

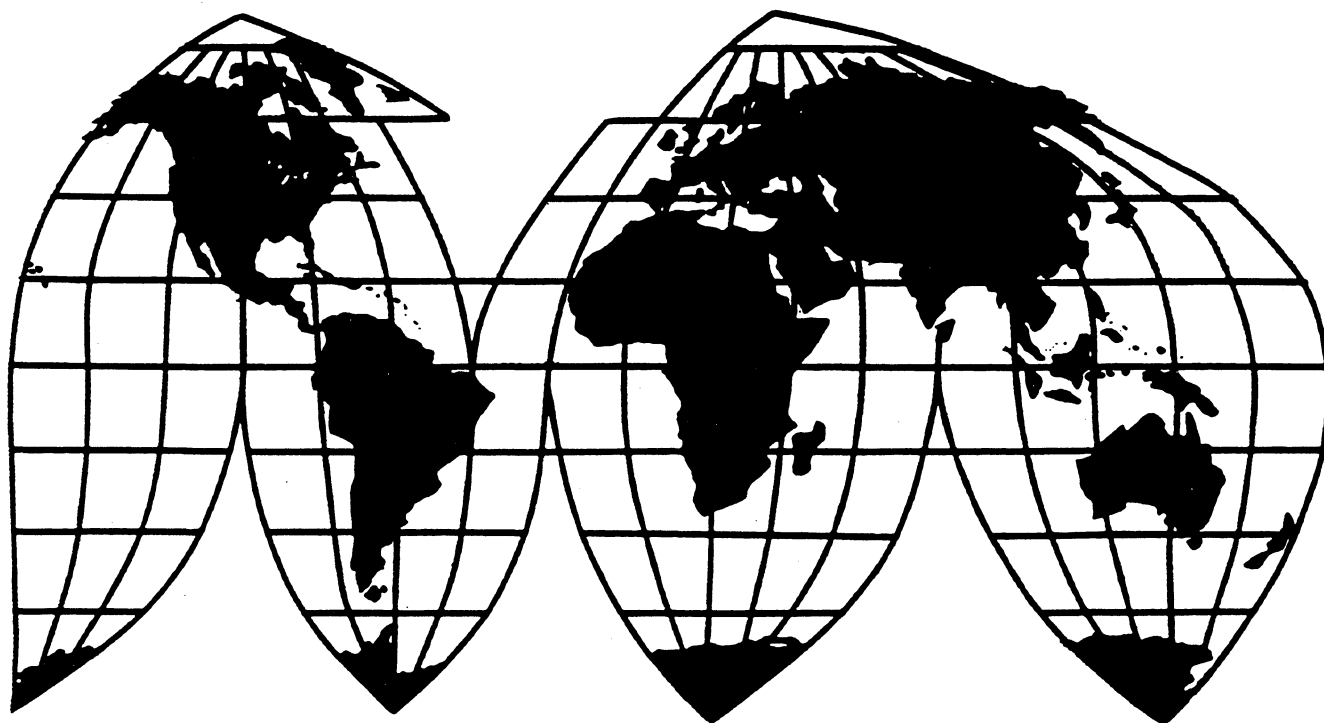
Stainless Steel Angles From Japan

Investigation No. 731-TA-699 (Preliminary)

Publication 2777

May 1994

U.S. International Trade Commission



U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

PART I
DETERMINATION AND VIEWS OF THE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-699 (Preliminary)

STAINLESS STEEL ANGLES FROM JAPAN

Determination

On the basis of the record¹ developed in the subject investigation, the Commission determines,² pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of stainless steel angles,³ provided for in subheading 7222.40.30 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On April 8, 1994, a petition was filed with the Commission and the Department of Commerce by Slater Steel Corp., Fort Wayne, IN, alleging that an industry in the United States is materially injured by reason of LTFV imports of stainless steel angles from Japan. Accordingly, effective April 8, 1994, the Commission instituted antidumping investigation No. 731-TA-699 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of April 14, 1994 (59 F.R. 17790). The conference was held in Washington, DC, on April 29, 1994, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² Commissioner Bragg not participating in the determination in this investigation.

³ For purposes of this investigation, stainless steel angles are defined as hot-rolled products of stainless steel, whether or not annealed or descaled, angled at 90 degrees, that are not otherwise advanced.

VIEW OF THE COMMISSION

Based on the record in this preliminary investigation, we unanimously determine that there is a reasonable indication that the industry in the United States producing hot-rolled stainless steel angle is materially injured by reason of imports from Japan that are alleged to have been sold at less than fair value (LTFV) in the United States.^{1 2}

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard in preliminary antidumping duty investigations requires the Commission to determine, based upon the best information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of the allegedly LTFV imports.³ In applying this standard, the Commission weighs the evidence before it to determine whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of material injury; and (2) no likelihood exists that any contrary evidence will arise in a final investigation."⁴ The U.S. Court of Appeals for the Federal Circuit has held that this interpretation of the standard "accords with clearly discernible legislative intent and is sufficiently reasonable."⁵

II. LIKE PRODUCT AND DOMESTIC INDUSTRY

In determining whether an industry in the United States is materially injured or is threatened with material injury by reason of the subject imports, we first define the "like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930, (the "Act"), defines the relevant industry as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product"⁶ In turn, the Act 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"⁷

The Department of Commerce ("Commerce") has defined the imported products subject to this investigation as follows:

¹ Material retardation of the establishment of an industry is not an issue in this investigation and will not be discussed further.

² Commissioner Bragg did not participate in the determination in this investigation.

³ 19 U.S.C. § 1673b(a). See also American Lamb v. United States, 785 F.2d 994 (Fed. Cir. 1986); Calabrian Corp. v. United States, 794 F. Supp. 377, 386 (Ct. Int'l Trade 1992).

⁴ American Lamb, 785 F.2d at 1001. See also Torrington Co. v. United States, 790 F. Supp. 1161, 1165 (Ct. Int'l Trade 1992).

⁵ American Lamb, 785 F.2d at 1004.

⁶ 19 U.S.C. § 1677(4)(A).

⁷ 19 U.S.C. § 1677(10). The Commission's like product determinations are factual, and the Commission applies the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. See, e.g., Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991).

In analyzing like product issues, the Commission 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. Calabrian Corp. v. U.S. Int'l Trade Comm'n, 794 F. Supp. 377, 382 n.4 (Ct. Int'l Trade 1992). No single factor is dispositive, and the Commission may consider other factors relevant to a particular investigation. The Commission looks for clear dividing lines between possible like products, and disregards minor variations. See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979); Torrington Co. v. United States, 747 F. Supp. at 748-49.

For purposes of this investigation, the term "Stainless Steel Angle" includes hot-rolled, whether or not annealed or descaled, stainless steel products angled at 90 degrees, that are not otherwise advanced.⁸

Angles can be manufactured with the sides of the angle or "legs" of equal or unequal length. The Japanese angle subject to this investigation, however, includes only angle of equal leg length.⁹ Stainless steel angle differs from carbon steel angle because it has a different chemical composition (which includes chrome and nickel) that makes it resistant to corrosion and it is four to five times as expensive as carbon steel angle.¹⁰

Unlike a number of other stainless steel products, surface finishes and tolerances are relatively unimportant in the applications for which stainless steel angles are generally used.¹¹ This product generally is used in industrial applications to provide structural support where resistance to corrosion is required.¹² For example, it may be used as a support or brace that is welded in the construction of stainless steel tanks for the food, beverage, and chemical processing industries.¹³

To produce hot-rolled stainless steel angle, producers first melt stainless steel, then cast it into ingots and billets which are then hot-rolled.¹⁴ After hot-rolling, it is subject to several finishing processes, such as annealing and descaling.¹⁵

Petitioner argues that the like product should be defined to include only hot-rolled, stainless steel angle of equal leg length that is not further worked beyond annealing and descaling.¹⁶ Respondents stated that "for purposes of this preliminary investigation," they do not contest petitioner's like product definition.¹⁷ While at various points in their testimony respondents mentioned products that might be substituted for hot-rolled stainless steel angle, information obtained in this preliminary investigation does not indicate that there is sufficient basis for expanding the like product to include any of these other stainless steel products.¹⁸ We therefore define the like product all hot-rolled stainless steel angle of equal leg length. In light of our like product determination, the relevant domestic industry consists of Slater Steel Corporation, the sole domestic producer of hot-rolled stainless steel angle.¹⁹

III. CONDITION OF THE DOMESTIC INDUSTRY

In assessing whether the domestic industry is materially injured by reason of allegedly LTFV imports, the Commission considers all relevant economic factors which have a bearing

⁸ 59 Fed. Reg. 23052-01. The stainless steel angle subject to this investigation is currently classifiable under subheadings 7222.40.30.20, and 7222.40.30.60 of the Harmonized Tariff Schedules of the United States ("HTSUS").

⁹ Petition at 2; CR at I-7; PR at II-4.

¹⁰ Tr. at 42-43.

¹¹ CR at I-5; PR at II-3. Petitioner's Postconference Brief at 3.

¹² CR at I-8; PR at II-5; Petitioner's Postconference Brief at 4.

¹³ CR at I-8; PR at II-5; Petition at p. 10.

¹⁴ CR at I-7; PR at II-4.

¹⁵ According to petitioner, there is virtually no market for stainless steel angles further worked than hot-rolling, annealing, and descaling. CR at I-5; PR at II-3. If the extrusion process is used to produce angle, reheated billets are forced through a die that has been cut to produce the desired size angle. CR at I-7; PR at II-4.

¹⁶ Tr. at 11.

¹⁷ Respondents' Postconference Brief at 4; Tr. at 4.

¹⁸ The record indicates that a very small amount of stainless steel angle is produced by extrusion rather than hot-rolling. The extrusion process, however, is an entirely different production method, involving different facilities and workers. In fact, no known U.S. producer produces stainless steel angle using both hot-rolling and extrusion. CR at I-7; PR at II-5. Further, the extrusion process is generally more costly than hot-rolling, likely minimizing the substitution between products produced using the two different processes. CR at I-9; PR at II-6.

¹⁹ CR at I-13; PR at II-8.

on the state of the industry in the United States. These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is determinative, and we consider all relevant factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."²⁰

In assessing the conditions of competition in this market, we have taken into account the fact that sales of stainless steel angles were made to end users almost exclusively through steel service centers²¹ and that such service centers purchase angles through two distinct distribution channels. Japanese mills sell stainless steel angles either directly to U.S. service centers (mill direct sales) or to mill depots in the United States.²² Such depots maintain inventories of imports for sale to steel service centers and eliminate the long lead times required with direct sales from Japan.²³ Slater, the domestic producer, also sells to service centers either directly from its mill or from inventory.^{24 25} Certain evidence collected in this investigation suggests that the percentage of mill-direct sales by both Japanese producers and the domestic industry may be increasing.²⁶ We intend to collect more specific information on this issue in any final investigation.²⁷

Other conditions of competition that we have taken into account include the fact that imports of stainless steel angle from Japan have had a long-standing and significant presence in the United States market and that Slater does not produce the full range of angle sizes imported from Japan.²⁸ We also note that demand for stainless steel products in the United States has increased in recent years due at least in part to the enactment of more stringent environmental regulations that require corrosive materials to be stored in stainless steel containers.²⁹

Evidence on the record also indicates that the prices of stainless steel angle are significantly affected by the cost of the raw materials used to produce the angle³⁰ and that those raw material prices dropped dramatically over the period of investigation.³¹

Finally, we note that during October 1993, Slater reported a five-week disruption of its production of stainless steel angles due to a labor strike. Slater contends that the strike did not significantly adversely affect the company because it continued to fill orders and to service accounts from inventory.³² Respondents, however, argue that the strike had a detrimental effect on Slater's performance and financial condition in 1993.³³

Apparent U.S. consumption of hot-rolled stainless steel angle by quantity increased by 4.5 percent from 1991 to 1992 and by 3.1 percent from 1992 to 1993.³⁴ The value of apparent consumption of stainless steel angle, however, fell steadily throughout the period of

²⁰ 19 U.S.C. § 1677(7)(C)(iii).

²¹ CR at I-15; PR at II-9.

²² Mill depots are independent companies that inventory foreign produced steel products and sell them to steel service centers. Prices from mill depots typically include a small price mark up. Tr. at 65.

²³ CR at I-15; PR at II-9. Mill depots generally offer a broader product range than Slater, which does not offer angles over 3 inches. CR at I-40; PR at II-19.

²⁴ CR at I-37; PR at II-18.

²⁵ In any final investigation we intend to seek further information regarding respondents' allegations that Slater has a policy of refusing to sell to small distributors.

²⁶ See Respondents' Postconference Brief at Exhibit 18.

²⁷ In the event of any final investigation we will also seek additional information regarding the terms of contracts between producers, mill depots and steel service centers.

²⁸ Tr. at 63-64; CR at I-33; PR at II-15.

²⁹ CR at I-12 and I-37; PR at II-7, II-18.

³⁰ CR at I-24; PR at II-11; Slater's Annual Report at 9.

³¹ CR at I-47 and Table D-1; PR at II-22.

³² CR at I-17; PR at II-10; Tr at 116.

³³ Tr. at 65.

³⁴ CR at I-13, Table 1.

investigation, dropping by 7.4 percent from 1991 to 1992 and 3.7 percent from 1992 to 1993.³⁵

Domestic production of stainless steel hot-rolled angle increased 26.5 percent from 1991 to 1992, then fell in 1993 by 32.2 percent, resulting in an overall decrease of 14.2 percent.³⁶ Domestic capacity to produce hot-rolled stainless steel angles remained constant throughout the period of investigation.³⁷ Capacity utilization rates for stainless steel angle increased from 1991 to 1992, then decreased in 1993 to a point below 1991 levels.³⁸ Respondents contend that the increase in capacity utilization in 1992 reflects Slater's decision to build up its inventory.³⁹ We will examine this issue more closely in any final investigation.

The domestic industry's U.S. shipments of stainless steel angle by quantity increased from 1991 to 1992 by 11.0 percent, then declined by 13.8 percent in 1993, resulting in an overall decline of 4.3 percent from 1991 to 1993.⁴⁰ Domestic shipments measured by value decreased throughout the period of investigation and were 20.5 percent lower in 1993 than in 1991.⁴¹

The domestic industry's end-of-period inventories of stainless steel angle increased by 195.0 percent from 1991 to 1992, but declined by 45.7 percent from 1992 to 1993, resulting in an overall increase of 60.3 percent from 1991 to 1993.⁴² Inventories as a share of U.S. shipments rose from 7.7 percent in 1991 to 20.3 percent in 1992, then declined to 12.8 percent in 1993.⁴³

Employment in the domestic stainless steel angle industry fell over the period of investigation. The number of production and related workers (PRWs) producing stainless steel angles declined 17.1 percent from 1991 to 1992, then declined an additional 5.9 percent in 1993.⁴⁴ The number of hours worked by PRW producing stainless steel angle declined by 36.3 percent from 1991 to 1993. Wages paid to PRWs also decreased by 32.3 percent from 1991 to 1993.⁴⁵ Hourly total compensation paid to PRWs increased by 10.2 percent during 1991-93. Finally, productivity of PRWs increased by 13.8 short tons per 1,000 hours from 1991 to 1992, but was 2.6 short tons per 1,000 hours lower in 1993 than in 1992.⁴⁶

The domestic industry's indicators of financial performance are somewhat mixed. The stainless steel angle industry experienced a decrease in net sales by both quantity and value over the period of investigation. Net sales by quantity increased by 11.0 percent from 1991 to 1992, then decreased by 13.8 percent from 1992 to 1993, for an overall decrease from 1991 to 1993 of 4.3 percent.⁴⁷ The value of net sales decreased throughout the period of investigation and were 20.8 percent lower in 1993 than in 1991.⁴⁸

Although Slater experienced a steep drop in net sales in 1993 when compared to its 1991 and 1992 levels, its 1993 profit margins were the strongest of any period examined. Gross profits increased by 97.1 percent from 1991 to 1992, then remained constant in 1993. At the same time, the cost of goods sold (COGS) decreased by 25.3 percent over the three

³⁵ *Id.*

³⁶ CR at I-17, Table 2.

³⁷ *Id.*

³⁸ *Id.*

³⁹ Respondents' Postconference Brief at 15-16.

⁴⁰ CR at I-13, Table 1.

⁴¹ CR at I-13, Table 1; CR at Table C-1.

⁴² CR at I-18, Table 4.

⁴³ CR at I-18 and I-19, Table 4. We note that this decline is likely due in part to the five-week strike in 1993, during which Slater sold from inventory.

⁴⁴ CR at I-19 and Table 5.

⁴⁵ CR at I-21 and Table 5.

⁴⁶ *Id.*

⁴⁷ CR at I-23, Table 7.

⁴⁸ *Id.*

year period.⁴⁹ This decline is due in large measure to the decline in raw material costs.⁵⁰ Selling, general and administrative expenses (SG&A) increased nearly 40 percent from 1991 to 1992 before declining 30.5 percent from 1992 to 1993. Thus, SG&A expenses declined 3.1 percent overall during the period examined. Slater's operating income was negative in 1991 and 1992, but positive in 1993, reflecting an increase of 137.7 percent over the period of investigation. We note, however, that Slater reported certain extraordinary charges due to the work stoppage in 1993. These changes were nearly as great as Slater's actual operating income.⁵¹ Slater's ratio of operating income to sales increased by four percentage points over the period of investigation.^{52 53} Finally, capital expenditures fell by 71.4 percent from 1991 to 1993.^{54 55}

IV. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF LTFV IMPORTS

A. Legal Standard

In making a determination in a preliminary antidumping investigation, the Commission is to determine whether there is a reasonable indication that an industry in the United States is materially injured "by reason of" the imports under investigation.⁵⁶ The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."⁵⁷ In making our determination, the Act provides that the Commission:

(i) shall 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; and

(ii) may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.⁵⁸

⁴⁹ Id.

⁵⁰ CR at I-22; PR at II-11.

⁵¹ CR at I-21 to I-25; PR at II-11.

⁵² CR at I-23, Table 7.

⁵³ Commissioner Rohr notes that while the trend in profitability for this industry was positive, in his analysis both the trend and absolute level of the financial indicators are important. The profitability of this industry remained through the period of investigation at levels reflective of material injury.

⁵⁴ CR at I-26, Table 9.

⁵⁵ Based on the foregoing, Chairman Newquist and Commissioner Rohr find a reasonable indication that the domestic industry producing hot-rolled stainless steel angles is experiencing material injury.

⁵⁶ 19 U.S.C. § 1673b(a).

⁵⁷ 19 U.S.C. § 1677(7)(A).

⁵⁸ 19 U.S.C. § 1677(7)(B).

The Commission may also consider alternative causes of injury to the industry other than allegedly LTFV imports, but it is not to weigh causes.^{59 60 61} For the reasons discussed below, we find a reasonable indication that the domestic stainless steel angle industry is materially injured by reason of LTFV imports from Japan.

B. Volume of the LTFV Imports

The statute directs the Commission to consider whether the volume of imports, or any increase in that volume, is significant either in absolute terms, or relative to domestic production or consumption. The volume of subject imports increased from 7,673 short tons in 1991 to 7,773 short tons in 1992 and 8,135 short tons in 1993. In terms of value, subject imports decreased from \$21.97 million in 1991 to \$20.1 million in 1992 and \$19.4 million in 1993. The significance of the volume of subject imports is all the greater because of the much smaller domestic volume of production and shipments relative to subject imports.

In terms of market share, the volume of subject imports accounted consistently for a substantial, although stable, share of the U.S. market. The domestic producer's market share was consistently smaller than that of the subject imports in terms of volume and value throughout the period, although the decline in domestic producer's market share from 1992 and 1993 was greater than the increase in market share held by subject imports.⁶²

C. Price Effects of the Allegedly LTFV Imports

U.S. produced stainless steel angle and Japanese stainless steel angle appear to be relatively substitutable, commodity products. Slater, the sole domestic producer of stainless steel angle, sells the vast majority of its angles to steel service centers on either a mill-direct or "to order" basis, or from inventory.⁶³ Most imported Japanese stainless steel angle is

⁵⁹ See, e.g., Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988). Chairman Newquist, Commissioner Rohr and Commissioner Nuzum further note that the Commission need not determine that imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249 at 57, 74. Rather, a finding that imports are a cause of material injury is sufficient. See, e.g., Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. at 1101.

⁶⁰ For Vice Chairman Watson's views on the proper standard, see Defrost Timers from Japan, Inv. No. 731-TA-643 (Final) at I-9.

⁶¹ Commissioner Crawford notes that the statute requires that the Commission determine whether a domestic industry is "materially injured by reason of" the LTFV imports. She finds that the clear meaning of the statute is to require a determination on whether the domestic industry is materially injured by reason of LTFV imports, not by reason of LTFV imports among other things. Many, if not most, domestic industries are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently is causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than less-than-fair-value imports." S. Rep. No. 249 at 75. However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. *Id.* at 74; H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979). The Commission is not to determine if the LTFV imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249 at 74. Rather, it is to determine whether any injury "by reason of" the LTFV imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987) (emphasis added).

⁶² Vice Chairman Watson and Commissioner Crawford note that despite the significant market share held by the subject imports, there is evidence indicating that non-subject imports may have had a significant impact on the volume and market share losses suffered by the domestic producer.

⁶³ CR at I-37; PR at II-18.

either shipped mill-direct from the Japanese producers to steel service centers, or sold to U.S. mill depots who resell the angle to steel service centers.^{64 65}

We received relatively complete data regarding prices of both imported and domestically produced hot-rolled stainless steel angle in this preliminary investigation. In addition to collecting information regarding Slater's sales to steel service centers, the Commission collected pricing data for sales of Japanese angles to service centers direct from Japanese mills and from mill depots. Price comparisons for mill direct sales (which appear to be increasing in frequency relative to sales from mill depots) reveal that Japanese stainless steel angles were priced below U.S. produced angles in 25 of the 37 instances in which comparisons were possible. The average margin of underselling was 7.3 percent.⁶⁶ In the 12 instances in which the Japanese product oversold the domestic product the average margin of overselling was 3.0 percent.⁶⁷

The Commission was able to compare prices of the domestic product to steel service center with prices for sales to those centers of imports from Japan from mill depots in 39 instances.^{68 69} Such comparisons reveal that the Japanese product undersold the U.S. product in eight instances by an average of 6.7 percent and oversold the U.S. product in 27 instances by an average of 7.3 percent.⁷⁰ We note that the evidence on record with respect to underselling is mixed, and it is difficult to evaluate this evidence because we lack information regarding the relative importance of sales of imports from Japan to service centers through the two channels.⁷¹ Nevertheless, for purposes of this preliminary investigation, we find the degree of underselling to be significant.

The statute directs the Commission, in considering the price effects of subject imports, to consider whether "the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred to a significant degree."⁷² Here, U.S. producer prices for each of the four stainless steel angle products for which the Commission collected data declined between 1991 and 1993.⁷³ Prices of all four Japanese stainless steel angle products sold to U.S. steel service centers from both Japanese mills and from mill depots also declined and did so by a higher percentage than U.S. producer prices.⁷⁴ This indicates that imports from Japan have depressed domestic prices for hot-rolled stainless steel angle to a significant degree. In addition, the Commission's investigation of allegations of lost sales and lost revenues indicated that the domestic industry did lose sales to allegedly LTFV Japanese imports due to

⁶⁴ *Id.* We note that sales to steel service centers by Japanese producers, mill depots and the U.S. producer, Slater, are differentiated by such factors as delivery lead times, minimum quantity purchase requirements, and available product range. CR at I-39; PR at II-19. For example, delivery lead times for Japanese mill-direct sales generally range from three to seven months while those for domestic mill-direct sales run from two to three months and those from mill depots are one to three days.

⁶⁵ Vice Chairman Watson and Commissioner Crawford note that the differences in the pricing data between the Japanese mill direct and mill depot sales may be accounted for, in part, by differences in delivery times and transaction sizes between the two distribution channels. They will seek additional relevant information in any final investigation.

⁶⁶ Commissioner Crawford rarely gives much weight to evidence of underselling since it usually reflects some combination of differences in quality, other nonprice factors, or fluctuations in the market during the period in which price comparisons were sought.

⁶⁷ CR at I-49, Table 17.

⁶⁸ CR at I-50; PR at II-23.

⁶⁹ Commissioner Rohr notes that it is not clear to him at this stage of the investigation whether the most relevant price in the mill depot channel is the price from the mill depot to the service center or the price at which the Japanese exporter sells to the mill depot and he will seek additional information on both prices in any final investigation.

⁷⁰ *Id.* Prices of the two products were within 0.05 percent for the remaining four quarters. *Id.*

⁷¹ As noted previously, we intend to seek such information in any final investigation.

⁷² 19 U.S.C. § 1677(7)(C)(ii).

⁷³ CR at I-46, Tables 13-16.

⁷⁴ CR at I-46; PR at II-21.

the imports' lower prices.⁷⁵ ⁷⁶ We therefore find sufficient information to indicate that the subject imports adversely affected domestic prices.⁷⁷

D. Impact of Allegedly LTFV Imports on Domestic Producers

The evidence concerning the impact of subject imports on the domestic industry is mixed. Certain indicators of the domestic producer's financial performance, such as gross profits levels and operating income, improved over the period of investigation, despite declines in shipments and market share and a five week strike in October 1993.⁷⁸ Other evidence, however, suggests that the principal reason for these financial improvements is the decline in the domestic industry's raw material costs.⁷⁹ Evidence concerning the domestic industry's declining production, shipments, capacity utilization, employment and net sales in the face of increasing consumption of hot-rolled stainless steel angle is indicative of deteriorating performance. The large volume of subject imports coupled with the steady declines in subject import prices and evidence of significant underselling by Japanese mill-direct sales provide a reasonable indication of material injury by reason of the subject imports.

CONCLUSION

For the reasons discussed above, we determine that there is a reasonable indication that the domestic industry producing hot-rolled stainless steel angles is materially injured by reason of the allegedly LTFV imports of hot-rolled stainless steel angles from Japan.

⁷⁵ CR at I-52; PR at II-24.

⁷⁶ Commissioner Crawford does not rely on anecdotal evidence of lost sales and revenues showing that competition for the subject imports caused domestic producers to lose particular sales or forced them to reduce their prices on other sales in reaching her determination.

⁷⁷ Vice Chairman Watson and Commissioner Crawford note that the nominal value of the U.S. dollar has depreciated against the Japanese yen over the period of investigation, making Japanese products in the U.S. relatively more expensive than in the past. Conversely, the U.S. dollar has appreciated against currencies from non-subject countries over the same period, making products from such countries relatively less expensive in the U.S. than in the past. These currency movements make it relatively easier for the non-subject than for subject import suppliers to lower their prices in the U.S.

⁷⁸ Commissioner Rohr notes that he found that despite the improvement, the absolute levels of financial performance reflected material injury.

⁷⁹ For example, the positive margin between domestic unit values over domestic unit costs of goods sold increased in absolute terms over the period of investigation, despite overall declines in both figures. CR at Table C-1.

ADDITIONAL VIEWS OF COMMISSIONER CRAWFORD

In this preliminary investigation, I make an affirmative determination and concur for the most part with the views set forth in the majority opinion. These additional views provide further explanation of my determination of material injury. My analysis follows.

The statute directs that we determine whether there is "material injury by reason of the dumped imports." Thus we are called upon to evaluate the effect of dumped imports on the domestic industry and determine if they have caused material injury. There may be, and often are, other "factors" that are causing injury. These factors may even be causing greater injury than the dumping. However, the statute does not require us to weigh causes, only to determine if the dumping is causing material injury to the domestic industry. It is important, therefore, to assess the effects of the dumped imports in a way that distinguishes those effects from the effects of other factors unrelated to the dumping. To do this, I compare the current condition of the domestic industry to the industry conditions that would have existed had imports been fairly priced.¹ I then determine whether the change in conditions constitutes material injury.

In my analysis of material injury, I evaluate the effects of the dumping. To evaluate the effects of the dumping on domestic prices, I compare domestic prices that existed when the imports were dumped with what domestic prices would have been if the imports had been priced fairly. Similarly, to evaluate the effects of dumping on domestic production, I compare the domestic production that existed when the imports were dumped with what domestic production would have been if the imports had been priced fairly. The combined price and output effect translate into an overall revenue impact. Understanding the impact on the domestic industry's prices, production and overall revenues is critical to determining the state of the industry, because the impact on other industry indicators (e.g. employment, wages, etc.) is derived from the impact on the domestic industry's prices, production, and revenues.

I then determine whether the price, production and revenue effects of the dumping, either separately or together, demonstrate that the domestic industry would have been materially better off if the imports had been priced fairly. If so, I find that the domestic industry is materially injured by reason of dumped imports. For the reasons discussed below, I find that there is a reasonable indication that the domestic industry is materially injured by reason of imports of stainless steel angles from Japan.²

A. Volume of the Allegedly LTFV Imports

I concur in the volume discussion in the majority opinion. As stated, *supra*, the volume and market share of imports from Japan were substantial, both in quantity and value terms, throughout the period of investigation; the Japanese share of the U.S. market was between one- and two-thirds. Moreover, the quantity of subject imports increased during the POI.³ Thus, for purposes of this preliminary investigation, I find the volume of the subject imports and their market share to be significant.

¹ 19 U.S.C. § 1677(7)(C)(iii).

² I have considered and weighed all the evidence in the record in accordance with the holding in American Lamb Co. v. United States, 785 F. 2d. 994 (Fed. Cir. 1986).

³ CR at I-34, Table 11.

B. Effect of Allegedly LTFV Imports on Domestic Prices

To analyze the effect of subject imports on domestic prices of the like product, I consider a number of factors relating to the industry and the nature of the products. These factors include the availability of substitute products in the market, the degree of substitutability between the subject imports and the domestic like product, the presence of fairly traded imports, capacity utilization in the industry, and the portion of end use cost represented by like product.⁴ Consideration of these factors together allows an assessment of whether subject imports, if sold at fairly traded prices, would have permitted the domestic industry to raise its prices. Thus they provide a measure of the price effects of the dumping. For the reasons stated below, I find that the subject imports likely had significant price effects on the domestic stainless steel angle industry.⁵

Had the subject imports not been dumped, they would have sold in the U.S. market at a much higher price. Examining the factors cited above allows an assessment of how purchasers are likely to respond to the higher prices, and particularly whether purchasers of the subject imports would be likely to switch to the domestic like product.⁶ Record evidence indicates that, although some other products could be substituted for stainless steel angles, there are no widely-accepted non-angle substitutes in the market.⁷ Therefore, purchasers of subject angle imports would have been unlikely to increase their purchases of possible substitute products in response to an increase in the price of subject imports.

The degree of substitutability between the subject imports and the domestic like product is reflected by the measure of product differentiation. Purchasers faced with a significant price increase may choose to pay the higher price if the product quality or terms of sale of a particular purchase are sufficiently important. In this case, the record indicates that there are minimal quality differences between Japanese stainless steel angles and domestic angles.⁸ Based on this evidence, I find that domestic angles and subject imports are good substitutes. For this reason, and because of the lack of good non-angle substitutes, I find that purchasers would have bought more domestic angles had the price of subject imports been higher. The shift in demand from subject imports to domestic angles would tend to raise the price received by the domestic producer.

The availability of fairly traded imports is also a factor that affects domestic producer's ability to raise its price. Eight countries other than Japan are on record as exporters of stainless steel angles to the U.S. during the period of investigation. Such alternative sources of supply tend to decrease the ability of the domestic industry to raise

⁴ In this preliminary investigation, there was insufficient information on the portion of end use cost represented by the like product. In any final investigation I will seek additional information on this issue.

⁵ I note that a small percentage of the stainless steel angle imports from Japan are not produced domestically. Since Japan is the only source of these products, they may continue to be sold in the U.S., even when sold at fair prices. However, these products represent less than 15 percent of total Japanese exports to the U.S. CR at I-33; PR at II-15.

⁶ The dumping margins in these preliminary investigations are high enough to make it likely that most of the subject imports would not have entered the domestic market if they had been fairly priced. It is possible that Japanese producers would respond by lowering their home market prices to match their U.S. prices and thereby eliminate LTFV pricing. However, the record indicates that Japanese producers sell nearly four times as much of their production in their home market relative to the U.S. market. Therefore, it is unlikely that they will lower prices in their home market sufficiently to both eliminate dumping and remain price competitive in the U.S. market. CR at I-31; PR at II-16.

⁷ CR at I-39; PR at II-19.

⁸ CR at I-40; PR at II-19.

prices. However, in this case there is only limited information regarding the ability of non-subject import suppliers to increase the flow of their products to the domestic market.⁹

Another important factor is the domestic industry's capacity utilization rate. If subject imports are priced out of the market, a low level of domestic capacity utilization would suggest an ability to increase production to replace the subject imports and thereby maintain current prices. In this investigation, the domestic industry would not have had sufficient available capacity to replace subject imports. The likely net reduction in supply would tend to increase prices.

An additional factor is noteworthy here. Currencies of the home countries of the major sources of non-subject imports have depreciated relative to the U.S. dollar during the POI. Ceteris paribus, this implies that fairly traded imports have become less expensive in U.S. dollar terms. In contrast, the Japanese yen has appreciated relative to the U.S. dollar, thus putting upward pressure on the price of Japanese goods in the U.S. These movements in exchange rates have made it easier for non-subject import suppliers, relative to subject import suppliers, to lower their U.S. prices. This suggests that non-subject, rather than subject, imports were more likely price leaders in the downward movement of domestic prices. I note that the downward movement in prices was facilitated by the substantial fall in materials costs.¹⁰

Imports from Japan accounted for more than one-third of U.S. consumption of stainless steel angles. If subject imports had been traded fairly, they may have been largely priced out of the market. In that situation, the market share held by the subject imports would have been diverted to other suppliers. Because there are non-subject import suppliers, the domestic market may be subject to competitive pressures. However, given the limited information regarding the possibility of increases in non-subject import supply, I have given the benefit of the doubt to petitioners by assuming that non-subject suppliers would not increase their supply to the U.S. market if subject imports were fairly priced. Due to a lack of good non-angle substitutes, and because the subject imports and domestic product are good substitutes, purchasers of the subject imports would likely switch to the domestic product if subject imports were fairly priced. In this case, the available capacity of domestic industry would not be sufficient to completely replace Japanese imports, thereby making a price increase likely. Moreover, the domestic industry consists of only one producer. Such a monopoly suggests the existence of market power that would be likely to allow prices to rise. Therefore I find in this preliminary investigation that the displacement of the large Japanese share of the U.S. market would likely lead to some increase in prices.

C. Impact of Allegedly LTFV Imports on the Domestic Industry

In assessing the impact of LTFV imports on the domestic industry, I consider, among other relevant factors, output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital and research and development.¹¹ These factors either encompass or reflect the volume and price effects of the dumped imports, and so I must gauge the impact of the dumping through those effects.

⁹ I will seek additional information on this issue in any final investigation.

¹⁰ CR at I-47 and C-3; PR at II-22 and C-3.

¹¹ 19 U.S.C. § 1677(C)(iii).

As discussed above, I have assumed that most subject imports would not have been sold in the domestic market at fairly traded prices. I find that the impact of subject imports on the domestic industry would have been on both prices, as discussed above, and the volume of the domestic industry's output and sales.

The domestic industry's capacity utilization rate was below 60 percent in 1993. Therefore, if subject imports had been priced out of the market, the domestic industry would have had sufficient available capacity to significantly increase output. Although it is possible that purchasers would have purchased additional non-subject imports as well as domestic angles to replace subject imports, for purposes of these preliminary investigations I have given petitioners the benefit of the doubt and assumed that the domestic industry would have captured most of the market share of the displaced subject imports.

The domestic industry would have increased its market share significantly if it captured most of the Japanese share. This market share increase and the likely increase in prices are large enough that the domestic industry's output and revenues would have increased significantly. Therefore, I conclude that the domestic industry would have been materially better off if subject imports had been fairly priced. Having weighed the evidence of record, as well as giving petitioners the benefit of the doubt on certain issues, I therefore determine that there is a reasonable indication of material injury by reason of allegedly LTFV imports of stainless steel angles from Japan.

PART II
INFORMATION OBTAINED IN THE INVESTIGATION

INTRODUCTION

On April 8, 1994, petitions were filed with the U.S. International Trade Commission (the Commission) and the U.S. Department of Commerce (Commerce) by counsel on behalf of Slater Steels Corp. (Slater), Fort Wayne, IN.¹ The petition alleges that an industry in the United States is materially injured, and threatened with material injury, by reason of imports of stainless steel angles² from Japan that are allegedly being sold in the United States at less than fair value (LTFV).

Accordingly, effective April 8, 1994, the Commission instituted investigation No. 731-TA-699 (Preliminary) under section 703(a) of the Tariff Act of 1930 (the Act) (19 U.S.C. § 1673(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of the allegedly LTFV imports of stainless steel angles into the United States.

Notice of the institution of this investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of April 14, 1994 (59 F.R. 17790). Commerce published its notice of initiation in the *Federal Register* of May 4, 1994 (59 F.R. 23052).³ The conference was held on April 29, 1994,⁴ and the Commission's vote in the investigation was held on May 18, 1994. The statute directs that the Commission make its determination in this investigation within 45 days after receipt of the petition, or by May 23, 1994.

A summary of the data collected in this investigation is presented in appendix C.

THE PRODUCT

Description

Stainless steel angles are "L"-shaped, hot-finished, stainless steel products.⁵ Their most salient physical characteristic is their shape, a distinctive length of stainless steel uniquely angled at 90 degrees. Angles subject to this investigation do not include angles of unequal leg length or angles produced by processes other than hot-rolling.

Stainless steel angles are produced according to specifications of the American Society for Testing of Materials (ASTM) in a limited number of grades.⁶ Virtually all stainless steel angles are "austenitic," or nickel-bearing stainless steel, commonly referred to as "300 series" stainless steel, principally of grades 304 and 316. The vast majority of stainless steel angles are reportedly between one and three inches in leg length.⁷

Unlike many other stainless steel products, neither appearance nor precise surface tolerances are important characteristics of stainless steel angles. According to petitioner, there is virtually no market for stainless steel angles further worked than hot-rolling, annealing, and descaling.⁸

¹ Slater is also a petitioner in the stainless steel bar antidumping investigations, invs. Nos. 731-TA-678-682, Stainless Steel Bar from Brazil, India, Italy, Japan, and Spain.

² For purposes of this investigation, stainless steel angles are defined as hot-rolled, whether or not annealed or descaled, stainless steel products angled at 90 degrees, that are not otherwise advanced, provided for in subheading 7222.20.30 of the Harmonized Tariff Schedule (HTS) of the United States.

³ Copies of the Commission's and Commerce's notices are presented in app. A.

⁴ A list of participants at the conference is presented in app. B.

⁵ Stainless steels are distinguished from carbon and other alloy steels chiefly by stainless steel's superior resistance to corrosion, brought about primarily by the addition of chromium.

⁶ Grade numbers indicate the chemical content.

⁷ Petition, p. 9.

⁸ Petition, p. 9.

Manufacturing Processes

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

Melting

Most stainless steels produced are melted from scrap in an electric arc furnace (EAF). The scrap charge may consist of stainless steel scrap alone, or may be combined with high-grade carbon steel scrap; additions of alloying agents (including chromium, nickel, and molybdenum), fluorspar, and lime or limestone are made to the liquid steel to impart specific properties to finished steel products or to serve as fluxing agents. The molten steel is poured or tapped from the furnace to a ladle, which is an open-topped, refractory-lined vessel with an off-center opening in its bottom, equipped with a nozzle. Meanwhile, the EAF may be charged with new materials to begin another refining cycle.

Molten stainless steel is typically passed through a ladle metallurgy station, where its chemistry is refined to embody the steel with properties required for specific applications. At the ladle metallurgy (or secondary steelmaking) station, the chemical content is adjusted and alloying agents may be added; the steel may be degassed (the elimination of oxygen and hydrogen); and the temperature of the steel is adjusted for optimal casting. Stainless steelmakers also use processes, such as argon-oxygen decarburization (AOD) and vacuum oxygen decarburization (VOD), to purify the steel.

Casting

Once molten steel with the correct properties has been produced, it is cast into a semifinished form that can enter the rolling process. Stainless steels may be cast into ingots or continuously cast into blooms or billets. Petitioner casts ingots for angles production;⁹ no information is available about respondents' casting practices.

In ingot casting, molten steel is poured from the ladle into ingot molds; in general, ingots are bottom-poured to improve finished steel quality. As the steel begins to solidify, the mold is stripped from the ingot and the ingot is transferred to a soaking pit, a specialized heating furnace that equalizes the temperature within the ingot. Following removal from the soaking pit, the ingots are hot-rolled on a roughing or breakdown mill to intermediate sized blooms and billets.

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

Hot-rolling/Extrusion

Stainless steel angles may be produced using either of two distinct production processes: hot-rolling or extrusion. Only angles produced by hot-rolling are subject to this investigation. According to petitioner, only angles of equal leg length can be produced using the hot-rolling process.¹⁰

Billets to be hot-rolled into angles are generally channeled through a reheat furnace before being transferred to a bar mill for rolling. Most modern rolling mills are in-line. In order to produce the distinctive angle shape, the bar mill must be equipped with specially tooled rolls. As the

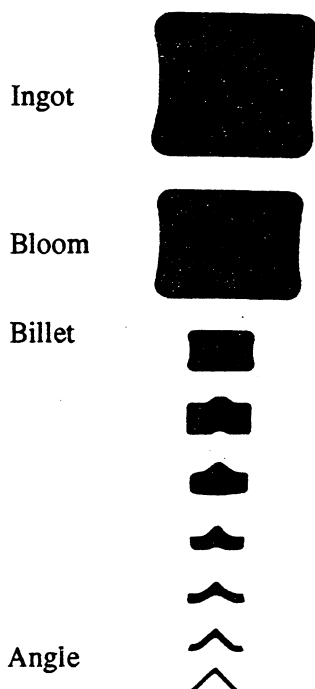
⁹ Commission staff fieldwork, Apr. 15, 1994.

¹⁰ Commission staff fieldwork, Apr. 15, 1994.

billet passes through each successive roll stand, it is slowly deformed into an angular shape (see figure 1). After hot-rolling, angles may be annealed,¹¹ descaled, and straightened.

Angles of both equal and unequal leg length may also be produced using the extrusion process, which involves manufacturing steps that are entirely different from hot-rolling. In extrusion, reheated billets are forced through a die that has been cut to produce the desired size angle. Angles produced by extrusion may in some cases be substitutable for those produced by hot-rolling, but are more expensive and are only produced in relatively small quantities¹² by two U.S. producers.^{13 14} No known U.S. producer produces stainless steel angles using both hot-rolling and extrusion.

Figure 1
Typical stages in hot-rolling angles



Source: Iron and Steel Society, *Hot Rolled Structural Shapes, H-Piles, and Sheet Piling*, Dec. 1991, p. 12.

Uses

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

¹¹ Annealing is a process by which, through controlled heating and cooling, ductility is restored to steel.

¹² Total annual production of stainless steel angles by extrusion was *** short tons in 1993.

¹³ ***.

¹⁴ No known Japanese producer produces stainless steel angles by extrusion.

¹⁵ Petition, p. 10.

¹⁶ Petitioner's postconference brief, p. 4.

Substitute Products

Stainless steel angles are used for distinct end uses and, according to petitioner,¹⁷ are not interchangeable with any other stainless steel product, including other stainless steel structural shapes.¹⁸ Petitioner asserts that because stainless steel is at the apex of the steel angle price chain, it would be economically infeasible to substitute stainless steel angles for carbon steel angles in applications for which the latter are sufficient; conversely, because carbon steel angles lack enhanced corrosion resistance, carbon steel angles are not interchangeable with stainless steel angles.¹⁹

For certain applications, stainless steel angles of unequal leg length may be substitutable for those of equal leg length. However, the extrusion process is generally more costly than hot-rolling, likely minimizing substitution between products produced using the two different processes.²⁰

There may be some limited substitutability between angles of stainless steel and fiberglass. Fiberglass angles are produced in a size range overlapping that of the stainless steel angles subject to this investigation. Similar to stainless steel angles, fiberglass angles are sold almost exclusively through distributors, generally service centers that also stock stainless steel angles. Fiberglass angles are primarily used as support braces in the chemicals industry.²¹

U.S. Tariff Treatment

U.S. imports of subject angles are classified under subheading 7222.40.30 (statistical reporting numbers 7222.40.30.20²² and 7222.40.30.60²³) of the HTS of the United States. The most-favored-nation (MFN) (col. 1-general) rate of duty, applicable to imports of stainless steel angles from Japan and all other MFN countries, is 2.1 percent ad valorem. No imports of angles from Japan are eligible for duty-free entry under any preference program.

Voluntary Restraint Agreements

Between October 1, 1989 and March 31, 1992, imports of steel structural products from Japan, including the products subject to this investigation, were subject to quantitative limitations under Voluntary Restraint Agreements (VRAs) negotiated with 16 foreign governments and the European Community.²⁴ The VRAs extended previous relief granted to the specialty steel industry

¹⁷ Petition, p. 10.

¹⁸ Petitioner's postconference brief, p. 8.

¹⁹ Petition, p. 10.

²⁰ Petitioner's postconference brief, p. 9.

²¹ Company official, Morrison Molded Fiber Glass Company (Bristol, VA), Commission staff telephone conversation, Apr. 21, 1994.

²² Angles of stainless steel, hot-rolled, not drilled, not punched and not otherwise advanced, with a maximum cross-sectional dimension of 76 mm or more.

²³ Angles of stainless steel, hot-rolled, not drilled, not punched and not otherwise advanced, with a maximum cross-sectional dimension of less than 76 mm.

²⁴ The restraint limits discussed in this section are more accurately defined as export limits because the countries under agreement controlled their shipments of exports in lieu of U.S. import quotas.

and included carbon and alloy steel products.²⁵ No known previous relief had been granted to stainless steel angles.

THE NATURE AND EXTENT OF ALLEGED SALES AT LTFV

On the basis of comparisons of the United States price (USP) with the foreign market value (FMV), the petitioner estimated LTFV margins to be as follows (*in percent ad valorem*):

<u>Manufacturer</u>	<u>Average margin</u>
Aichi	50.50
Daido	50.48
Sumitomo	50.56

Petitioner based USP on a price sheet obtained from a U.S. importer of Japanese stainless steel angles. The list included sales of grades 304, 304L, 316, and 316L during November 1993.²⁶ The terms of sale were reportedly duty paid loaded onto trucks at East Coast, West Coast, Great Lakes, or Gulf Coast docks. Petitioner calculated net USP for these sales by subtracting the applicable 2.1 percent ad valorem duty rate, ocean freight, marine insurance, and the combined 0.315 percent harbor maintenance and U.S. merchandise processing fee. Petitioner based FMV on home market price quotes for identical merchandise from the three Japanese producers, adjusting for inland freight expenses and credit costs.

THE U.S. MARKET

Apparent U.S. Consumption

Data on apparent consumption of stainless steel angles are presented in table 1. Total U.S. consumption, by quantity, increased by *** percent from 1991 to 1993. In terms of value, total U.S. consumption fell by *** percent from 1991 to 1993. The increase in quantity of stainless steel angles reflects a larger trend in the stainless steel industry. U.S. stainless steel consumption rose to an estimated 18 pounds per capita in 1993 from 12 to 15 pounds per capita during 1991-92. Even with higher initial costs, stainless steel products are becoming increasingly popular due to their lower maintenance costs. The United States has traditionally ranked low in per capita use of stainless steel products, but as more U.S. companies compare the cost savings over the lifespan of their products, many are opting to purchase stainless steel.²⁷ In addition, growing concern about the environment has caused the U.S. Government to implement more stringent regulations that demand corrosive materials be treated in facilities made of stainless steel to prevent corrosion and leakage.²⁸ Total

²⁵ 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 nontariff barriers to steel trade, and to incorporate a binding arbitration mechanism; the bilateral consensus agreements were to be multilateralized within the General Agreement on Tariffs and Trade through incorporation in the Uruguay Round of negotiations. U.S. Trade Representative, press release, Dec. 12, 1989, and accompanying Steel Trade Liberalization Program Fact Sheet. As envisioned, negotiations were to be completed by Dec. 1990, with the new agreement called the Multilateral Steel Agreement (MSA). On Mar. 31, 1992, negotiations on a MSA were suspended without agreement, although considerable progress had been made. Negotiators have reportedly agreed to continue to meet bilaterally and multilaterally, but no specific time schedule has been set.

²⁶ Grades 304L and 316L include lead as an additive.

²⁷ "Market Development Proves an Uphill Battle," *American Metal Market*, Apr. 12, 1994, p. 18A.

²⁸ Conference transcript, p. 41.

Table 1

Stainless steel angles: U.S. shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 1991-93

Item	1991	1992	1993
<i>Quantity (short tons)</i>			
Producer's U.S. shipments	***	***	***
U.S. imports from--			
Japan	7,673	7,773	8,135
Other sources	3,518	3,570	4,589
Total	11,190	11,343	12,724
Apparent consumption	***	***	***
<i>Value (1,000 dollars)</i>			
Producer's U.S. shipments	***	***	***
U.S. imports from--			
Japan	21,967	20,097	19,431
Other sources	9,588	8,312	10,371
Total	31,556	28,409	29,801
Apparent consumption	***	***	***

Note.--Because of rounding, figures 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.

domestic consumption of stainless steel angles is expected to continue to increase as the economy continues to improve and new applications for stainless steel products proliferate.

U.S. Producer

Slater, a wholly owned subsidiary of Slater Industries, Inc.,²⁹ of Toronto, Canada, is the sole U.S. producer of hot-rolled stainless steel angles. Its operations, which consist of a melt facility, two rolling mills, finishing equipment, and a distribution warehouse, are located in Fort Wayne, IN. The minimill was purchased by Slater Industries in 1981 from Joslyn Manufacturing Co., which had been running the mill since 1903. In addition to stainless steel angles, Slater produces a variety of bar products from stainless steel, special corrosion- and heat-resistant alloy steel, valve steel, and low-alloy steel for use in industrial products, capital goods, and automotive industries. These bar products are manufactured in a variety of sizes and shapes, including rounds, flats, hexagons, and squares. Stainless steel angles accounted for about *** percent of Slater's net sales during 1993, while stainless steel bar products accounted for about *** percent. Additional products manufactured at Slater include electroslag remelted steels and automotive exhaust-valve steel.

²⁹ In addition to the Fort Wayne facility, Slater Industries operates two Canadian minimills located in Hamilton, Ontario and Sorel, Quebec. The company also operates a flat rolled steel service center (Renown Steel), produces hardware for the utility and telecommunications industries (SLACAN), and operates a transport truck service center (Melburn Truck Lines, Inc.). Stainless steel angles are produced only at the Fort Wayne division.

U.S. Importers

Questionnaires were sent to 11 firms named in the petition and in the Customs Net Import File as importing stainless steel angles from Japan. Of the 11 firms, 10 responded to the Commission's request for information, accounting for about 94 percent of U.S. imports from Japan during 1993. The largest importer of stainless steel angles from Japan is KG Specialty Steel (KG), a wholly owned subsidiary of Kanematsu USA. KG is the exclusive importer and distributor of stainless steel angles produced by Aichi Steel Works, the largest Japanese producer of the subject product.³⁰ The remaining U.S. importers of stainless steel angles from Japan are primarily large trading companies that import a broad range of steel products. Of the nine responding trading companies, *** are among the largest.

Channels of Distribution

In the U.S. market, sales of stainless steel angles were made almost exclusively through the steel service center distributor network. Only *** percent of the U.S. producer's U.S. shipments and no imports from Japan were sold directly to end users. In this market, steel service centers do not perform any further processing; they primarily act as distributors by buying and inventorying products that are typically of commercial quality and reselling them to U.S. customers.³¹ Japanese stainless steel angles are generally sold through additional distributors known as mill depots. Mill depots maintain large inventories and stock specialty products for sale to service centers. The role of the mill depots is to meet the inventory needs of service centers by supplying a full product line and next-week deliveries. They essentially act as a bridge between the long lead times associated with importing product from Japan and the commercial requirements of customers who need product in a short time period.³² Three mill depots are known to sell Japanese stainless steel angles: KG, Distributor Metals Corp., and Amcan Specialty Steels, Inc. KG, of North Brunswick, NJ, is the largest with seven mill depot warehouses throughout the United States. Distributor Metals, of Santa Fe Springs, CA, and Amcan, of Hermitage, PA, operate two and five mill depot warehouses, respectively.³³

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

The information provided in this section of the report is based on the questionnaire response of Slater, which accounted for virtually all U.S. production of hot-rolled stainless steel angles during 1991-93.³⁴

U.S. Capacity, Production, and Capacity Utilization

***³⁵ As indicated in table 2, Slater's average-of-period capacity to produce stainless steel angles

U.S. production increased by *** percent between 1991 and 1992 but fell by *** percent between 1992 and 1993, accounting for a ***-percent decline during 1991-93. Slater reported a five-week disruption of its production of stainless steel angles during 1993 due to a labor strike. During the strike, Slater continued to fill orders and service accounts with the inventory it had on hand.³⁶ Average-of-period capacity utilization increased from *** percent in 1991 to *** percent in 1992, but declined to *** percent in 1993.

³⁰ Conference transcript, p. 76.

³¹ Conference transcript, p. 38.

³² Conference transcript, p. 65.

³³ Respondents' postconference brief, exh. 19.

³⁴ Two firms are known to produce stainless steel angles by extrusion. ***.

³⁵ Staff conversation with ***.

³⁶ Petition, p. 14.

Table 2

Stainless steel angles: U.S. capacity, production, and capacity utilization, 1991-93

* * * * *

U.S. Producer's Shipments

As indicated in table 3, Slater's total U.S. shipments of stainless steel angles by quantity increased by *** percent from 1991 to 1992 but declined by *** percent from 1992 to 1993, accounting for a ***-percent decline during 1991-93. ***.

Table 3

Stainless steel angles: Total shipments by the U.S. producer, 1991-93

* * * * *

U.S. Producer's Inventories

Slater's end-of-period inventories of stainless steel angles are presented in table 4. These inventories increased by *** percent from 1991 to 1992, but declined by *** percent from 1992 to 1993, accounting for a ***-percent increase during 1991-93. The increase in 1992 reflects Slater's strategy to improve lead-time efficiency. During 1991, Slater reengineered its information system and implemented a plant-wide computer-integrated manufacturing system. In addition, Slater updated its warehouse facility to accommodate a larger stock of inventory. With these investments, Slater increased inventory, enabling it to improve its on-time delivery rating from an industry average of about 50 percent to nearly 90 percent.³⁷ ***. The ratio of Slater's inventories to its total shipments increased from *** percent in 1991 to *** percent in 1992 but declined to *** percent in 1993.

Table 4

Stainless steel angles: End-of-period inventories of the U.S. producer, 1991-93

* * * * *

Employment, Wages, and Productivity

Slater's employment and productivity data are presented in table 5. The number of production and related workers (PRWs) producing stainless steel angles declined *** percent in 1992 and dropped an additional *** percent in 1993. ***. During the fall of 1993, all of Slater's PRWs went on strike for five weeks, causing a near stoppage of the plant's production of steel products. The strike ended with the signing of a collective bargaining agreement with the union employees in November 1993. The agreement, which covers about 545 employees, expires in May 1995.

The number of hours worked by PRWs producing stainless steel angles declined by *** percent from 1991 to 1993, partially as a result of the 1993 strike. Wages paid to PRWs by Slater decreased by *** percent from 1991 to 1993, reflecting the reduction in hours worked. Hourly total compensation paid to Slater's PRWs increased from \$*** in 1991 to \$*** in 1992 and \$*** in 1993. Productivity of PRWs increased by *** short tons per 1,000 hours from 1991 to 1992 but declined *** short tons per 1,000 hours between 1992 and 1993.

³⁷ Slater Industries, Inc., Preliminary Prospectus, Mar. 25, 1994.

Table 5

Average number of total employees and production and related workers in the U.S. establishment wherein stainless steel angles are produced, hours worked, wages and total compensation paid to such employees, and hourly wages, productivity, and unit production costs, by products, 1991-93

* * * * *

Financial Experience of the U.S. Producer

Financial information was provided on stainless steel angles operations in addition to overall establishment operations by the sole U.S. producer.³⁸ These data, representing 100 percent of 1993 production of hot-rolled stainless steel angles, are presented in this section.

Overall Establishment Operations

Income-and-loss data on Slater's overall establishment operations are presented in table 6. The U.S. producer is a subsidiary of Slater Industries, a Canadian diversified industrial company. In addition to stainless steel angles, the Fort Wayne operation produces a variety of bar products. As a percentage of 1993 overall net sales, Slater's net sales of U.S.-produced stainless steel angles were *** percent.

Table 6

Income-and-loss experience of Slater on the overall operations of its establishment wherein stainless steel angles are produced, fiscal years 1991-93

* * * * *

Operations on Stainless Steel Angles

Income-and-loss data for Slater's stainless steel angles operations are presented in table 7. Although Slater experienced a *** in net sales in 1993 compared to the 1991 and 1992 levels, the 1993 *** were the *** of any period. In fact, 1993 was the only year for a positive operating margin, ***. The improvement in the 1993 operating margin is largely due to the reduction in raw material prices. On a per-ton basis, the raw material cost decreased by ***. Slater's principal raw material is scrap with a high nickel content. According to *Metals Week*,³⁹ stainless steel scrap decreased from \$969 per ton in 1991 to \$590 per ton in 1993.

Slater's market strength depends to a great extent on its ability to save on raw material costs, and the ability to pass on increases in costs to the customer.⁴⁰ According to Slater's 1992 Annual Report, the downward pressure on selling prices caused by the effects of the recession and increased import penetration due to the removal of the VRAs resulted in a large downturn in earnings and cash flow at Fort Wayne in 1992.⁴¹ ***. The per-unit values of the major components of the cost of goods sold are presented in the following tabulation (*in dollars per ton*):

* * * * *

³⁸ Slater Steels--Fort Wayne Specialty Alloys.

³⁹ Respondents' exh. 1.

⁴⁰ Slater Industries 1992 Annual Report, p. 9.

⁴¹ Slater Industries 1992 Annual Report, p. 6. However, its earnings and cash flow on stainless steel angles improved in 1992.

Table 7

Income-and-loss experience of Slater on its operations producing stainless steel angles, fiscal years 1991-93

* * * * *

A five-week strike in the fourth quarter in 1993, as indicated in a March 2, 1994, press release, severely impacted earnings in the fourth quarter of 1993. However, Slater indicated in the public version of the petition that this labor action had no material impact on the firm's operating or financial data for 1993.⁴²

Investment in Productive Facilities

The value of property, plant, and equipment and total assets for Slater, in addition to the return on total assets, are presented in table 8.

Table 8

Value of assets and return on assets of Slater's operations producing stainless steel angles, fiscal years 1991-93

* * * * *

Capital Expenditures

The capital expenditures reported by Slater are presented in table 9.

Table 9

Capital expenditures by Slater for all products and for stainless steel angles, fiscal years 1991-93

* * * * *

Contrary to Slater's assertion that capital expenditures are down because of the negative impact of imports on profitability, the respondents believe that the decrease is due to tightened debt requirements by Slater's bankers, largely as the result of ill-advised capital investments made prior to the period of investment.⁴³ Slater's 1992 annual report indicates that the loan agreement with the company's principal banker was amended to reduce the revolving term facility from \$25 million to \$20 million. The amendment also included a temporary one quarter percent add-on to the interest rates.⁴⁴

Research and Development Expenses

Slater indicated ***.

Capital and Investment

The Commission requested Slater to describe any actual or potential negative effects of imports of stainless steel angles from Japan on its existing development and production efforts

⁴² Petition, p. 14.

⁴³ Conference transcript, pp. 30 and 73.

⁴⁴ Slater Industries, Inc., 1992 Annual Report, p. 15.

(including efforts to develop a derivative or improved version of stainless steel angles). Slater's response is presented below.

Actual negative effects

* * * * *

Anticipated negative effects

(See "actual effects" above.)

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

Section 771(7)(F)(i) of the Act (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 the merchandise, the Commission shall consider, among other relevant economic factors⁴⁵--

- (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,

⁴⁵ 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 706 or 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.⁴⁶

The available 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 the 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), (VIII) and (IX) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets, follows. Other threat indicators have not been alleged or are otherwise not applicable.

Mill Depots' Inventories

Of the responding importers, KG, also a mill depot, was the only firm to report any inventories of stainless steel angles from Japan. The other importers are large trading companies that are the importers of record for either the mill depots or steel service centers and do not maintain inventories. Since the majority of stainless steel angles from Japan are inventoried at mill depots, the Commission requested inventory data from the three known mill depots that carry Japanese stainless steel angles. KG and Distributor Metals provided the following information regarding end-of-period inventories. The two companies inventoried *** short tons of Japanese stainless steel angles in 1991, *** in 1992, and *** in 1993.

U.S. Importers' Current Orders

Reported orders for Japanese stainless steel angles that U.S. importers have placed for delivery after December 31, 1993, totaled 4,100 short tons. Orders were placed by six U.S. importers of Japanese material that provided import data in response to the Commission's questionnaire. Deliveries on these orders are scheduled through the end of 1994.

⁴⁶ 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."

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

The three Japanese producers, Aichi Steel Works, Ltd. (Aichi), Daido Steel Co., Ltd. (Daido), and Sumitomo Metal Industries, Ltd. (Sumitomo), provided the Commission with complete responses regarding their capacity, production, and shipment data. As indicated in table 10, reported capacity remained stable throughout the period for which data were collected. In response to petitioner's allegation that Sumitomo was planning to increase capacity,⁴⁷ Sumitomo noted ***.⁴⁸ For the three companies, production also remained fairly stable during 1990-93. Capacity utilization rates remained high during the period of investigation; in fact, they were above 100 percent in every period reported. ***.⁴⁹ Accounting for 15.8 percent of total shipments in 1993, exports to the United States increased 20.8 percent during 1991-93. Home market shipments decreased during 1991-92 but increased slightly during 1992-93, and are projected to increase in 1994 and 1995. Counsel for Japan argue that recent increases in home market shipments reflect a rebounding Japanese economy. As the economy continues to improve, home market shipments are expected to increase even more, displacing some exports to the United States.⁵⁰

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

U.S. Imports

U.S. imports of stainless steel angles are presented in table 11. The Commission sent importers' questionnaires to 11 firms believed to be importing stainless steel angles from Japan. Responses with usable data were received from 10 U.S. importers, which accounted for about 94 percent of the quantity of imports from Japan in 1993 as reported in the official U.S. import statistics. Since the HTS subheadings are precise, data in this section regarding the quantity and value of U.S. imports of stainless steel angles are based on the official U.S. import statistics.⁵¹ There were no reported imports of stainless steel angles from Japan by the U.S. producer during the period for which data were collected.

Imports of stainless steel angles from Japan increased by 6.0 percent during 1991-93. In terms of value, such imports declined by 11.5 percent. Accordingly, unit values of imports from Japan fell by 16.6 percent between 1991 and 1993.

Respondents argue that approximately 15 percent of total subject imports were of sizes that cannot be made by the domestic industry.^{52 53} Slater does not manufacture angles over 3 inches in leg length, nor 3-inch angles with thickness of 3/16 or 1/2 inch. Since the size of the angle is determined by the finished product's structural requirements, counsel for Japan argue that there is no substitutability between angles of different cross dimensions or thicknesses. Respondents argue that imports of these products did not compete with the U.S. product and could not be the source of any injury to the U.S. industry.⁵⁴ Petitioner argues that the statute does not require that imports and the domestic product be competitive and substitutable across the full product line. Petitioner notes that by respondents' claiming 15 percent of Japanese imports do not compete with the domestic product,

⁴⁷ Petition, p. 23.

⁴⁸ Respondents' postconference brief, p. 62.

⁴⁹ ***. (Respondents' postconference brief, p. 61.)

⁵⁰ Respondents' postconference brief, p. 60.

⁵¹ Both petitioner and respondents agree that the official U.S. import statistics provide a reliable source of import data for stainless steel angles from Japan.

⁵² Conference transcript, p. 64.

⁵³ Foreign producer questionnaires show that *** percent of Japanese exports to the United States were products that Slater does not produce.

⁵⁴ Conference transcript, p. 76.

Table 10

Stainless steel angles: Japan's capacity, production, inventories, capacity utilization, and shipments, 1991-93 and projected 1994-95

Item	1991	1992	1993	Projected--	
				1994	1995
	Quantity (<i>short tons</i>)				
Capacity	52,440	52,440	52,440	52,440	52,440
Production	53,280	54,360	53,250	52,700	53,570
End-of-period inventories	5,440	6,460	6,430	5,900	5,890
Shipments:					
Home market	35,270	32,790	33,190	34,470	35,340
Exports to--					
The United States	6,960	7,480	8,410	7,230	7,230
All other markets	10,510	13,070	11,690	11,010	11,010
Total exports	17,470	20,550	20,100	18,240	18,240
Total shipments	52,740	53,340	53,290	52,710	53,580
	Ratios and shares (<i>percent</i>)				
Capacity utilization	101.6	103.7	101.5	100.5	102.2
Inventories to production	10.2	11.9	12.1	11.2	11.0
Inventories to total ship-					
ments	10.3	12.1	12.1	11.2	11.0
Share of total quantity of					
shipments:					
Home market	66.9	61.5	62.3	65.4	66.0
Exports to--					
The United States	13.2	14.0	15.8	13.7	13.5
All other markets	19.9	24.5	21.9	20.9	20.5

Note.--Capacity utilization and inventory ratios are calculated from data of firms providing both numerator and denominator information.

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

Table 11
Stainless steel angles: U.S. imports, by sources, 1991-93

Item	1991	1992	1993
<i>Quantity (short tons)</i>			
Japan	7,673	7,773	8,135
Other sources	3,518	3,570	4,589
Total	11,190	11,343	12,724
<i>Value (1,000 dollars)</i>			
Japan	21,967	20,097	19,431
Other sources	9,588	8,312	10,371
Total	31,556	28,409	29,801
<i>Unit value (per short ton)</i>			
Japan	\$2,863	\$2,585	\$2,389
Other sources	2,726	2,328	2,260
Average	2,820	2,504	2,342
<i>Share of total quantity (percent)</i>			
Japan	68.6	68.5	63.9
Other sources	31.4	31.5	36.1
Total	100.0	100.0	100.0
<i>Share of total value (percent)</i>			
Japan	69.6	70.7	65.2
Other sources	30.4	29.3	34.8
Total	100.0	100.0	100.0

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

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

they have conceded that the remaining 85 percent of Japanese imports compete directly with the U.S. product, and that amount is sufficient by any standard of competition.^{55 56}

Market Penetration by the Subject Imports

Market shares based on the U.S. producer's shipments and U.S. imports are presented in table 12. ***.

Respondents note that Japan has historically (over 20 years) maintained a large share of the domestic stainless steel angle market. They argue that Japan's presence over that period reflects the domestic industry's insufficient capacity to supply the U.S. market.⁵⁷ Petitioner argues that the high levels of Japanese import competition have hurt Slater financially and forced it to postpone crucial capital improvement projects, thus threatening its continued ability to compete in the U.S. stainless steel angle market.⁵⁸

Table 12

Stainless steel angles: Apparent U.S. consumption and market penetration, 1991-93

* * * * *

Prices

Marketing Considerations

Stainless steel angles are most often used as a support or brace in the construction of stainless steel structures such as tanks, pipelines, and vats for the food, beverage, and chemical processing industries.⁵⁹ Therefore, demand for stainless steel angles depends on industrial demand for the products that use stainless steel angles in their construction. Demand for stainless steel angles has increased during 1991-93, largely due to the general economic recovery in the United States and stricter environmental regulations requiring corrosive materials to be held in stainless steel containers.⁶⁰

Slater is the only significant U.S. producer of stainless steel angles. Slater sells the vast majority of its stainless steel angles to steel service centers on either a mill-direct basis or from inventory.⁶¹ Most imported Japanese stainless steel angles are either shipped mill-direct from the Japanese producers to steel service centers, or sold to U.S. mill depots who resell the angles to steel service centers.⁶²

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

⁵⁵ Petitioner's postconference brief, pp. 23-24.

⁵⁶ Petitioner reports that an investment totalling *** would be required to produce stainless steel angle over 3 inches in leg length. (Petitioner's postconference brief, exh. 1)

⁵⁷ Respondents' postconference brief, p. 5.

⁵⁸ Petitioner's postconference brief, pp. 13-14.

⁵⁹ Conference transcript, p. 15.

⁶⁰ Conference transcript, p. 40.

⁶¹ Slater reported that, during 1993, approximately *** percent of its stainless steel angle sales were shipped mill-direct, while the remaining *** percent were sold from inventory.

⁶² During 1991-93, *** percent of U.S. shipments of imported Japanese stainless steel angle products for which pricing data were reported were mill-direct sales, whereas *** percent were sold from inventory through U.S. mill depots.

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

* * * * *

Slater and the responding mill depots and importers agree that, in practice, there are no viable substitute products for stainless steel angles of equal leg length. In general, stainless steel angles of unequal leg length cannot be substituted for stainless steel angles of equal leg length because of customer specifications that require particular angle dimensions. Customers typically do not substitute carbon steel angles for stainless steel angles because of the dramatic differences in price, strength, and corrosion resistance between the two types of products.

Product Comparisons

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

For many purchasers, just-in-time delivery and small minimum quantity purchase requirements are important factors. Since stainless steel angles are relatively expensive items,⁶³ they have relatively high inventory carrying costs.⁶⁴ Because of the high inventory carrying costs, steel service centers (particularly smaller ones) prefer to be able to buy smaller quantities of angles that can be delivered to their sites within a few days, as opposed to being forced to inventory large bulk orders that require lead times of up to seven months.

* * * * *

The mill depots generally offer a broader product range than Slater. KG, the largest mill depot, offers 28 different sizes of imported Japanese stainless steel angles, as opposed to the 22 different sizes of U.S.-produced angles offered by Slater. In particular, KG offers large stainless steel angles (seven different products ranging in size from 3" x 3" x 1/2" to 4" x 4" x 1/2") not offered by Slater.⁶⁵

Slater, the two responding mill depots, and the majority of the responding importers agree that quality differences between the U.S.-produced and imported Japanese stainless steel angle products are not significant. One importer reported that the overall quality of its imported Japanese material was better than the domestic product and that its customers paid a premium for the Japanese angles. Another importer reported that its imported Japanese angles had better surface finishes and tolerances than the domestic product.

Questionnaire Price Data

The Commission requested U.S. producers, importers of Japanese stainless steel angles, and U.S. mill depots that resell the imported Japanese subject product to provide U.S. f.o.b. prices and total quantities and values of four representative stainless steel angle products. For each product listed below, the Commission requested price data for the largest sale to unrelated U.S. steel service centers for each quarter during January 1991-December 1993.

⁶³ While stainless steel angles sell for over \$2,000 per ton, the same types of carbon steel angles may be available at \$350 per ton. Conference transcript, p. 81.

⁶⁴ Conference transcript, p. 82.

⁶⁵ Slater maintains that sales of these product sizes constitutes less than 5 percent of the total stainless steel angle market. Respondents maintain that these sales account for 15 percent of the market.

- Product 1: **Grade 304 hot-rolled, annealed, and descaled stainless steel 90-degree angle, 3/4" x 3/4" x 1/8"**
- Product 2: **Grade 304 hot-rolled, annealed, and descaled stainless steel 90-degree angle, 1" x 1" x 1/8"**
- Product 3: **Grade 304 hot-rolled, annealed, and descaled stainless steel 90-degree angle, 2" x 2" x 1/4"**
- Product 4: **Grade 316 hot-rolled, annealed, and descaled stainless steel 90-degree angle, 2" x 2" x 1/4".**

Slater, eight importers, and two mill depots provided pricing data, although not necessarily for all products or quarters during January 1991-December 1993. Slater accounted for virtually all of the reported U.S. shipments of U.S.-produced stainless steel angles in 1993. The responding importers and mill depots accounted for 94 percent of U.S. shipments of imported Japanese stainless steel angles. Weighted-average f.o.b. prices for sales by Slater, mill-direct sales by importers, and inventory sales by mill depots of U.S.-produced and imported Japanese products 1-4 are presented in tables 13-16 and figures 2-5.

Table 13

Stainless steel angles: Weighted-average net f.o.b. prices and total quantities of U.S.-produced and imported Japanese product 1 sold to steel service centers, by quarters, Jan. 1991-Dec. 1993

* * * * * * *

Table 14

Stainless steel angles: Weighted-average net f.o.b. prices and total quantities of U.S.-produced and imported Japanese product 2 sold to steel service centers, by quarters, Jan. 1991-Dec. 1993

* * * * * * *

Table 15

Stainless steel angles: Weighted-average net f.o.b. prices and total quantities of U.S.-produced and imported Japanese product 3 sold to steel service centers, by quarters, Jan. 1991-Dec. 1993

* * * * * * *

Table 16

Stainless steel angles: Weighted-average net f.o.b. prices and total quantities of U.S.-produced and imported Japanese product 4 sold to steel service centers, by quarters, Jan. 1991-Dec. 1993

* * * * * * *

Figure 2

Stainless steel angles: Weighted-average net f.o.b. prices of U.S.-produced and imported Japanese product 1 sold to steel service centers, by quarters, Jan. 1991-Dec. 1993

* * * * *

Figure 3

Stainless steel angles: Weighted-average net f.o.b. prices of U.S.-produced and imported Japanese product 2 sold to steel service centers, by quarters, Jan. 1991-Dec. 1993

* * * * *

Figure 4

Stainless steel angles: Weighted-average net f.o.b. prices of U.S.-produced and imported Japanese product 3 sold to steel service centers, by quarters, Jan. 1991-Dec. 1993

* * * * *

Figure 5

Stainless steel angles: Weighted-average net f.o.b. prices of U.S.-produced and imported Japanese product 4 sold to steel service centers, by quarters, Jan. 1991-Dec. 1993

* * * * *

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

F.o.b. prices for mill-direct and inventory sales of U.S.-produced products 1-4 declined during January 1991-December 1993. ***.

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

F.o.b. prices for mill-direct sales of imported Japanese products 1-4 also declined during January 1991-December 1993. ***.

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

F.o.b. prices for mill depot sales of imported Japanese products 1-4 similarly declined during January 1991-December 1993. ***.

Input costs

Respondents maintain that price declines in raw materials costs are "the driver" behind declines in the prices for U.S.-produced stainless steel angles.⁶⁶ Petitioner allows that prices for U.S.-produced stainless steel angles and raw materials costs may be correlated, but maintains that the

⁶⁶ Conference transcript, p. 67.

true driving force behind the falling prices for U.S.-produced stainless steel angles are the declining prices for Japanese imports.⁶⁷

Quarterly indexes of constructed prices for stainless steel scrap⁶⁸ and of prices for U.S.-produced product 3 (by far the most popular of the four products for which pricing data were reported) are shown in figure 6. Prices for U.S.-produced product 3 declined *** during January 1991-December 1993. Stainless steel scrap prices also fell consistently, but declined by 35 percent over the same period.

Figure 6

Indexes of the average cost of stainless steel scrap used in the production of stainless steel angles and prices for U.S.-produced product 3, by quarters, Jan. 1991-Dec. 1993

* * * * *

Price comparisons for mill-direct sales of imported Japanese stainless steel angles

The reported price data for mill-direct sales of imported Japanese stainless steel angles during January 1991-December 1993 allowed 37 f.o.b. price comparisons. Imported Japanese stainless steel angles were priced below U.S.-produced angles in 25 instances by an average of 7.3 percent and were priced above in the remaining 12 instances by an average of 3.0 percent (table 17). Prices for mill-direct sales of imported Japanese product 1 were below prices for U.S. product 1 in all four available quarters by an average of 16.7 percent. The imported Japanese product 2 was priced below the U.S. product 2 in eight quarters by an average of 10.4 percent and above in the remaining four quarters by an average of 2.2 percent. Prices for imported Japanese product 3 were below prices for U.S. product 3 in eight quarters by an average of 1.7 percent and was priced above in four quarters by an average of 2.0 percent. Imported Japanese product 4 was priced below U.S. product 4 in five quarters by an average of 3.6 percent, and was priced above in four quarters by an average of 4.8 percent.

Table 17

Stainless steel angles: Japanese margins of underselling/(overselling) for mill-direct sales of products 1-4 by importers to steel service centers, by quarters, Jan. 1991-Dec. 1993¹

* * * * *

Price comparisons for mill depot sales of imported Japanese stainless steel angles

In general, price comparisons between mill depot sales of imported Japanese stainless steel angles and sales of the domestic product indicated overselling, as opposed to the underselling indicated by the price comparisons between mill-direct sales of imported Japanese angles and sales of the domestic product. The reported price data for mill depot sales of the imported Japanese subject product during January 1991-December 1993 resulted in 39 f.o.b. price comparisons. Imported Japanese stainless steel angles were priced below U.S.-produced angles in 8 instances by an average of 6.7 percent, above in 27 instances by an average of 7.3 percent, and within 0.05 percent in the remaining 4 quarters (table 18). Prices for mill depot sales of imported Japanese product 1 were

⁶⁷ Petitioner reported that total raw materials costs accounted for *** percent of the total cost of goods sold during 1991, 1992, and 1993, respectively. Petitioner's postconference brief, exh. 1.

⁶⁸ ***. Quarterly prices for the four major stainless steel scrap components are presented in table D-1 of app. D.

below prices for U.S. product 1 in all four available quarters by an average of 9.5 percent. The imported Japanese product 2 was priced below the U.S. product 2 in two quarters by an average of 5.7 percent, above in nine quarters by an average of 6.5 percent, and within 0.05 percent in the remaining quarter. Prices for imported Japanese product 3 were below prices for U.S. product 3 in two quarters by an average of 2.4 percent, above in seven quarters by an average of 4.1 percent, and within 0.05 percent in the remaining three quarters. Imported Japanese product 4 was priced above U.S. product 4 in all 11 available quarters, by an average of 9.9 percent.

Table 18

Stainless steel angles: Japanese margins of underselling/(overselling) for inventory sales of products 1-4 by mill depots to steel service centers, by quarters, Jan. 1991-Dec. 1993¹

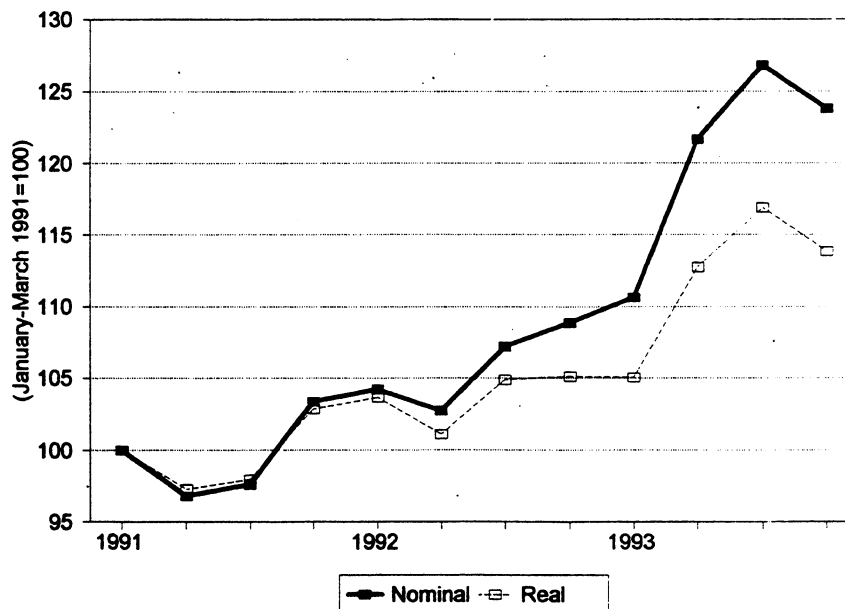
* * * * *

Exchange Rates

The nominal value of the Japanese yen appreciated by 23.8 percent during January 1991-December 1993 (figure 7). When adjusted for movements in producer price indexes in the United States and Japan, the Japanese currency appreciated by 13.8 percent over the period.

Figure 7

Indexes of the nominal and real exchange rates between the U.S. dollar and Japanese yen, by quarters, Jan. 1991-Dec. 1993



Source: International Monetary Fund, *International Financial Statistics*, Feb. 1994.

Lost Sales and Lost Revenues

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

* * * * *

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

* * * * *

APPENDIX A
FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

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

Stainless Steel Angles From Japan; Preliminary Antidumping Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-699 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of stainless steel angles,¹ provided for in subheading 7222.40.30 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by May 23, 1994.

For further information concerning the conduct of this investigation 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 B (19 CFR part 207).

EFFECTIVE DATE: April 8, 1994.

FOR FURTHER INFORMATION CONTACT: Brad Hudgens (202-205-3189), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. Information can also be obtained by

calling the Office of Investigations' remote bulletin board system for personal computers at 202-205-1895 (N.8.1).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on April 8, 1994, by Slater Steels Corp., Fort Wayne, IN.

Participation in the Investigation and Public Service List

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

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

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) 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.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on April 29, 1994, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Brad Hudgens (202-205-3189) not later than April 27, 1994, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request

permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before May 4, 1994, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must 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 investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

Issued: April 11, 1994.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 94-9105 Filed 4-13-94; 8:45 am]

BILLING CODE 7020-02-P

¹ For purposes of this investigation, "stainless steel angles" are defined as L-shaped, hot-rolled, stainless steel products that are not otherwise advanced.

FOR FURTHER INFORMATION CONTACT:
Mary Jenkins or Kate Johnson, 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) 482-1756, or (202) 482-
4929.

INITIATION OF INVESTIGATION:

The Petition

On April 8, 1994, we received a petition filed in proper form by Slater Steels Corporation, Specialty Alloys Division (petitioner), a U.S. producer of stainless steel angle. In accordance with 19 CFR 353.12, the petitioner alleges that imports of stainless steel angle from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

The petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because the petition is filed on behalf of the U.S. industry producing the product subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, it should file written notification with the Assistant Secretary for Import Administration.

[A-588-834]

**Initiation of Antidumping Duty
Investigation: Stainless Steel Angle
From Japan**

AGENCY: Import Administration,
International Trade Administration,
Department of Commerce.
EFFECTIVE DATE: May 4, 1994.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements are contained in 19 CFR 353.14.

Scope of Investigation

For purposes of this investigation, the term "stainless steel angle" includes hot-rolled, whether or not annealed or descaled, stainless steel products angled at 90 degrees, that are not otherwise advanced. The stainless steel angle subject to this investigation is currently classifiable under subheadings 7222.40.30.20, and 7222.40.30.60 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

United States Price and Foreign Market Value

Petitioner based U.S. price (USP) on prices contained in a November 1993 price list for subject merchandise sold by an unrelated U.S. importer and reseller of Japanese stainless steel angle to its U.S. customer. Since these prices were quoted ex-dock, duty paid, petitioner deducted from USP amounts for U.S. duty, ocean freight, marine insurance, harbor maintenance and U.S. merchandise processing fees.

Petitioner used tax-exclusive, delivered prices of subject merchandise sold in Japan by three Japanese producers during the month of September 1993, as the basis for foreign market value (FMV). These prices were obtained from a market research report and pertained to the following three Japanese producers: Aichi Steel Works, Daido Steel and Sumitomo Metal Industries. To calculate an ex-factory price, petitioner used expense information from the market research report. Petitioner converted the home market prices to U.S. dollars based on the monthly average yen/dollar exchange rate effective during the month of the U.S. sale, as reported by the Federal Reserve Bank of New York. Petitioner deducted from FMV an amount for inland freight. Petitioner made circumstance-of-sale adjustments for differences in imputed credit costs between Japanese and U.S. sales based on the average payment period identified in the foreign market research report.

Based on a comparison of USP to FMV, the dumping margins alleged by petitioner for stainless steel angle from

Japan range from 40.82 percent to 58.81 percent.

Preliminary Determination by the International Trade Commission

The International Trade Commission (ITC) will determine by May 23, 1994, whether there is a reasonable indication that imports of stainless steel angle from Japan are materially injuring, or threaten material injury to, a U.S. industry. A negative ITC determination will result in this investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: April 20, 1994.

Susan G. Esserman,
Assistant Secretary for Import
Administration.

[FR Doc. 94-10718 Filed 5-3-94; 8:45 am]

BILLING CODE 3510-DS-P

APPENDIX B
LIST OF PARTICIPANTS IN THE CONFERENCE

CALENDAR OF THE PUBLIC CONFERENCE

Subject: STAINLESS STEEL ANGLES FROM JAPAN
Investigation No. 731-TA-699 (Preliminary)

Time and date: April 29, 1994 - 9:30 a.m.

Sessions were held in connection with the investigation in Courtroom A of the United States International Trade Commission, 500 E Street, SW, Washington, DC.

In Support of the Imposition of Antidumping Duties:

Collier, Shannon, Rill & Scott
Washington, DC
On behalf of

Slater Steel Corp.
Randall Oertel, Vice President - Sales, Marketing & Technology

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

David Hartquist, Esq.)--OF COUNSEL

In Opposition to the Imposition of Antidumping Duties:

Willkie Farr & Gallagher
Washington, DC
On behalf of

Aichi Steel Works, Ltd.
Daido Steel Co., Ltd.
Sumitomo Metal Industries, Ltd.

Distributor Metals Corporation
Susan Blacksmith, Executive Vice President

KG Specialty Steel, Inc.
Ronald D. Skinner, Executive Vice President
Thomas J. Guilmette, Stainless Bar Product Manager

Bruce R. Malashevich, Economic Consultant, Economic Consulting Services, Inc.

Kenneth J. Pierce, Esq.)
Edmund W. Sim, Esq.)--OF COUNSEL

APPENDIX C
SUMMARY DATA

Table C-1

Stainless steel angles: Summary data concerning the U.S. market, 1991-93

* * * * *

APPENDIX D

**AVERAGE COSTS OF THE FOUR MAJOR COMPONENTS OF
STAINLESS STEEL SCRAP**

Table D-1

Input costs: Average costs of the four major components of stainless steel scrap, by quarters, Jan. 1991-Dec. 1993

Period	Nickel	Chrome \$/pound	Iron \$/pound	Molybdenum \$/pound\$/pound
1991:				
Jan.-Mar...	\$3.955	\$0.480	\$0.056	\$2.609
Apr.-June..	3.896	.491	.052	2.464
July-Sept..	3.686	.445	.053	2.321
Oct.-Dec...	3.298	.454	.052	2.181
1992:				
Jan.-Mar...	3.448	.471	.051	2.262
Apr.-June..	3.318	.463	.050	2.210
July-Sept..	3.280	.448	.047	2.351
Oct.-Dec...	2.661	.393	.046	2.034
1993:				
Jan.-Mar...	2.712	.352	.055	1.997
Apr.-June..	2.612	.376	.055	2.252
July-Sept..	2.134	.382	.061	2.401
Oct.-Dec...	2.147	.377	.072	2.638

Source: Petitioner's post-conference brief, exh. A.

