basis to deny this offset claim.

Department Position

We agree with respondent. It is true that our verification report states that SMP could not produce any financial statements to support its reported salary amounts. However, SMP is correct that the total expenses reported in its sales

response were reviewed and verified by the Department at the cost verification. The amounts for salary, bonus, and benefits reported in its worksheet during the sales verification tie directly to SMP's 1991 audited financial statement. Since this document was reviewed by the Department's cost verifiers and is on the record, it does not constitute new information. The fact that the sales verifiers did not review the audited financial statement during verification of SMP's indirect offset amounts does not mean that the offset was not verified. The Department's cost verifier did, in fact, review this document. Therefore, we have accepted respondent's offset as reported.

Comment 9: Petitioners state that PSP's failure to report transaction-specific data for movement charges incurred before importation on ESP sales should result in the use of BIA. PSP has maintained that it could not trace the imported subject merchandise directly to a specific U.S. sale for ESP transactions, claiming that once the subject merchandise entered State Pipe and Supply Co.'s (State) inventory, all documentary links were "severed." Accordingly, PSP calculated average movement charges for those incurred before importation. Petitioners contend, however, that during verification the Department found that, in a number of instances, PSP can trace an ESP sale to a specific export. The Department's questionnaire states clearly its requirement that transaction-specific data is required if there is any way such data can be traced. According to petitioners, the verification report leaves no doubt that PSP did have the document trail to properly report its movement charges on a transaction-specific basis for a number of ESP sales, but it chose not to do so.

Petitioners claim that the Department requires transaction-specific reporting because it is well aware of the distortive effect that the averaging of U.S. expenses has on the dumping calculation. Because the Department does not know how many transactions PSP could have reported properly, all of PSP's ESP charges and adjustments that require linkage to shipment data are suspect. Therefore, petitioners contend that the Department should resort to BIA for these movement charges and use the highest reported value for each movement charge and deduct that amount from each observation.

PSP claims that it never asserted that it could not calculate sales-specific movement charges on any ESP sales, but rather that it was not possible for it to do so for all such sales. PSP states that it could not calculate sales-specific

charges for most ESP sales because the documentary links were severed when the pipe entered State's inventory. Furthermore, respondents claim, during verification the Department confirmed that the invoices for ESP sales do not record the mill test report (MTR) numbers or any other number linking these sales to specific exports by PSP. Also, PSP maintains that in the normal course of business State does not send the MTR to its customers unless it is specifically requested. PSP claims that such cases were rare in the POI and, accordingly, there is no factual basis for the Department to use BIA.

Department Position

We agree with respondent that its reporting of averages for U.S. ESP movement charges is reasonable. In the sales verification report for PSP, we stated in conclusion that the only reasonable way PSP could have traced an import directly to a specific U.S. sale was if an MTR was requested by the customer and sent along with the customer invoice. Since the MTR number is listed on PSP's commercial invoices, when an MTR is sent, PSP could trace the U.S. sale to the import. However, as stated in our report, there was "no consistent pattern to requests for MTRs; some invoices showed a request, and others did not." (Page 27, PSP sales verification report).

Therefore, we disagree with petitioners that respondent's averaging should lead to the use of BIA. Furthermore, we examined carefully the accuracy of PSP's average movement charges and have accepted them as reasonable. Where possible, PSP calculated two separate warehouse-specific averages for certain movement charges, depending upon whether the sale was shipped from PSP's U.S. subsidiary in Santa Fe Springs or Seattle. Therefore, we have made no changes to PSP's ESP movement charges, except where noted in our verification report.

Comment 10: Petitioners argue that PSP's sales of returned goods should be included in the Department's data base for the final analysis because exclusion of sales as outside the ordinary course of trade applies to FMV sales only. There is no statutory exclusion provided for U.S. sales not in the ordinary course of trade. During verification, petitioners state, the Department found that one of the sales was returned due to a shipping error; two other returned sales were originally reported by PSP as returned due to cancellation of projects, and then PSP reported that they were returned due to corrosion. Petitioners maintain

that if the Department continues to exclude discrete groups of sales by respondent, the Department will not ensure that all less-than-fair-value selling practices are offset. In the absence of statutory justification for exclusion of these U.S. sales, the Department should retain these U.S. sales in its final analysis.

PSP contends that the Department should exclude PSP's returned goods sales because the Department verified that they were sales originally made outside the POI and that they involved aberrant sales. PSP maintains that the Department verified that the sales involved defective corrosion-damaged pipe and were originally made outside the POI.

Respondent contends that this has been the Department's consistent practice. In a recent determination, *PET Film From Japan*, 56 FR 16300 (1991), the Department stated that the respondent had established that the initial sale of the merchandise was made prior to the POI, and consistent with its treatment in similar situations, agreed that the sale occurred outside the POI. Furthermore, respondents claim that the Department excluded PSP's returned goods sales in the *Circular Welded Pipe from Korea* investigation, agreeing with respondents that the small number of sales should be excluded because of the aberrant nature of these sales. Therefore, PSP urges the Department to reject petitioners' speculation and to exclude these sales.

Department Position

We agree with respondents. The Department is not required to examine all sales made during the POI. 19 CFR 353.42(b). Therefore, we have excluded from our analysis two returned goods sales made during the POI. The third sale was excluded because the initial sale of the merchandise was made prior to the POI, which is consistent with *Pet Film From Japan*.

Comment 11: Petitioners note that the Department's discovery of errors in PSP's foreign brokerage and handling expenses should lead to the use of BIA. Petitioners claimed that during verification Department verifiers noted that the handling charge for one sale was incorrect: The reported charge was an understatement. Given that the one sale reviewed did not verify, and that the understatement of the charge was considerable, petitioners maintain that there is a distinct possibility that a number of PSP's reported handling charges are understated, and that these understatements could have a significant impact on the margin calculations.

Petitioners further contend that where the only brokerage and handling charge examined could not be verified, the Department cannot assume that all other data are acceptable. Therefore, the Department should select as BIA the highest reported value in the database for foreign brokerage and handling and apply this value to all sales.

Respondents claim that the errors disclosed at verification were insignificant and do not warrant the use of punitive BIA, and that it is absurd to assert that the discovery of an isolated error in PSP's favor justifies the use of the highest reported value in the database for all U.S. sales. Respondents maintain that foreign brokerage and handling charges were correctly calculated for all other sample sales examined.

Department Position

We disagree with petitioners that this error in one of PSP's reported brokerage charges should lead to the use of BIA. Through selective examination and sampling of sales at verification, the information used to calculate brokerage charges was successfully verified by the Department. As stated in the ESP Pre-Selected and Surprise Sales section of the sales verification report, we examined four ESP sales and listed all corrections or changes on page nine, stating that no other discrepancies, except those listed, were noted. There are no corrections for reported brokerage charges for these four sales. Therefore, it is not true that we verified only one brokerage charge. Given this, we have accepted PSP's reported brokerage charges, except where corrected in our verification report.

Comment 12: Petitioners claim that the Department should revise its calculation of PSP's inventory carrying costs. Petitioners state that PSP retains title to the merchandise until it reaches the U.S. dock, where Pusan Pipe America (PPA) assumes title. Furthermore, the Department's sales verification report states that PPA is the importer of record for U.S. sales. Therefore, petitioners maintain that PPA assumes title of the subject merchandise upon importation into the United States. Therefore, the Department should apply PSP's interest for the period between shipment from Korea to arrival at the U.S. dock.

Respondents maintain that they correctly calculated inventory carrying expenses using PPA's short-term interest rate because PPA maintains title to the merchandise while it is on the water. When the merchandise is ready for shipment, PPA opens a letter of credit in PSP's favor. PSP then obtains payment by presenting shipping documents to the

U.S. issuing bank's correspondent bank in Korea, which then forwards the documents to the issuing bank. Respondents claim that possession of these shipping documents confers title. Furthermore, the commercial invoices issued on export of pipe from Korea state that the shipment is "for Account & Risk of" PPA. PPA, therefore, is the entity that is bearing the cost of holding that inventory. Accordingly, it is PPA's interest rate, not PSP's, that should be used in imputing inventory carrying expenses on these sales.

Department Position

We agree with respondents that in this case, possession of shipping documents which state that shipment is "for Account & Risk of" PPA confers title. Therefore, we disagree with petitioners that we should use PSP's interest rate for the period from Korea to the U.S. port, and have accepted PSP's reported inventory carrying costs.

Comment 13: Petitioners contend that PSP's failure to provide the Department with all of its published financial records has deprived the Department of information relevant to this case. In its questionnaire to PSP, the Department requested that respondent submit all of its financial statements and reports. PSP, however, has failed to respond to this request even though the documents were available. Specifically, PSP's annual report for 1991 was not submitted to the Department. For example, petitioners claim that information in this report sets forth prices of raw materials purchased by PSP during the POI. These prices distinguish between imported and domestic hot-rolled coil. Had the Department received this document prior to verification, it would have been in a better position to verify PSP's claims regarding raw material prices. Petitioners urge the Department to consider the recalcitrance of PSP in failing to provide requested and relevant data that are publicly available over the course of this case, since it is justifiable to conclude that this material was withheld by PSP due to concern by PSP that its submission would increase its margin of dumping.

Respondents maintain that petitioners' arguments are misleading and involve new information. First, respondents claim, the report in question was not issued until after the sales and cost verifications were completed. In addition, the report did not contain additional information that had not already been submitted to the Department or inspected by the Department at verification. PSP

that it calculated inland freight "using the most precise information available . . ." or that "(f)reight cannot be derived on a shipment-by-shipment basis." As the verification report states, an allocation of freight charges to an individual transaction was possible for both transactions examined during verification.

However, as explained in the report, SMP could not calculate sales-specific charges for all home market sales because certain sales shipped to the Changwon area were shipped via a carrier which charged SMP a flat fee every month for deliveries, regardless of the product, quantity or frequency. The last line of the transportation subledger in the verification exhibit *Freight-1* shows this charge. Since we cannot determine using SMP's sales and transportation records how many home market sales were shipped via this particular carrier, we have accepted SMP's average home market freight charges as reported.

Comment 8: Petitioners argue that no offset should be made for SMP's home market indirect selling expenses because the data could not be verified. SMP reported these expenses based on total salaries, bonuses and severance benefits. According to petitioners, however, during verification SMP could not produce any financial statements to support its reported numbers. It is standard verification procedure to tie all expense claims to the financial statements. It is not enough to provide worksheets that explain how an expense is calculated. In the absence of verified data, petitioners contend that no offset should be allowed.

SMP claims that at verification it demonstrated that its offset ratio was derived by dividing total indirect selling expenses by total sales of pipe and tube. Although the verification report states that SMP did not produce financial statements supporting these selling expenses, this data was originally reviewed and verified by the Department at the cost verification. In fact, SMP argues, the total expenses shown in the cost verification report are directly traceable to SMP's 1991 audited financial statement. Given that these specific expense items are traceable to its audited financial statements, SMP submits that there is no basis to deny this offset claim.

Department Position

We agree with respondent. It is true that our verification report states that SMP could not produce any financial statements to support its reported salary amounts. However, SMP is correct that the total expenses reported in its sales

response were reviewed and verified by the Department at the cost verification. The amounts for salary, bonus, and benefits reported in its worksheet during the sales verification tie directly to SMP's 1991 audited financial statement. Since this document was reviewed by the Department's cost verifiers and is on the record, it does not constitute new information. The fact that the sales verifiers did not review the audited financial statement during verification of SMP's indirect offset amounts does not mean that the offset was not verified. The Department's cost verifier did, in fact, review this document. Therefore, we have accepted respondent's offset as reported.

Comment 9: Petitioners state that PSP's failure to report transaction-specific data for movement charges incurred before importation on ESP sales should result in the use of BIA. PSP has maintained that it could not trace the imported subject merchandise directly to a specific U.S. sale for ESP transactions, claiming that once the subject merchandise entered State Pipe and Supply Co.'s (State) inventory, all documentary links were "severed." Accordingly, PSP calculated average movement charges for those incurred before importation. Petitioners contend, however, that during verification the Department found that, in a number of instances, PSP can trace an ESP sale to a specific export. The Department's questionnaire states clearly its requirement that transaction-specific data is required if there is any way such data can be traced. According to petitioners, the verification report leaves no doubt that PSP did have the document trail to properly report its movement charges on a transaction-specific basis for a number of ESP sales, but it chose not to do so.

Petitioners claim that the Department requires transaction-specific reporting because it is well aware of the distortive effect that the averaging of U.S. expenses has on the dumping calculation. Because the Department does not know how many transactions PSP could have reported properly, all of PSP's ESP charges and adjustments that require linkage to shipment data are suspect. Therefore, petitioners contend that the Department should resort to BIA for these movement charges and use the highest reported value for each movement charge and deduct that amount from each observation.

PSP claims that it never asserted that it could not calculate sales-specific movement charges on any ESP sales, but rather that it was not possible for it to do so for all such sales. PSP states that it could not calculate sales-specific

charges for most ESP sales because the documentary links were severed when the pipe entered State's inventory. Furthermore, respondents claim, during verification the Department confirmed that the invoices for ESP sales do not record the mill test report (MTR) numbers or any other number linking these sales to specific exports by PSP. Also, PSP maintains that in the normal course of business State does not send the MTR to its customers unless it is specifically requested. PSP claims that such cases were rare in the POI and, accordingly, there is no factual basis for the Department to use BIA.

Department Position

We agree with respondent that its reporting of averages for U.S. ESP movement charges is reasonable. In the sales verification report for PSP, we stated in conclusion that the only reasonable way PSP could have traced an import directly to a specific U.S. sale was if an MTR was requested by the customer and sent along with the customer invoice. Since the MTR number is listed on PSP's commercial invoices, when an MTR is sent, PSP could trace the U.S. sale to the import. However, as stated in our report, there was "no consistent pattern to requests for MTRs; some invoices showed a request, and others did not." (Page 27, PSP sales verification report).

Therefore, we disagree with petitioners that respondent's averaging should lead to the use of BIA. Furthermore, we examined carefully the accuracy of PSP's average movement charges and have accepted them as reasonable. Where possible, PSP calculated two separate warehouse-specific averages for certain movement charges, depending upon whether the sale was shipped from PSP's U.S. subsidiary in Santa Fe Springs or Seattle. Therefore, we have made no changes to PSP's ESP movement charges, except where noted in our verification report.

Comment 10: Petitioners argue that PSP's sales of returned goods should be included in the Department's data base for the final analysis because exclusion of sales as outside the ordinary course of trade applies to FMV sales only. There is no statutory exclusion provided for U.S. sales not in the ordinary course of trade. During verification, petitioners state, the Department found that one of the sales was returned due to a shipping error; two other returned sales were originally reported by PSP as returned due to cancellation of projects, and then PSP reported that they were returned due to corrosion. Petitioners maintain

that if the Department continues to exclude discrete groups of sales by respondent, the Department will not ensure that all less-than-fair-value selling practices are offset. In the absence of statutory justification for exclusion of these U.S. sales, the Department should retain these U.S. sales in its final analysis.

PSP contends that the Department should exclude PSP's returned goods sales because the Department verified that they were sales originally made outside the POI and that they involved aberrant sales. PSP maintains that the Department verified that the sales involved defective corrosion-damaged pipe and were originally made outside the POI.

Respondent contends that this has been the Department's consistent practice. In a recent determination, *PET Film From Japan*, 56 FR 16300 (1991), the Department stated that the respondent had established that the initial sale of the merchandise was made prior to the POI, and consistent with its treatment in similar situations, agreed that the sale occurred outside the POI. Furthermore, respondents claim that the Department excluded PSP's returned goods sales in the *Circular Welded Pipe from Korea* investigation, agreeing with respondents that the small number of sales should be excluded because of the aberrant nature of these sales. Therefore, PSP urges the Department to reject petitioners' speculation and to exclude these sales.

Department Position

We agree with respondents. The Department is not required to examine all sales made during the POI. 19 CFR 353.42(b). Therefore, we have excluded from our analysis two returned goods sales made during the POI. The third sale was excluded because the initial sale of the merchandise was made prior to the POI, which is consistent with *Pet Film From Japan*.

Comment 11: Petitioners note that the Department's discovery of errors in PSP's foreign brokerage and handling expenses should lead to the use of BIA. Petitioners claimed that during verification Department verifiers noted that the handling charge for one sale was incorrect. The reported charge was an understatement. Given that the one sale reviewed did not verify, and that the understatement of the charge was considerable, petitioners maintain that there is a distinct possibility that a number of PSP's reported handling charges are understated, and that these understatements could have a significant impact on the margin calculations.

Petitioners further contend that where the only brokerage and handling charge examined could not be verified, the Department cannot assume that all other data are acceptable. Therefore, the Department should select as BIA the highest reported value in the database for foreign brokerage and handling and apply this value to all sales.

Respondents claim that the errors disclosed at verification were insignificant and do not warrant the use of punitive BIA, and that it is absurd to assert that the discovery of an isolated error in PSP's favor justifies the use of the highest reported value in the database for all U.S. sales. Respondents maintain that foreign brokerage and handling charges were correctly calculated for all other sample sales examined.

Department Position

We disagree with petitioners that this error in one of PSP's reported brokerage charges should lead to the use of BIA. Through selective examination and sampling of sales at verification, the information used to calculate brokerage charges was successfully verified by the Department. As stated in the ESP Pre-Selected and Surprise Sales section of the sales verification report, we examined four ESP sales and listed all corrections or changes on page nine, stating that no other discrepancies, except those listed, were noted. There are no corrections for reported brokerage charges for these four sales. Therefore, it is not true that we verified only one brokerage charge. Given this, we have accepted PSP's reported brokerage charges, except where corrected in our verification report.

Comment 12: Petitioners claim that the Department should revise its calculation of PSP's inventory carrying costs. Petitioners state that PSP retains title to the merchandise until it reaches the U.S. dock, where Pusan Pipe America (PPA) assumes title. Furthermore, the Department's sales verification report states that PPA is the importer of record for U.S. sales. Therefore, petitioners maintain that PPA assumes title of the subject merchandise upon importation into the United States. Therefore, the Department should apply PSP's interest for the period between shipment from Korea to arrival at the U.S. dock.

Respondents maintain that they correctly calculated inventory carrying expenses using PPA's short-term interest rate because PPA maintains title to the merchandise while it is on the water. When the merchandise is ready for shipment, PPA opens a letter of credit in PSP's favor. PSP then obtains payment by presenting shipping documents to the

U.S. issuing bank's correspondent bank in Korea, which then forwards the documents to the issuing bank. Respondents claim that possession of these shipping documents confers title. Furthermore, the commercial invoices issued on export of pipe from Korea state that the shipment is "for Account & Risk of" PPA. PPA, therefore, is the entity that is bearing the cost of holding that inventory. Accordingly, it is PPA's interest rate, not PSP's, that should be used in imputing inventory carrying expenses on these sales.

Department Position

We agree with respondents that in this case, possession of shipping documents which state that shipment is "for Account & Risk of" PPA confers title. Therefore, we disagree with petitioners that we should use PSP's interest rate for the period from Korea to the U.S. port, and have accepted PSP's reported inventory carrying costs.

Comment 13: Petitioners contend that PSP's failure to provide the Department with all of its published financial records has deprived the Department of information relevant to this case. In its questionnaire to PSP, the Department requested that respondent submit all of its financial statements and reports. PSP, however, has failed to respond to this request even though the documents were available. Specifically, PSP's annual report for 1991 was not submitted to the Department. For example, petitioners claim that information in this report sets forth prices of raw materials purchased by PSP during the POI. These prices distinguish between imported and domestic hot-rolled coil. Had the Department received this document prior to verification, it would have been in a better position to verify PSP's claims regarding raw material prices. Petitioners urge the Department to consider the recalcitrance of PSP in failing to provide requested and relevant data that are publicly available over the course of this case, since it is justifiable to conclude that this material was withheld by PSP due to concern by PSP that its submission would increase its margin of dumping.

Respondents maintain that petitioners' arguments are misleading and involve new information. First, respondents claim, the report in question was not issued until after the sales and cost verifications were completed. In addition, the report did not contain additional information that had not already been submitted to the Department or inspected by the Department at verification. PSP

submitted its audited financial statements covering the POI in advance of verification, and since these documents are audited, respondents maintain that they are the most authoritative financial reports available. And finally, respondents point out that during verification, the Department reviewed and verified virtually all the key financial source documents relied upon by PSP to put together its responses.

Department Position

We disagree with petitioners that PSP's failure to provide the Department with its annual report for 1991 has deprived the Department of information relevant to this case. As respondent states, this report was not issued until after the sales and cost verifications were completed. Therefore, because it is dated August 14, 1991, it would be considered new information and would not be accepted by the Department. Furthermore, the Department verifiers reviewed all key financial documents and reports during the sales and cost verifications. Therefore, there is no basis to conclude that PSP was withholding information in order to reduce its dumping margin.

Comment 14: Respondents state that the Department should use SMP's alternative matches of similar merchandise before turning to constructed value. According to respondents, section 773(a) of the dumping statute expresses a general preference for basing dumping determinations on price-to-price comparisons, and therefore, the Department has the discretion to allow the use of alternative matches. Furthermore, the Department has exercised this discretion under the law in the past. See *Tapered Roller Bearings from Japan*, 57 FR 4690 (1992).

Respondents further claim that in its recent final determination in the *Standard Pipe* investigation, the Department assumed that it could use alternative home market matches of similar merchandise prior to resorting to CV. However, respondents claim, the Department declined to use alternative matches because of special circumstances. Because of the massive number and variety of home market models of subject merchandise in that case, the Department agreed to allow respondents to report COP and CV for a limited number of home market models. Under these circumstances, therefore, the Department declined to use alternative matches. Respondents maintain that there are no similar extraordinary circumstances in this investigation precluding the Department

from using alternative matches because SMP and PSP submitted a complete listing of COP and CV for all home market products sold during the POI. Given these circumstances, respondents request that alternative matches be used for the dumping analysis before the Department resorts to CV.

Petitioners maintain that the Department should resort to CV, not alternative similar sales, when there are insufficient above-cost sales of a particular product, stating that section 773(b) of the Act instructs the Department to use CV as the basis of FMV when sales are made below cost. As the Department recognized in the recent final results of its administrative review of Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, the statute does not instruct the Department to use the next most similar merchandise, but rather requires the use of CV. In this proceeding, the Department first determined that such or similar merchandise to be used in comparison to the merchandise sold in the United States, and then tested sales of that particular merchandise to determine whether they are below cost.

Furthermore, petitioners argue, the reason the Department cited for rejecting respondents' proposal in the *Standard Pipe from Korea* case was the statutory directive that the Department resort to CV following the search for most similar merchandise under sections 773(b) and 771(16) of the Act. The Department's reference to the facts of that case follow the statement "even assuming, *arguendo*, that the respondents are correct in asserting that the Department should use similar home market product matches before resorting to CV," the data of record did not permit such an alternative.

Moreover, petitioners claim, the data of record in this case is too limited to permit the Department to resort to alternative model matches as respondents propose because SMP has not submitted difmer data that can be used by the Department. (See *Comment 4*). Under these circumstances, the Department should not adopt SMP's proposal to use comparisons of alternative, less similar merchandise in lieu of CV. This would only increase the need for reliance on difmer data that is suspect.

Department Position

We agree with petitioners and have based FMV on constructed value for any model match where more than 90 percent of its home market sales were found to be below cost. This approach is

consistent with sections 773(b) and 771(16) of the Act.

Prior to determining FMV under 773(a), the Department must first select the most similar merchandise. Section 771(16) of the Act defines such or similar merchandise and provides a hierarchy of preferences for determining which merchandise sold in the foreign market is most similar to the merchandise sold in the United States. Section 771(16) also expresses a preference for the use of identical over similar merchandise, stating categorically that such or similar merchandise is the merchandise that falls into the first hierarchical category in which comparisons can be made. The cost test is not conducted until after the most similar model match is found under section 771(16).

Section 771(16) requires us to descend through successive levels of the hierarchy until sales of such or similar merchandise are found. However, it does not condition the determination of such or similar on any basis other than similarity of the merchandise. In particular, section 771(16) directs us only to "the first of the following categories . . ." and not to the next category when the first match is below cost. If this were not the case, the cost test would inappropriately become part of the basis for determining what constitutes such or similar merchandise, which is clearly not the purpose of the cost test. Because section 771(16) specifies the determination of such or similar merchandise on the similarity of the merchandise only and not on whether the most similar model is above cost, and section 773(b) directs us to the use of CV when the most similar model is sold below cost, we based FMV on CV when the most similar home market product match was found to be below COP.

Cost Comments

PSP

Comment 1: PSP argues that its submitted material costs, which were based on its weighted average purchase price during the POI, differed only slightly from the weighted average value of material requisitioned during the POI. Thus, the slight nature of these differences demonstrate that PSP's submitted costs are reasonable, and should be accepted without adjustment.

Petitioners argue that in order to ensure the accuracy of its final calculations, the Department should adjust all material costs to reflect PSP's requisition value of materials consumed during the POI.

Department's Position

The Department agrees with petitioners. Valuing materials based on PSP's purchase price during the POI does not take into account the cost of materials in inventory at the beginning and end of the POI. Therefore, the Department adjusted PSP's submitted material costs to reflect its monthly weighted average value of materials requisitioned from inventory during the POI.

Comment 2: PSP claims that the alleged overstatement of production quantity as used to allocate fabrication costs, arose from the inclusion of partially fabricated pre-welded pipe. Additionally, PSP claims that the effect of inclusion of the partially fabricated pre-welded pipe in the production quantity as used to allocate fabrication costs is *de minimis*. Therefore, PSP argues that the Department should accept PSP's fabrication costs as submitted.

Department's Position

The Department disagrees with PSP. At verification, PSP was unable to explain the reason for the overstatement of production quantity as used to allocate fabrication costs. PSP's claim that the overstatement related to the inclusion of partially fabricated pre-welded pipe was never discussed, and there is no evidence on the record to support that claim.

Additionally, the effect of the overstatement of production quantity as used to allocate fabrication costs is not considered insignificant. Therefore, the Department adjusted fabrication costs to account for the overstatement of production quantity.

Comment 3: PSP argues that the conversion factors used to convert costs from an actual weight basis to a theoretical weight basis are correct. PSP insists that since the actual weights used in deriving the conversion factor are the same as the actual weights used in its normal production and accounting records, application of the factor to the actual cost for each product results in an accurate cost on a theoretical basis.

Petitioners argue that PSP's calculated conversion factors used to convert submitted costs from an actual weight basis to a theoretical weight basis cannot be relied upon because the actual weight component of this factor is based on the thickness of input coil rather than the thickness of the output finished pipe. Petitioners claim that as a result of the manufacturing operation, the resulting gauge of the pipe will be different from the gauge of the coil.

Department's Position

We agree with respondents. The methods applied by PSP to calculate the actual weight of the pipe as used in the submitted conversion factor calculations are the same methods they apply in their internal bookkeeping systems. Absent convincing evidence that the calculating methodology biases the dumping calculation, we may not disregard PSP's approach.

SMP

Comment 1: SMP argues that the conversion factors used to convert costs from an actual weight basis to a theoretical weight basis are correct. SMP insists that since the actual weights used in deriving the conversion factor are the same as the actual weights used in its normal production and accounting records, application of the factor to the actual cost for each product results in an accurate cost on a theoretical basis.

Petitioners argue that SMP's calculated conversion factors used to convert submitted costs from an actual weight basis to a theoretical weight basis cannot be relied upon because the actual weight component of this factor is based on the thickness of input coil rather than the thickness of the output finished pipe. Petitioners claim that as a result of the manufacturing operation, the resulting gauge of the pipe will be different from the gauge of the coil.

Department's Position

The methods applied by SMP to calculate the actual weight of the pipe as used in the submitted conversion factor calculations are the same methods they apply in their internal bookkeeping systems. Absent convincing evidence that the calculation methodology biases the dumping calculation, we may not disregard SMP's approach.

Comment 2: SMP argues that a portion of its gain on the sale of a forging plant was related to the production of WSSP. Therefore, the Department should continue to include this gain in SMP's G&A expense calculation.

Petitioners contend that SMP's sale of its forging plant was a real estate transaction. Thus, the gain realized on this sale should be classified as other income, and not be permitted to be used as an offset to G&A expenses. Additionally, petitioners assert that even if the storage yard at the forging plant was considered to be a production related asset, there is no evidence on the record that only coil used in the production of subject merchandise was stored there.

Department's Position

The Department disagrees with SMP. The Department normally includes in G&A expense, routine gains and losses on the disposition of fixed assets as incurred in the ordinary course of business. However, the gain SMP is claiming as an offset to G&A expenses is related to the sale of a significant manufacturing plant and adjacent land area. This sales transaction is not a routine disposition of fixed assets. Therefore, the Department disallowed SMP's inclusion of the gain on sale of its forging plant and adjacent land area for purposes of computing G&A expense.

Comment 3: SMP argues that based on the appraisal it obtained from real estate professionals in the Changwon area, its rental payments to SSC for the stainless steel facility were at arms-length prices.

Petitioners argue that the appraisal provided by SMP only establishes that SMP only establishes that SMP paid rent that falls within the appraisal range. It does not establish whether SMP was in fact receiving preferential treatment in its rental costs from the related party.

Petitioners urge the Department to ignore the submitted transfer rental prices, and instead use the highest market rent reported by the Korean appraiser as BIA.

Department's Position

The Department agrees with SMP. The amount of rent paid by SMP to its related party is within the appraised fair market value range for rents in the Changwon Industrial Area. Absent evidence of preferential treatment, the Department is unable to disregard SMP's response.

Comment 4: SMP claims that during verification, it was noted that SMP inadvertently double-counted advertising, business promotion, transportation, bad debt and export expenses. Therefore, the Department should delete these items from SMP's SG&A expense in order not to double-count these expenses which were previously reported in the price submission.

Department's Position

The Department disagrees with SMP. At verification, SMP claimed that its submitted SG&A calculation for SSC, not SMP, should be exclusive of the above items. Additionally, the concern at verification was that SSC incurs no selling expenses on sales to SMP, not that these expenses were reported elsewhere. Therefore, no adjustment was made to SMP's SG&A expense.

Comment 5: SMP argues that its G&A expense calculation should be exclusive of amortization of deferred costs. Under Korean Generally Accepted Accounting Principles ("GAAP"), expenses incurred relating to research and development, and bond and stock issuance, are capitalized and amortized over a period of three to five years, whereas under U.S. GAAP, these costs are expensed in the year incurred. SMP contends that by capitalizing and amortizing these costs, current and future years' financial results are distorted.

Petitioner argues that U.S. GAAP does permit capitalization and amortization of research and development and issuance costs.

Department's Position

The Department disagrees with SMP. In general, the Department adheres to an individual firm's recording of costs in accordance with GAAP of its home country, if the Department is satisfied that such principles reasonably reflect the costs of producing the subject merchandise. Relating to the steel pipe industry, the Department is satisfied that research and development and issuance costs incurred in a particular year, benefit future years. Therefore, the Department adhered to Korean GAAP, and included amortization of deferred charges, as reported on SMP's financial statements, in our calculation of G&A expense.

Comment 6: Petitioners argue that the Department should adjust for SMP's overstatement of its scrap recovery amount, as identified at verification.

SMP claims that it understated the price it received for scrap during the POI, and the effect of this understatement offsets the overstatement of its scrap recovery rate.

Department's Position

SMP's overstatement of its scrap recovery rate has an insignificant effect on its submitted costs. Therefore, the Department made no adjustment to SMP's submitted scrap recovery amount for the final calculations.

Comment 7: Petitioners argue that SMP's allocation of indirect overhead costs on the basis of number of workers or depreciation should be rejected.

SMP argues that its submitted indirect overhead costs were allocated to direct cost centers using the same methodology used in its normal course of business, and therefore no adjustment is warranted.

Department's Position

The Department agrees with SMP. At verification, the Department determined that SMP's allocation methodology for

indirect overhead costs was reasonable and in accordance with the company's books and records. Therefore, no adjustment was made to indirect overhead for purposes of the final determination.

Comment 8: SMP argues that there is no reasonable basis for revising SSC's material cost calculations. SMP claims that the material costs provided in its COP/CV submission were developed based on grade and wall thickness. The Department's analysis ignored cost by thickness, and used SSC's POI cost of manufacture by grade only.

Department's Position

The Department disagrees with SMP. Contrary to SMP's argument that SSC submitted cold-rolled steel raw material costs by grade and wall thickness, verification Exhibit 7, page 2, clearly illustrates that SSC's submitted cold-rolled steel raw material costs were by grade only, i.e., all wall thicknesses within a specific grade have the same material costs. Therefore, SMP's explanation that the difference between the submitted material costs and material costs recorded in SSC's monthly cost of sales statements, was due to different costs for different wall thicknesses, has no merit.

Continuation of Suspension of Liquidation

We are directing the Customs Service to continue to suspend liquidation of all entries of certain welded stainless steel pipe that are entered, or withdrawn from warehouse, for consumption on or after June 22, 1992, the date of publication of our preliminary determination in the Federal Register. The Customs Service shall require a cash deposit or bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the U.S. price, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer manufacturer/exporter	Weighted-average margin percentage
Sammi Metal Products Co., Ltd.	7.75
Pusan Steel Pipe Co., Ltd.	2.55
All Others	6.83

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: November 4, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-27410 Filed 11-10-92; 8:45 am]

BILLING CODE 3510-05-M

[A-593-815]

Final Determination of Sales at Less Than Fair Value: Certain Welded Stainless Steel Pipes From Taiwan

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

EFFECTIVE DATE: November 12, 1992.

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

FINAL DETERMINATION: We determine that certain welded stainless steel pipes (WSSP) from Taiwan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of the preliminary determination and postponement of the final determination on June 15, 1992 (57 FR 27735, June 22, 1992), the following events have occurred. On June 30, 1992, petitioners alleged a significant clerical error in the calculation of Jaung Yuann Enterprise Co. Ltd.'s (JYE's) preliminary margin.

On July 21, 1992, the Department issued the amended preliminary determination correcting the ministerial error in the calculation of JYE's estimated preliminary dumping margin. (57 FR 33492, July 29, 1992).

On June 25, 1991, Ta Chen Stainless Pipe Co., Ltd., (Ta Chen) submitted tapes for responses to all sections of the

questionnaire containing corrections discovered in preparing for verification. JYE did the same on June 30, 1992, and Yeun Chyang Industrial Co., Ltd. (YCI) on August 3, 1992. Petitioners submitted preverification comments regarding Chang Tieh Industry Co., Ltd. (CTI) and JYE on July 2, 1992. Petitioners submitted pre-verification comments regarding YCI and Ta Chen on July 24, 1992.

We conducted verification of the sales and cost questionnaire responses for all respondents (CTI, JYE, Ta Chen and YCI) between July 10 and August 12, 1992. In addition, we verified the exporter's sales price (ESP) responses for Ta Chen in California on August 15, 1992.

On June 29, 1992, JYE and CTI requested a public hearing. On July 1, 1992, the petitioners in this investigation, Avesta Sandvik Tube, Inc., Bristol Metals, Damascus Tubular Products, Trent Tube Division of the Crucible Materials Corporation, and the United Steelworkers of America, requested a public hearing. On July 2, 1992, Ta Chen also requested a public hearing. On August 21, 1992, YCI concurred in the requests for a hearing.

Petitioners and respondents filed case briefs on September 25, 1992, and rebuttal briefs on October 1, 1992. A public hearing was held on October 2, 1992.

On July 1, 1992, petitioners alleged that CTI was making sales in the United States, which they described as inconsistent with commercial reality and unrepresentative of the U.S. market. They maintained that CTI's U.S. prices had been set "artificially" high by means of collusion with a U.S. importer, with an intent to begin dumping after receiving no margin and being excluded from any antidumping duty order issued in the investigation. On July 2, 1992, in their pre-verification comments, petitioners describe their allegations in greater detail.

On July 14, 1992, petitioners submitted to the Department, at its request, an affidavit in support of their allegations of July 1, 1992. On September 2, 1992, petitioners met with Francis J. Sailer, Deputy Assistant Secretary for Investigations. As noted in a September 15, 1992, memorandum of that meeting, Mr. Sailer informed petitioners that the Department would grant anonymity to petitioners sources supporting the allegations. On September 10, 1992, petitioners submitted to the Department a second affidavit in support of their allegations.

On September 11, 1992, CTI submitted arguments that petitioners raised these allegations against its U.S. sales

practices in an untimely manner, and that therefore, the July 14, 1992, and September 10, 1992, affidavits should be stricken from the record. On September 15, 1992, petitioners submitted arguments asserting that the July 14, 1992, and September 10, 1992, affidavits were timely filed with the Department and should not be stricken from the record. Petitioners also stated in the submission that they will not release the September 10, 1992, affidavit under administrative protective order (APO).

On September 21, 1992, petitioners submitted a third affidavit from another affiant who supported their allegations against CTI. They again did not agree to release a version of the affidavit under APO. On September 22, 1992, the Department informed petitioners that unless they serve APO versions of their affidavits, these would be stricken from the record. On September 23, 1992, petitioners withdrew from the record their September 10, 1992 and September 21, 1992, submissions. In their stead, petitioners submitted new public and proprietary versions of the affidavits in question. Petitioners did not agree to release the proprietary versions of the affidavits under APO. On October 8, 1992, the Department requested that petitioners submit versions of the affidavits which could be released under APO, or in the alternative, to demonstrate that there are clear and compelling reasons not to disclose this information. On October 14, 1992, petitioners submitted their arguments for non-disclosure.

On September 24, 1992, the Department sent a letter to CTI requesting information concerning its sales practices during the POI. On October 8, 1992, CTI responded, claiming that the allegations were unsubstantiated and untrue. On September 25, and October 6, 1992, the Department sent letters to the U.S. importer of record and requested information concerning its role in the sale of CTI's merchandise. The importer responded with a letter dated October 13, 1992, stating that the allegations against it were unsubstantiated and untrue. Petitioners commented on the responses on October 19, 1992. On October 26, 1992, petitioners further disputed these responses from CTI and its U.S. importer/customer.

On November 2, 1992, the Department met with petitioners to clarify confusion regarding the granting of anonymity of the sources of the information contained in the affidavits, and to clarify what information would be released under APO concerning their September 10 and 21, 1992 affidavits. A request for APO versions of September 10 and 21, 1992

affidavits was renewed. On November 3, 1992, petitioners resubmitted to the Department modified versions of their September 10 and 21, 1992, affidavits in a form releasable under APO.

On November 2, 1992, CTI met with Department officials to discuss the certification requirement imposed by the Department as a condition of exclusion of CTI from the antidumping duty order. (See Exclusion of CTI section). On November 3, 1992, CTI responded to the November 2, 1992, meeting with Department officials concerning certification on U.S. sales prices. CTI states that it is unable to comply with the Department's company certification exclusion requirement, at this time, because it has not had a full and fair opportunity to consider the substantive aspects of the certification. On November 4, 1992, CTI claims that petitioners' November 3, 1992, APO affidavit submissions were untimely and should be stricken from the record.

Scope of Investigation

The merchandise subject to this investigation is welded austenitic stainless steel pipe (WSSP) that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A-312. The merchandise covered by the scope of the investigation also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM A-312.

WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines and paper process machines.

Imports of WSSP are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.40.5005, 7306.04.5015, 7306.40.5045, 7306.40.5060, and 7306.04.5075. Although these subheadings include both pipes and tubes, the scope of this investigation is limited to welded austenitic stainless steel pipes. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is June 1, 1991, through November 30, 1991.

Such or Similar Comparisons

We have determined for purposes of the final determination that the product covered by this investigation comprises a single category of "such or similar" merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar merchandise comparisons on the basis of: (1) Specification/alloy; (2) nominal pipe size; (3) surface finish or coating; (4) wall thickness, and (5) end finish. We made adjustments for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

For CTI, we made sales comparisons on the basis of theoretical weight, the weight basis on which respondents reported U.S. sales. Ta Chen had stated that its home market sales quantities were reported on the basis of actual weights, and the U.S. sales on the basis of standard actual weights, which are derived by entering the actual pipe thickness into a mathematical formula. At verification, we discovered that home market quantity was based on actual weights while some U.S. sales were based on actual weights and others on standard actual weights.

Fair Value Comparisons

Because JYE and YCI failed verification, we based the antidumping duty margin for those companies on the best information available (BIA). As BIA, we used the highest margin calculated in the petition, 31.9 percent, *ad valorem*. (See Best Information Available section and Interested Party Comments section, below.) To determine whether Ta Chen and CTI made sales of WSSP from Taiwan to the United States at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" section of this notice.

United States Price

We calculated USP using the methodology described in the preliminary determination, with the following exceptions:

A. CTI

1. As BIA, we applied the highest ocean freight charge reported on a U.S. sale to all sales, because these charges could not be verified. (See Interested Party Comments section.)

B. Ta Chen

1. We recalculated an average warranty expense to account for the verified U.S. export expenses that Ta Chen incurred on shipments of damaged merchandise discovered after importation to the United States.

2. We deducted discounts which had not previously been reported.

3. For ESP based on f.o.b. U.S. warehouse and delivered prices, we made deductions, where appropriate, for re-packing charges incurred after importation of the goods into the United States.

4. We recalculated ESP credit expenses using the verified U.S. interest rate and increased the credit period by 2 days, as BIA, for incorrectly reported dates of payment. We recalculated U.S. inventory carrying costs using the verified home market interest rate for the period of storage in Taiwan and the verified U.S. interest rate for the period between shipment from the factory and shipment from U.S. inventory to the final customer. We are no longer imputing indirect selling expenses incurred in the home market on behalf of ESP sales. (See comment 9).

5. We adjusted USP to account for import duties on raw materials which were exempted for sales to the United States.

6. We recalculated the average POI expense for Marine Insurance, U.S. duties, and Taiwan Export fees to account for a decrease in the volume of sales over which the expenses were allocated.

Foreign Market Value

We calculated FMV using the methodology described in the preliminary determination, with the following exceptions:

A. CTI

1. As BIA, we disallowed the claim for a deduction for imputed home market credit expenses, home market inland freight and home market packing, because these could not be verified. (See Interested Party Comments section.)

E. Ta Chen

1. We conducted an arms-length test for sales to a related customer by comparing them, where possible, to sales to unrelated customers of comparable models. Based on these comparisons, we found that the average price per unit did not constitute an artificially low transfer price. Therefore, we only excluded sales of three models for which there were no comparable sales to unrelated customers.

2. We have excluded from the home market sales database those non-ASTM pipe sales which were not used in matching to U.S. sales.

3. For both home market price and constructed value (CV) comparisons to purchase price sales, we made circumstance-of-sale adjustments for recalculated credit expenses, recalculated warranty expenses, bank handling charges, and commissions, in accordance with 19 CFR 353.56. We recalculated home market credit expenses using the verified home market interest rate. We recalculated purchase price credit expenses using the verified home market interest rate and increased the credit period by a total of 5 days as a BIA adjustment for incorrectly reported dates of shipment and payment. We recalculated an average warranty expense to account for the verified export expenses which Ta Chen incurred on shipments of damaged merchandise discovered after importation to the United States.

4. For both home market price and CV comparisons to ESP sales, we made the following deductions in accordance with 19 CFR 353.56. We deducted from FMV the weighted-average home market indirect selling expenses, including recalculated inventory carrying costs, up to the amount of indirect selling expenses incurred on U.S. sales:

Cost of Production and Constructed Value

Based on petitioners' allegations, and in accordance with section 773(b) of the Act, we investigated whether CTI and Ta Chen had home market sales that were made at less than their cost of production (COP). For Ta Chen, CV was used for the certain comparisons to U.S.C. prices.

If over 90 percent of a respondent's sales were at prices above the COP, we did not disregard any below-cost sales because we determined that the respondent's below-cost sales were not made in substantial quantities. If between ten and 90 percent of a respondent's sales were at prices above the COP, we disregarded only the below-cost sales. Where we found that more than 90 percent of respondent's sales were at prices below the COP, we disregarded all sales and calculated FMV based on CV. In such cases, we determined that the respondent's below-cost sales were made in substantial quantities and were over an extended period of time.

In order to determine whether home market prices were above the COP, we calculated the COP based on the sum of a respondent's cost of materials,

fabrication, general expenses, and packing. The submitted COP data was relied upon, except in the following instances where the costs were not appropriately quantified or valued:

A. CTI

1. Interest expenses were recalculated without the expenses incurred by the related party because the parties did not meet the requirements of consolidation.

2. We determined at verification that CTI incorrectly calculated its production yield losses and have corrected COP and CV accordingly.

3. We have determined that CTI understated its labor cost by its exclusion of year-end bonuses and have corrected COP and CV accordingly.

4. We determined at verification that CTI understated its indirect labor costs and have corrected indirect labor in COP and CV accordingly.

5. We have determined that CTI failed to demonstrate that its cost of materials should be offset by scrap revenue, and have removed the scrap revenue from reported materials cost used in our final determination.

B. Ta Chen

1. For COP and CV, G&A expenses were revised to include all general expenses which had not been specifically included elsewhere as selling expenses or movement charges.

2. We have determined that it is correct to include in Ta Chen's material cost the purchase of semi-finished pipe. Therefore, we used Ta Chen's November 1991 COP/CV data.

3. We have determined to use a single weighted-average COP and CV figure for each product model for the entire POI. We are basing the calculation of COP on the costs which were incurred during the POI, weighted by the quantity of home market sales during the POI, based on the date of sale for the prices to which they will be compared. We are basing the calculation of CV on the costs which were incurred during the POI, weighted by the quantity of sales during the POI, based on the date of sale for the U.S. prices to which they will be compared. This was necessary to convert six monthly COP and CV values for each product model into single figures per product model for the entire POI.

5. We have determined that COP must be increased by actual import duties on raw materials for home market sales and that when CV is used as FMV, CV must be increased by the average import duty on raw materials for home market sales.

To calculate CV, in addition to the cost of materials and fabrication, we

used the actual general expenses in accordance with section 773(e)(1)(B)(i) of the Act, because they exceeded the statutory minimum of ten percent. For profit in CV, we used eight percent of the combined cost of materials, fabrication, and general expenses, pursuant to section 773(e)(1)(B)(ii) of the Act, because the actual amount was less than the statutory minimum of eight percent.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we verified information provided by the respondent by using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

Best Information Available

We have determined that the questionnaire responses of JYE and YCI provide an adequate basis for estimating dumping margins. The Department has determined that, for the information we examined, or attempted to examine, at verification, the misreporting and inaccuracies were both material and pervasive. In addition, the lack of preparation on the part of both respondents was significant enough to be determined uncooperative behavior on the part of the respondents. The problems encountered in attempting to verify these respondents' information are detailed in the company-specific Interested Party Comments section, below.

In determining what rate to use as BIA, the Department follows a two-tiered methodology, whereby the Department follows a two-tiered methodology, whereby the Department may assign lower rates for those respondents who cooperated in an investigation and rates based on more adverse assumptions for those respondents found to be uncooperative in an investigation.

The number and severity of problems encountered in both the sales and cost verifications for both companies have been determined, by the Department, to constitute uncooperative behavior. Therefore, in accordance with Department practice, we are applying

the higher of (1) the highest margin alleged in the petition, or (2) the highest calculated rate of any respondent in the investigation. Since the highest margin calculated is that for Ta Chen, 3.51 percent, we are applying the highest margin alleged in the petition, 31.9 percent *ad valorem*, as BIA for JYE and YCI.

Critical Circumstances

Petitioners allege that "critical circumstances" exist, within the meaning of section 735(a)(3) of the Act, with respect to imports of WSSP from Taiwan. Section 733(a)(3) of the Act provides that critical circumstances exist if we determine that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class of kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

There are no prior dumping cases involving the subject merchandise which would establish a history of dumping. It is our standard price to impute knowledge of dumping under section 735(a)(3)(A) of the Act when the estimated margins in our determinations are of such magnitude that the importer should realize that dumping exists with regard to the subject merchandise. It has been the Department's practice to consider estimated margins of 25 percent or greater on sales to unrelated parties and estimated margins of 15 percent or greater on sales to related parties as sufficient proof to impute knowledge of dumping. Since for Ta Chen and CTI the weighted-average dumping margins fall below these percentages, critical circumstances do not exist with respect to Ta Chen and CTI. Accordingly, it is not necessary to determine if massive imports exist or those importers.

For JYE and YCI, since the BIA dumping margins are greater than 25 percent, the Department imputes that there was knowledge of dumping. Because there respective shipment data could not be verified, the Department determines as BIA that there were massive imports over a relatively short period of time. Therefore, based on BIA, the Department determines that critical circumstances do exist with respect to JYE and YCI. We have not included

companies covered by the "All Other" rate in our affirmative critical circumstances determination because we determined that critical circumstances only exist for those two firms whose margins are based on BIA.

Exclusion of CTI

Normally, the Department will exclude from the application of an antidumping order, a producer found to have a zero weighted average dumping margin during the POI. 19 CFR 353.21(c). The Department's final determination resulted in a zero dumping margin for CTI. However, petitioners have submitted evidence indicating that CTI's sales were contrived for purposes of the Department's investigation. Specifically, petitioners submitted statements by several affiants who assert that they were told by officials of CTI's U.S. customer that CTI sold small quantities of WSSP during the POI at artificially high prices with the intention of making sales of LTFV after being excluded from the order. In view of the fact that CTI did not sell in the U.S. market prior to the POI, petitioners' evidence raises significant concerns about potential evasions, by CTI, of the antidumping order (if one is issued in this case).

To address these concerns, the Department is requiring CTI to provide, as a condition for its exclusion from the application of the order, a certification similar to those required under §§ 353.14 and 353.25(b) of the Department's regulations. Specifically, CTI must certify that it: (1) Did not sell subject merchandise to the United States at less than its foreign market value during the POI; (2) will not sell the subject merchandise to the United States at less than its foreign market value in the future; and, (3) agrees to the immediate application of the order to its imports of subject merchandise, if the Department determines at any time during the existence of the antidumping order that CTI has sold or is likely to sell the subject merchandise to the United States at less than its foreign market value.

To afford CTI sufficient time to review and consider the requested certification, the Department will accept CTI's certification any time up to the date of issuance of an antidumping order in this case. If CTI fails to provide the required certification, CTI's imports of the subject merchandise will be subject to the application of the order, and the Department will order the suspension of liquidation with a cash deposit rate of zero.

Interested Party Comments

General

Comment 1: Petitioners maintain that the respondents have not proven that they use imported steel coil in the production of the WSSP sold in the home market, and that the duty-drawback adjustment claimed is therefore unwarranted.

CTI claims that the provisions governing the duty drawback adjustment, contrary to petitioners' arguments, are not dependent upon a respondent showing that the exported goods were made from raw material on which a duty was paid, nor is it dependent on a showing that the domestic-market goods were made from duty-paid raw materials. CTI maintains that it has satisfied the two stipulations of the Department's customary duty-drawback test, namely, it has shown that:

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

CTI traces this two-part test to the Department's Study of Antidumping Adjustments Methodology and Recommendations for Statutory Change, 26-27 (November 1985), and notes that it was specifically cited with approval in the ruling *Far East Machinery Co., Ltd. v. United States*, 12 CIT 428, 431, 688 F. Supp. 610 (1988), and in the recent Final Determination of Sales at LTFV: Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, 57 FR 42942, 42946 (September 17, 1992).

Ta Chen maintains that the Department verified that it paid the Taiwan import duty for those sales for which it was reported and that the Department reviewed the records at verification which demonstrated that the pipe subject to the duties paid were made from imported steel coil.

DOC Position

We agree with respondents. Section 772(d)(1)(B) of the Act requires an upward adjustment to U.S. price by "the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States." Based on the legislative history of the antidumping law, the Court of International Trade (CIT) has interpreted the purpose of this adjustment as follows:

[t]o prevent dumping margins from arising because the exporting country rebates import duties and taxes for raw materials used in exported merchandise, the antidumping law provides for an offsetting adjustment in the calculation of United States price.

Far East Machinery Co., Ltd. v. United States, 12 C.I.T. 428, 430 (1988), citing, *Carlisle Tire & Rubber Co. v. United States*, 10 C.I.T. 301 (1986), and S. Rep. No. 16, 67th Cong., 1st Sess. 12 (1921). Furthermore, an adjustment for duty drawback is required under the General Agreement on Tariffs and Trade (GATT), art. VI, para. 4.

In determining whether a duty drawback adjustment is appropriate, the Department applies a two-prong test establishing that: (1) The import duty and rebate are directly linked to, and dependent upon, one another; (2) that the company claiming the adjustment can demonstrate that there were sufficient imports of the imported raw materials to account for the drawback received on the exported product. The CIT has consistently found this test to be reasonable. *Far East Machinery Co., Ltd. v. United States*, 12 C.I.T. 972 (1988) (*Far East Machinery*); *Carlisle Tire & Rubber Co. v. United States*, 11 C.I.T. 166 (1987) (*Carlisle Tire*).

Based on information in the responses to the Department's questionnaire and on findings at verification, the respondents' methodologies for calculating a duty drawback adjustment meet both elements of this test. With respect to the first prong of the test, the CIT has stated that duty drawback "may give rise to an adjustment to United States price provided import duties are actually paid and rebated, and there is a sufficient link between the cost to the manufacturer (import duties paid) and the claimed adjustment (rebate granted)." *Far East Machinery*, 12 C.I.T. at 976, quoting *Huffy Corp. v. United States*, 10 C.I.T. 214 (1986). There is no dispute that the first prong of the test has been met in this case. At verification, we confirmed that duties on imported raw materials were, in fact, paid and rebated upon export of the manufactured product. Accordingly, respondents were able to establish the necessary link between duties imposed and rebated. We note that the finding in this case is consistent with prior cases involving imports from Taiwan (See, *Far East Machinery*).

The second prong of the test encompasses the principle of drawback substitution. With respect to this portion of the test, the CIT has agreed that "there is no requirement that specific input be traced from importation through exportation before allowin

drawback on duties paid." *Far East Machinery*, 12 C.I.T. at 975. Therefore, like governments applying duty drawback programs, the Department does not attempt to determine whether raw materials used in producing the exported merchandise actually came from imported stock, but rather assesses whether there were sufficient imports of relevant raw materials to account for the duty drawback received on the exports of the manufactured product. The Department verified respondents' drawback applications, which documented sufficient imports of raw material to account for the drawback claimed. In each drawback application reviewed by the Department, it was shown on import permits that sufficient imports of appropriate coils existed for the claimed exported amounts of finished pipe. Therefore, CTI has met the second requirement for a drawback adjustment.

Other claims by petitioners do not speak to the test traditionally applied by the Department, but rather seek to impose additional requirements for duty drawback claims, which are not required by the statute, the regulations, or past Department practice. There is no basis for petitioners' argument that the Department should not make a duty drawback adjustment, unless it determines that the cost of products sold in the home market includes duties on imported raw materials. The only requirements of section 772(d)(1)(B) are (1) "import duties imposed", and (2) rebate, or non-collection, of those duties "by reason of the exportation of the merchandise to the United States." The statute mandates the adjustment without reference to whether products sold in the home market are made with imported raw materials. Where such requirements for adjustment are intended, they have been expressed in the statute (see, e.g., section 772(d)(1)(C) allowing adjustment to USP for value added tax (VAT) only if the VAT has been charged and paid on merchandise sold in the home market). Therefore, we disagree with petitioners that the Department should add a third prong to the test for drawback adjustments requiring examination of the relative usage of imported materials in export and home market sales.

Petitioners' argument concerning the third "prong" is moot with respect to Ta Chen as it proved that it only uses imported steel coil. Furthermore, because Ta Chen is a Taiwan customs-bonded factory, it only reported import duties actually levied on the raw material portion of domestic sales to end users. Therefore, the addition of an

average duty drawback amount to U.S. price is warranted. With regard to JYE and YCI, the issue is moot because we are using BIA in determining their respective final dumping margins.

Comment 2: Petitioners maintain that neither the statute nor the Department's regulations contemplate any adjustment to foreign market value for taxes, either in the form of a deduction in FMV for VAT incurred on home market sales, or as a circumstance-of-sale adjustment, to the extent that the taxes incurred on home market sales are greater or less than the amount of tax that the Department inputs to U.S. sales.

Petitioners maintain that the Department should have followed the decisions in *Zenith Electronics Corp. v. the United States*, 10 CIT 268, 633 F Supp. 1382 (1986) (*Zenith*) and *Daewoo Electronics Corp. v. United States*, 13 CIT 253, 712 F Supp. 931 (1989) (*Daewoo*) by measuring the tax absorption. Petitioners claim that the Taiwan companies under investigation have not shown that the value-added tax (VAT) is passed through to Taiwan customers, and that therefore the Department's VAT adjustment to the U.S. prices is not warranted.

In response, CTI maintains that petitioners incorrectly interpret the rulings made in *Zenith* and *Daewoo*. CTI maintains that these decisions regarded adjustments to home market, not U.S. prices, as is the case in these proceedings. Second, CTI cites the Department's position in *Antifriction Bearings (Other than Tapered Roller Bearings) and parts Thereof from France et al.*: Final Results of Second Administrative Reviews, 57 FR 28360, 28419, (comment 1), (1992), that until the Federal Circuit rules on this issue, the Department is "not following *Zenith* and its progeny."

Ta Chen maintains that it is the Department's long-standing practice not to measure the amount of tax incidence in the home market, citing as an example *Circular Welded No-Alloy Steel Pipe from Mexico*, 57 FR 42953, 42956, *Comment 6*, (1992). Ta Chen maintains that it provided documentation of the domestic VAT consistent with the reporting requirements of prior Taiwan respondents.

DOC Position

We agree with respondents that the VAT adjustment is in complete accordance with antidumping law and the Department's past practice. We do not agree with the CIT's decisions in *Zenith Electronics Corporation v. United States*, 633 F. Supp. 1382 (Ct. Int'l Trade, 1986) (*Zenith I*) and *Zenith Electronics*

Corporation v. United States, 770 F. Supp. 648 (Ct. Int'l Trade, 1991) (*Zenith II*), and have appealed this issue on its merits. Therefore, consistent with our long-standing practice, we have not attempted to measure the amount of tax incidence in the Taiwan home market. See *Color Television Receivers*. Except for Video Monitors, From Taiwan; Final Results of Antidumping Duty Administrative Review, 57 FR 92, 20241 (1992).

We do not agree that the statutory language, limiting the amount of adjustment to the amount of commodity tax "added to or included in the price" of WSSP sold in the Taiwan home market, requires the Department to measure the home market tax incidence. We are satisfied that the record shows that the tax was charged and paid on the home market sales.

We also disagree with petitioners that there is no basis in law for a circumstance-of-sale (COS) adjustment to FMV for differences in VAT payments. We do a COS adjustment in order to neutralize the effect of the ad valorem tax rate, relying on the Department's broad statutory authority to make adjustments for such differences in the circumstances-of-sale. As stated in *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.*, 57 FR 28,360, 28,419 (1992), because all home market sales were reported net of VAT, we added the same VAT amount to FMV as that calculated for U.S. price. This is the same as calculating the actual home market tax and then performing a COS adjustment to FMV to eliminate the difference between the tax in each market. Therefore, the respondents are entitled to the adjustment to U.S. price for home market VAT. With regard to JYE and YCI, the issue is moot because we are using BIA in determining their respective final dumping margins.

Comment 3: Petitioners maintain that any pricing and cost data of the respondents that are relied upon in the final determination should exactly and accurately reflect the data as recorded and maintained by the respondents in the normal course of business and be consistent with the concept of theoretical weight. Petitioners assert that substantial confusion has occurred, both because of incomplete and unclear responses by the respondents and because the terms "theoretical weight" and "actual weight," seem to have been defined differently by various parties. Petitioners state that pricing and cost data should be on either the pipe's length or its "theoretical weight" basis.

as producers of WSSP operate on this basis. Moreover, petitioners specifically state that no such "actual weight" data should be compared to "theoretical weight" data, as that would compound the problem of potential inaccuracies in a statistically unequal and unsound fashion.

CTI states that it was only two weeks before the deadline for rebuttal briefs that the Department determined in *Non-Alloy Steel Pipe from Korea* 57 FR 42945 (1992) that "prices and expenses should be calculated on the basis of theoretical weight." CTI maintains that it originally reported its sales on the basis of theoretical weight and in its deficiency letter, the Department requested that CTI report on the basis of actual weight. CTI maintains that in any case, it has reported the factors that would enable the Department to convert between "actual" and "theoretical" weights; furthermore, CTI maintains that, provided the calculations are performed consistently, it would not matter which basis is employed.

Ta Chen states that it believes that all companies are in the situation where some weights are measured according to their actual weight when possible, and that at other times a company will use the actual wall thickness to calculate a standard actual weight. It believes that there is no evidence that the market distinguishes between the two methods of establishing weight. Ta Chen maintains that the verification report's statement that material and conversion costs were reported on a theoretical weight basis is a misprint, and that in fact material costs were calculated on an actual weight basis. Ta Chen states that it takes the same amount of processing time to process a foot of pipe, irrespective of its weight, and that it internally calculates processing cost per foot, then converts that to a per kilogram basis based on the average actual kilograms per foot of pipe. Moreover, Ta Chen maintains that if one were to "convert" the costs reported from the supposed theoretical to an actual weight basis, one would need to adjust the weights downward.

DOC Position

We agree in part with petitioners. In the case of CTI, we agree with petitioner that pricing and cost data of CTI should be based on theoretical weight. CTI's original section B and C responses were prepared according to the theoretical weight, which is the weight utilized in all of CTI's sales. For the Section D response, it was not appropriate to report data according to theoretical weight, since cost-of-production (COP) data are maintained on an actual weight

basis. CTI revised data for the B and C responses transaction variables to an actual weight basis in order to bring conformity with the Section D reporting of COP/CV.

The Department has determined that CTI reported its cost information consistent with records kept in the normal course of business. We agree with petitioners that actual weight data should not be compared to data based on theoretical weight, and have ensured that such comparisons were not made in reaching this final determination. We have determined to use the sales data on a theoretical basis, since that is how merchandise was sold, and to convert the COP/CV data to theoretical in order to make comparisons to sales prices.

In the case of Ta Chen, the Department verified that Ta Chen, in its normal course of business, determined quantity by measuring the actual weight of pipes sold in the home market. We also discovered that it determined the quantity of some sales in the United States by measuring the actual weight of pipes and other sales by measuring the actual pipe wall thickness and converting this by standard industry formula into standard actual weight. In its normal record-keeping, Ta Chen did not distinguish between the two methods used. Ta Chen utilizes a standard cost system in which any variance from standard is applied to the standard cost to obtain the actual cost.

The variances were calculated using actual weights; therefore, when the variance is applied to the standard cost the resulting actual product cost is based on actual weight. Ta Chen reported its home market sales on an actual basis. It reported U.S. sales on an actual or standard actual basis. No adjustments to the COP or CV data were necessary. Based on sampling conducted at verification, the Department has determined that the actual weight was very slightly less than standard actual weight. Considering that the effect of the differential slightly increases the margin calculated, comparing home market prices based on actual weight, or CV based on actual weight, to a U.S. database where some sales prices are based on actual and some on standard actual weights, is conservative. For YCI and JYE the issue is moot because we are using BIA in determining their respective final dumping margins for purposes of the final determination.

Chang Tieh Industry Co., Ltd.

Comment 1: Petitioners maintain that the final determination should not be based upon CTI's data, but instead upon BIA. Petitioners assert that the U.S.

sales which CTI reported for the POI were unrepresentative of the market and hence an unreliable basis for dumping calculations. Specifically, petitioners allege that CTI negotiated with its U.S. customer artificially high prices for sales of a relatively small volume of subject merchandise during the POI in order to obtain exclusion from any antidumping duty order issued in this case, leaving CTI free to sell its merchandise in the United States in the future at prices that are less than fair value. As BIA, petitioners contend that the Department should reject CTI's entire U.S. sales database and apply the most adverse rate supported by the record. CTI contends that petitioners' arguments are flawed, both factually and legally, for several reasons. First, CTI claims that the volume of its sales merely reflects that it is a new entrant to the U.S. market. Second, CTI contends that its prices were not "inflated," and that, as verification had shown, CTI's U.S. prices were above its foreign market value, which simply means CTI is not dumping. CTI claims that, as a legal matter, its intent is totally irrelevant to this investigation, since dumping is determined by statutory criteria as to price and cost, and not by the subjective psychological criteria espoused by the petitioners. CTI also maintains that, as a legal matter, petitioners' proposition that the Department should reject CTI's entire U.S. sales database is preposterous, as petitioners cite no law to support its claim that the entire U.S. sales database of a respondent may be rejected if the margin calculations fail to establish the existence of dumping. CTI strongly objects to petitioners' reference to affidavits which it argues were untimely submitted and should, therefore, be stricken from the record. Thus, CTI contends that petitioners' arguments that CTI should be subject to punitive measures are without factual or legal basis and should be rejected in their entirety.

DOC Position

The Department has determined that petitioner's allegation does not constitute sufficient grounds to reject all of CTI's U.S. sales data and resort to BIA. However, as discussed above (see *Exclusion of CTI* section), the evidence presented by petitioner does raise serious concerns about potential evasion of the antidumping order, if one is issued in this case. The Department is addressing those concerns through a certification requirement.

With respect to the two affidavits in support of petitioner's allegation submitted on November 3, 1992, the

Department disagrees with CTI's argument that they were untimely. At a meeting with petitioner on November 2, 1992, the Department renewed its request of October 8, 1992, for APO versions of the affidavits. This is fully explained in the Department's memorandum to the file regarding this meeting. In response to our renewed request on November 2, Petitioner timely submitted the APO versions on November 3, 1992. Furthermore, the substance of petitioners' allegations have been on the record since July 1, 1992, and CTI has had ample opportunity to respond to petitioners' claims.

Comment 2: Petitioners claim that CTI's sales and cost verification reports detail that CTI impeded the Department's verification by being poorly prepared and by withholding documentation, and that in major respects the Department was consequently unable to verify the data for a lack of time. In addition, petitioners allege that the Department found misreported data. Petitioners maintain that these are the hallmarks of an uncooperative respondent and a failed verification, and therefore, the Department should use BIA in making its final determination. As BIA, petitioners contend that the Department should apply the most adverse rate supported by the record.

CTI contends that petitioners' claim that it failed verification is not supported by the record. CTI maintains that the verification was successful, and that there is, therefore, no legal basis for imposing a BIA rate. CTI notes that petitioners themselves cite to the fact that CTI passed its completeness test and that the quantity and value of certain preselected sales were traced to CTI's accounting records. CTI quotes several passages from the sales verification report to support its claim that there is a substantial body of evidence showing that verification was successful. CTI maintains that the criterion for use of a respondent's data is not predicated upon how smoothly the verification proceeded, but on whether the respondent's submitted data is, in the end, verified to be accurate and complete by means of referring to source documentation and company accounting records. CTI, therefore, contends that the Department should reject petitioners' request to use BIA for the final determination.

DOC Position

We disagree with petitioner. While CTI was not very well prepared at the onset of the verification proceeding, the company was able to produce the

required documentation for the most important aspects of the sales verification, such as those used in establishing the completeness and accuracy of the sales reported to the Department, by the end of the scheduled verification. However, certain charges and adjustments did not verify. Due to CTI's problems in preparing for verification, only one home market adjustment, for imputed credit, could be examined. Since this item did not verify, and it was the only home market adjustment examined, we are disallowing all home market charges and adjustments. CTI also incorrectly reported U.S. ocean freight charges. However, because all of the other U.S. charges and adjustments we examined tied to supporting documentation, we used BIA for ocean freight only. As BIA we applied the highest correct ocean freight charge to all U.S. sales.

We disagree with petitioner that CTI's cost verification report details that "CTI impeded the Department's verification by being poorly prepared and by withholding documentation and that in major respects the Department was consequently unable to verify the data it needed to verify for a lack of time." With respect to CTI's cost information the Department was able to confirm the basic accuracy of the submitted information, except as noted in specific comments below.

Comment 3: CTI maintains that the Department should not add both its full imputed credit and the reported bank charges to foreign market value in its margin calculations. The imputed cost of credit is calculated from the date of shipment to the date of payment. The bank charges reported include the bank's fee for the 12 days during which sales documents are in interbank channels. Respondent argues that since this expense is for 12 days of credit as calculated by the bank, the imputed credit period used by the Department should be reduced by 12 days if the Department increases FMV by the full amount of the bank charges.

Petitioners argue that the Department correctly adjusted foreign market value for the bank charges and the imputed credit expense that CTI incurred for its U.S. sales and did not double count U.S. credit expenses.

DOC Position

We disagree with respondent that the bank charges reported included 12 days of imputed credit. The bank uses a 42-day formula to set its fees for the cost of handling documents; we have determined that this fee is not a calculation of the opportunity cost

incurred by respondent in extending credit to its customers.

Comment 4: Petitioners note that CTI's cost verification report indicates CTI incorrectly calculated its production yield losses. CTI calculated its production yield losses by adding the coil input to slitting with the coil input to production and dividing that sum by the total of coil from slitting and finishing coil output. According to petitioner, the yield rates for coil slitting and for the production of pipe should be multiplied together.

DOC Position

Based on information obtained at verification, we determined that CTI erred in its calculation of material yield. We corrected COP and CV for the error in yield calculation.

Comment 5: Petitioners allege that CTI failed to include year-end bonuses in its reported labor costs. Petitioners state that during verification the Department discovered that year-end bonuses were recorded in CTI's accounting records that had not reported in the COP information CTI reported to the Department.

DOC Position

Based on information obtained at verification, we determined that CTI understand its labor cost by failing to include year-end bonuses in its calculation of COP and CV. We adjusted COP and CV to include the year-end bonuses.

Comment 6: Petitioners note that CTI's cost verification report states that CTI understated its indirect labor costs, because the Department discovered that CTI failed to include all indirect labor costs in its allocation of fabrication cost. Petitioner argues that if the Department decides to rely on any of CTI's data in lieu of total BIA, the Department should increase CTI's reported fabrication costs to include CTI's indirect labor costs.

DOC Position

We agree with petitioners and have included the indirect labor costs in our calculations of COP and CV.

Comment 7: Petitioners allege the cost verification report indicates that CTI failed to demonstrate that its costs of materials should be offset by scrap revenue, and therefore, as BIA, the Department should not allow CTI to offset its material costs by the value of scrap sales.

CTI states that "petitioner properly notes that scrap value is included in [CTI's] cost of goods sold and is, therefore, available for the Department to use as a reduction to material cost."

DOC Position

We disagree with CTI that information contained in the company's financial statements is adequate support for the per-unit scrap credit claimed. CTI had not prepared any documentation prior to verification to support the inclusion of scrap revenue, nor was any information presented at verification concerning the actual level of scrap income associated with the steel pipe products. Accordingly, we have removed the scrap revenue from reported materials cost used in this final determination.

Comment 8. Petitioners allege that CTI improperly allocated its labor and overhead costs. Petitioners maintain that contrary to CTI's claims that there are no overhead costs that are incurred exclusively on WSSP, CTI's own production flowcharts list three production steps as exclusively done for the subject merchandise: annealing, straightening, and pickling. Petitioners also maintain that CTI should have reported separately the labor and overhead costs that are exclusive to pipe production.

Petitioners maintain that, additionally, of the four product lines produced by CTI, only pipe and tube require welding operations. They contend that the labor and overhead costs for welding should have been allocated exclusively to pipe and tube production. Further, petitioners argue that by allocating labor costs to all products on the basis of tonnage produced, CTI understand the actual per-unit labor costs it incurred for WSSP.

Petitioners therefore assert that the Department should substitute the labor and overhead costs provided by the petitioners as BIA in calculating CTI's COP and CV.

CTI maintains that petitioners erred in claiming that annealing, pickling, and straightening lines are used only for the production of WSSP, and that, in fact, tube as well as pipe is subject to straightening, and since CTI can use its annealing and pickling lines for subcontract work. Furthermore, CTI contends that petitioners' allegations regarding the allocation of labor and overhead are untimely. CTI also maintains that not all of the allocations demanded by petitioners are possible, because most of its production equipment is not dedicated to one product, nor is the factory labor force differentiated in its assignments. CTI further argues that labor and overhead constitute a very small part of its total cost of production. CTI states that the allocation of labor and overhead costs over production tonnage is reasonable

because such costs are primarily a function of tonnage, not steel type or size.

DOC Position

We agree with CTI that labor and overhead costs constitute a small part of the products COP. The labor and overhead costs reported by CTI were reviewed at verification and determined to be consistent with CTI's normal cost accounting methodology. The Department did not note any inconsistencies which would necessitate the use of BIA in the calculation of labor and overhead.

Comment 9. Petitioners allege that, based on their reading of the verification report, CTI failed to demonstrate that a certain claimed adjustment to cost of materials was warranted, and that the Department should increase material costs accordingly.

CTI responds that petitioners are incorrect to claim that the Department revise its material costs upward, as the Department verified its material costs coil by individual coil.

DOC Position

CTI did not claim the adjustment to its material cost which petitioners are opposing. Therefore, the issue is moot.

Comment 10. Petitioners maintain that the Department should use the profit rate reported by CTI for home market sales of the merchandise under investigation in its constructed value calculations instead of the statutory minimum of eight percent.

CTI argues that it derived its profit figure by a calculation from its submitted section B and D data. It claims that the only circumstance in which the Department would reach constructed value would be if substantial changes were made to CTI's reported COP. CTI maintains that if the Department were to do so, then the profit figure suggested by petitioners would no longer be applicable, because that figure was calculated according to CTI's section B and D data. Hence, CTI argues, if the Department does find below-cost sales and a reason to use constructed value, it should use the statutory profit figure.

DOC Position

The Department calculates the average home market (HM) profit on reported sales. Should any of the product's FMV be based on CV, profit will be determined as the greater of the average HM profit calculated for the home market sales or the statutory minimum.

Comment 11. Petitioners maintain that CTI understated its ocean freight

charges for its U.S. sales. They contend that since CTI used estimates rather than actual costs, the Department should use the highest ocean freight rate discovered during verification as BIA.

DOC Position

We agree with petitioners. We discovered that ocean freight charges had been reported incorrectly. The Department is, therefore, using the highest verified ocean freight charge as BIA for all U.S. sales.

Comment 12. Petitioners maintain that CTI failed to support the interest rate that it used to calculate its reported home market credit and inventory carrying costs. They contend that the Department should deny the adjustments for credit and inventory carrying costs that CTI claimed for its home market sales.

CTI maintains that first, inventory carrying costs are not applicable, as all U.S. sales are purchase price sales. Second, it states that the Department should consider the credit period net of the period for which CTI's bank charges interest. As for the interest rate to be applied, CTI maintains that the Department should use the highest reported interest rate, since the weighted-average rate was not provided.

DOC Position

We agree with petitioners that the domestic short-term interest rate was not substantiated. During the verification, we requested a worksheet listing all the outstanding loans during the POI, however, company officials declined to provide a worksheet, claiming that time did not permit its preparation. We were given a partial loan listing. We were not able to confirm several of the bank loan rates listed. We are, therefore, not allowing an adjustment for credit on home market sales, but, as BIA, are continuing to use the reported rate to calculate imputed credit on U.S. purchase price sales. CTI was so unprepared for verification that the only home market charge or adjustment that could be examined was interest rates for credit expense calculations. Because CTI failed verification of the only adjustment reviewed, we are disallowing all home market charges and adjustments as BIA. We disagree with respondent that the bank charges reported included 12 days of imputed credit. The bank uses a 12-day formula to set its fees for the cost of handling documents; we have determined that this fee is not a calculation of the opportunity cost

incurred by respondent in extending credit to its customers.

Jaung Yuann Enterprise Co., Ltd.

Comment 1: Petitioners maintain that the verification of JYE revealed that its data with respect to each of the three components of a dumping analysis (home market sales, U.S. sales, and cost of production) contain errors and omissions of such significance that the Department should reject the respondent's data entirely and apply the most adverse rate supported by the record as BIA for purposes of determining JYE's final dumping margin.

Petitioners maintain that JYE's failure to report completely its home market sales was a major impediment to the entire verification procedure, as the Department was forced to take inordinate amount of time to locate and examine unreported home market sales and to provide JYE's officials with the opportunity to explain the incomplete reporting.

With respect to home market sales, petitioners contend that the time constraints created by JYE's failure to report completely home market sales prevented the Department from thoroughly reviewing U.S. preselected sales transactions. Petitioners claim that even this minimal sampling of sales revealed such errors as to render the entire U.S. sales database suspect and inherently unreliable.

Finally, petitioners maintain that JYE's COP and CV data must be rejected in their entirety, since JYE failed to provide actual costs for many of the pipe models under investigation and also failed to provide costs for the proper time period. Petitioners maintain that such errors render JYE's cost data unusable for the purpose of the Department's analysis.

JYE argues that the Department should not resort to BIA in determining its final dumping margin. It claims that the omission of 5 and 8 inch products does not affect the calculation because none of these products were sold in the United States during the POI. JYE also claims that the prices for unreported sales were, in most instances, not higher than the prices for reported sales of the same products. Moreover, JYE maintains that the omitted sales only represent 32 models, which it believes is a negligible number of products.

JYE maintains that it calculated its COP/CV data based on the cost information in its new cost accounting system from July through November 1991. It claims that this methodology is more accurate than one using cost data from before July 1991, since JYE's cost accounting system was not established

until that time. JYE also maintains that BIA is not warranted, because if changes or modifications to the reported methodology are necessary, those can be accomplished by use of information on the record.

JYE maintains that if the Department determines that BIA is necessary, it should only apply BIA to calculate the dumping margins on those U.S. sales which may be affected by unreported home market sales.

JYE claims that even if the Department considers BIA necessary, it should not use the most adverse rate as BIA. It maintains that the most adverse rate is only valid as a punitive measure against uncooperative respondents, and the lack of preparation in advance of verification does not constitute uncooperative behavior. JYE claims that the Department's verifiers did not extend verification by another half-day, and that this scheduling, not a lack of preparedness on JYE's part, was the primary cause resulting in data remaining "unverified."

Moreover, JYE argues that even if the Department determines that there are serious deficiencies regarding verification which it would ascribe to JYE, recent decisions such as Roller Chain, Other Than Bicycle, from Japan, 57 FR 6808 (1992), and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain components thereof from Japan, 56 FR 65228, indicate that the Department should find a company cooperative and use non-punitive BIA such as the highest rate among other respondents. JYE states that in Portable Electric Typewriters from Japan, 56 FR 56393, 56394, (1991), the Department gave a respondent who submitted no responses to the Department punitive BIA and gave a respondent who only made partial responses to the Department non-punitive BIA. In addition, JYE points to the administrative review of Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from Germany, 56 FR 31692, where a punitive BIA was applied both to a firm whose sales listing was flawed and to a firm whose cost data was not substantiated at verification; JYE maintains that Circular Welded Non-Alloy Steel Pipe from Taiwan, 57 FR 42961 (1992) indicates non-punitive BIA even where "verification revealed significant inconsistencies in the information reported." Lastly, JYE states that despite announcing a new BIA hierarchy in *Antifriction Bearings* in July 1991, the Department nonetheless chose to apply non-punitive BIA for totally non-cooperative companies in *Color Television Receivers, Except for Video*

Monitors From Taiwan, 56 FR 65218, 65227, (1991) and in *Roller Chain from Japan*, 56 FR 32175, 32176, (1991).

DOC Position

We agree with petitioners that the sales information submitted by JYE must be rejected in its entirety. As described in JYE's sales verification report, the DOC team encountered serious obstacles in conducting verification, partly attributable to a general lack of preparedness on the part of the respondent. The completeness test was a struggle to finish and took nearly all of the three days allocated for verification. We were able to examine only one home market charge and review U.S. sales expenses from just one preselected sale and one randomly selected sale.

The completeness portion of the verification consumed a significant portion of time due to the configuration of JYE's sales accounting system and the discovery of numerous unreported home market sales. As described in the verification report, the under-reported sales in the home market were discovered when we checked JYE's June 1991 through May 1992 daily sales ledger to confirm that all dates of sale (DOS) within the POI were reported. We noted a sale that should have been included in JYE's response but was not. After lengthy deliberations company officials explained that this sale was excluded from the response because its government uniform invoice (GUI) number was not keypunched into the computer. We then requested that company officials instruct their computer in our presence to print out the sales of covered products with a DOS within the POI that were not included in JYE's response to the Department. The resulting printout showed that the home market sales had been significant under-reported.

In addition, the verification team found numerous discrepancies when reviewing the one U.S. purchase price pre-selected sale and one sale randomly selected on site. There were discrepancies in the following charges and adjustments: foreign brokerage, foreign inland freight, harbor maintenance fee, commission, bank handling charges, and value added tax. Company officials often had no explanation for the discrepancies. We found discrepancies in nearly every charge examined with the exception of ocean freight and duty drawback, as detailed in the verification report.

With respect to petitioners' comments concerning the cost information submitted by JYE, we agree with petitioners that this information must be

rejected in its entirety. The HM cost of production data submitted JYE does not reflect the actual cost of producing each of the specific products sold in the home market. As noted in the August 24, 1992, cost verification report JYE did not provide the actual cost incurred to produce many of the specific pipe products sold in the home market. For these specific models of pipe, which were not produced from July through November 1991, JYE substituted the actual cost information for a "similar" product. The differences the substitute product included those with differing outer diameter, varying wall thickness, dissimilar length, and in one instance substituting the cost of an unannealed product for the annealed ASTM pipe under investigation. JYE also prepared difference in merchandise adjustments using the substitute HM products. Further, the cost information JYE chose to submit is not from the appropriate time period.

The effect of these discrepancies would make any calculations completely meaningless. The extent of the omissions and inconsistencies in the reported cost information would require complete revisions to virtually all of the information on the record. We disagree with JYE's assertion that information on the record could be used to "modify" JYE's submitted cost information. We believe that such extensive revisions would also require obtaining additional information.

The degree to which JYE was unprepared for verification and the nature and extent of the information which verification revealed to be incorrect and/or incomplete constitute uncooperative behavior on the part of a respondent. Therefore, for the reasons enumerated above, the Department is using the highest rate in the petition, 31.9 percent, as BIA in the final determination. Petitioners and JYE had further company-specific comments which are moot because BIA is being applied in determining JYE's final antidumping duty margin.

Ta Chen Stainless Pipe Co., Ltd.

Comment 1: Petitioners contend that the COP and CV data submitted by Ta Chen are deficient and should be adjusted for purpose of the final determination, and objecting to the inclusion of Ta Chen's cost of purchasing semi-finished pipe for five reasons. First, petitioners contend that these costs should be excluded because they claim the pipes purchased were not produced by Ta Chen, and claim that these were finished pipes only requiring cleaning prior to resale.

Second, petitioners claim that the prices at which Ta Chen purchased the pipes in question were made at levels which indicate that they should not be used in the Department's COP and CV analysis.

Third, petitioners claim Ta Chen's accounting system tracks these pipes separately from other inventory and that such record-keeping *per se* warrants separate treatment for purposes of COP and CV.

Fourth, petitioners assert that Ta Chen's reported raw material costs are distorted because of the inclusion of what they characterize as a one-time purchase of such semi-finished pipes.

Fifth, petitioners maintain that following the practice of valuing inventory at the lower of cost or market value should result in Ta Chen's using the cost of purchasing semi-finished pipe as a basis for determining the market value of its total WSSP inventory and to subsequently calculate an inventory write-off.

Ta Chen responds that first, as explained at verification, the pipes in question were not merely cleaned but both annealed and pickled by Ta Chen, both processes are required to meet ASTM A-312 standards. Ta Chen doubts that the distinction between semi-finished and uncleaned pipe is relevant, since the Department is investigating Ta Chen both as producer and exporter of WSSP. Ta Chen maintains that, in any case, the verified conversion costs document that significant processing occurred with respect to the semi-finished pipes.

Second, Ta Chen maintains that it paid a significant sum for the pipe in question.

Third, Ta Chen states that the semi-finished pipe was recorded in Ta Chen's ledgers as "raw material," and maintains that the cost verification exhibits evidence that the semi-finished pipe inventory is still a raw material inventory. It states that semi-finished pipe was not recorded in the same raw material ledger as was steel coil simply because semi-finished pipe is not the same as coil.

Fourth, Ta Chen maintains that petitioners' figures used to analyze the impact of the purchase of the semi-finished pipes on the company's overall material costs are not credible. It states that even if the semi-finished pipes had been obtained for free, their inclusion could not credibly account for the decline in overall material costs petitioners claim. It maintains that, in any event, the Department routinely includes in its COP/CV calculations extraordinary events which increase

costs, thus consistency and fairness would warrant inclusion of extraordinary events which decrease costs.

Fifth, Ta Chen maintains that the accounting concept that inventory is based on the lower of cost or market value is based on the market value as of the balance sheet date, which, for Ta Chen, would be October 31, 1991. Since the pipe in question was purchased between March and May 1991, it was not the proper basis for determining inventory market value at the end of the fiscal year. Ta Chen states that it did, in fact, write-off substantial losses on inventory which were caused by significantly declining prices of steel coil, losses which were calculated and audited by their independent auditors, and reported in its financial statements.

DOC Position

We agree with respondents. The section D questionnaire states that the cost of production should include the cost of manufacturing incurred during the POI. The purchase price of the semi-finished pipe is the cost of that specific raw material to Ta Chen. The stage of completion is irrelevant to the question, if the product was purchased in its finished state the Department would simply weight average the purchased product with the product produced by Ta Chen. In addition, the documentation clearly shows that the raw material in question was used to produce finished pipe sold during the POI. Furthermore, the purchase of semi-finished pipe at a discount price in no way effects the market price of Ta Chen's other raw materials, therefore it would be inappropriate to include an additional inventory write-down amount.

Comment 2: Petitioners maintain that Ta Chen's COP and CV values should be based on the date on which the pipe was produced rather than the date on which the pipe was shipped. They claim that the use of the shipment date would be valid only if Ta Chen purchased the raw materials, manufactured the product, and shipped it to the customer all on the same day. They estimate an inventory turnover period substantially different from that reported by Ta Chen and state that the use of the shipment date understates the actual cost of the materials used to make WSSP.

Ta Chen states that the inventory turnover period calculated by petitioners includes not only WSSP, but inventory of butt-weld and screw fittings, and that the Department verified the inventory period reported for WSSP. Thus, Ta Chen maintains, it is reasonable to assume that pipe

produced in a given month is shipped that month, and to assign to pipe shipped in a given month the cost of making pipe that month.

DOC Position

We agree with petitioners. The Department's normal policy is to use the weighted-average cost of manufacturing incurred by the company during the POI, except in unusual cases where there are substantial changes in cost, e.g., hyper-inflationary economies. The material costs reviewed at verification did not support the use of monthly data. Therefore the Department calculated a weighted average cost over the POI using the sales quantities, by date of sale, as a weighing factor.

Comment 3: Petitioners maintain that the Department should correct errors in the variances reported by Ta Chen, based on discrepancies they believe were discovered at verification.

Ta Chen responds that it used the correct variances. It states that the cost verification report did not point out errors, but simply raises a methodological issue—whether a particular methodology used is the most correct. Ta Chen maintains that petitioners have not provided any reasons why the methodology is incorrect, but simply request an increase in Ta Chen's conversion costs.

According to Ta Chen, three methodologies are theoretically possible. The first, which petitioners urge the Department to use, is to add packing cost back to the total actual conversion cost before determining the variance. Ta Chen maintains that this would double count packing costs.

The second would be to remove packing costs from both the standard and actual costs before calculating the variance, and then applying the resulting variance to a standard which does not include packing cost. Ta Chen states that it used this methodology in reporting the cost data for November 1991, because its new standard cost system allowed it.

Using the third methodology, the variance factor is based on the difference between total standard cost and total actual cost where packing is only removed from the total actual cost. Ta Chen maintains that it had to use this third methodology in responding to the Department's cost questionnaire because it was calculating the average conversion cost for the period June through November 1991 in response to the Department's request; thus methodology number two was not possible. Ta Chen states that, nonetheless, the methodology employed (number three) is closer to the correct

amount than would be obtained using petitioners' preferred methodology (number one).

Ta Chen maintains that in calculating the variance between actual and standard conversion costs, it properly subtracted the cost of packing materials from the total actual monthly conversion costs.

Petitioners contend that Ta Chen's arguments fail to address the issue raised in the cost verification report, which they maintain notes that Ta Chen reported more favorable variances because Ta Chen compared monthly standard conversion costs that include packing costs with monthly actual conversion costs that do not include packing costs. Petitioners therefore assert that the Department should revise Ta Chen's report COP and CV to include variances that properly account for packing costs.

DOC Position

We agree with the respondent. Since the Department accounts for packing costs separately, the variance must reduce the standard conversion costs to avoid double counting. The packing costs are included in the standard cost. By subtracting the packing costs from the actual costs a favorable variance occurs, and when applied to the standard, effectively removes the packing costs from the standard.

Comment 4: Petitioners maintain that the Department should deny Ta Chen's claimed reduction to material costs for exchange rate gains for several reasons.

First, petitioners maintain that if Ta Chen is permitted to include an exchange gain/loss in reporting the cost of materials, it should also include exchange gain/loss in reporting the activities of its accounts receivable (A/R), which it clearly stated it had excluded.

Second, petitioners maintain that because Ta Chen recorded exchange rate gains/losses as a non-operating income/loss in its financial statements, it should not be used to offset operating costs, because gains/losses are not generated from Ta Chen's primary business activity of manufacturing WSSP.

Third, petitioners claim that lower-than-standard prices for WSSP may have been recorded in Ta Chen's materials price variance. If the exchange rate gains/losses were incorporated in the materials price variance, then those same gains/losses should not be counted a second time as an adjustment to costs.

Fourth, petitioners claim that because of the interval between the date Ta Chen purchased steel coil and the date

Ta Chen paid for it, it is unclear whether the exchange rate gains/losses reported by Ta Chen during the POI were generated or purchases of raw material used in the production of WSSP sold and reported in the POI or were merely exchange rate gains/losses recorded in Ta Chen's books during the same period.

Fifth, petitioners claim that the total exchange rate gain/loss used by Ta Chen in its COP calculations does not appear to reconcile to the total amount reported in its audited financial statements.

Sixth, petitioners state that since the POI is from June through November 1991, and Ta Chen's exchange gains/losses were based on activities for the entire fiscal year November 1990 through October 1991, it is unclear whether those gains/losses occurred during the POI.

Ta Chen contends that it is appropriate for it to treat gains/losses from (A/R) differently from those from the raw material accounts payable (A/P). It maintains that any exchange loss or gain for settlement of A/R has nothing to do with production activity, while in contrast, such gains or losses for materials purchased to produce WSSP directly relate to production and should be considered.

Ta Chen argues that whether exchange gains/losses on A/P are recorded as operating or non-operating income is irrelevant to whether they are related to pipe production activity. The respondent maintains that only with the exchange rate adjustment is the actual amount Ta Chen ultimately pays for its steel coils reflected in the amounts reported to the Department. Ta Chen maintains that this actual amount should be the true focus of the Department's investigation.

Ta Chen maintains that petitioners' suggestion that exchange gains/losses on material purchases be taken into account in the material price variance is erroneous because material price variance has nothing to do with the exchange gain or loss for raw materials purchased.

Ta Chen also maintains that it records in its books the cost of imported coil based on the US\$/Taiwan NT\$ exchange rate at the time of purchase, and that when it pays for the coil 180 days later, payment is at the exchange rate as of the date payment is made; and that adjustments for the difference between the two figures are separately recorded in Ta Chen's books and audited financial statements. Ta Chen contends that it allocated the exchange gains/losses on the purchase of raw materials as it does internally in its cost

accounting records, as audited by Ta Chen's outside auditors, thus allowing the Department to reconcile the reported exchange gains/ losses to Ta Chen's audited financial statements.

DOC Position

We agree with the respondents. All costs directly associated with the purchasing of materials should be included in material costs. The respondent demonstrated at verification that exchange gains/losses were included in the costs and that the amount allocated reconciled to the financial statements.

Comment 5: Petitioners argue that the Department should reject the offset to production costs for Ta Chen's sales of scrap for two reasons. First, they maintain that verification revealed that some scrap sales were actually sales of random-length pipe. Respondents maintain that the petitioners' inference from the verification report is incorrect, and that all random-length sales were recorded and reported separately from scrap sales.

Second, petitioners maintain that Ta Chen improperly calculated its scrap ratio, claiming that the cost verification report revealed that the respondent used an inconsistent basis to calculate the scrap ratio.

Ta Chen states that petitioners' assertion that the reported scrap sales include sales of random-length pipe is incorrect. Ta Chen also maintains that the adjustments for scrap and indirect materials were made correctly because the indirect materials costs were incurred on materials-in-transit and, therefore, the rate should be based on materials-in-transit, because the materials consumption on which scrap rate was calculated is a close approximation of the requisition figure as long as inventory remained relatively constant. In addition, Ta Chen maintains that its duties and its claims on suppliers were included inadvertently in the calculation and the rate should, if anything, be higher. Ta Chen also maintains that, if anything, it understated the appropriate downward adjustment to material costs for the revenue from scrap sales. Ta Chen states that material requisitions is the cost of material put into use for all purposes, including production of WSSP, internal use such as machinery improvements, and for sales of small pipe samples. Ta Chen maintains that material consumption means only the cost of materials put into use to produce WSSP for sale and that, in general, material requisitions should equal or exceed material consumption.

Ta Chen concedes that, given these assumptions, one might initially think that Ta Chen's approach may overstate the downward adjustment to material costs from the revenue from scrap sales. Ta Chen maintains however that given its particular circumstances, this is not the case. Ta Chen states that its material consumption exceeds material requisitions because adjustments for Taiwan import duties and Ta Chen's claims against its suppliers are included in material consumption, but not in material requisition, as they are incurred after requisitioning and cannot be anticipated. Ta Chen maintains that its approach was, therefore, conservative, because use of material requisition as the basis for determining the scrap rate would have increased that rate to Ta Chen's benefit, since a higher rate would reduce reported material costs.

DOC Position

As to the first point, we agree with the respondent. Petitioners base their claim on a typographical error in the verification report. The reference to scrap invoices on page 10 of the verification report is mistaken, and should read "original invoices for sales of random-length pipe." The report error was recorded by a DOC memorandum on September 24, 1992. As to the second point, the Department also agrees with Ta Chen. Although Ta Chen calculated the rate at which to apply scrap sales on one base and applied the rates to a different base, the net effect is immaterial. For example, the materials consumption amount on which the scrap sale rate was calculated the closely approximates the material requisition amount. Since the rate is an approximation, the petitioners' suggested adjustment was not made.

Comment 6: Petitioners maintain that if the Department uses the costs reported by Ta Chen after November 1991, these costs should be revised to include losses on inventory. It states that this reduction appears appropriate because Ta Chen claims that it recorded a favorable material cost variance for stainless steel coil as a percent of its revised standard material costs.

Ta Chen maintains that the inventory loss allocation increased its reported costs for the November 1990 to October 1991 period, consistent with GAAP and the recommendations of Ta Chen's outside auditors. Ta Chen states that its methodology is consistent with past Department precedent. (See e.g., Antifriction Bearings Other than Tapered Roller Bearings and Parts Thereof from France, *et al.*, 57 FR 28360, 28416, (1992).

DOC Position

We disagree with petitioners. There is no basis to believe that because Ta Chen incurred inventory losses in fiscal year 1991 that they will also incur such losses in fiscal year 1992. The inventory losses from 1991 clearly do not relate to the material costs incurred from November 1991 to March 1992.

Comment 7: Petitioners claim that the Department should revise Ta Chen's claimed general and administrative (G&A) costs because of the differences between the figures in Ta Chen's worksheets and in the section D computer data reported. They maintain that the cost verification report indicates that all of Ta Chen's home market G&A expenses, net of any expenses properly identified as selling expenses, should be used to calculate a G&A expense ratio as a percentage of cost of sales.

Ta Chen maintains that petitioner's claims are erroneous because it has fully explained that the difference is due to the amount of its exchange rate gains/ losses experienced on purchases of imported steel coil.

DOC Position

We agree with petitioners. Respondent would have incurred the G&A expenses it wants to allocate to indirect selling whether or not any sales had been made in the home market. Therefore, the Department has allocated all G&A expenses, net of any expenses properly identified as selling expenses, as a percentage of Ta Chen's cost of goods sold.

Comment 8: Petitioners maintain that the Department should use BIA sales made to one U.S. importer because that importer is related to the producer/ exporter to such a degree that, pursuant to section 771(13)(B) of the Act (19 U.S.C. 1677(13)(B)), it should be considered the "exporter" of the subject merchandise. Petitioners maintain that sales through this party should have been reported as ESP sales. As BI, petitioners recommend using the highest margin of any of the ESP sales reported by Ta Chen as sold through TCI.

Ta Chen maintains that, based on its analysis, the U.S. party in question is not a related party under U.S. dumping law. Ta Chen states that in any case, the Department's deficiency letter stated that reporting these sales was not necessary. For both reasons, BIA is not appropriate.

DOC Position

We agree with Ta Chen. As the Department stated in its preliminary determination, we excluded from our analysis certain sales through this agent,

regardless of the nature of its relationship to Ta Chen, because these sales were made in small quantities, and we have examined a sufficient number of sales (see 19 CFR 353.42(b)). We are excluding these sales from analysis for purposes of this investigation only; all U.S. sales are subject to Departmental analysis for future administrative reviews.

Comment 9: Petitioners argue that the export losses on U.S. sales should be included in U.S. indirect selling expenses. They assert that the amount of the export losses recorded in Ta Chen's financial statements which have been verified as pertaining to U.S. sales should be added to the expenses currently reported as U.S. indirect selling expenses. They also note that Ta Chen has allotted a portion of the salaries of non-sales staff at Ta Chen headquarters to home market indirect selling expenses, and also allocated the same proportion of headquarter G&A expenses to home market indirect selling expenses. They maintain that, if the Department accepts Ta Chen's allocations in determining home market indirect selling expenses, it should allocate the relevant proportion of general salaries and office G&A expenses which pertain to exports to U.S. indirect selling expenses.

Ta Chen maintains that the complete methodology for its allocation of home market selling expenses is correct. It maintains that its allocation is consistent with the treatment of selling expenses in New Minivans from Japan, 57 FR 21937, 21952 (1992) and Television Receivers, Monochrome and Color, from Japan, 56 FR 34180, 34183, (*Comment 8*) (1991). It maintains that it has properly included the general and administrative costs of the Tainan, Taiwan headquarters because those types of selling expenses are included in the U.S. selling expenses reported for the subsidiary TCI. Ta Chen maintains that the oral testimony of company officials for allocation of G&A expenses to selling efforts is appropriate and not an abuse of discretion. Ta Chen maintains that Ta Chen's Tainan, Taiwan headquarters do not act as a sales center for U.S. sales and that the Department corroborated this at verification.

Petitioners contend that if any of the G&A expenses are to be allocated to selling expenses, the Department should reject Ta Chen's "headcount" methodology and re-allocate Ta Chen's expenses according to a more reasonable methodology, such as allocating indirect selling expenses according to the relative percentage of

the cost of goods sold in the domestic and U.S. markets.

DOC Position

Regarding the treatment of Ta Chen's loss on exports, the Department agrees in part with petitioners that these expenses should be accounted for in calculating the company's dumping margin. We have, however, classified these expenses as direct selling expenses, similar to warranty or guarantee expenses, because these expenses were incurred on specific sales and have included them as such as our final calculations.

Regarding the treatment of Ta Chen's allocation of non-sales salaries and headquarter G&A expenses, we disagree with both petitioners and respondents. We have determined that these expenses are not truly expenses associated with selling, but instead are associated with the general operation of the company. These expenses are therefore not being included as part of either home market or U.S. indirect selling expenses.

Comment 10: Petitioners point to several errors discovered before or at verification which require correction. They maintain that any discounts and commissions not reported by Ta Chen should be subtracted from U.S. price, and that one U.S. price should be changed from its reported value. They state that the imputed credit for purchase price sales should be recalculated by increasing the credit period by three days because the date of shipment was reported incorrectly. They maintain that Ta Chen should increase its Taiwan inventory period for ESP sales by the amount verified. They also maintain that ocean freight for West Coast shipments should be recalculated to tie the actual costs per invoice more directly to ESP sales.

Ta Chen maintains that the ocean freight was reported as accurately as possible, given that its subsidiary, TCI, cannot determine which ship was used to transport the pipe of a particular stock sale. Ta Chen stresses that the Department should make all corrections reported since the submission of the last computer tape to the Department. It maintains that the Department should adjust CV according to Exhibit 1 of its June 24, 1992, submission, and that the Department should include TCI's "off-the-books" sales in allocating U.S. selling expenses.

DOC Position

The Department has made any corrections to the last databases submitted to the Department, prior to verification, on June 24, 1992. Ta Chen

enumerated the previously missing discounts to the Department on July 31, 1992; these were subjected to the Department's verification, and are being subtracted from gross prices. The commissions which were reported as missing by Ta Chen in its May 22, 1992, letter were reported on the June 25, 1992, updated computer tapes, the last tapes submitted, prior to verification, and are being subtracted from gross prices. The additional days of ESP inventory carrying costs which were reported by Ta Chen in its June 24, 1992, letter were included in the June 25, 1992, updated computer tapes. We agree with petitioners that some modification of the purchase price shipment date is warranted. Since the shipment date was incorrect, we are increasing the purchase price credit period by three days; we are also adding two days from incorrect dates of payment discovered. Similarly, based on the verification of ESP sales in California, we are increasing the ESP credit period by two days. We disagree with petitioners regarding the re-allocation of ESP ocean freight charges. While charges specific to the Ta Chen intra-company shipment invoices could be calculated, a careful examination of the ESP documentation reveals that tracing such an allocated cost to the pertinent stock sales from TCI is not feasible. The Department so noted in its September 24, 1992, memorandum to the official file, correcting any impression from imprecise wording in the TCI verification report which suggested that such re-allocation was either reasonable or necessary.

The Department is using the CV amendments contained in Exhibit 1 of the June 24, 1992, submission for purposes of the final determination. The Department disagrees with Ta Chen that "off-the-books" sales should be included in the base across which to allocated U.S. selling expenses. While TCI did maintain correspondence records in completing these Ta Chen Sales, the corporation in its normal business practice considered these to be sales made by Ta Chen Taiwan, and recorded the revenue from these sales as such. The normal accounting practice of the company is determinative here.

Comment 11: Ta Chen maintains that monthly COP/CV costs should be used where COP/CV data is provided for pipe shipped in the indicated month, including the November 1991 through March 1992 monthly costs. Ta Chen argues that there is significant variation in monthly material costs which supports the use of monthly material cost data. Ta Chen asserts that,

considering that the first and most important consideration for price quotes is material cost and considering that the average time between date of sale and the date of shipment is three to four months, the use of monthly material cost data is fully warranted. Second, Ta Chen maintains that failure to use monthly cost data for the period November 1991 onward would greatly distort costs. Third, Ta Chen argues that the change in material costs between October and November 1991 was not particularly unusual, nor was it due to factors outside of the normal course of business. Ta Chen maintains that pipe made with semi-finished pipe is still Ta Chen pipe, and that use of such pipe is irrelevant to classifying the material costs change between October and November 1991. Ta Chen also states that the percentage change is comparable to that which occurred in other months, such as between November and December, 1991, and June and July, 1991. According to Ta Chen, there has always been significant variation from month-to-month in material costs, and thus a significant variation between any two particular months is fully expected. Ta Chen maintains that the costs Ta Chen reported for the period November 1991 onward are the same as those used in Ta Chen's audited financial statement for that period, and since Ta Chen reported its costs according to its audited general accounting process, the Department should rely on Ta Chen's costs figures as being in agreement with GAAP. Finally, Ta Chen argues that even if the use of semi-finished pipe were a relevant factor, use of such pipe accounts for less of the material cost reduction than the cost verification report suggests. Ta Chen asserts that the falling price of steel coil was a more important factor than the purchase of the semi-finished pipe in the decline in material prices. Ta Chen states that the verification report does not indicate the basis or rationale for the percentage decline which it lists as due to the decline in coil prices.

Petitioners argue that the Department properly used Ta Chen's costs during June through October 1991 for the preliminary analysis and should continue to do so for the final determination. They maintain that Ta Chen is incorrect in its assertion that the Department should use the date of shipment to determine the appropriate monthly COP and CV. Petitioners cite the Final Results of Antidumping Duty Administrative Review: Electric Golf Cars from Poland, 57 FR 10334, 10336 (March 25, 1992) to support their contention that the COP and CV should

be based on costs from a period preceding the date of sale.

Petitioners also rebut Ta Chen's claim that the purchase of semi-finished pipe is irrelevant to the calculation of COP and CV. Petitioners maintain that the pipe in question had already been annealed and only required pickling. Petitioners therefore repeat their claim that the purchase of these pipes shall not be included in the COP and CV analysis.

Petitioners conclude by arguing that the Department should calculate a weighted-average cost of materials based on Ta Chen's actual costs during June through October 1991, or should adopt the method used for its preliminary analysis and use the October material costs as BIA for cost of sales made after November 1, 1991, because any reliance upon the average costs reported by Ta Chen for November 1991, would cause a skewed and unfair result.

DOC Position

As stated in Ta Chen *Comment 1*, we agree with respondent that the purchases of semi-finished pipe are a valid component of the COP and CV data reported for November 1991. We are therefore using the COP and CV data reported for November 1991 in calculating COP and CV. However, we agree with petitioners that we should use a single weighted-average COP and CV for the POI for each product model. In doing this, we will use the monthly data from June through November to calculate the POI weighted-average COP and CV for the product models; this approach is consistent with the Department's practice. As stated in Ta Chen *Comment 2*, we consider the date of sale as determinative for matching COP and CV, therefore, in calculating the weighted-average values for the POI, we will weight the monthly COP data reported by the quantity of home market sales based on the date of sale, and the monthly CV data reported by the quantity of U.S. sales, based on the date of sale.

Comment 12: Ta Chen asserts that it properly allocated indirect material costs, stating that dividing indirect material costs by the total of materials in transit instead of material requisitions is correct. Ta Chen maintains the rate derived by this allocation should be applied to material requisitions because indirect material cost is incurred when material is imported, not when it is requisitioned.

Petitioners argue that Ta Chen is in error and that the calculation of material variance should be corrected by

disallowing an incorrect indirect materials adjustment.

DOC Position

The Department disagrees, in principle with Ta Chen's use of one base to allocate indirect material costs, and then applying the resulting rate to a different base. However, we are allowing its use as an estimation because the net difference is immaterial.

Comment 13: Ta Chen maintains that home market prices should be reduced by the amount of Taiwan import duty paid on specific sales. Ta Chen maintains that the Department has treated the import duties as a circumstance-of-sale adjustment by reducing home market prices, rather than as an adjustment to the U.S. price, citing Antifriction Bearings Other Than Tapered Roller Bearings from France, et al., 57 FR 28360, 28397 (*Comment 6*) (June 24, 1992). Alternately, Ta Chen states that the Department should consider adjusting the U.S. price upwards by the average import duty paid on home market sales. Ta Chen states that its situation is analogous to that of Thai respondents in Ball Bearings from Thailand 54 FR 19117-19119 (May 3, 1989), in that it too is a customs-bonded factory which is exempt from import duties for products to be exported, but becomes liable for such import duties for some, but not all, sales made in the domestic market.

Petitioners maintain that if the Department makes any adjustment to either home market or U.S. prices to account for import duties paid in the home market but exempted for U.S. sales, then the Department should also add an appropriate amount for import duties to Ta Chen's cost of production, as they maintain that Ta Chen reported an average import duty for CV, but not for COP.

DOC Position

We agree with petitioners. Ta Chen reported that it considered import duty as the only home market direct selling expense and that direct selling expenses were reported in the section B sales listing but not in its COP response. We are, therefore, adding to cost of manufacturing (COM) the weighted-average import duty paid on raw materials for home market sales, in calculating CV. We are adding the actual duty paid on the raw materials for a home market sale to the COP which is compared to that sale. In addition, we are adjusting U.S. price by adding the weighted-average import duties paid on home market sales but exempted for sales to the United States.

Comment 14: Ta Chen maintains that the indirect selling expenses of its U.S. subsidiary, TCI, should be divided by a total sales value which includes sales facilitated by TCI but not recorded in its books. Ta Chen asserts that the customer correspondence files it keeps and the commissions it earns on facilitating these sales, indicate that these form the proper total sales for which TCI incurred selling expenses in its normal operations.

DOC Position

We disagree with respondent. Since these expenses are incurred on what would normally be considered purchase price sales, and since Ta Chen considers and records the revenue from these sales as revenue earned by Ta Chen Taiwan, not by TCI, these sales should not be included in the denominator for allocation of the TCI selling expenses.

Comment 15: Ta Chen maintains that the warranty expense calculated in the preliminary determination from the recorded export losses was incorrectly allocated, thereby overstating the cost.

Petitioners contend that the Department should allocate the export loss that Ta Chen incurred for its U.S. sales of the subject merchandise based on total sales of WSSP to the United States during the POI.

DOC Position

We agree with petitioners. We are allocating export losses on U.S. sales, plus the cost incurred for returning goods to TCI, over the total value of U.S. sales during the POI. We are making this allocation as BIA for unreported warranty and other export expenses incurred on U.S. sales where merchandise was later found to be defective.

Comment 16: Ta Chen maintains that the Department should reduce the U.S. inland freight costs for shipments to the South Carolina warehouse by the amount for which TCI was liable but had not been billed. Ta Chen maintains that the Department verified that the smaller amount was the amount billed and paid.

DOC Position

We disagree with Ta Chen. Such corrections should have been made by respondent on the last tape submitted to the Department before verification. Furthermore, given that the request to make these changes was made so late in the proceedings, the Department can not be responsible for correcting Ta Chen's conservative estimates.

Comment 17: Ta Chen maintains that the Department verified that for certain U.S. bark charges, Ta Chen had

conservatively reported estimated charges and that it was demonstrated that the actual charges, when billed, were lower than the estimated amounts. Ta Chen asserts that the Department should modify its calculations to take this into account.

DOC Position

We disagree with Ta Chen. Such corrections should have been made by respondent to the last tape submitted to the Department before verification. Furthermore, given that the request to make these changes was made so late in the proceedings, the Department can not be responsible for correcting Ta Chen's conservative estimates.

Comment 18: Ta Chen asserts that despite the fact that ESP merchandise is stocked both in Taiwan and U.S. inventory, the home market rate should be used to calculate imputed inventory carrying costs for 120 days of the entire period from production to shipment from U.S. warehouse to the final customer. Ta Chen maintains this rate is correct because TCI pays Ta Chen 120 days after shipment of pipe from Ta Chen to TCI; thus the parent company bears the cost of carrying the inventory for those 120 days.

DOC Position

We disagree with Ta Chen. Ta Chen had calculated several different ESP inventory carrying costs based on several different warehouses used for stocking ESP inventory. In all calculations Ta Chen added together the average time products were in inventory in Taiwan, plus the average days en route, plus the average time inventoried in the U.S. warehouse used for the specific transactions and then applied the average home market short-term interest rate. We are recalculating the inventory carrying cost using the home market interest rate for the days products are stored in Taiwan inventory and the U.S. interest rate for the days en route and the time spent in U.S. storage; the physical location is indicative here of the company branch assuming the inventory carrying costs; thus the home market interest rate is applied only to the period the subject merchandise is physically in Taiwan inventory, and the U.S. short-term interest rate is applied to the remaining company inventory period.

Comment 19: Ta Chen maintains that the use of employee estimates for allocation of packing labor expenses and for the allocation of usage of its own trucks constitute the best possible approach available to the company. Ta Chen argues, that, since it kept no records from which to make the

allocations, its only choices were to use employee estimates or, less satisfactorily, to divide these expenses by the verified total quantity of pipe and fittings shipped during the POI.

Petitioners contend that Ta Chen has acknowledged that it could not document the estimates used of packing labor and trucking expenses. Petitioners conclude that the Department should reject the use of employee estimates without supporting records and urge the Department to allocate the entirety of the expenses recorded to U.S. sales only, as BIA.

DOC Position

We disagree with petitioners. Given that Ta Chen's record-keeping in the normal course of business did not identify the usage rates for packing labor and trucking based on product type and destination, Ta Chen's methodology was the best estimate possible.

Comment 20: Ta Chen states that it has no objection to the allocation of packing and storage costs used by an unrelated party to bill Ta Chen. Ta Chen notes that the party is not only unrelated to Ta Chen but is also an adverse party to Ta Chen in a different proceeding before the Department.

DOC Position

The Department notes Ta Chen's statement and continues to use the reported costs based on this unrelated party's allocation of its storage and packing costs in its billing Ta Chen.

Yeun Chyang Industrial Co., Ltd.

Comment 1: Petitioners maintain that YCI's final determination of less-than-fair-value sales should be based entirely upon BIA. Because petitioners maintain that YCI has not cooperated with the Department, they argue that the BIA rate assigned should be the most adverse rate supported by the record. Petitioners maintain that despite having had an unusually lengthy period to prepare for verification, YCI nonetheless was not ready for either the cost or sales portions of verification and did not cooperate with the Department's representatives at verification. Petitioners cite the sales verification report to highlight deficiencies which include lack of preparation of documents, failure to provide requested documents to the verifiers, a failure to provide documentation of the completeness of the total volume and value of sales reported, incorrect allocations of expenses, inability to collect information in a timely manner. Petitioners cite the cost verification

report to highlight deficiencies which include the differences between the company accounting practices reported and those discovered at verification, the fact that the DOC accountant reconciled the total cost of materials without any prepared documentation, and the unsupported direct labor hours reported by YCI which could not be verified because documentation had been destroyed prior to verification.

YCI counters with the claim that the Department has verified all of the information necessary to calculate an accurate dumping margin. YCI maintains that it is unfair and improper to apply BIA to unverified information because the reason any information was not verified was lack of sufficient time for verification, not because YCI was inadequately prepared for verification. YCI maintains that the Department should have extended verification by an extra day, and claims that the verifiers should have stayed later each evening. It maintains that the longer verification at Ta Chen/TCI was conducted at its expense.

YCI claims that even if the Department considers BIA necessary, it should not use the most adverse BIA rate. It maintains that the most adverse rate is only valid as a punitive measure against uncooperative respondents and that lack of preparation in advance of verification does not constitute uncooperative behavior. YCI maintains that it did not fully prepare for verification because of the complexity of the investigation, language barriers, the company's inexperience with antidumping proceedings, and a genuine misunderstanding and misinterpretation of the verification agenda. YCI claims that the Department's verifiers did not manage their time in the most constructive manner and that this, not lack of preparedness on YCI's part, was the primary cause of delays and problems.

YCI further argues that, even if the Department determines that YCI is responsible for serious deficiencies in the verification, recent decisions such as Roller Chain, Other Than Bicycle, from Japan, 57 FR 6808 (1992), and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain components thereof from Japan, 56 FR 65228, indicate that the Department should find the company cooperative and use non-punitive BIA, such as the highest rate among other respondents. YCI also states that in Portable Electric Typewriters from Japan, 56 FR 56393, 56394, (1991), the Department gave a respondent who submitted no responses to the Department punitive BIA and

gave a respondent who only made partial responses to the Department non-punitive BIA. In addition, YCI points to the administrative review of Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from Germany, 56 FR 31692, in which a non-punitive BIA was used for both a firm whose sales listing was flawed and to a firm whose cost data was not substantiated at verification; YCI further maintains that Circular Welded Non-Alloy Steel Pipe from Taiwan, 57 FR 42961 (1992) indicates that non-punitive BIA is appropriate if "verification revealed significant inconsistencies in the information reported . . .". Lastly, YCI states that, despite announcing a new BIA hierarchy in Antifriction Bearings in July 1991, the Department nonetheless chose to use a non-punitive BIA for totally non-cooperative companies in Color Television Receivers, Except for Video Monitors, From Taiwan, 56 FR 65218, 65227, (1991) and in Roller Chain from Japan, 56 FR 32175, 32176, (1991).

DOC Position

We agree with petitioners. As noted in the YCI sales verification report, the DOC team encountered serious obstacles to conducting verification, due to a general lack of preparedness on the part of the respondent. With the exception of the pre-selected sales, no documents had been prepared in advance of verification. Even the preselected sales documents had not been copied and translated.

YCI's submissions to the Department had serious and numerous deficiencies. As a result, the Department was particularly concerned about the preparations YCI would undertake for verification. Thus, in our July 22, 1992, verification agenda letter, we specifically requested that YCI provide the Department with worksheets to reconcile total quantity and value of sales by July 29, 1992. YCI not only failed to provide the worksheets prior to verification, but also failed to have them available at the start of verification. After spending much of the first day reexplaining to YCI what the verification proceeding entailed, the verification team gave YCI officials a list of documents that needed to be reviewed at a minimum. A copy of this list was sent with a cover memorandum by facsimile to the Department on August 10, 1992.

Company officials explained that they had expected the team to construct the paper trail for volume and value completeness directly from the submitted sales listings. We instructed the company that it must collect the

necessary documents and prepare a worksheet which could be both analyzed and tested for accuracy and completeness. A worksheet was given to the team at 9 a.m. on the third day of verification, whereupon we discovered a major error in the U.S. sales portion of the worksheet. Reconciliation of each of the separate accounts listed on that worksheet was questionable given that the numbers were *made* to reconcile on the first version of the worksheet by adjusting the value of home market non-subject merchandise based on the total rather than totalling and preparing all sections so that each was individually vouched for. A second worksheet was provided at 4:30 p.m. on the final day of verification. Due to the impeded progress of the verification, we were not able to examine each account, i.e., U.S., home market, third country, to confirm that each account's value and volume reconciled to the second market worksheet provided.

In addition, the team found numerous clerical and methodological errors in the documents which the company prepared by the end of verification. Such errors affected date of shipment, date of payment, foreign inland freight, and home market interest rates. Due to the slow progress caused by YCI's lack of preparation, many documents, such as those for duty drawback, foreign brokerage, inventory carrying costs, indirect selling expenses, commissions, U.S. discounts, U.S. inland freight, and marine insurance, could not be examined.

As noted in the September 8, 1992, cost verification report, we also encountered major problems in attempting to verify the respondent's cost of production and constructed value data, including a lack of preparation, missing documentation, and limited access to company personnel. As a result of these problems, the cost of manufacturing, general and administrative expenses, and the company profit margin could not be verified. Substantial differences were found in the accounting methodologies employed in the responses to section D and the actual company accounting records examined at verification. The direct labor cost and factor overhead costs could not be verified because YCI discarded the source of documents after preparing its section D response. Additionally, the labor cost differences discovered at verification could not be explained.

YCI had sufficient time to prepare thoroughly for verification. The preliminary determination in this case was postponed, and YCI requested and

received a three-week postponement of its verification. YCI received detailed verification agendas from both the sales and accounting verifiers. As numerous memoranda to the file attest, the Department answered YCI's questions concerning the investigatory proceedings. On April 3, 1991, the Department even created a sample product concordance to illustrate to YCI how to report differences in merchandise. YCI was given the opportunity to correct its submissions up to the seventh day before its scheduled verification, a deadline to which petitioners had strenuously objected.

Considering the number and nature of the problems encountered in attempting to verify YCI, and the extensive opportunities YCI had to prepare for verification, YCI has by any objective measure failed verification. Because of the degree to which YCI was unprepared for verification, including YCI's failure to comply with specific Departmental instructions, the Department finds YCI uncooperative.

The Department has the discretion to determine the length of verification according to many factors, including, but not limited to, the complexity and volume of the data to be examined, the number of locations to be visited, and the degree of preparation and cooperation evidenced by the respondent. YCI fallaciously compares its verification schedule to that of Ta Chen. Ta Chen requested separate sales and cost verification dates. In contrast, at the June 24, 1992, disclosure of the preliminary calculations to YCI when both the Department analyst and the Department staff accountant asked YCI's representatives if simultaneous verifications would pose any complications, YCI stated that no complications were foreseen.

Furthermore, Ta Chen had both purchase price and ESP sales; some of the purchase price sales were fully documented in Taiwan, others were documented partly in Taiwan and partly in California. The complexity and volume of the sales data engendered by three methods of U.S. sales documentation necessitated a longer verification. There were no such circumstances warranting an extended verification of YCI.

In addition, while YCI had failed to prepare, copy, and translate the vast majority of the documentation listed in the Department's verification agenda, Ta Chen had adequately done so. Lastly, the Department cut short the first day of verification at Ta Chen because the senior verifier became ill and had to leave the verification site. Longer hours over the remaining days of verification

proceedings were due, in part, to the complexity of the documentation prepared by Ta Chen, and in part to time lost on the first day.

The degree to which YCI was unprepared for verification and the nature and extent of the information which verification revealed to be incorrect and/or incomplete constitute uncooperative behavior on the part of a respondent. Therefore, the Department is using the highest rate in the petition, 31.9 percent, as BIA for the final determination.

Petitioners and YCI had further company-specific comments which are moot because BIA is being applied in determining YCI's final antidumping duty margin.

Continuation of Suspension of Liquidation

In accordance with section 735 of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of WSSP produced or exported from Taiwan by Ta Chen, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. In accordance with section 735 of the Act, and with section 353.16(d) of the Department's regulations, we are directing the Customs Service to suspend liquidation of all entries of WSSP produced or exported from Taiwan by JYE and YCI, that are entered, or withdrawn from warehouse, for consumption on or after March 14, 1992, which is the date 90 days prior to the publication of our preliminary determination. We are not ordering suspension of liquidation of entries of WSSP produced by CTL. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated final dumping margins, as shown below. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Chang Tseh Industry Co., Ltd.	0.00
Jaung Yuann Enterprise Co., Ltd.	31.90
Ta Chen Stainless Pipe Co., Ltd.	3.51
Yuen Chyang Industrial Co., Ltd.	31.90
All Others	19.94

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination.

As our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry within 45 days.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4).

Dated: November 4, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-27411 Filed 11-10-92; 8:45 am]

BILLING CODE 3510-08-M

APPENDIX B
LIST OF WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject : CERTAIN WELDED STAINLESS STEEL PIPES FROM
THE REPUBLIC OF KOREA AND TAIWAN

Invs. Nos. : 731-TA-540 and 541 (Final)

Date and Time : November 10, 1992 - 9:30 a.m.

Sessions were held in connection with the investigations in the Main Hearing Room of the United States International Trade Commission, 500 E St., S.W., Washington, DC.

In support of the imposition of antidumping duties:

Collier, Shannon, Rill & Scott
Washington, DC
On behalf of

Avesta Sandvik Tube, Inc.
Bristol Metals
Damascus Tubular Products
Trent Tube Division, Crucible Materials Corp.
United Steel Workers of America, AFL-CIO/CLC

William K. Grant, President, Trent Tube Division, Crucible
Materials Corp., and Chairman, Specialty Tubing Group

George F. Werner, Division President, Damascus Tubular Products

Clarisse A. Morgan, Assistant Director and Senior Economist,
Georgetown Economic Services

Thomas Wennogle, General Sales Manager, Avesta Sandvik Tube, Inc.

Jeffrey H. Stam, Vice President of Operations, Bristol Metals

David A. Hartquist)
Jeffrey S. Beckington) --OF COUNSEL
Kathleen Weaver Cannon)
Stephen A. Jones)

In opposition to the imposition of antidumping duties:

Morrison & Foerster

Washington, DC

On behalf of

Lucky Metals Corp.

Pusan Steel Pipe Co., Ltd.

Sammi Metal Products Co., Ltd.

Richard D. Boltuck, Trade Resources Co.

Donald B. Cameron)

G. Brian Busey)--OF COUNSEL

Bryan A. Schwartz)

APPENDIX C
SUMMARY OF DATA COLLECTED BY THE COMMISSION

Table C-1
A-312 pipes: Summary data concerning the U.S. market, 1989-91, January-June 1991, and January-June 1992

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

Item	Reported data			Jan.-June--		Period changes			
	1989	1990	1991	1991	1992	1989-90	1990-91	1989-91	Jan.-June 1991-92
U.S. consumption quantity:									
Amount.....	50,851	62,678	60,794	32,198	30,782	+23.3	-3.0	+19.6	-4.4
Producers' share 1/.....	73.7	64.8	59.6	59.8	70.8	-8.9	-5.2	-14.1	+10.9
Importers' share: 1/.....									
Korea.....	0.9	5.3	8.3	12.7	3.2	+4.4	+3.0	+7.5	-9.5
Taiwan.....	6.1	12.7	15.1	15.3	9.1	+6.6	+2.4	+9.0	-6.2
Subtotal.....	7.0	18.0	23.5	28.0	12.3	+11.1	+5.4	+16.5	-15.7
Other sources.....	19.3	17.1	16.9	12.1	16.9	-2.2	-0.3	-2.4	+4.8
Total.....	26.3	35.2	40.4	40.2	29.2	+8.9	+5.2	+14.1	-10.9
U.S. consumption value:									
Amount.....	239,232	245,827	211,550	115,473	106,900	+2.8	-13.9	-11.6	-7.4
Producers' share 1/.....	76.6	68.8	63.2	62.6	71.3	-7.8	-5.6	-13.4	+8.7
Importers' share: 1/.....									
Korea.....	0.6	4.0	7.2	10.4	2.4	+3.4	+3.1	+6.6	-8.0
Taiwan.....	5.5	10.8	13.9	13.5	7.9	+5.2	+3.1	+8.3	-5.7
Subtotal.....	6.1	14.8	21.0	24.0	10.3	+8.7	+6.2	+14.9	-13.7
Other sources.....	17.3	16.4	15.8	13.4	18.4	-0.9	-0.6	-1.5	+5.0
Total.....	23.4	31.2	36.8	37.4	28.7	+7.8	+5.6	+13.4	-8.7
U.S. importers' imports from--									
Korea:									
Imports quantity.....	444	3,328	5,074	4,083	973	+649.5	+52.5	2/	-76.2
Imports value.....	1,422	9,906	15,172	12,060	2,605	+596.6	+53.2	+966.9	-78.4
Unit value.....	\$3,206	\$2,977	\$2,990	\$2,953	\$2,678	-7.2	+0.4	-6.7	-9.3
Ending inventory qty.....	***	***	***	***	***	***	***	***	***
Taiwan:									
Imports quantity.....	3,095	7,979	9,197	4,938	2,812	+157.8	+15.3	+197.2	-43.1
Imports value.....	13,271	26,531	29,305	15,634	8,419	+99.9	+10.5	+120.8	-46.1
Unit value.....	\$4,288	\$3,325	\$3,186	\$3,166	\$2,995	-22.5	-4.2	-25.7	-5.4
Ending inventory qty.....	***	***	***	***	***	***	***	***	***
Subject sources:									
Imports quantity.....	3,538	11,307	14,271	9,022	3,785	+219.6	+26.2	+303.4	-58.0
Imports value.....	14,693	36,437	44,477	27,694	11,025	+148.0	+22.1	+202.7	-60.2
Unit value.....	\$4,152	\$3,223	\$3,117	\$3,070	\$2,913	-22.4	-3.3	-24.9	-5.1
Ending inventory qty.....	253	669	1,363	1,051	297	+164.4	+103.7	+438.7	-71.7
Other sources:									
Imports quantity.....	9,819	10,738	10,260	3,907	5,205	+9.4	-4.5	+4.5	+33.2
Imports value.....	41,377	40,271	33,472	15,505	19,682	-2.7	-16.9	-19.1	+26.9
Unit value.....	\$4,214	\$3,750	\$3,262	\$3,969	\$3,781	-11.0	-13.0	-22.6	-4.7
Ending inventory qty.....	***	***	***	***	***	***	***	***	***
All sources:									
Imports quantity.....	13,357	22,045	24,531	12,929	8,990	+65.0	+11.3	+83.7	-30.5
Imports value.....	56,070	76,708	77,949	43,199	30,706	+36.8	+1.6	+39.0	-28.9
Unit value.....	\$4,198	\$3,480	\$3,178	\$3,341	\$3,416	-17.1	-8.7	-24.3	+2.2
U.S. producers'--									
Ending capacity quantity...	60,299	63,904	63,432	31,887	32,246	+6.0	-0.7	+5.2	+1.1
Production quantity.....	38,103	41,012	39,016	21,158	22,001	+7.6	-4.9	+2.4	+4.0
Capacity utilization 1/.....	63.2	64.2	61.5	66.4	68.2	+1.0	-2.7	-1.7	+1.9
U.S. shipments:									
Quantity.....	37,494	40,633	36,263	19,269	21,792	+8.4	-10.8	-3.3	+13.1
Value.....	183,162	169,119	133,601	72,274	76,194	-7.7	-21.0	-27.1	+5.4
Unit value.....	\$4,885	\$4,162	\$3,684	\$3,751	\$3,496	-14.8	-11.5	-24.6	-6.8
Export shipments:									
Quantity.....	***	***	***	***	***	***	***	***	***
Exports/shipments 1/.....	***	***	***	***	***	***	***	***	***
Value.....	***	***	***	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***	***	***	***
Ending inventory quantity..	***	***	***	***	***	-2.0	+50.2	+47.1	+4.5
Inventory/shipments 1/.....	***	***	***	***	***	-1.3	+7.4	+6.1	-1.1
Production workers.....	563	615	562	574	577	+9.2	-8.6	-0.2	+0.5
Hours worked (1,000s).....	1,134	1,191	1,200	621	590	+5.0	+0.8	+5.8	-5.0
Total comp. (\$1,000).....	15,864	16,817	16,093	8,360	9,104	+6.0	-4.3	+1.4	+8.9
Hourly total compensation..	\$13.99	\$14.12	\$13.41	\$13.46	\$15.43	+0.9	-5.0	-4.1	+14.6
Productivity (short tons per 1,000 hours).....	33.6	34.4	32.5	34.1	37.3	+2.5	-5.6	-3.2	+9.4
Unit labor costs.....	\$416	\$410	\$412	\$395	\$414	-1.5	+0.6	-0.9	+4.7
Net sales value.....	***	***	***	***	***	-8.7	-20.1	-27.0	+4.4
COGS/sales 1/.....	***	***	***	***	***	+3.6	+3.9	+7.6	+5.3
Operating income (loss)....	***	***	***	***	***	-47.8	-88.3	-93.9	-110.2
Op. income (loss)/sales 1/.	9.6	5.5	0.8	4.4	(0.4)	-4.1	-4.7	-8.8	-4.8

1/ 'Reported data' are in percent and 'period changes' are in percentage points.

2/ An increase of 1,000 percent or more.

3/ Not applicable.

Note.--Period changes are derived from the unrounded data. Period changes involving negative period data are positive if the amount of the negativity decreases and negative if the amount of the negativity increases. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

Table C-2

All pipes: Summary data concerning the U.S. market, 1989-91, January-June 1991, and January-June 1992

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

Item	Reported data			Jan.-June--		Period changes			
	1989	1990	1991	1991	1992	1989-90	1990-91	1989-91	1991-92
U.S. consumption quantity:									
Amount.....	***	***	***	***	***	***	***	***	***
Producers' share 1/.....	***	***	***	***	***	***	***	***	***
Importers' share: 1/.....									
Korea (subject A-312)....	***	***	***	***	***	***	***	***	***
Taiwan (subject A-312)....	***	***	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***	***	***
Other sources.....	***	***	***	***	***	***	***	***	***
Total.....	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount.....	***	***	***	***	***	***	***	***	***
Producers' share 1/.....	***	***	***	***	***	***	***	***	***
Importers' share: 1/.....									
Korea (subject A-312)....	***	***	***	***	***	***	***	***	***
Taiwan (subject A-312)....	***	***	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***	***	***
Other sources.....	***	***	***	***	***	***	***	***	***
Total.....	***	***	***	***	***	***	***	***	***
U.S. importers' imports from--									
Korea (subject A-312):									
Imports quantity.....	444	3,328	5,074	4,083	973	+649.5	+52.5	2/	-76.2
Imports value.....	1,422	9,906	15,172	12,060	2,605	+596.6	+53.2	+966.9	-78.4
Unit value.....	\$3,206	\$2,977	\$2,990	\$2,953	\$2,678	-7.2	+0.4	-6.7	-9.3
Ending inventory qty.....	***	***	***	***	***	***	***	***	***
Taiwan (subject A-312):									
Imports quantity.....	3,095	7,979	9,197	4,938	2,812	+157.8	+15.3	+197.2	-43.1
Imports value.....	13,271	26,531	29,305	15,634	8,419	+99.9	+10.5	+120.8	-46.1
Unit value.....	\$4,288	\$3,325	\$3,186	\$3,166	\$2,995	-22.5	-4.2	-25.7	-5.4
Ending inventory qty.....	***	***	***	***	***	***	***	***	***
Subject sources:									
Imports quantity.....	3,538	11,307	14,271	9,022	3,785	+219.6	+26.2	+303.4	-58.0
Imports value.....	14,693	36,437	44,477	27,694	11,025	+148.0	+22.1	+202.7	-60.2
Unit value.....	\$4,152	\$3,223	\$3,117	\$3,070	\$2,913	-22.4	-3.3	-24.9	-5.1
Ending inventory qty.....	253	669	1,363	1,051	297	+164.4	+103.7	+438.7	-71.7
Other sources:									
Imports quantity.....	9,819	10,738	10,260	3,907	5,205	+9.4	-4.5	+4.5	+33.2
Imports value.....	41,377	40,271	33,472	15,505	19,682	-2.7	-16.9	-19.1	+26.9
Unit value.....	\$4,214	\$3,750	\$3,262	\$3,969	\$3,781	-11.0	-13.0	-22.6	-4.7
Ending inventory qty.....	***	***	***	***	***	***	***	***	***
All sources:									
Imports quantity.....	13,357	22,045	24,531	12,929	8,990	+65.0	+11.3	+83.7	-30.5
Imports value.....	56,070	76,708	77,949	43,199	30,706	+36.8	+1.6	+39.0	-28.9
Unit value.....	\$4,198	\$3,480	\$3,178	\$3,341	\$3,416	-17.1	-8.7	-24.3	+2.2
U.S. producers'--									
Ending capacity quantity...	***	***	***	***	***	***	***	***	***
Production quantity.....	***	***	***	***	***	***	***	***	***
Capacity utilization 1/.....	***	***	***	***	***	***	***	***	***
U.S. shipments:									
Quantity.....	***	***	***	***	***	***	***	***	***
Value.....	***	***	***	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***	***	***	***
Export shipments:									
Quantity.....	***	***	***	***	***	***	***	***	***
Exports/shipments 1/.....	***	***	***	***	***	***	***	***	***
Value.....	***	***	***	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***	***	***	***
Ending inventory quantity...	***	***	***	***	***	***	***	***	***
Inventory/shipments 1/.....	***	***	***	***	***	***	***	***	***
Production workers.....	***	***	***	***	***	***	***	***	***
Hours worked (1,000s).....	***	***	***	***	***	***	***	***	***
Total comp. (\$1,000).....	***	***	***	***	***	***	***	***	***
Hourly total compensation...	***	***	***	***	***	***	***	***	***
Productivity (short tons									
per 1,000 hours).....	***	***	***	***	***	***	***	***	***
Unit labor costs.....	***	***	***	***	***	***	***	***	***
Net sales value.....	***	***	***	***	***	***	***	***	***
COGS/sales 1/.....	***	***	***	***	***	***	***	***	***
Operating income (loss)....	***	***	***	***	***	***	***	***	***
Op. income (loss)/sales 1/..	***	***	***	***	***	***	***	***	***

1/ 'Reported data' are in percent and 'period changes' are in percentage points.

2/ An increase of 1,000 percent or more.

3/ Not applicable.

4/ Positive figure, but less than significant digits displayed.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

Table C-3

All pipes and tubes: Summary data concerning the U.S. market, 1989-91, January-June 1991, and January-June 1992

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

Item	Reported data			Jan.-June--		Period changes			
	1989	1990	1991	1991	1992	1989-90	1990-91	1989-91	Jan.-June 1991-92
U.S. consumption quantity:									
Amount.....	98,287	110,567	108,456	56,506	55,550	+12.5	-1.9	+10.3	-1.7
Producers' share 1/.....	86.4	80.1	77.4	77.1	83.8	-6.3	-2.7	-9.0	+6.7
Importers' share: 1/.....									
Korea (subject A-312)....	0.5	3.0	4.7	7.2	1.8	+2.6	+1.7	+4.2	-5.5
Taiwan (subject A-312)....	3.1	7.2	8.5	8.7	5.1	+4.1	+1.3	+5.3	-3.7
Subtotal.....	3.6	10.2	13.2	16.0	6.8	+6.6	+2.9	+9.6	-9.2
Other sources.....	10.0	9.7	9.5	6.9	9.4	-0.3	-0.3	-0.5	+2.5
Total.....	13.6	19.9	22.6	22.9	16.2	+6.3	+2.7	+9.0	-6.7
U.S. consumption value:									
Amount.....	475,212	462,370	420,287	218,253	213,014	-2.7	-9.1	-11.6	-2.4
Producers' share 1/.....	88.2	83.4	81.5	80.2	85.6	-4.8	-2.0	-6.7	+5.4
Importers' share: 1/.....									
Korea (subject A-312)....	0.3	2.1	3.6	5.5	1.2	+1.8	+1.5	+3.3	-4.3
Taiwan (subject A-312)....	2.8	5.7	7.0	7.2	4.0	+2.9	+1.2	+4.2	-3.2
Subtotal.....	3.1	7.9	10.6	12.7	5.2	+4.8	+2.7	+7.5	-7.5
Other sources.....	8.7	8.7	8.0	7.1	9.2	2/	-0.7	-0.7	+2.1
Total.....	11.8	16.6	18.5	19.8	14.4	+4.8	+2.0	+6.7	-5.4
U.S. importers' imports from--									
Korea (subject A-312):									
Imports quantity.....	444	3,328	5,074	4,083	973	+649.5	+52.5	3/	-76.2
Imports value.....	1,422	9,906	15,172	12,060	2,605	+596.6	+53.2	+966.9	-78.4
Unit value.....	\$3,206	\$2,977	\$2,990	\$2,953	\$2,678	-7.2	+0.4	-6.7	-9.3
Ending inventory qty.....	***	***	***	***	***	***	***	***	***
Taiwan (subject A-312):									
Imports quantity.....	3,095	7,979	9,197	4,938	2,812	+157.8	+15.3	+197.2	-43.1
Imports value.....	13,271	26,531	29,305	15,634	8,419	+99.9	+10.5	+120.8	-46.1
Unit value.....	\$4,288	\$3,325	\$3,186	\$3,166	\$2,995	-22.5	-4.2	-25.7	-5.4
Ending inventory qty.....	***	***	***	***	***	***	***	***	***
Subject sources:									
Imports quantity.....	3,538	11,307	14,271	9,022	3,785	+219.6	+26.2	+303.4	-58.0
Imports value.....	14,693	36,437	44,477	27,694	11,025	+148.0	+22.1	+202.7	-60.2
Unit value.....	\$4,152	\$3,223	\$3,117	\$3,070	\$2,913	-22.4	-3.3	-24.9	-5.1
Ending inventory qty.....	253	669	1,363	1,051	297	+164.4	+103.7	+438.7	-71.7
Other sources:									
Imports quantity.....	9,819	10,738	10,260	3,907	5,205	+9.4	-4.5	+4.5	+33.2
Imports value.....	41,377	40,271	33,472	15,505	19,682	-2.7	-16.9	-19.1	+26.9
Unit value.....	\$4,214	\$3,750	\$3,262	\$3,969	\$3,781	-11.0	-13.0	-22.6	-4.7
Ending inventory qty.....	***	***	***	***	***	***	***	***	***
All sources:									
Imports quantity.....	13,357	22,045	24,531	12,929	8,990	+65.0	+11.3	+83.7	-30.5
Imports value.....	56,070	76,708	77,949	43,199	30,706	+36.8	+1.6	+39.0	-28.9
Unit value.....	\$4,198	\$3,480	\$3,178	\$3,341	\$3,416	-17.1	-8.7	-24.3	+2.2
U.S. producers'--									
Ending capacity quantity...	133,633	136,859	138,392	69,507	77,656	+2.4	+1.1	+3.6	+11.7
Production quantity.....	86,507	89,410	89,393	46,468	47,292	+3.4	5/	+3.3	+1.8
Capacity utilization 1/.....	64.7	65.3	64.8	67.1	60.9	+0.6	-0.6	2/	-6.2
U.S. shipments:									
Quantity.....	84,930	88,522	83,925	43,577	46,560	+4.2	-5.2	-1.2	+6.8
Value.....	419,142	385,662	342,338	175,054	182,308	-8.0	-11.2	-18.3	+4.1
Unit value.....	\$4,935	\$4,357	\$4,079	\$4,017	\$3,916	-11.7	-6.4	-17.3	-2.5
Export shipments:									
Quantity.....	1,545	2,000	2,804	1,204	1,270	+29.4	+40.2	+81.5	+5.5
Exports/shipments 1/.....	1.8	2.2	3.2	2.7	2.7	+0.4	+1.0	+1.4	6/
Value.....	9,812	9,811	13,375	5,792	5,587	5/	+36.3	+36.3	-3.5
Unit value.....	\$6,351	\$4,906	\$4,770	\$4,811	\$4,398	-22.8	-2.8	-24.9	-8.6
Ending inventory quantity..	9,060	7,978	10,824	10,071	10,366	-11.9	+35.7	+19.5	+2.9
Inventory/shipments 1/.....	11.6	9.7	13.7	12.4	12.1	-1.9	+4.1	+2.2	-0.3
Production workers.....	1,673	1,712	1,598	1,612	1,518	+2.3	-6.7	-4.5	-5.8
Hours worked (1,000s).....	3,421	3,452	3,337	1,693	1,553	+0.9	-3.3	-2.5	-8.3
Total comp. (\$1,000).....	46,786	47,601	46,740	23,820	22,662	+1.7	-1.8	-0.1	-4.9
Hourly total compensation..	\$13.68	\$13.79	\$14.01	\$14.07	\$14.59	+0.8	+1.6	+2.4	+3.7
Productivity (short tons per 1,000 hours).....	25.3	25.9	26.8	27.4	30.4	+2.4	+3.4	+5.9	+10.9
Unit labor costs.....	\$541	\$532	\$523	\$513	\$479	-1.6	-1.8	-3.3	-6.5
Net sales value.....	***	***	***	***	***	-9.0	-10.0	-18.2	+3.9
COGS/sales 1/.....	***	***	***	***	***	+3.4	+2.2	+5.5	+1.9
Operating income (loss)....	***	***	***	***	***	-37.1	-37.5	-60.7	-16.0
Op. income (loss)/sales 1/.	11.7	8.1	5.6	7.8	6.3	-3.6	-2.5	-6.1	-1.5

1/ 'Reported data' are in percent and 'period changes' are in percentage points.

2/ An increase of less than 0.05 percentage points.

3/ An increase of 1,000 percent or more.

4/ Not applicable.

5/ A decrease of less than 0.05 percent.

6/ A decrease of less than 0.05 percentage points.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

Table C-4

Pressure tubes: Summary data concerning the U.S. market, 1989-91, January-June 1991, and January-June 1992

* * * * *

Table C-5

Mechanical tubes: Summary data concerning the U.S. market, 1989-91, January-June 1991, and January-June 1992

* * * * *

Table C-6

Grade 409 tubes: Summary data concerning the U.S. market, 1989-91, January-June 1991, and January-June 1992

* * * * *

Table C-7

All pipes plus pressure tubes: Summary data concerning the U.S. market, 1989-91, January-June 1991, and January-June 1992

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

Item	Reported data			Jan.-June--		Period changes			
	1989	1990	1991	1991	1992	1989-90	1990-91	1989-91	1991-92
U.S. consumption quantity:									
Amount.....	***	***	***	***	***	***	***	***	***
Producers' share 1/.....	***	***	***	***	***	***	***	***	***
Importers' share: 1/.....	***	***	***	***	***	***	***	***	***
Korea (subject A-312)....	***	***	***	***	***	***	***	***	***
Taiwan (subject A-312)....	***	***	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***	***	***
Other sources.....	***	***	***	***	***	***	***	***	***
Total.....	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount.....	***	***	***	***	***	***	***	***	***
Producers' share 1/.....	***	***	***	***	***	***	***	***	***
Importers' share: 1/.....	***	***	***	***	***	***	***	***	***
Korea (subject A-312)....	***	***	***	***	***	***	***	***	***
Taiwan (subject A-312)....	***	***	***	***	***	***	***	***	***
Subtotal.....	***	***	***	***	***	***	***	***	***
Other sources.....	***	***	***	***	***	***	***	***	***
Total.....	***	***	***	***	***	***	***	***	***
U.S. importers' imports from--									
Korea (subject A-312):									
Imports quantity.....	444	3,328	5,074	4,083	973	+649.5	+52.5	2/	-76.2
Imports value.....	1,422	9,906	15,172	12,060	2,605	+596.6	+53.2	+966.9	-78.4
Unit value.....	\$3,206	\$2,977	\$2,990	\$2,953	\$2,678	-7.2	+0.4	-6.7	-9.3
Ending inventory qty.....	***	***	***	***	***	***	***	***	***
Taiwan (subject A-312):									
Imports quantity.....	3,095	7,979	9,197	4,938	2,812	+157.8	+15.3	+197.2	-43.1
Imports value.....	13,271	26,531	29,305	15,634	8,419	+99.9	+10.5	+120.8	-46.1
Unit value.....	\$4,288	\$3,325	\$3,186	\$3,166	\$2,995	-22.5	-4.2	-25.7	-5.4
Ending inventory qty.....	***	***	***	***	***	***	***	***	***
Subject sources:									
Imports quantity.....	3,538	11,307	14,271	9,022	3,785	+219.6	+26.2	+303.4	-58.0
Imports value.....	14,693	36,437	44,477	27,694	11,025	+148.0	+22.1	+202.7	-60.2
Unit value.....	\$4,152	\$3,223	\$3,117	\$3,070	\$2,913	-22.4	-3.3	-24.9	-5.1
Ending inventory qty.....	253	669	1,363	1,051	297	+164.4	+103.7	+438.7	-71.7
Other sources:									
Imports quantity.....	9,819	10,738	10,260	3,907	5,205	+9.4	-4.5	+4.5	+33.2
Imports value.....	41,377	40,271	33,472	15,505	19,682	-2.7	-16.9	-19.1	+26.9
Unit value.....	\$4,214	\$3,750	\$3,262	\$3,969	\$3,781	-11.0	-13.0	-22.6	-4.7
Ending inventory qty.....	***	***	***	***	***	***	***	***	***
All sources:									
Imports quantity.....	13,357	22,045	24,531	12,929	8,990	+65.0	+11.3	+83.7	-30.5
Imports value.....	56,070	76,708	77,949	43,199	30,706	+36.8	+1.6	+39.0	-28.9
Unit value.....	\$4,198	\$3,480	\$3,178	\$3,341	\$3,416	-17.1	-8.7	-24.3	+2.2
U.S. producers'--									
Ending capacity quantity...	***	***	***	***	***	***	***	***	***
Production quantity.....	***	***	***	***	***	***	***	***	***
Capacity utilization 1/.....	***	***	***	***	***	***	***	***	***
U.S. shipments:									
Quantity.....	***	***	***	***	***	***	***	***	***
Value.....	***	***	***	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***	***	***	***
Export shipments:									
Quantity.....	***	***	***	***	***	***	***	***	***
Exports/shipments 1/.....	***	***	***	***	***	***	***	***	***
Value.....	***	***	***	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***	***	***	***
Ending inventory quantity..	***	***	***	***	***	***	***	***	***
Inventory/shipments 1/.....	***	***	***	***	***	***	***	***	***
Production workers.....	***	***	***	***	***	***	***	***	***
Hours worked (1,000s).....	***	***	***	***	***	***	***	***	***
Total comp. (\$1,000).....	***	***	***	***	***	***	***	***	***
Hourly total compensation..	***	***	***	***	***	***	***	***	***
Productivity (short tons									
per 1,000 hours).....	***	***	***	***	***	***	***	***	***
Unit labor costs.....	***	***	***	***	***	***	***	***	***
Net sales value.....	***	***	***	***	***	***	***	***	***
COGS/sales 1/.....	***	***	***	***	***	***	***	***	***
Operating income (loss)....	***	***	***	***	***	***	***	***	***
Op. income (loss)/sales 1/.	***	***	***	***	***	***	***	***	***

1/ 'Reported data' are in percent and 'period changes' are in percentage points.

2/ An increase of 1,000 percent or more.

3/ Not applicable.

4/ Positive figure, but less than significant digits displayed.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

APPENDIX D

**COMMENTS RECEIVED FROM PRODUCERS
ON THE IMPACT OF IMPORTS OF WELDED A-312 PIPES
FROM THE REPUBLIC OF KOREA AND TAIWAN
ON THEIR GROWTH, INVESTMENT, ABILITY
TO RAISE CAPITAL, AND DEVELOPMENT
AND PRODUCTION EFFORTS**

The Commission requested the U.S. producers to describe and explain the actual and anticipated negative effects, if any, of imports of welded A-312 pipes from Korea and Taiwan on their growth, investment, ability to raise capital, and development and production efforts (including efforts to develop a derivative or improved version of the product). Their responses are shown below.

Actual Negative Effects

* * * * *

APPENDIX E
DATA ON THE INDUSTRY IN TAIWAN

E-3
Department of StatePAGE 01 OF 02 AIT TA 07225 00 OF 02 090950Z
ACTION STR-18

SHC9255

AIT TA 07225 00 OF 02 090950Z

SHC9255

INFO LOG-00 AGRE-00 AID-00 AIT-03 AMAD-01 CEA-01 CIAE-00
 COME-00 CTME-00 C-01 DINT-05 DODE-00 ITCE-00 EAP-00
 EB-00 EXME-00 E-01 FRB-01 H-01 INRE-00 INR-01
 ITC-01 JUSE-00 LAB-04 L-00 ADS-00 NSAE-00 NSCE-00
 OMB-01 OPIC-00 PA-02 PRS-01 SNP-00 SP-00 SS-00
 STRE-00 TRSF-00 USIE-00 /059W

R 090950Z OCT 92

FM AIT TAIPEI
TO AIT WASHDC

UNCLAS TAIPEI 07225

AIT/W PASS USITC, STATE, USTR, USDOC

USITC FOR M.T. HART

STATE FOR EAP/RA/TC, EAP/EP

USTR FOR ANDERSON

USDOC FOR 5110/ITA/IA/OAI/VCROW

E.O. 12356: N/A

TAGS: ETRD, TW

SUBJECT: USITC ANTIDUMPING INVESTIGATION OF CERTAIN
 - WELDED STAINLESS STEEL PIPE: AN UPDATED
 - INFORMATION FROM TAIWAN

REF: A) WASHDC 325618

- B) 91 TAIPEI 8774

1. TO UPDATE THE INFORMATION REQUESTED BY THE USITC FOR ITS ANTIDUMPING INVESTIGATION CONCERNING CERTAIN WELDED STAINLESS STEEL PIPE FROM TAIWAN, WE HAVE CONTACTED THE FIRMS LISTED IN REFTEL A AND THE TAIWAN IRON AND STEEL INDUSTRIES ASSOCIATION (TISIA). AS BEFORE, TISIA REFUSED TO ANSWER QUESTIONS RAISED BY THE USITC. OF THE TOTAL FIRMS LISTED, SHIN TUNG SHIEN INDUSTRY, CHANG MIEN INDUSTRIES, AND MAYER STAINLESS STEEL PIPE DECLINED TO ANSWER ANY QUESTIONS. YEUN CHYANG INDUSTRIAL CO., LTD. AND JAUNG YUANN ENTERPRISES CO., LTD. INFORMED US THAT THEIR U.S. COUNSEL, DR. SHIEN LIANG-HOUH (TEL: 818-405-0551 OR 212-687-3510; FAX: 818-405-8830) WOULD HANDLE THE CASE FOR THEM, WHILE TA CHEN STAINLESS PIPE CO., LTD. TOLD US THAT MR. PETER KOENIG OF ABLONDI AND FOSTER (TEL: 202-296-3355; FAX: 202-296-3922) IS THE COMPANY'S COUNSEL HANDLING THE CASE IN THE U.S.

2. FOLLOWING IS INFORMATION WE RECEIVED ON USITC'S INVESTIGATION OF CERTAIN WELDED STAINLESS STEEL PIPE FROM TAIWAN:

A. NUMBER AND NAMES OF FIRMS PRODUCING THE SUBJECT MERCHANDISE AND ANY RELEVANT HISTORY OF THE DEVELOPMENT OF HISTORY.

NO CHANGE TO THIS PART AS MENTIONED IN REFTEL B.

B. PRODUCTION (MEASURED IN TONS), CAPACITY (MEASURED IN TONS), CAPACITY UTILIZATION (IN PERCENT), AND HOME MARKET SHIPMENTS (QUANTITY AND VALUE) FOR CALENDAR YEARS 1989, 1990, AND 1991, AND JANUARY-JUNE 1991 AND JANUARY-JUNE 1992.

PERIOD	PRODUCTION	CAPACITY	UTILIZATION RATE	HOME MARKET SHIPMENT
	MT	MT	PERCENT	MT USDLOO0
1989	N.A.	N.A.	N.A.	N.A.
1990	45,007	56,259 E	80	31,075 E N.A.
1991	49,045	59,694 E	82	33,713 E N.A.
JAN/JUNE 1992	26,022	31,870 E	82	21,274 E N.A.
JAN/JUNE 1991	23,732	28,871 E	82	15,946 E N.A.

NOTE: E - ESTIMATE

SOURCE: "IRON AND STEEL INFORMATION MONTHLY" AND MONTHLY STATISTICS OF EXPORTS

C. EXPORTS (QUANTITY AND VALUE) FOR CALENDAR YEARS 1989, 1990, AND 1991, AND JANUARY-JUNE 1991 AND JANUARY-JUNE 1992 TO: (1) THE UNITED STATES, (2) OTHER MAJOR MARKETS (SPECIFY), AND (3) TOTAL TO ALL MARKETS (IF POSSIBLE PLEASE EXPLAIN AND SHIFTS IN MAJOR EXPORT MARKETS DURING THESE PERIOD).

FOLLOWING ARE EXPORTS OF TAIWAN'S STAINLESS STEEL PIPE

UNDER HS NO. 7306-4000:

DESTINATION	1989	1990	1991	1-6/1992	1-6/1991
U.S.					
- MT	4,097	7,988	8,560	1,715	4,289
- USD 1000	17,002	24,461	26,131	5,029	12,831
HONG KONG					
- MT	818	969	956	642	515
- USD 1000	2,959	3,130	3,034	1,785	1,604
AUSTRALIA					
- MT	991	1,270	833	456	461
- USD 1000	4,338	4,336	2,739	1,252	1,501
SINGAPORE					
- MT	456	526	805	286	487
- USD 1000	1,833	1,727	2,420	757	1,469
NETHERLANDS					
- MT	187	282	469	178	347
- USD 1000	797	1,045	1,497	460	1,104
INDONESIA					
- MT	94	119	971	75	51
- USD 1000	297	403	2,727	179	120
CANADA					
- MT	981	988	247	6	218
- USD 1000	3,799	3,225	751	18	654
OTHERS					
- MT	1,882	1,790	2,491	1,390	1,418
- USD	6,385	5,394	7,805	4,036	4,426
TOTAL					
- MT	9,506	13,932	15,332	4,748	7,786
- USD	37,410	43,721	47,104	13,516	23,709

E-4
Department of State

PAGE 02 OF 02 AIT TA 07225 00 OF 02 090950Z

SHC9255

NOTE: AS MENTIONED IN REFTEL B, CANADA IMPOSED AN
ANTI-DUMPING DUTY ON TAIWAN'S EXPORTS, WHICH CAUSED A
DECLINE IN TAIWAN'S EXPORTS TO CANADA STARTING IN 1991.

SOURCE: MONTHLY STATISTICS OF EXPORTS, PUBLISHED BY
DIRECTORATE GENERAL OF CUSTOMS

D. FINISHED INVENTORIES HELD IN TAIWAN AS OF DECEMBER 31
OF 1989, 1990, AND 1991, AND AS OF SEPTEMBER 30 OF 1991
AND 1992.

PERIOD	INVENTORIES
-----	-----
-	M. T.
-	-----

DEC. 31, 1989	N. A.
DEC. 31, 1990	4,767
DEC. 31, 1991	2,588
JUNE 30, 1992	3,381
JUNE 30, 1991	2,098

NOTE: DATA AVAILABLE THROUGH JUNE, 1992 ONLY
SOURCE: IRON AND STEEL INFORMATION MONTHLY, TISIA

3. NO FURTHER INFORMATION CAN UPDATE QUESTIONS (E. F.
AND G.) RAISED BY THE USITC IN REFTEL A.

APPENDIX F
IMPORT DATA ON SWEDEN

Table F-1

A-312 pipes: U.S. imports from Sweden, 1989-91, January-June 1991, and January-June 1992

Item	1989	1990	1991	Jan.-June--	
				1991	1992
Quantity (short tons).....	1,301	1,396	7	5	1
Value (1,000 dollars).....	6,330	4,860	85	63	36
Unit value (per ton).....	\$4,866	\$3,481	\$12,053	\$11,828	\$49,560

Note.--Unit values are calculated from unrounded figures.

Source: Compiled from official statistics of the U.S. Department of Commerce.

