

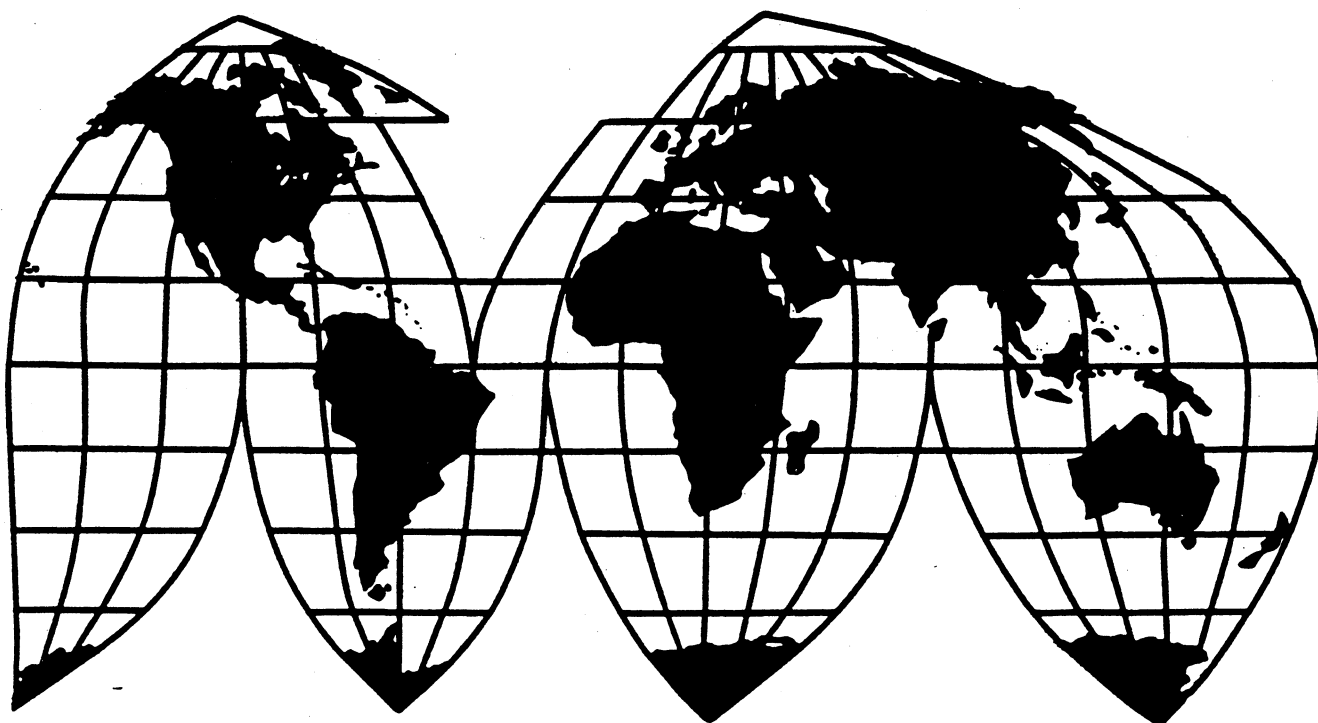
Carbon Steel Pipe Nipples from Mexico

Investigation No. 731-TA-719 (Preliminary)

Publication 2819

October 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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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-719 (Preliminary)

CARBON STEEL PIPE NIPPLES FROM MEXICO

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 no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Mexico of carbon steel pipe nipples, provided for in subheading 7307.99.50 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 August 31, 1994, a petition was filed with the Commission and the Department of Commerce by the U.S. Pipe Nipples Group, an *ad hoc* trade association consisting of five domestic producers of carbon steel pipe nipples,³ alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of carbon steel pipe nipples from Mexico. Accordingly, effective August 31, 1994, the Commission instituted antidumping investigation No. 731-TA-719 (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 September 8, 1994 (59 F.R. 46446). The conference was held in Washington, DC, on September 21, 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 Newquist dissenting.

³ Member firms are AAA Pipe & Nipple Co., Inc., Milwaukee, WI; Beck Manufacturing Inc., Waynesboro, PA; Grinnell Corp., Exeter, NH; Missouri Pipe Fittings Co., St. Louis, MO; and Seminole Tubular Products Co., Houston, TX.

VIEWS OF THE COMMISSION¹

Based on the record in this preliminary investigation, we determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of welded carbon steel pipe nipples from Mexico that are allegedly sold in the United States at less than fair value ("LTFV"). We further determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of seamless carbon steel pipe nipples from Mexico that are allegedly sold in the United States at LTFV.²

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard in preliminary antidumping duty investigations requires us 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, we weigh the evidence before us and 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

II. LIKE PRODUCT AND DOMESTIC INDUSTRY

A. Background and Product Description

In determining whether there is a reasonable indication that an industry in the United States is materially injured or 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."⁵ 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."⁶

Our decision regarding the appropriate like product(s) in an investigation is essentially a factual determination, and we apply the statutory standard of "like" or "most

¹ Commissioner Rohr notes that historically the Commission reserved the title "Views of the Commission" to those opinions which reflected the unanimous views, at least in part, of all Commissioners, which these views do not, given the dissenting views of his colleague Commissioner Newquist. This was both a gesture of respect for the views of any dissenters and an emphasis to those views which reflected the unanimous opinion of the entire Commission rather than merely a majority.

² Whether there is a reasonable indication that the establishment of an industry in the United States is materially retarded is not an issue in this investigation.

³ 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986); Calabrian Corp. v. U.S. Int'l Trade Comm'n, 794 F. Supp. 377, 381 (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), aff'd, 991 F.2d 809 (Fed. Cir. 1993).

⁵ 19 U.S.C. § 1677(4)(A).

⁶ 19 U.S.C. § 1677(10).

similar in characteristics and uses" on a case-by-case basis.⁷ No single factor is dispositive, and the Commission may consider other factors it deems relevant based upon the facts of a particular investigation. Generally, we require "clear dividing lines among possible like products" and disregard minor variations.⁸

The imported merchandise subject to this investigation has been defined by the Department of Commerce as:

carbon steel pipe nipples, both finished and unfinished, defined as cut carbon steel pipe having a maximum length of 12 inches. Unfinished pipe nipples (nipple blanks) have not been subjected to any machining following the cutting of the pipe. Finished pipe nipples have been machined after the cutting, including, but not limited to, the following processes: reaming/deburring, chamfering, and/or threading. The type of finish on one end of a pipe nipple need not be the same as the finish on the other end. For threaded pipe nipples, threading is performed along the outside diameter to permit fastening of the pipe nipple to other components with a matching inside diameter thread.

Pipe nipples manufactured from plain (black), galvanized, welded and seamless carbon steel pipe are included within the scope of this investigation.

The products under investigation are currently classifiable under subheading 7307.99.5015 of the *Harmonized Tariff Schedule of the United States* (HTSUS).⁹

Carbon steel pipe nipples are short lengths of carbon steel pipe typically used to connect components in a piping system. They are generally attached to a pipe by means of a pipe fitting, although nipples can also be welded into a piping system. A variety of components, such as a sprinkler head, pressure gauge, or storage tank may be connected to the other end of the nipple, although nipples can also be used between two lengths of pipe.¹⁰ Pipe nipples are used principally in applications where water, steam, natural gas, compressed air, oil, and other liquids and gases are to be conveyed through a piping system.¹¹ Carbon steel pipe nipples generally conform to ASTM A-733 for dimensions and ANSI B.1.20.1 for thread specifications.¹²

The raw material used to produce carbon steel pipe nipples is carbon steel pipe, typically purchased in 21 foot lengths. The pipe is first cut to the required nipple length on a cut-off machine, creating an unfinished nipple or "nipple blank." The nipple blank is then

⁷ See *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) ("[E]very like product determination 'must be made on the particular record at issue' and the 'unique facts of each case.'"). In analyzing like product issues, the Commission generally considers six factors, including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities and production employees; and (6) where appropriate, price. *Calabrian*, 794 F. Supp. at 382 n.4.

⁸ *Torrington*, 747 F. Supp. at 748-49.

⁹ 59 Fed. Reg. 49057 (Sept. 26, 1994). Prior to July 1992, carbon steel pipe nipples did not have a separate HTSUS heading, but were included in a basket category with other products. Confidential Report ("CR") at I-8; Public Report ("PR") at II-6.

¹⁰ Petition at 3; CR at I-5, PR at II-4.

¹¹ Petition at 3; CR at I-5, PR at II-4.

¹² Petition at 3; CR at I-42, PR at II-24.

subject to several finishing operations. Blanks are usually, but not always, threaded at one or both ends using either a manual or automatic threading machine.¹³ The blank is also "reamed" or "deburred" to remove rough edges along the inside diameter and "chamfered" (*i.e.*, a small bevel is cut into the outside diameter of the pipe nipple ends). Surface oils are then removed and a rust inhibitor applied prior to packing.¹⁴

B. Whether Nipples Made from Seamless and Welded Pipe are Separate Like Products¹⁵

Petitioner argues that pipe nipples made from welded and seamless pipe are separate like products.¹⁶ Respondent Niples del Norte ("NDN") argues that there is one like product including both seamless and welded nipples.¹⁷ Respondents Waxman Industries, Inc., Barnett Inc., Waxman Consumer Products Group, Western American Manufacturing Inc., and Cohart de Mexico (collectively "Waxman") agree that there is one like product, but make no arguments on this issue.¹⁸

In this investigation, pipe nipples made from seamless and welded pipe have different physical characteristics and uses. Seamless nipples are required for high-pressure applications; in general, if an application requires seamless pipe, the specifications will also

¹³ Other finishes include straight pipe threads, roller cuts, beveled ends, square cuts, and grooved ends. Petition at 3; CR at I-4, PR at II-3-II-4.

¹⁴ Petition at 4-5; Petitioners' Response to Commerce Request for Clarification at 5; CR at I-6, PR at II-5.

¹⁵ Commissioner Rohr concurs with his colleagues' decision to find two separate like products in this investigation, but cautions against the extremely narrow application of the "characteristics and uses" like product criteria that they have employed. The only physical characteristic that distinguishes the two products is the existence of a seam on the welded nipple. All other characteristics appear identical. Both types of nipples are used for exactly the same purpose, one where the pipes to which they are attached are welded pipe the other where the base pipes are seamless. The environment is different, but how they are used and the purposes for which they are used are identical. While the Commission's traditional practice in pipe and tube cases of distinguishing between welded and seamless pipe is some support for a distinction, it must also be pointed out that in those cases there are usually different companies producing those two products, a factor not present in these cases.

Nevertheless, he notes that in the circumstances of this case, his decision would be the same whether he finds a single product or two like products. The seamless industry is operating at uninjured levels in excess of those of the welded industry and, in any event, faces no import competition. He has also found that the welded industry is not currently experiencing material injury. Thus the mixture of the data for the two industries together would simply make the industry's operating performance look even better.

¹⁶ Petitioner concedes that welded and seamless nipples are produced with the same equipment and employees, but argues that welded nipples are not interchangeable in applications requiring the superior pressure resistance of seamless nipples. These differences in physical characteristics result in sales at significantly different prices to different end users, with welded nipples concentrated in the retail and do-it-yourself markets and seamless concentrated in industrial uses such as oil fields. Petitioner's Postconference Brief ("Petitioner's Brief") at 11-12.

¹⁷ It contends that both are produced on the same equipment by the same workers, are used for the same purpose, and in some applications can be used interchangeably. NDN Postconference Brief ("NDN Brief") at 3-4.

¹⁸ Waxman Postconference Brief ("Waxman Brief") at 2.

call for seamless pipe nipples.¹⁹ While welded nipples are sold mostly to hardware retailers and plumbing supply wholesalers, seamless nipples tend to be sold for industrial applications, limiting the common channels of distribution.²⁰ Although seamless pipe nipples are technically interchangeable with welded nipples in most welded applications, welded nipples cannot be used in applications for which seamless nipples are specified.²¹ Further, the considerably higher price of seamless nipples makes actual interchangeability commercially infeasible,²² and there is no record evidence that seamless nipples are in fact being used in place of welded. Finally, the fact that certain applications specify seamless nipples provides a basis for inferring that customers perceive two separate products.

Although seamless and welded nipples are produced by the same employees using the same basic production equipment and processes, there are several differences. First, because of the significantly smaller market for seamless nipples, the seamless product is more likely to be produced in shorter runs using hand threading machines rather than automatics. Tooling costs may also be somewhat higher, because seamless pipe is more difficult to thread.²³ Second, seamless nipples must be segregated and identified by the source of the pipe for liability/warranty purposes.²⁴ We also note that, although the production processes are largely the same for both seamless and welded pipe, some producers also use the same

¹⁹ Transcript of Commission Staff Conference (Sept. 21, 1994) at 39 ("Conf. Tr."). The Commission has consistently determined that welded and seamless steel pipe are separate like products. See, e.g., Certain Seamless Carbon and Alloy Standard, Line and Pressure Pipe from Argentina, Brazil, Germany, and Italy, Inv. Nos. 701-TA-362 and 731-TA-707-710 (Preliminary), USITC Pub. 2801 at I-9 (Aug. 1994). These determinations have been based in part on the fact that seamless pipe's higher pressure resistance results in distinct end uses for the two products and, although seamless pipe can technically be substituted in many welded applications, significant price differentials make this commercially unlikely. See, e.g., Welded Stainless Steel Pipe from Malaysia, Inv. No. 731-TA-644 (Final), USITC Pub. 2744 at I-6 & n.7 (March 1994); Stainless Steel Pipes and Tubes from Sweden, Inv. No. 731-TA-354 (Final), USITC Pub. 2033 at 4-5 (Nov. 1987); Stainless Steel Pipes and Tubes from Sweden, Inv. No. 701-TA-281 (Final), USITC Pub. 1966 at 5-6 (Apr. 1987); Certain Stainless Steel Pipes and Tubes from Japan, Inv. No. 731-TA-87 (Final), USITC Pub. 1347 at 4 (Feb. 1983).

²⁰ Conf. Tr. at 54 (Mr. Beck); CR at I-43-I-44, PR at II-24-II-25. For example, sales to retailers, which petitioner estimates to account for about 20-30 percent of consumption, appear to be entirely of welded product. Conf. Tr. at 54; Petitioner's Brief, Appendix A at 1.

²¹ Conf. Tr. at 41 (Mr. Beck).

²² Conf. Tr. at 22-23 (Mr. Beck) (price difference is based on both higher price of seamless pipe and higher per unit cost of producing smaller quantities); Tables 18-20, CR at I-45-I-47, PR at II-24. Complete interchangeability is not required to include various articles within a single like product. See, e.g., Asociacion Colombiana de Exportadores de Flores, 693 F. Supp. 1165, 1168 (Ct. Int'l Trade 1988) (fact that consumer cannot substitute size six skirt for size ten does not make the two skirts different like products); Fresh Garlic from China, Inv. No. 731-TA-683 (Preliminary), USITC Pub. 2755 at I-8 & n.26 (Mar. 1994). On the other hand, lack of interchangeability does not mandate a finding of separate like products, since it is only one of the factors that the Commission considers. Phthalic Anhydride from Venezuela, Inv. No. 731-TA-668 (Final), USITC Pub. 2809 at I-6-I-7 (Sept. 1994). We note, however, that the Commission has stated that it gives more weight to actual, rather than merely potential or "technical," interchangeability. See Aspherical Ophthalmoscopy Lenses from Japan, Inv. No. 731-TA-518 (Preliminary), USITC Pub. 2396 at 11 (June 1991); Nepheline Syenite from Canada, Inv. No. 731-TA-525 (Preliminary), USITC Pub. 2415 at 13-14 (Aug. 1991).

²³ Conf. Tr. at 22-23, 38 (Mr. Beck).

²⁴ Conf. Tr. at 21-22, 41 (Mr. Beck).

facilities and employees to produce other products, including brass, copper, and stainless nipples and pre-cut pipe.²⁵

Overall, we give greater weight to the products' different characteristics and uses, the limited nature of any interchangeability, differences in distribution channels, customer perceptions of two separate products, and the significant price differences between the products than we do to the common production facilities and employees. We therefore determine that there are two like products, consisting of seamless and welded carbon steel pipe nipples. Concomitantly, we determine that there are two domestic industries, corresponding to the domestic producers of seamless and welded pipe nipples.

III. CONDITION OF THE DOMESTIC INDUSTRIES

In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of allegedly LTFV imports, we consider all relevant economic factors that bear on the state of the industry in the United States.²⁶ 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 dispositive and all relevant factors are considered "within the business cycle and conditions of competition distinctive to the industry."²⁷

We note at the outset that the data gathered in this investigation tend to understate or overstate certain factors for the early part of the period of investigation because some domestic producers did not respond to the Commission's questionnaire. Some of these producers ceased production during the period of investigation. Thus, domestic consumption, and domestic industry production, capacity, shipments, and employment are understated for 1991 and 1992. To the extent that domestic consumption is understated, market penetration by the subject imports may be somewhat overstated for the corresponding period.

We are, of course, cognizant of our statutory obligation to reach a negative determination only if there is "no reasonable indication" of injury or threat of injury to the domestic industry by reason of the subject imports. We are not required, however, to reach an affirmative determination simply because we could not collect complete information; the Commission rarely is able to collect complete information on a domestic industry or subject imports. Rather, once we conclude there is clear and convincing evidence that there is no material injury or threat thereof to the domestic industry by reason of the subject imports, we consider whether there is a likelihood of obtaining information in a final investigation that would lead to a contrary result. We have carefully considered this question here, and conclude there is no such likelihood for several reasons.

First, Commission staff were unable to obtain information from those companies that went out of business during the period of investigation. It does not appear likely that the Commission would have any greater degree of success in obtaining information from these former producers in a final investigation.

Second, the information we do have provides ample coverage of the domestic industry for 1993 and the first six months of 1994. Staff estimates that the questionnaire responses we received account for at least 70 percent of domestic production in 1993 and the first six months of 1994 ("interim 1994").²⁸ For the reasons discussed herein, those data

²⁵ CR at I-7, PR at II-5.

²⁶ 19 U.S.C. § 1677(7)(C)(iii).

²⁷ Id.

²⁸ CR at I-14, PR at II-11.

show no reasonable indication that the domestic producers who are operating are materially injured or threatened with material injury by reason of the subject imports. Although additional data would always provide a more complete picture, we do not believe that additional data would significantly change the picture presented by the existing record.

Although we discuss herein the information gathered for the full period of investigation, we emphasize that we examined more closely the information for 1993 and interim 1994 than for 1991 and 1992.

A. The Welded Pipe Nipple Industry

A significant condition of competition distinctive to this industry is the fact that it has been experiencing a long-term consolidation trend. In past decades, as local and regional markets have given way to national markets, the number of domestic producers of carbon steel pipe nipples has steadily declined and the size of the remaining producers has generally increased.²⁹ In recent years, this trend has been accelerated by the gradual replacement of small, local hardware stores with giant "warehouse" retailers that require their suppliers to provide large volumes of product to multiple national locations on relatively short notice.³⁰

A second condition of competition is that the technology for cutting and threading pipe nipples is widely available.³¹ This is reflected in extremely low research-and-development expenditures by the domestic industry.³²

In terms of both volume and value, domestic consumption of welded carbon steel pipe nipples rose throughout the period of investigation and was considerably higher in interim 1994 than in interim 1993 (January-June).³³

Domestic production of welded nipples in terms of quantity rose from 52,198,000 pounds in 1991 to 55,155,000 pounds in 1992 and 67,171,000 pounds in 1993. Production in interim 1994 was 30,282,000 pounds, compared with 32,748,000 pounds in interim 1993, a decline of 7.5 percent.³⁴ Domestic producers' average capacity also rose from 86,213,000 pounds in 1991 to 86,642,000 pounds in 1992, and 97,574,000 pounds in 1993. Capacity also was greater in interim 1994, at 48,940,000 pounds, as compared with 48,800,000 pounds in interim 1993.³⁵ Domestic producers' capacity utilization was 60.5 percent in 1991,

²⁹ Conf. Tr. at 52 (Mr. Beck); Waxman Brief at 19-20.

³⁰ Conf. Tr. at 97, 103 (Ms. Murphy), 100, 101-102 (Mr. Penn); Waxman Brief at 14-18 and Exhibits A-C.

³¹ Conf. Tr. at 18-20 (Mr. Beck), 89 (Mr. Hinojosa); CR at I-6 n.8, PR at II-5 n.8.

³² Table 13, CR at I-30, PR at II-17.

³³ Consumption by volume rose from ***. Consumption by volume in interim 1994 was ***. By value, consumption rose from ***. Table C-2, CR at C-5, PR at C-5.

³⁴ Table C-2, CR at C-5, PR at C-5.

³⁵ Table C-2, CR at C-5, PR at C-5. Petitioner argued that 11 producers accounting for 17 million pounds of capacity exited the industry during the period of investigation. Petitioner's Brief at 29. The assets of the two largest producers that went out of business during the period, *** were acquired, at least in large part, by ***. CR at I-30, PR at II-17; Conf. Tr. at 71 (Mr. Hinojosa). These producers accounted for approximately *** pounds of capacity. The next largest producer to exit the business, ***, was reopened, albeit at least temporarily at a reduced production level, under new management. Memorandum INV-R-156 (Oct. 7, 1994) at 1; CR at I-54-I-55, PR at II-28; Petitioner's Brief, Appendix A at 4. Only some of the remaining defunct capacity was purchased by respondent NDN. Conf. Tr. at 17 (Mr. Beck). Accordingly, petitioner's estimates of reductions in domestic capacity, and gains in NDN's capacity at the direct expense of the domestic industry, are exaggerated.

63.7 percent in 1992, and 68.8 percent in 1993, but was 61.9 percent in interim 1994 compared with 67.1 percent in interim 1993.³⁶

The volume of U.S. shipments of welded carbon steel pipe nipples rose from 50,924,000 pounds in 1991 to 54,783,000 pounds in 1992 and 64,036,000 pounds in 1993. The volume of shipments was 12.1 percent greater in interim 1994 than interim 1993.³⁷ The value of these shipments followed the same trend, and was over 21 percent higher in interim 1994 than in interim 1993.³⁸ The domestic industry's inventories of welded nipples rose from 9,391,000 pounds in 1991 to 9,801,000 pounds in 1992 and 12,920,000 pounds in 1993, but were 12,959,000 pounds in interim 1993 compared to 10,272,000 pounds in interim 1994, a decline of over 20 percent.³⁹

Employment in the welded pipe nipple industry fell from 496 production and related workers in 1991 to 482 in 1992, then rose to 570 workers in 1993 and was 589 workers in interim 1994 compared with 535 in interim 1993.⁴⁰ Hours worked, total compensation, and hourly total compensation rose over the period of investigation, while productivity rose from 1991 to 1993 but was somewhat lower in interim 1994 than in interim 1993.⁴¹

The welded nipples industry's net sales were \$46,572,000 in 1991, \$50,284,000 in 1992, and \$59,141,000 in 1993. Net sales were \$31,639,000 in interim 1994 compared with \$25,950,000 in interim 1993, an increase of nearly 22 percent.⁴² The industry's operating income was \$3,988,000 in 1991, \$3,033,000 in 1992, \$4,299,000 in 1993, and \$2,272,000 in interim 1994 compared with \$1,379,000 in interim 1993.⁴³ Operating income margins were 8.6 percent in 1991, 6.0 percent in 1992, and 7.3 percent in 1993, and were 7.2 percent in interim 1994 compared with 5.3 percent in interim 1993.⁴⁴ Domestic producers' capital expenditures were \$1,051,000 in 1991, \$1,559,000 in 1992, and \$1,784,000 in 1993. Capital expenditures were \$678,000 in interim 1994, compared with \$1,264,000 in interim 1993.⁴⁵ Finally, the domestic welded nipple industry's cost of goods sold as a percentage of

³⁶ Table C-2, CR at C-5, PR at C-5.

³⁷ Table C-2, CR at C-5, PR at C-5.

³⁸ Table C-2, CR at C-5, PR at C-5. The value of shipments rose from \$46,198,000 in 1991 to \$59,473,000 in 1993 and was \$32,308,000 in interim 1994 compared with \$26,642,000 in interim 1993.

³⁹ Table C-2, CR at C-5, PR at C-5.

⁴⁰ Table C-2, CR at C-5, PR at C-5. Contrary to petitioner's contention, we note that these figures do reflect the second quarter layoffs announced by petitioner *** and other domestic producers. See Petitioner's Brief at 21; Table 7, CR at I-19, PR at II-14.

⁴¹ Table C-2, CR at C-5, PR at C-5.

⁴² Table C-2, CR at C-6, PR at C-6.

⁴³ Table C-2, CR at C-6, PR at C-6.

⁴⁴ Table C-2, CR at C-6, PR at C-6. We note that our data on the domestic industry's profitability is conservatively biased, as we have accepted all of petitioner's allocations of selling expenses. Actual profitability is likely higher than reported. Table 10 n. 1, CR at I-28, PR at II-17; Transcript of Commission Meeting of October 11, 1994 at 7 ("Vote Tr.").

⁴⁵ Table C-2, CR at C-6, PR at C-6. We note that capital expenditures reflect purchases of new equipment only and do not include acquisitions by existing domestic producers of the productive assets of former domestic producers, as occurred in several instances during the period of investigation. These figures thus understate domestic producers' total commitment to expansion during the period of investigation. See Table 12, note 1, CR at I-30, PR at II-17.

net sales was 71.6 percent in 1991, 74.5 percent in 1992, 73.9 percent in 1993, and 74.6 percent in interim 1994 compared with 75.5 percent in interim 1993.^{46 47}

B. The Seamless Pipe Nipple Industry

Domestic consumption of seamless carbon steel pipe nipples also rose in terms of both volume and value throughout the period of investigation.⁴⁸ Domestic production of seamless nipples in terms of quantity rose from 5,265,000 pounds in 1991 to 6,077,000 pounds in 1992 and 7,554,000 pounds in 1993. Production in interim 1994 was 3,435,000 pounds, compared with 3,883,000 pounds in interim 1993, a difference of 11.5 percent.⁴⁹

Domestic producers' average production capacity fell from 11,304,000 pounds in 1991 to 11,243,000 pounds in 1992, then rose to 11,761,000 pounds in 1993. Capacity continued to rise between the interim periods, from 5,875,000 pounds in interim 1993 to 6,058,000 pounds in interim 1994.⁵⁰ Domestic producers' capacity utilization rose from 46.6 percent in 1991 to 64.2 percent in 1993, but was 56.7 percent in interim 1994 compared with 66.1 percent in interim 1993.⁵¹

The volume of U.S. shipments of seamless carbon steel pipe nipples rose from 5,183,000 pounds in 1991 to 6,037,000 pounds in 1992 and 7,026,000 pounds in 1993. The volume of shipments was 6.7 percent greater in interim 1994 than interim 1993.⁵² The value of these shipments followed the same trend, and were over 9 percent higher in interim 1994 than in interim 1993.⁵³ The domestic industry's inventories of seamless nipples rose from 1991 to 1993, but were somewhat lower in interim 1994 compared with interim 1993.⁵⁴

Employment in the seamless pipe nipple industry rose from 44 production and related workers in 1991 to 47 in 1992, and 59 workers in 1993, and was 61 workers in interim 1994 compared with 57 in interim 1993.⁵⁵ Hours worked and total compensation rose over the

⁴⁶ Table C-2, CR at C-6, PR at C-6.

⁴⁷ Commissioner Rohr concludes that this industry is not currently experiencing material injury. While this industry is continuing to experience consolidation over the period, such consolidation cannot be necessarily equated with injury. While the improvement in the performance indicators contained in the Commission's record is probably overstated, there is no indication that the data are so far distorted that the industry's condition is actually deteriorating. The absolute levels of the indicators, particularly the financial indicators, are not reflective of an industry experiencing material injury. Commissioner Rohr did consider in his evaluation of the data the fact that several firms went out of business, but finds that there is no indication that this was anything more than normal operations for a mature industry.

⁴⁸ Consumption by volume rose from ***. Consumption by volume in interim 1994 was ***. By value, consumption rose from ***. Table C-3, CR at C-7, PR at C-7.

⁴⁹ Table C-3, CR at C-7, PR at C-7.

⁵⁰ Table C-3, CR at C-7, PR at C-7.

⁵¹ Table C-3, CR at C-7, PR at C-7.

⁵² Table C-3, CR at C-7, PR at C-7.

⁵³ Table C-3, CR at C-7, PR at C-7. The value of shipments rose from \$6,352,000 in 1991 to \$8,424,000 in 1993, and was \$4,412,000 in interim 1994 compared with \$4,032,000 in interim 1993.

⁵⁴ Table C-3, CR at C-7, PR at C-7. Inventories of seamless nipples rose from ***, but declined from ***.

⁵⁵ Table C-3, CR at C-7, PR at C-7.

period of investigation, while hourly total compensation and productivity rose from 1991 to 1993 and were lower in interim 1994 than in interim 1993.⁵⁶

The seamless nipples industry's net sales rose from 1991 to 1993 and were also higher in interim 1994 than in interim 1993.⁵⁷ The industry's operating income fell from 1991 to 1992, but rose from 1992 to 1993 to exceed its 1991 level and was also higher in interim 1994 than in interim 1993.⁵⁸ Operating income margins fluctuated, declining from 1991 to 1992, then rising from 1992 to 1993, and were greater in interim 1994 than in interim 1993, exceeding the 1991 level.⁵⁹ Domestic producers' capital expenditures rose from 1991 to 1993, but were lower in interim 1994 than in interim 1993.⁶⁰ Finally, the domestic seamless nipple industry's cost of goods sold as a percentage of net sales rose from 1991 to 1992, but then declined from 1992 to 1993, and was lower in interim 1994 than in interim 1993.^{61 62}

IV. NO REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS⁶³

In preliminary antidumping investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the allegedly LTFV imports.⁶⁴ We must consider the volume of imports, their effect on prices for the like product, and their impact on domestic producers of the like product, but only in the context of U.S. production operations.⁶⁵

Although we may consider alternative causes of injury to the industry other than allegedly LTFV imports, we are not to weigh causes.^{66 67} For the reasons discussed below,

⁵⁶ Table C-3, CR at C-7, PR at C-7.

⁵⁷ Net sales rose from ***. Net sales were *** in interim 1994 compared with ***. Table C-3, CR at C-8, PR at C-8.

⁵⁸ Operating income was ***. Table C-3, CR at C-8, PR at C-8.

⁵⁹ Operating income margins fell from ***. Table C-3, CR at C-8, PR at C-8.

⁶⁰ Capital expenditures rose from ***. Capital expenditures were *** in interim 1994, compared with *** in interim 1993. Table C-3, CR at C-8, PR at C-8.

⁶¹ Cost of goods sold as a percentage of net sales rose from ***. Table C-3, CR at C-8, PR at C-8.

⁶² Based on the above information, Commissioner Rohr concludes that there is no reasonable indication that the domestic industry is currently experiencing material injury.

⁶³ Having determined that the domestic industries in this investigation are not currently experiencing material injury, Commissioner Rohr does not join in this discussion of the causes of injury he has not found to exist.

⁶⁴ 19 U.S.C. § 1673b(a).

⁶⁵ 19 U.S.C. § 1677(7)(B)(i).

⁶⁶ See, e.g., Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988). Alternative causes may include the following:

[T]he volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade, restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry.

S. Rep. No. 249, 96th Cong., 1st Sess. 74 (1979). Similar language is contained in the House Report. H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979).

we find that there is no reasonable indication that the domestic industries producing welded and seamless carbon steel pipe nipples, respectively, are materially injured by reason of allegedly LTFV imports from Mexico.

A. The Welded Pipe Nipple Industry

Both the quantity of imports of subject welded carbon steel pipe nipples from Mexico and the U.S. market penetration of these imports increased during the period of investigation.⁶⁸ Notwithstanding these increases, however, the domestic industry's shipments accounted for a preponderance of reported U.S. welded nipple consumption throughout the entire period of investigation.⁶⁹ Consequently, the volume of subject imports has not been sufficient, in either relative or absolute terms, to have a significant impact on the domestic industry's production, shipments, or profitability during the period of investigation.⁷⁰ Accordingly, we do not find the volume of imports to be significant.⁷¹

Domestic producers' prices for three of the four welded products about which we sought data rose significantly and with relatively little fluctuation over the period of investigation.⁷² The price of the fourth product (product 2) fluctuated considerably but declined overall by about 5 percent. At the same time, prices of subject welded nipples imported from Mexico rose consistently for all four products, and rose by the largest percentage for product 2.⁷³ As we noted above, domestic producers' cost of goods sold as a percentage of net sales declined toward the end of the period of investigation, refuting the notion that prices did not increase commensurate with costs.⁷⁴ Moreover, contrary to petitioner's contention that price suppression is evidenced by declining profitability in the face of rising net sales, domestic producers' profitability has been rising.⁷⁵ Overall, although unit cost of goods sold increased slightly during the POI, there was also an equally

⁶⁷ (...continued)

⁶⁷ For Chairman Watson, Vice Chairman Nuzum, and Commissioner Crawford's interpretations of the statutory requirement regarding causation, see Certain Calcium Aluminate Cement and Cement Clinker from France, Inv. No. 731-TA-645 (Final), USITC Pub. 2772 at I-14 n.67-69 (May 1994).

⁶⁸ The volume of imports ***. The value of subject imports followed the same trend. Mexican imports' market share on the basis of quantity ***. Table C-2, CR at C-5, PR at C-5. We note that the market share of Mexican imports is somewhat overstated in our data, due to the lack of data from certain domestic producers. As a corollary, the market share of the domestic industry is necessarily understated.

⁶⁹ U.S. producers' share of consumption was at all times ***. Table C-2, CR at C-5, PR at C-5. Moreover, the increase in U.S. producers' shipments and the increase in domestic consumption were both *** than the increase in shipments of subject imports.

⁷⁰ While domestic producers did lose market share to Mexican imports and production did decline during the interim period, we do not place substantial weight on this data for purposes of our present injury analysis because the industry's shipments and profits rose during the same period. Moreover, petitioners conceded that the fall in production in interim 1994 was the result of deliberate overproduction in late 1993, which was motivated by their desire to reduce raw material costs and enhance economies of scale. Petitioner's Brief at 17.

⁷¹ 19 U.S.C. § 1677(7)(C)(i).

⁷² Commissioner Crawford does not join in this paragraph.

⁷³ Tables 18-19 and Figure 1, CR at I-45-I-46 and I-48-I-49, PR at II-24 and II-25. This rise belies the suggestion that falling Mexican prices are preventing domestic price increases.

⁷⁴ See note 46, supra.

⁷⁵ See Petitioner's Brief at 16, 27-29.

significant increase in U.S. producers' average unit sales prices⁷⁶ during the POI, indicating the lack of any significant cost-price squeeze. We therefore find that the subject imports have not suppressed or depressed domestic prices to a significant degree.

Our pricing data reflect consistent margins of underselling concentrated in the range of 25-40 percent.⁷⁷ We give little weight to the magnitude of these margins, however, for several reasons. First, while importers reported sales prices on an f.o.b. basis, as requested, domestic producers tended to report prices that included freight costs averaging up to 15 percent of the total price reported.⁷⁸ Second, NDN, which accounts for about *** of the quantity of imports for the products for which price data were reported, tends to make fewer sales but sells in significantly greater quantities than domestic producers, which results in a lower price structure.⁷⁹ Third, importers sell largely to mass retail merchandisers such as Home Depot, K-Mart, Wal-Mart and similar stores. Due to the large size of these purchasers and intense competition in the mass merchandise market, the price structure in this market appears to be consistently lower, by as much as 30 percent, than the price structure in the industrial/plumbing supply portion of the market, where domestic producers' sales are largely concentrated.⁸⁰ In addition, we note that non-price reasons, such as some evidence of quality differences, longer lead times for delivery of the Mexican product and other service factors also contribute to the apparent underselling.⁸¹ Finally, only *** domestic producers provided allegations of lost revenues or lost sales on the basis of price and only two smaller lost sales were confirmed.^{82 83} We therefore find that any underselling is not significant.⁸⁴ We note, moreover, that, although the statute directs us to consider whether there has been significant price underselling by the subject imports, underselling is only one factor that we must consider in determining whether the domestic industry is materially injured by reason of the subject imports. Accordingly, even had we found the underselling to be significant, an affirmative preliminary determination would not have been required.^{85 86}

⁷⁶ Average unit sales price is defined as the value of U.S. producers' net sales divided by the quantity of U.S. producers' net sales and is derived from information contained in Table C-2, CR at C-6, PR at C-6.

⁷⁷ CR at I-49, PR at II-25-II-26.

⁷⁸ CR at I-40 and I-43, PR at II-22 and II-25; Vote Tr. at 5.

⁷⁹ CR at I-44, PR at II-25; Vote Tr. at 6; Conf. Tr. at 76-77, 86-88 (Mr. Schneeweiss) (pricing in nipples market depends on the quantity purchased); see generally Importers' Questionnaires at 40-43.

⁸⁰ CR at I-43-I-44, PR at II-24-II-25; Conf. Tr. at 14, 44, 45, 46 (Mr. Beck), 72-73, 90 (Mr. Hinojosa), 87 (Mr. Schneeweiss), 100, 106 (Mr. Penn); Waxman Brief at 14-18.

⁸¹ CR at I-40-I-41, PR at II-22-II-23.

⁸² CR at I-51-I-53, PR at II-26, II-28. Petitioner never contested Waxman's claim that *** loss of the Home Depot account to Waxman was due to its inability to meet customer service requirements and did not result in a reduction in the price Home Depot was paying for nipples. Waxman Brief at 16-17; Conf. Tr. at 102 (Mr. Penn). Similarly, ***, another large account claimed lost to the domestic industry, ***. CR at I-54-I-55, PR at II-28.

⁸³ Commissioner Crawford does not place great weight on anecdotal evidence of lost sales or revenues showing that competition from LTFV imports caused domestic producers to lose particular sales, or forced them to reduce their prices on other sales, in reaching her determination.

⁸⁴ 19 U.S.C. § 1677(7)(C)(ii)(I).

⁸⁵ Cf. Steel Wire Rope from Canada, Inv. No. 731-TA-524 (Preliminary), USITC Pub. 2409 at 17-18 (Aug. 1991); Certain Expansion Tanks from the Netherlands, Inv. No. 731-TA-243 (Preliminary), USITC Pub. 1669 at 8 (Apr. 1985).

Finally, we find that the subject imports have had no significant adverse impact on the domestic industry. We reject petitioner's contention that the exit of certain domestic producers from the industry -- either by itself or coupled with the sale of some of the defunct producers' assets to NDN -- mandates a finding of a reasonable indication of material injury by reason of the subject imports.⁸⁷ The Commission may take into account departures from an industry. Ultimately, however, we must assess the condition of the industry as a whole, and not on a company-by-company basis.^{88 89} The absence of any adverse impact on the

⁸⁶ (...continued)

⁸⁶ Commissioner Crawford evaluates the effects of the allegedly dumped imports on domestic prices by comparing domestic prices when the imports allegedly were dumped with what domestic prices would have been if the imports had been traded fairly. In this investigation, Commerce has calculated a range of dumping margins between 1.71% and 92.64%. However, neither the percentage of total imports that were allegedly dumped nor the volume of imports that were allegedly dumped across the range of dumping margins is known. Nonetheless, it is likely that sales of subject imports would have been reduced if they had been traded fairly. Non-price factors noted above, such as some evidence of quality differences, longer lead times for delivery of the Mexican product and other service considerations, constrain substitutability between the subject imports and the like product. For these reasons they appear to be only somewhat good substitutes. Accordingly, if the subject imports had been priced fairly, the domestic industry most likely would have captured a portion, but not all, of the demand previously supplied by the subject imports.

It is significant in this investigation that importers sell largely to the mass merchandise market whereas domestic industry sales are concentrated in the industrial/plumbing market. Due to the large lot sizes and purchasers' buying power in the mass merchandise market, the price structure in this market appears to be consistently lower than the price structure in the industrial/plumbing portion of the market. It is quite likely that sales made by the domestic industry to the mass merchandise market would have been at prices closer to those paid for subject imports than those paid in the industrial supply market for three reasons. First, the domestic industry has more than ample excess capacity to replace all of the subject imports. Second, the domestic industry is competitive, consisting of more than 30 domestic producers. Third, the small number of large volume purchasers in the mass merchandise market can demand lower prices due to their buying power. In the industrial/plumbing market, excess production capacity and competition among domestic producers would again have resulted in competitive pricing and no significant price increase if subject imports had been traded fairly. Any price difference in domestic sales of the domestic product between the two market segments should be attributable to the producers' costs of supplying those markets. For these reasons, subject imports cannot be found to have had any significant adverse effect on domestic prices.

⁸⁷ Petitioner's Brief at 13; Conf. Tr. at 17 (Mr. Beck).

⁸⁸ Calabrian Corp. v. U.S. Int'l Trade Comm'n, 794 F. Supp. 377, 385 (Ct. Int'l Trade 1992); Metallwerken Nederland B.V. v. United States, 728 F. Supp. 730, 736 (Ct. Int'l Trade 1989); Sandvik AB v. United States, 721 F. Supp. 1322, 1330 (Ct. Int'l Trade 1989), aff'd, 904 F.2d 46 (Fed. Cir. 1990); Copperweld Corp. v. United States, 682 F. Supp. 552, 569 (Ct. Int'l Trade 1988). In any event, as we noted above, several of these departures did not result in a net loss of production capacity to the domestic industry. See note 35, supra.

⁸⁹ Commissioner Crawford does not join in the remainder of this paragraph. In her analysis of material injury, she determines whether the price, sales and revenue effects of the alleged dumping, either separately or together, demonstrate that the domestic industry would have been materially better off if the imports had been traded fairly.

As discussed in note 86, supra, if the subject imports had been traded fairly, excess domestic production capacity, competition among domestic producers and the two-tiered market price structure would have prevented any significant increases in domestic prices. As a result, any impact of subject imports on the domestic industry would have been on the volume of the domestic industry's output and sales. Sales of the subject imports likely would have been reduced if they had been traded fairly, but subject imports would not have been priced out of the market. Moreover, subject imports and the

(continued...)

industry as a whole is amply demonstrated by the almost uniformly rising trends in production, shipments, employment, and financial performance during the period of investigation. Although production was lower in interim 1994 than in interim 1993, the domestic industry continued to show positive financial performance throughout the POI and improving financial performance and rising shipments between the interim periods, when the increase in imports was greatest.⁹⁰ Moreover, this aggregate data for the industry as a whole is further buttressed by the fact that producers accounting for more than half of domestic production expressly conceded that imports have had no actual negative effects on their operations during the period of investigation.⁹¹

We consequently determine that there is no reasonable indication of material injury by reason of the allegedly LTFV imports of welded carbon steel pipe nipples from Mexico, and that there is no likelihood that contrary evidence would arise in any final investigation.⁹²

B. The Seamless Pipe Nipple Industry

During the period of investigation, there were no imports of seamless carbon steel pipe nipples from Mexico⁹³ and there were no importers' prices reported for the subject seamless products for which data was sought.⁹⁴ Accordingly, the observed declines in domestic prices for seamless nipples⁹⁵ cannot be by reason of subject imports of seamless pipe nipples from Mexico, nor can Mexican imports be accountable for any adverse effects on the domestic industry. We therefore determine that there is no reasonable indication of

⁸⁹ (...continued)

domestic product are somewhat good substitutes. For these reasons, the domestic industry would have captured a portion, but not all, of the demand supplied by the subject imports. Due to the consistently lower price structure in the mass merchandise market, it is likely that the additional sales the domestic industry would have made would have been at prices significantly lower than those paid on domestic sales in the industrial/plumbing supply market. It is also not unlikely that nonsubject imports, although not currently a major factor in the domestic market, would have captured a portion of the former sales of subject imports.

As a result of these factors, Commissioner Crawford concludes that the domestic industry's output, sales and revenues would not have increased significantly and that the domestic industry would not have been materially better off if the subject imports had been traded fairly. Therefore, she determines that there is no reasonable indication that the domestic industry producing carbon steel pipe nipples is materially injured by reason of the allegedly dumped imports from Mexico.

⁹⁰ Table C-2, CR at C-5-C-6, PR at C-5-C-6. As we noted in note 70, *supra*, petitioner conceded that the fall in production in interim 1994 was the result of deliberate overproduction in late 1993, which in turn was motivated by a desire to reduce raw material costs. Petitioner's Brief at 17.

⁹¹ CR at D-3-D-4, PR at D-3. These domestic producers include ***, which together account for nearly *** percent of reported domestic production in 1993. Table 2, CR at I-11, PR at II-9.

⁹² Despite extensive efforts by the Commission staff, we were unable to obtain data from domestic producers that went out of business during the period of investigation and are no more likely to obtain such data if this case were to proceed to a final investigation. While we might, in a final investigation, be able to obtain additional data from some small, viable domestic producers that did not respond to our preliminary questionnaire, there is no evidence in the record before us indicating that such evidence would be contrary to the evidence already of record or would otherwise change the observed trends.

⁹³ Neither Mexican producer manufactures seamless nipples. CR at I-36 and I-44, PR at II-21 and II-25; Conf. Tr. at 76 (Mr. Schneeweiss).

⁹⁴ Table 20, CR at I-47, PR at II-24.

⁹⁵ *Id.*

material injury by reason of imports of seamless carbon steel pipe nipples from Mexico and that there is no likelihood that any contrary evidence would arise in a final investigation.

V. NO REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS

Section 771(7)(F) of the Act directs us to consider whether a U.S. industry is threatened with material injury by reason of the subject imports "on the basis of evidence that the threat of material injury is real and that actual injury is imminent."⁹⁶ We do not make such a determination "on the basis of mere conjecture or supposition."⁹⁷ In making our determination, we have considered all of the statutory factors that are relevant to this investigation.⁹⁸

A. The Welded Pipe Nipple Industry⁹⁹

We do not find any increase in production capacity or unused capacity in Mexico that is likely to result in a significant increase in imports of welded carbon steel pipe nipples to the United States. The Mexican industry's production capacity grew significantly over the period of investigation, principally through NDN's purchase at auction and removal to Mexico of production equipment belonging to two former U.S. producers.¹⁰⁰ However, there is no evidence that any further capacity increases are contemplated, and the total capacity of the Mexican industry remains many times smaller than that of the domestic industry.¹⁰¹

⁹⁶ 19 U.S.C. §§ 1673d(b) and 1677(7)(F)(ii).

⁹⁷ 19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." Metallwerken Nederland, B.V. v. United States, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990). Congress acknowledged that "a determination of threat will require a careful assessment of identifiable current trends and competitive conditions in the marketplace." Calabrian Corp. v. United States, 797 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992) (citing H.R. Rep. No. 1156, 98th Cong., 2d Sess. 174 (1984)).

⁹⁸ 19 U.S.C. § 1677(7)(F)(i). In addition, we must consider whether antidumping findings or remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. See 19 U.S.C. § 1677(7)(F)(iii). There is no evidence of any antidumping remedies imposed in other countries upon carbon steel pipe nipples from Mexico. CR at I-34; PR at II-20.

Two of the ten statutory threat factors have no relevance to this investigation and need not be discussed further. Because there are no subsidy allegations, factor I is not applicable. Factor IX, regarding raw and processed agricultural products, also is inapplicable here.

⁹⁹ Commissioner Rohr notes that in making his threat determination he customarily begins by considering the vulnerability of the industry, because the degree to which imports can threaten an industry is dependent on the condition of the industry. He notes that he found the industry not to be presently experiencing material injury; that the industry appears to be improving over the period of investigation; and that the most substantial improvement occurred during the interim period while imports were increasing. Therefore, he cannot find that there is a reasonable indication that this industry exhibits any serious vulnerability to the effects of Mexican imports.

¹⁰⁰ Conf. Tr. at 17 (Mr. Beck), 81 (Mr. Hinojosa).

¹⁰¹ Table 15, CR at I-35, PR at II-20; Table C-2, CR at C-5, PR at C-5; NDN Brief at 24-25. We recognize that we did not receive any information from the third Mexican producer, Niples el Superior, nor did we receive any information about ***, a Mexican company that may be involved in the pipe nipples business. We did, however, receive complete information from importers that

(continued...)

Moreover, by the end of the period of investigation, the Mexican producers were operating at high rates of capacity utilization.¹⁰²

Although there has been an increase in the volume of imports of welded pipe nipples from Mexico at the very end of the period of investigation, we do not find a likelihood that import penetration will imminently increase to an injurious level. The volume of imports actually declined from 1991 to 1992, then rose in 1993 to slightly over their 1991 level.¹⁰³ However, between the interim periods, when the volume of imports increased the most, those domestic producers remaining in operation showed improving shipments and profitability.¹⁰⁴ Further, although the Mexican producers predict additional increases in exports for 1994 and 1995, the Mexican product principally serves the retail, mass merchandise market, which all parties agree is continuing to experience fast growth.¹⁰⁵

We do not find that imports will enter the United States at prices that will have a depressing or suppressing effect on domestic prices. There is no indication that future imports would be any more likely to affect prices adversely in the near future than they have during the period of investigation.

The record does not support a finding that importers' U.S. inventories are likely to have an injurious effect on the U.S. industry. The *** Mexican producer, NDN, does not maintain any inventories in the United States and only produces for sale to the United States in response to customer orders.¹⁰⁶ Cohart's U.S. inventories did rise significantly near the end of the period of investigation, but were at all times extremely small relative to total U.S. consumption as reflected in our record.¹⁰⁷

We do not find any potential for product-shifting within the meaning of 19 U.S.C. § 1677(7)(F)(i)(VII). Pipe nipples facilities cannot be used to produce welded pipe, which is currently subject to an antidumping duty order.¹⁰⁸ None of the products jointly produced in

¹⁰¹ (...continued)

purchase nipples from Mexican producers, which indicates that Cohart and Niples del Norte account for *** percent of all imports from Mexico. CR at I-34, PR at II-20; Table 15 n.1, CR at I-35, PR at II-20; NDN Brief, Exhibit 5.

¹⁰² Capacity utilization in interim 1994 was *** percent, compared with *** percent in interim 1993 and *** percent in full year 1993. Table 15, CR at I-35, PR at II-20. We further note that NDN's capacity calculations were based on *** and are therefore likely to be overstated. See NDN Questionnaire Response at 6.

¹⁰³ Table C-2, CR at C-5, PR at C-5. Because our market share data reflect the underreporting of domestic production, particularly in 1991 and 1992, we do not rely on year to year changes in Mexican market penetration between 1991 and 1993, but rely instead on absolute import volumes, which are based on relatively complete data.

¹⁰⁴ While we discounted our data for purposes of assessing the present condition of the domestic industry on the grounds that it did not reflect producers that went out of business in 1991 and 1992, those data are appropriately utilized for purposes of our threat analysis, since it is the threat of future injury by reason of subject imports to the producers that are currently operating that we must consider.

¹⁰⁵ Table 15, CR at I-35, PR at II-20; CR at I-43-I-44, PR at II-24-II-25; Waxman Brief at 14 and Exhibits A-C; Conf. Tr. at 46 (Mr. Beck), 72-73 (Mr. Hinojosa), 106 (Mr. Penn).

¹⁰⁶ CR at I-32, PR at II-19.

¹⁰⁷ Table 14, CR at I-33, PR at II-19. We note that, had we received more complete data from domestic producers, this number would have been even smaller.

¹⁰⁸ See Certain Circular, Welded, Non-Alloy Steel Pipes and Tubes from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela, Inv. Nos. 731-TA-532-537 (Final), USITC Pub. 2564 (Oct. 1992).

pipe nipple facilities is currently subject to an outstanding antidumping or countervailing duty order.

We find no actual or potential negative effects on existing development and production efforts of the domestic industry. As stated above, a number of domestic producers, including petitioner ***, conceded that they were experiencing no present injurious effects from Mexican imports.¹⁰⁹ The recent *** percent capacity expansion by petitioner *** and the testimony of petitioner Beck that it is in the process of investing in automated inventory and warehouse improvements likewise indicates that the domestic industry has not been prevented from investing and expanding by the subject imports.¹¹⁰

There are no "other demonstrable adverse trends" that indicate that subject imports are likely to be the cause of actual injury. Petitioner argues that Mexican producers of welded carbon steel pipe have an incentive to circumvent the antidumping duty order on that product by selling their product cheaply to Mexican nipple producers, which can then dump more nipples in the United States.¹¹¹ At the conference, however, petitioner's counsel conceded that he has no evidence that such behavior is occurring, but was merely positing that such an incentive exists.¹¹² Such an asserted motive is too speculative to support a finding of a real and imminent threat of material injury.

We therefore find no reasonable indication that the domestic industry producing welded pipe nipples is threatened with material injury by reason of the subject imports.

B. The Seamless Pipe Nipple Industry¹¹³

As we noted above, the Mexican industry does not currently produce seamless pipe nipples,¹¹⁴ and there is no record evidence that they have any plans to do so. Therefore, none of the statutory threat factors supports a finding of a threat of material injury. Petitioner contends that if an antidumping duty order were to be entered against welded nipples, Mexican producers would have an incentive to begin producing seamless nipples, since they can do so using the same production equipment and employees.¹¹⁵ Even had we reached an affirmative determination with respect to welded nipples, we would find this argument too speculative to constitute a reasonable indication of a threat of material injury to the seamless nipple industry.¹¹⁶ Because we have reached a negative determination with respect to welded nipples, the incentive envisioned by petitioner does not exist. Accordingly,

¹⁰⁹ See note 91, *supra*.

¹¹⁰ Table 12, CR at I-30, PR at II-17; CR at I-11, PR at II-7; Conf. Tr. at 53 (Mr. Beck).

¹¹¹ Petitioner's Brief at 36.

¹¹² Conf. Tr. at 63-64 (Mr. Feller).

¹¹³ Based on his evaluation of the condition of this industry discussed above and the improvements it has exhibited, Commissioner Rohr cannot conclude that this industry exhibits any serious vulnerability to the effects of imports.

¹¹⁴ CR at I-36 and I-44, PR at II-21 and II-25.

¹¹⁵ Petitioner's Brief at 36. Petitioner argues that, since seamless nipples can be used in welded applications but for the price differences, and since Mexican nipples undercut U.S. prices by up to ***, Mexican producers could easily convert production to seamless nipples if an order were entered against welded nipples alone.

¹¹⁶ Commissioner Rohr notes that the end users and channels of distribution for seamless nipples are quite different from those for welded nipples. In his view, therefore, it is unlikely that the Mexican product would be able to make significant inroads into the market within a reasonably imminent time frame.

we find no reasonable indication of a threat of material injury to the domestic seamless nipple industry by reason of imports from Mexico and no likelihood that any contrary evidence would arise in a final investigation.

CONCLUSION

For the reasons discussed, we determine that there is no reasonable indication that the domestic industries producing welded and seamless carbon steel pipe nipples are either materially injured or threatened with material injury by reason of the subject imports.

DISSENTING VIEWS OF COMMISSIONER NEWQUIST

Unlike my colleagues, I find that there is a reasonable indication that the domestic industry producing carbon steel pipe nipples is threatened with material injury by reason of imports of this product from Mexico which are allegedly sold in the United States at less-than-fair-value.

In light of my colleagues' negative determination, I first discuss my understanding of the purpose of Commission preliminary investigations. When the preliminary investigation fails to ascertain sufficient information to confidently assess whether the domestic industry is materially injured or threatened with such injury, I believe the Commission is obligated to make an affirmative preliminary determination and continue the investigation.

In my view, the petitioners here have met their administrative burden for continuation of this investigation. The Commission too has a responsibility in preliminary investigations: it is to critically assess the available data and bear in mind implications of both the data before it as well as the data it lacks, before it denies a petitioner access to administrative relief.

A negative preliminary determination preempts petitioners from any opportunity to present directly to the Commission crucial information and perspectives on their industry and conditions of trade. A vote denying such access should be based on a record of exceptional quality and insight. During the relatively brief period of a preliminary investigation, this cannot always occur -- in fact, it seldom does. Thus, consistent with sound administrative policy, only the most compelling of records warrant a negative preliminary determination.

I. STANDARD IN PRELIMINARY INVESTIGATIONS

I would like to share my sense of what the preliminary investigatory process is about. These comments are not intended to be exhaustive nor definitive, but I believe that some general observations here are appropriate and instructive.

A. Overview

Prior to the Trade Reform of Act of 1974,¹ the Treasury Department² completed its entire investigation before the Commission assessed whether there was material injury or threat of material injury "by reason of" the dumped imports.³ Thus, only after the Treasury Department instituted an investigation and made affirmative preliminary and final determinations, did the Commission investigate injury. Often, well over a year, or longer, passed after institution before the Commission would conduct its lone investigation of the injury portion of the administrative process.

In an effort to address the administrative burden of "going forward" with an investigation for more than a year without any examination of injury, Congress "felt that there ought to be a procedure for terminating investigations at an early stage where there was

¹ P.L. 93-618.

² Until the Trade Agreements Act of 1979, P.L. 96-39, the Treasury Department performed those aspects of dumping and subsidy investigations which are now administered by the Department of Commerce.

³ Although slightly different than the current Department of Commerce practice, the Department of the Treasury similarly conducted an "institution" investigation, a "preliminary" investigation, and a "final" investigation. The timetable for a complete Treasury investigation often was more than one year. See Jackson, World Trade and the Law of GATT, p. 403 n. 68 (1969).

no reasonable indication that injury or the likelihood of injury could be found."⁴ Thus, it amended the statute to require that the Commission make a "preliminary" determination of injury if, at the time of initiation of the investigation, the Secretary of the Treasury concluded that there was substantial doubt as to whether injury existed.⁵ Any such preliminary Commission investigation was to determine whether there was a "reasonable indication" of injury. In short, Congress sought to provide a mechanism to permit termination of an investigation due to lack of injury at an earlier stage of the proceeding.

The Commission's first "preliminary" investigation, determination, and accompanying views on its new role were published in April 1975. Significantly, the Commission report was subtitled, "Negative Determination of 'No Reasonable Indication of Injury.'"⁶ The Commission majority explained that

the criteria established by the [new] provision of law are expressed in the negative and in terms of a determination that, if made by the Commission, would result in the termination of the "investigation . . . " by the Secretary of the Treasury.⁷

The majority further explained that it did not believe that Congress intended to deny statutory relief

by aborting a full investigation in the absence of a clear and convincing showing that there is "no reasonable indication" that a full investigation might develop facts which could afford a basis for an affirmative injury determination under the Act.⁸

As we know, the preliminary investigation concept was continued and modified somewhat in the 1979 Trade Agreements Act. As the Commission administered that Act and its successors, the approach to preliminary investigations evolved into a "two-prong" test. A negative determination is warranted only if: (i) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (ii) no likelihood exists that contrary evidence will arise in a final investigation. As has been noted in virtually every Commission preliminary determination since 1986, "[t]he U.S. Court of Appeals for the Federal Circuit has held that this [test] . . . 'accords with clearly discernible legislative intent and is sufficiently reasonable.'"⁹

In my view, and consistent with my interpretation of the statute, the import of the Commission's oft-cited "two-prong" test (as well as its earlier pronouncement) is simple: the

⁴ S. Rep. No. 1298, 93d Cong., 2d Sess. at 170-71 (1974).

⁵ Id.

⁶ Butadiene Acrylonitrile Rubber from Japan, Negative Determination of "No Reasonable Indication of Injury" in Inquiry No. AA1921-Inq.-1, ITC Pub. 727 (April 1975).

⁷ Id. at 4.

⁸ Id. at 5 (emphasis added).

⁹ See, e.g., Defrost Timers from Japan, Inv. No. 731-TA-43 (Preliminary), USITC Pub. 2609 at 5 (March 1993)(quoting American Lamb Co. v. United States, 785 F.2d 994, 1004 (Fed. Cir. 1986)("American Lamb")).

Commission should not make a negative preliminary determination unless both elements of the test are satisfied.

I believe Congress' intent that the preliminary threshold be quite low is further demonstrated by the fact that the 1979 Trade Agreements Act provided for different appellate standards of review of Commission preliminary and final determinations. Pursuant to the 1979 amendments, a court may hold unlawful a Commission negative preliminary determination only if found "to be arbitrary, capricious, [or] an abuse of discretion."¹⁰ In contrast, a court may hold unlawful a Commission affirmative or negative final determination merely if it is found "to be unsupported by substantial evidence."¹¹

In my view, the high preliminary standard of review which, in a sense, "protects" the Commission's discretionary authority, signals that Congress anticipated the Commission would reach negative preliminary determinations only if the preliminary record manifested exceptional thoroughness and factual depth.¹²

B. Information Lacking In This Investigation

It is clear that during the period for which data were obtained, January 1991 through June 1994, a number of domestic producers ceased operations and the industry underwent some unknown level of "restructuring."¹³ And, also what is not at all clear is any effect these events had on the quality of the data available, and whether such data may or may not reflect accurately the condition of the domestic industry.

The Commission has virtually no data for producers accounting for 25% of domestic production in 1993. Data for 1991 and 1992 are equally incomplete, unreliable, and potentially misleading because of coverage limitations. The petition lists 40 current and "former" domestic producers of carbon steel pipe nipples.¹⁴ Commission staff sent questionnaires to those 40 firms plus five others, however, only 12 producers responded.¹⁵ Producers responding to the questionnaires are believed to account for only 75% of U.S. production in 1993.¹⁶

In my view, this lack of information severely compromises a complete assessment of the true condition of the industry in at least two manners.

First, most if not all producers ceasing operations during the period of investigation did not respond to the Commission's questionnaires. The effect of this non-reporting by such a substantial number of producers suggests production and capacity increases from year-to-year which, in fact, may not have occurred. This can best be shown by example.

¹⁰ 19 U.S.C. § 1516a(b)(1)(A).

¹¹ 19 U.S.C. § 1516a(b)(1)(B).

¹² Obviously, such an arbitrary and capricious standard essentially assures that a domestic industry will fail in an effort to overturn a negative preliminary determination. See, e.g., Wells Mfg. Co. v. United States, 677 F. Supp. 1239 (Ct. Int'l Trade 1987)(negative preliminary upheld); Torrington Co. v. United States, 790 F. Supp. 1161 (Ct. Int'l Trade 1992), aff'd, 991 F.2d 809 (CAFC 1993).

¹³ See, e.g., Confidential Report ("CR") at I-10 n.16; Public Report ("PR") at II-7 n.16. For example, at least two former producers were absorbed by one of the petitioners. Id.

¹⁴ Petition at 29 and Appendix B. The petition alleged that as many as 11 producers ceased operations since 1991.

¹⁵ CR at I-10, Table 2; PR at II-7, Table 2.

¹⁶ CR at I-14 n.22; PR at II-11 n.22.

Between January and September 1991, Producer A produced 2,000 pounds of pipe nipples. In October 1991, producer A ceased operations. Producer A did not respond to the staff's questionnaires.

For 1991, Producer B produced 3,000 pounds of pipe nipples.

Aggregate reported production data for 1991, including Producers B (3,000 pounds), C (3,500 pounds), and D (3,500 pounds) totals 10,000 pounds.

In March 1992, Producer B either acquires the assets of Producer A, or otherwise expands its capacity to produce 1,000 pounds of the 2,000 no longer produced by Producer A. Thus, for the year, Producer B reports production of 4,000 pounds.

For 1992, Producers C and D report the same production as in 1991 (3,500 pounds each).

Therefore, because Producer B reports in 1992 some production that was not reported by Producer A in 1991, the aggregate production data for 1992 is 11,000 pounds.

Thus, in this scenario, there is a reported apparent increase in domestic production of 1,000 pounds between 1991 and 1992. However, production in fact decreased by 1,000 pounds. Simply put, the data obtained in this preliminary investigation cannot permit a confident assessment the condition of this domestic industry. This is particularly obvious when there is essentially no data on the producers accounting for 25% of domestic production.

Accordingly, the record as a whole does not "contain clear and convincing evidence that there is no material injury or threat of such injury."

Second, and equally misleading, is that the restructuring of the industry may tend to overstate the financial health of the domestic industry. This is obviously true for those unprofitable firms exiting the market and not reporting data. Moreover, even the financial data of the remaining producers are suspect.

It may be that a producer acquired the assets of a defunct firm at "fire sale" prices. If so, such an event may permit the producer to increase capacity and production at a lower cost. The effect, of course, would inflate the firm's operating and net income data, at least in the short term.

Moreover, as a general statement, after an industry "shakeout," the remaining producers often show short-term gains due to the reduction in competition. Such gains do not, however, typically outlast deeper, more basic industry problems. Here, it is not even clear whether the restructuring has ended or whether further consolidations, and thus overstated performance, are ongoing and may continue into the immediate future.

Finally, it should also be noted that the pricing data obtained by Commission staff may prevent an "apples-to-apples" comparison of domestic and Mexican pipe nipples.¹⁷ As

¹⁷ CR at I-43-44; PR at II-24-25.

such, it is difficult to reasonably ascertain whether there has been no depression or suppression of domestic prices.

In other words, there may well be "a likelihood that contrary evidence, i.e., evidence of injury, will arise in a final investigation."

While interpretation, inference, and extrapolation may provide plausible or, in some instances, even accurate, explanations, such explanations are not the quality of hard data sufficient to terminate an investigation.¹⁸ And, such manipulation of data in support of a negative conclusion is inconsistent with the underlying purpose of the statute.

C. Conclusion

In light of my interpretation of the statutory purpose of a preliminary investigation, the quality of the data before the Commission, and my appreciation for the need for information not now available, I conclude that an affirmative determination is required. For me, the record in this preliminary investigation clearly warrants continuation consistent with American Lamb.

Set forth below is the basis for my determination that there is a reasonable indication that domestic industry producing carbon steel pipe nipples is materially injured or threatened with material injury by reason of imports of this product from Mexico which are allegedly sold in the U.S. at less-than-fair-value.

In making this determination and providing this analysis, I am mindful that the reliability and meaningfulness of this analysis is severely constricted by the significant amount of data absent from the preliminary record.

II. LIKE PRODUCT AND DOMESTIC INDUSTRY

Unlike my colleagues, for purposes of this preliminary investigation, I find that the domestic product most "like" that subject to investigation, as defined by the Department of Commerce, includes both seamless and welded carbon steel pipe nipples.¹⁹

Given the substantial questions I have concerning the reliability of the data the Commission gathered in this preliminary investigation, in my view, the more prudent course is to find one like product consisting of both seamless and welded carbon steel pipe nipples.

Having defined the like product as including both welded and seamless carbon steel pipe nipples, I find that the domestic industry producing the like product consists of all producers of welded and/or seamless carbon steel pipe nipples.²⁰

III. CONDITION OF THE INDUSTRY

In determining whether there is material injury to a domestic industry by reason of the LTFV imports, I am directed to consider "all relevant economic factors that have a

¹⁸ See, Commission Meeting, October 11, 1994, transcript at 4-7.

¹⁹ Commission practice is to exclude a Commissioner from reviewing those portions of the majority opinion from which that Commissioner dissents. Therefore, I have had no access to any portion of the majority's opinion, including its discussion of like product.

²⁰ I note that had I found two separate like products, notwithstanding that only welded pipe nipples are imported from Mexico, I likely would have found a reasonable indication of threat of material injury to both industries -- largely based on the unreliability and incompleteness of the data.

bearing on the state of the industry in the United States."²¹ These include production, consumption, shipments, inventories, capacity utilization, market share, employment, wages, productivity, financial performance, capital expenditures, and research and development.²² No single factor is determinative, and I consider all relevant factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."²³

Total domestic consumption of carbon steel pipe nipples appeared to rise throughout the period of investigation.²⁴ Domestic production capacity also increased, although much of the increase in 1993 may be attributed to the restructuring of the industry, as surviving companies acquired assets and equipment from companies that were forced to leave the industry.²⁵ While U.S. domestic production rose 22% between 1992 and 1993, it began to drop thereafter, falling 8% in interim 1994 (January thru June) as compared to interim 1993.²⁶ Capacity utilization also fell almost 6% between the interim periods, after rising between 1991 and 1993.²⁷

U.S. producer shipments of the subject product appeared to increase during the period of investigation.²⁸ Inventories held by U.S. producers increased significantly between 1991-93, though were lower in interim 1994 than in the same period 1993.²⁹ Net sales by domestic producers ostensibly increased throughout the period of investigation, and were greater in interim 1994 than for the same period 1993.³⁰ Operating income margins declined irregularly between 1991-93, but were higher in interim 1994 compared with the same period 1993.³¹

Capital expenditures by domestic producers, primarily for the purchase of new equipment, rose consistently between 1991 and 1993, but were dramatically less in interim 1994 compared with interim 1993.³² Domestic expenditures for research and development remained relatively constant throughout the period of investigation.³³

Based on the foregoing, particularly given my concern that the available data on the condition of the domestic industry is incomplete, unrepresentative, and misinterpreted, I find that the domestic industry is vulnerable to the continuing adverse effects of carbon steel pipe nipples from Mexico that are allegedly sold in the U.S. at less-than-fair-value.

²¹ 19 U.S.C. § 1677(7)(C)(iii).

²² Id.

²³ Id.

²⁴ Report at Table 1. It must be recalled, however, for the reasons discussed above, that these data are suspect.

²⁵ CR at I-15; PR at II-11.

²⁶ Report at Table 3.

²⁷ Id.

²⁸ Report at Table 4.

²⁹ Report at Table 5.

³⁰ Report at Table 9.

³¹ Id.

³² Report at Table 12. The increase in capital expenditures is to be expected as surviving firms acquired the assets and other equipment of those companies exiting the market.

³³ Report at Table 13.

IV. THREAT OF MATERIAL INJURY

In determining whether the domestic industry is threatened with material injury, the statute directs that I consider several factors, none of which are necessarily dispositive.³⁴ In addition, the statute provides that an affirmative threat determination be made "on the basis of evidence that the threat of material injury is real and that actual injury is imminent."³⁵ I have carefully scrutinized each relevant statutory factor and discuss each below.

³⁴ These are:

- (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 probability that 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,
- (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 1671 or 1673 of this title or to final orders under section 1671e or 1673e of this title, are also used to produce the merchandise under investigation,
- (IX) in any investigation under this title which involves imports of both raw agricultural product (within the meaning of paragraph (4)(E)(iv) and any product processed from such raw agricultural product, the likelihood 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.

19 U.S.C. § 1677(7)(F)(i).

The Commission must further consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. See 19 U.S.C. section 1677(7)(F)(iii).

³⁵ 19 U.S.C § 1677(7)(F)(ii).

Inventories of carbon steel pipe nipples from Mexico held by U.S. importers declined irregularly between 1991-93, but were almost twice as large in interim 1994 compared with interim 1993.³⁶

Mexican capacity to produce and production of the subject product steadily increased during the period of investigation, and production is projected to continue to increase for full year 1994 and 1995.³⁷ Unutilized capacity increased between 1991-93, though utilized capacity is projected to return to roughly the 1991 level in 1994 and 1995.³⁸

Throughout the period of investigation the United States was the largest and, apparently, the most significant export market for Mexican carbon steel pipe nipples.³⁹ The U.S. is projected to remain the largest export market in 1994 and 1995.⁴⁰ Notwithstanding that the U.S. is the primary market for Mexican exports, a significant amount of Mexican product is consumed in the home market, and a lesser amount in other exports markets.⁴¹ As such, there is substantial Mexican production available to be diverted to the U.S. from either the home or other export markets.⁴²

Imports from Mexico declined marginally between 1991-92, then increased substantially between 1992-93.⁴³ Imports in interim 1994 were dramatically greater than for the same period 1993.⁴⁴

Imports from Mexico accounted for a relatively stable share of apparent domestic consumption between 1991-93, but increased their share quite significantly in interim 1994 compared with the same period in 1993.⁴⁵

Although there is some question as to the reliability of the pricing data, those gathered in this preliminary investigation reveal consistent and significant underselling by the subject imports.⁴⁶ Further, there is a reasonable indication that this underselling has suppressed or depressed some domestic prices to a significant degree.⁴⁷

In addition, several U.S. producers reported that further imports of allegedly less-than-fair-value carbon steel pipe nipples from Mexico would have a negative impact on their operations, particularly with regard to capital growth and ability to expand into new markets.⁴⁸

³⁶ Report at Table 14.

³⁷ Report at Table 15.

³⁸ Id.

³⁹ Id.

⁴⁰ Id.

⁴¹ Id.

⁴² Id.

⁴³ Report at Table 16.

⁴⁴ Id.

⁴⁵ Report at Table 17. Again, it must be recalled that domestic data may be inflated or distorted from year-to-year as a result of numerous firms ceasing operations. Accordingly, to the extent that domestic shipments are overstated, the Mexican share of domestic consumption would be understated.

⁴⁶ Report at Tables 18-20.

⁴⁷ Tables 18-20, compare products 2 and 4 with product 5.

⁴⁸ Report at Appendix D.

V. CONCLUSION

Based on the foregoing, including rapidly increasing imports from Mexico, increases in Mexican capacity and production, the historic importance of the United States as an export market, and consistent and significant underselling, I find that there is a reasonable indication that the domestic industry producing carbon steel pipe nipples is threatened with material injury by reason of imports of this product from Mexico which are allegedly sold in the United States at less-than-fair-value.

PART II
INFORMATION OBTAINED IN THE INVESTIGATION

INTRODUCTION

On August 31, 1994, the Commission received a petition filed by counsel on behalf of the U.S. Pipe Nipples Group, an *ad hoc* trade association consisting of five domestic producers of carbon steel pipe nipples.¹ The petition alleges that an industry in the United States is materially injured or threatened with material injury by reason of imports from Mexico of carbon steel pipe nipples that are alleged to be sold in the United States at less than fair value (LTFV).

Accordingly, the Commission instituted, effective August 31, 1994, preliminary antidumping investigation No. 731-TA-719 (Preliminary), under section 733(a) of the Tariff Act of 1930 (the Act), 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 Mexico of carbon steel pipe nipples, provided for in subheading 7307.99.50 of the *Harmonized Tariff Schedule of the United States (HTS)*, that are allegedly being sold in the United States at LTFV.

Notice of the institution of the Commission's investigation and of a conference to be held in connection therewith was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the *Federal Register* on September 8, 1994 (59 F.R. 46446).² The conference was held on September 21, 1994,³ and the Commission voted on this investigation on October 11, 1994. The statute directs that the Commission make its determination in this case within 45 days after receipt of the petition, or by October 17, 1994.

A summary of the data collected in this investigation is presented in appendix C. There are no known Commission investigations on carbon steel pipe nipples prior to the current investigation.

THE PRODUCT

Description and Uses

The term "pipe nipple" is widely accepted in the industry to mean a pipe of a maximum length of 12 inches (30.48 centimeters), made of any material, and threaded at both ends. But, according to an industry manual, a pipe nipple is "A piece of pipe less than 12 inches long that may be threaded on both ends or one end and provided with ends suitable for welding or a mechanical joint."⁴

The pipe nipples subject to this investigation, as stated by Commerce in its *Federal Register* notice of initiation, consist of "carbon steel pipe nipples, both finished and unfinished, defined as cut carbon steel pipe having a maximum length of 12 inches. Unfinished pipe nipples (nipple blanks) have not been subjected to any machining following the cutting of the pipe. Finished pipe nipples have been machined after the cutting, including, but not limited to, the following processes: reaming/deburring, chamfering, and/or threading. The type of finish on one end of a pipe nipple need not be the same as the finish on the other end. For threaded pipe nipples, threading is performed along the outside diameter to permit fastening of the pipe nipple to other components with a matching inside diameter thread. Pipe nipples manufactured from plain (black), galvanized, welded, and seamless carbon steel pipe are included within the scope of this investigation."

¹ Member firms are AAA Pipe & Nipple Co., Inc., Milwaukee, WI; Beck Manufacturing Inc., Waynesboro, PA; Grinnell Corp., Exeter, NH; Missouri Pipe Fittings Co., St. Louis, MO; and Seminole Tubular Products Co., Houston, TX.

² Copies of the Commission's and Commerce's notices are presented in appendix A.

³ A list of witnesses appearing at the conference is presented in appendix B.

⁴ Mohinder L. Nayyar, ed., *The Piping Handbook*, McGraw-Hill Inc., 1992, p. A.16.

Carbon steel pipe nipples are commodity-type products. They are manufactured in conformity with industry standards, such as those established by the American Society for Testing and Materials (ASTM) and the American National Standards Institute (ANSI). Carbon steel pipe nipples need not have similar threads on both ends; other types include locknut nipples, tank pipe nipples, and swage nipples.⁵

U.S.-produced carbon steel pipe nipples are manufactured from both welded and seamless carbon steel pipe that can be either plain (black) or galvanized. Of the 12 U.S. producers that provided production information, all 12 produce welded carbon steel pipe nipples, both plain and galvanized, and 8 of the 12 also produce seamless carbon steel pipe nipples. Of the 8 that produce seamless carbon steel pipe nipples, 5 produce both plain and galvanized seamless nipples.

Unfinished carbon steel pipe nipples are dedicated to the production of finished carbon steel pipe nipples. The unfinished pipe nipples have no other known uses of significance. According to the petitioner, an unfinished pipe nipple accounts for *** of the cost of producing a finished pipe nipple.⁶

In their finished form, the ends of pipe nipples generally are fabricated to permit fastening by means of external threads to other internally threaded components of a piping system. Typically, one end of a pipe nipple is connected to a pipe fitting, which itself is attached to a pipe section. A variety of components, such as a sprinkler head or a pressure gauge, then can be connected to the other end of the pipe nipple. Pipe nipples can also be connected between sections of pipe in a piping system.

Most pipe nipples are connected to piping systems by screwing them into pipe fittings. Accordingly, the most common end finish for carbon steel pipe nipples sold in the U.S. market is a tapered threaded end. Pipe nipples are threaded along their outside diameter; this permits the pipe nipple to be screwed into other components having a matching inside diameter thread. However, carbon steel pipe nipples may be manufactured with other end finishes, including straight pipe threads, roller cuts, beveled ends, square cuts, and grooved ends.

Pipe nipples are used mainly in applications where water, steam, natural gas, compressed air, oil, and other liquids and gases are to be conveyed through a piping system. Other uses include electrical conduit connections and mechanical applications.⁷ Carbon steel pipe nipples are sold primarily to plumbing, heating, and cooling distributors; hardware retailers; sprinkler contractors; equipment manufacturers; and industrial pipe, valve, and fitting distributors. The end users of carbon steel pipe nipples include chemical processing plants; the oil and gas industries; power plants; manufacturers of machinery and equipment such as sprinklers, air conditioners, furnaces, boilers, and water, gas, and oil tanks; building contractors; plumbers; electricians; and the general public, purchasing from hardware retailers.

Manufacturing Processes

With the exception of swaged nipples, all pipe nipples are manufactured using the same process. Pipe nipple manufacturers usually use purchased pipe in 21-foot lengths as their primary

⁵ Locknut pipe nipples are threaded on only one end, with the other end typically reamed or square cut. Tank pipe nipples have different threads at each end, one short and tapered and one long and straight; they are generally used to connect pipes to storage tanks. Swage pipe nipples have a larger diameter at one end than at the other end and are used as flow reducers in piping systems.

⁶ Postconference brief of McKenna & Cuneo, p. 10.

⁷ Seamless pipe nipples are more commonly used in demanding applications that require exceptional strength, high-pressure containment, and a great degree of reliability. Welded pipe nipples are more commonly used to transport liquids at moderate pressures. Black pipe is a general-purpose pipe, whereas galvanized pipe is used in applications where increased resistance to corrosion is important. ***.

input. The pipe is cut to the proper length for the specific pipe nipple being manufactured. At this stage of the production process, the cut pipe is referred to as a "nipple blank;" it is an unfinished pipe nipple. These blanks are then processed either into swaged nipples or into other types of pipe nipples. Swaged nipples are made from nipple blanks by reducing the ends of pipe sections with rotating dies which are pressed intermittently against the pipe end, and subsequently threaded. Other pipe nipples are made from nipple blanks in threading machines, which can be either automatic or manual.⁸ On automatic threaders, the nipple blanks are retrieved from a feed hopper, aligned with the threadcutting heads, and threads are cut on the pipe nipple ends to the proper specifications. On manual threaders, the feeding, aligning, and threading of the blank are performed by equipment operators. In both instances, a sulphurized, chlorinated oil generally is applied during the threading operation to keep the moving parts cool and to lubricate during the threadcutting operation.

During the threading operation, the inside diameter of the pipe nipple is reamed or deburred to smooth any rough edges. In addition, the pipe nipple is chamfered to assist in the connection process. Subsequently, the pipe nipple is either ejected automatically or removed by hand from the threading machine. Surface oils remaining on the pipe nipple are then removed, and a rust inhibitor is applied. Finally, the pipe nipple is packed, either automatically or manually.

Seamless and welded carbon steel pipe nipples, whether plain or galvanized, can be and are produced on the same equipment and machinery using the same production workers. In response to the question, "Does your firm produce products other than carbon steel pipe nipples on the same equipment and machinery used in the production of carbon steel pipe nipples?," eight producers answered "No" and four producers answered "Yes." Of the four that answered "Yes," other products named as being produced on the same equipment and machinery were aluminum nipples, brass nipples, stainless nipples, conduit nipples, conduit elbow, pre-cut pipe, and hardware pipe.

Substitutes

The market for welded carbon steel pipe nipples, in which the U.S. producers and the respondents in this investigation are both active, is affected by piping systems and pipe nipples made of polyvinyl chloride (PVC), chlorinated polyvinyl chloride (CPVC), copper, brass, chrome-plated brass, and stainless steel. Over a long period of time (not simply the period for which data were collected in this investigation), piping systems made of these competing materials, especially PVC and CPVC, have made significant inroads into the market for carbon steel piping systems, to the point where carbon steel pipe and fittings manufacturers tend to serve the replacement market.^{9 10 11}

⁸ In the United States and abroad, the great majority of the equipment used for the threading operation to manufacture carbon steel pipe nipples, as well as nipples made of other materials, is designed and fabricated by Teledyne Specialty Equipment Company's Teledyne Landis Machine of Waynesboro, PA. Both petitioner and respondent Niples del Norte use Landis equipment in their manufacturing process. Stephen Beck stated that "The majority of the pipe nipple machines that are in operation today are produced on Landis Machine Company's equipment" (conference transcript, p. 18). Jorge Hinojosa, Director General of Niples del Norte, S.A., stated that ". . . the equipment that we have is Landis machines" (conference transcript, p. 89).

⁹ Most of the increase in the use of PVC and CPVC pipe nipples has been in applications in new construction where they are used in drinking water piping systems, sprinkling systems, and irrigation systems. There are also CPVC products for industrial use (in the gas, oil, and petrochemical industries) that meet the more demanding schedule 40 and 80 specifications, as do carbon steel pipe nipples. (Telephone conversation with ***, supplier of raw materials for PVC and CPVC pipe manufacturers, Sept. 27, 1994.)

¹⁰ ". . . here in the United States, the PVCs widely used in housing, and our product goes especially to replacement, you know, for old houses that may want to change some parts in the kitchen or in the bathroom, or whatever. That's where they use our product; otherwise, new housing is just PVC or copper." (Testimony of Jorge Hinojosa, Director General, Niples del Norte, S.A., conference transcript, p. 92.)

¹¹ "We're not being threatened today with much more of a takeover of over (sic) products, like plastic. We have our own little nitch (sic), I guess, in the marketplace now, a lot of replacement business. And I'd say we're not losing a lot of business to plastic today. They've already taken their share of the market." (Stephen Beck, conference transcript, p. 52.)

In addition, pipe nipples made of substitute materials such as PVC and CPVC can be used as replacement nipples on carbon steel piping systems in at least some applications.^{12 13} There are also "transition fittings," some of which have threads on the outside of each end like pipe nipples, that bridge the gap between piping systems composed of different materials.¹⁴

U.S. Tariff Treatment

Carbon steel pipe nipples are currently provided for in HTS subheading 7307.99.50 and covered by statistical reporting number 7307.99.5015. The column 1-general (most favored nation) rate of duty on imports provided for in HTS subheading 7307.99.50 is 6.2 percent ad valorem; however, effective January 1, 1994, U.S. imports from Mexico have been free of duty as a result of the North American Free Trade Agreement (NAFTA).

Before July 1992, carbon steel pipe nipples were covered by statistical reporting number 7307.99.5030, a "basket" category that also covered "other" iron or nonalloy steel tube or pipe fittings. The column 1-general rate of duty on imports provided for in HTS subheading 7307.99.50 was also 6.2 percent ad valorem.

THE NATURE AND EXTENT OF ALLEGED SALES AT LTFV

The petition compared prices of carbon steel pipe nipples sold by Niples del Norte, S.A. (Niples del Norte) in the United States with the prices of carbon steel pipe nipples sold by Niples del Norte in Mexico. In addition, the petition used "constructed value" to determine foreign market value for carbon steel pipe nipples produced by Mexican producers other than Niples del Norte. By subtracting the weighted-average U.S. selling price from the weighted-average foreign market value, the petitioner arrived at alleged weighted LTFV margins ranging from 61.7 to 71.2 percent and, by using the constructed value method, the petitioner computed an alleged average weighted LTFV

¹² In response to a question at the Commission's conference on whether one could, for example, insert a plastic nipple into a steel piping system, Mr. Hinojosa of Niples del Norte responded, "Yes. To the best of my knowledge, you can do it; no problem." (Conference transcript, p. 94.)

¹³ Among the comments in response to a question in the Commission's questionnaires on the likelihood/ease of substitution between carbon steel pipe nipples and other pipe nipples were those of ***: ("Stainless is as structurally sound but much more expensive . . . PVC not a good substitute - cheaper by some margin but weak. Brass good substitute but more expensive"); of ***: ("The use of other pipe nipples) is . . . not likely due to ASTM specifications. Stainless nipples are priced many times greater due to raw material cost and much higher manufacturing costs."); of ***: ("Not likely to be substituted, except for occasional use of plastic (CPVC) in plumbing applications"); of ***: ("PVC nipples are significantly cheaper than carbon steel nipples, but are limited in application due to code restrictions or other industry restrictions pertaining to its pressure and heat capabilities. Stainless steel is used mostly for applications involving food handling; brass is considerably more expensive and is used mostly in ornamental applications"); of ***: ("Stainless steel & brass nipples are for a different market such as the food, petrochemical and pharmaceutical industry. CPVC nipples can replace steel nipples in some applications"); and of ***: ("It is possible that brass or stainless steel nipples could be substituted based upon application needs and performance requirements. The cost consideration is that these products would probably be 2 to 10 times more expensive").

¹⁴ Transition fittings allow for the integration of different materials into a piping system. The most common transition fittings connect copper and steel pipes, steel and plastic pipes, and copper and plastic pipes.

margin of 32.6 percent. In its notice of initiation, Commerce indicated that it recalculated both the U.S. selling price and the foreign market value; the resulting alleged dumping margins ranged from 1.71 to 92.64 percent.

THE DOMESTIC MARKET

U.S. Consumption

The data on apparent U.S. consumption of carbon steel pipe nipples presented in table 1 are composed of U.S. producers' U.S. shipments reported in response to the Commission's producers' questionnaires plus U.S. imports of carbon steel pipe nipples from Mexico reported in response to the Commission's importers' questionnaires, plus U.S. imports of carbon steel pipe nipples from countries other than Mexico as derived from official statistics of the U.S. Department of Commerce. The data presented in the body of the report are, unless otherwise noted, for finished carbon steel pipe nipples. The Commission's questionnaires asked for separate data for finished and unfinished carbon steel pipe nipples as well as separate data for welded and seamless carbon steel pipe nipples. No producer or importer reported any data for unfinished carbon steel pipe nipples. Separate data for welded and seamless carbon steel pipe nipples are reported in appendix C.

On the basis of the data presented in table 1, apparent consumption of carbon steel pipe nipples, measured in pounds, *** percent from 1991 to 1992 and *** percent from 1992 to 1993. Apparent consumption during January-June 1994 was *** percent *** consumption during January-June 1993. Levels and trends in consumption reported in response to the Commission's questionnaires differ from levels and trends in consumption reported in the petition.¹⁵

U.S. Producers

The petition lists 40 producers, including former producers, of carbon steel pipe nipples.¹⁶ Producers' questionnaires were sent to 45 firms that were believed to have produced carbon steel pipe nipples during January 1991-June 1994. A list of the firms responding to the Commission's questionnaires, their shares of reported production in 1993, and the firms' positions with respect to the petition is presented in table 2.

Of the firms listed in table 2, *** is the largest, with a reported capacity of *** pounds in 1993; followed by ***, with a capacity of *** pounds; ***, with a capacity of *** pounds; and ***, with a capacity of *** pounds. ***.

Among the petitioners, ***. All other producers reported no outside ownership, except for ***.

None of the reporting U.S. producers is related to foreign exporters or U.S. importers of the subject product, and none is an importer or a purchaser of the allegedly dumped product.

¹⁵ Petition, p. 27. Data in the petition reflect estimates for all producers, and former producers, of carbon steel pipe nipples whereas the data in the report are derived from responses to the Commission's questionnaires. Report data are incomplete because of some nonresponses, including nonresponses from producers that are no longer in business. The petition (p. 29) claims that producers no longer in business accounted for about 17 million pounds in annual production.

¹⁶ Petition, p. 29 and appendix B. Of the 11 former producers listed in the petition as having gone out of the business of producing carbon steel pipe nipples since 1991, 6 are apparently out of business, 2 were *** by one of the petitioners, 1 is still producing the product, 1 has reopened under new management, and 1 is not accounted for.

Table 1

Carbon steel pipe nipples: U.S. producers' shipments of domestic product, U.S. imports, by sources, and apparent U.S. consumption, 1991-93, Jan.-June 1993, and Jan.-June 1994

Item	1991	1992	1993	Jan.-June-- 1993	1994
	Quantity (1,000 pounds)				
Producers' U.S. shipments	56,107	60,820	71,062	32,917	36,726
U.S. imports from--					
Mexico	***	***	***	***	***
All other sources	***	***	773	383	370
Total	***	***	***	***	***
Apparent consumption	***	***	***	***	***
	Value (1,000 dollars)				
Producers' U.S. shipments	52,550	56,919	67,897	30,674	36,720
U.S. imports from--					
Mexico	***	***	***	***	***
All other sources	***	***	1,042	488	390
Total	***	***	***	***	***
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. Imports from countries other than Mexico were estimated from Commerce data by the Commission's staff for January 1991-June 1992.

U.S. Importers

The petition identified three producers of carbon steel pipe nipples in Mexico: Cohart de Mexico, Niples del Norte, and Niples el Superior, but only identified two alleged importers (United Agencies and Waxman Industries) of carbon steel pipe nipples from Mexico.¹⁷ Information provided by the U.S. Customs Service identified a number of other possible importers. Questionnaires were sent to all firms identified as importers of carbon steel pipe nipples from Mexico and to most firms identified as importers from countries other than Mexico. The importers that are parties to this investigation, Southland Pipe Nipples Co., Olmito, TX,¹⁸ and Waxman Industries, Bedford Heights,

¹⁷ Petition, pp. 7-8.

¹⁸ Southland Pipe Nipples Co., Inc. (Southland), is a registered Texas corporation; however, it consists of a post office box in Olmito, TX. Southland does not have a listed phone number and a questionnaire mailed via the U.S. Postal Service to the post office box was returned as "undeliverable." The registered agent for Southland is *** (an attorney in Brownsville, TX) who, when contacted by the Commission, ***. The agent did, however, forward the Commission's questionnaire to Niples del Norte, the owner of Southland.

Table 2

Carbon steel pipe nipples: U.S. producers, location of corporate offices, share of reported production in 1993, and position on the petition

Firm	Firm location	Share of production <i>Percent</i>	Position on petition
AAA Pipe & Nipple Co . . .	Milwaukee, WI	***	Petitioner
Atlas Pipe Threading Co . . .	Milwaukee, WI	***	***
Bayonne Nipple Co	Bayonne, NJ	*** ¹	Supports
Beck Manufacturing Inc . . .	Waynesboro, PA	***	Petitioner
Capitol Manufacturing	Westerville, OH	***	***
Cardinal Machine & Nipple Works	St. Louis, MO	*** ¹	***
D&T Manufacturing	Cerritos, CA	***	***
Grinnell Corp	Exeter, NH	***	Petitioner
Lansdale Nipple Co	Quakertown, PA	***	***
Missouri Pipe Fittings Co	St. Louis, MO	***	Petitioner
Perfection Corp	Madison, OH	***	***
Seminole Tubular Products Co	Collingswood, NJ	***	Petitioner
S&R Manufacturing Corp . .	Rock Rapids, IA	***	***
Star Tubular Products Co	Chicago, IL	*** ¹	***
Wisconsin Pipe & Fitting Corp	Milwaukee, WI	***	Supports
		100.0	

¹ ***.

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

OH,¹⁹ are *** importers of carbon steel pipe nipples from Mexico, and questionnaire responses were received from those firms. In addition to those firms, ***.

Channels of Distribution

Carbon steel pipe nipples are sold by producers and importers to industrial markets, such as distributors serving the plumbing, heating, and cooling trade, and to sprinkler contractors, equipment manufacturers, and to valve and fitting distributors. In addition, significant quantities are sold to distributors serving the retail hardware trade and, increasingly, directly to large mass merchandisers

¹⁹ Waxman Industries Inc. owns Cohart de Mexico and filed a consolidated response to the Commission's importers' questionnaire for Waxman Industries Inc., Bedford Heights, OH; Waxman Consumer Products Group, Bedford Heights, OH; Barnett Inc., Jacksonville, FL; Western American Manufacturing Inc., Cleveland, OH; and Western American Manufacturing Inc., San Diego, CA.

such as Home Depot, Hechingers, K-Mart, and similar retail chains.²⁰ The vast majority of pipe nipples sold to any of these markets are manufactured from welded pipe, whereas those produced from seamless pipe are generally marketed through distributors serving oil-country customers and specialized product manufacturers.

Petitioners' estimates of the distribution of carbon steel pipe nipple sales to various markets are shown in the following tabulation (in percent):²¹

<u>Market segment</u>	<u>Estimated market share</u>
Hardware and retail chains	20 to 30
Plumbing, heating, and cooling distributors	30 to 45
Industrial pipe, valve, and fitting distributors	20 to 30
Master distributors	10 to 20
OEMs, including sprinkler contractors	5

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

Section 771(7)(B) of the Act (19 U.S.C. § 1677(7)(B)) provides that in making its determination in this investigation the Commission--

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

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

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--

In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.

In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether (I) there has been significant price underselling by the imported merchandise as compared with the price of like products of the United States, and (II) 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.

²⁰ Traditionally, the retail market consisted primarily of smaller hardware stores served by a multitiered distributor network. More recently, the growth of regional and national retail chains serving both the do-it-yourself market and professional plumbers has significantly altered the relationships in the marketplace. These chains often have their own distribution network and significant purchasing power and have little need for the services of the traditional distributor.

²¹ Postconference brief of McKenna & Cuneo, app. A.

In examining the impact required to be considered under subparagraph (B)(iii), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to, (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and (IV) 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.

Available information on the volume of imports (item (B)(I) above) is presented in the section of this report entitled "U.S. Imports." Information on the other factors specified is presented in this section, and (except as noted) is based on the questionnaire responses of 12 firms that accounted for an estimated 75 percent of U.S. production of carbon steel pipe nipples during 1993.²²

U.S. Capacity, Production, and Capacity Utilization

The Commission requested producers of carbon steel pipe nipples to provide data on their capacity from January 1991 to June 1994.²³ Reported capacity increased 0.4 percent from 1991 to 1992 and 11.7 percent from 1992 to 1993 (table 3). *** the capacity increase in 1993 consisted of ***. Reported capacity during January-June 1994 was 0.6 percent greater than reported capacity during January-June 1993.

Reported U.S. production of carbon steel pipe nipples increased by 6.6 percent from 1991 to 1992 and by 22.0 percent from 1992 to 1993. Production during January-June 1994 decreased 8.0 percent when compared with production during January-June 1993.

Capacity utilization increased from 58.9 percent in 1991 to 62.6 percent in 1992 and to 68.3 percent in 1993. Capacity utilization was 61.3 percent during January-June 1994 compared with 67.0 percent during January-June 1993.

U.S. Producers' Shipments

Reported U.S. producers' U.S. shipments of carbon steel pipe nipples increased 8.4 percent, on the basis of quantity, from 1991 to 1992 and 16.8 percent from 1992 to 1993 (table 4). U.S. shipments during January-June 1994 were 11.6 percent greater than U.S. shipments during January-June 1993. On the basis of value, U.S. producers' U.S. shipments increased 8.3 percent from 1991 to 1992 and then 19.3 percent from 1992 to 1993. The value of U.S. shipments during January-June 1994 was 19.7 percent above the value of U.S. shipments during January-June 1993.

*** reported company transfers of carbon steel pipe nipples. ***. No U.S. producer of carbon steel pipe nipples reported export shipments.

²² Questionnaire coverage is believed to be better in 1993 than in 1991 or 1992 because responding firms are likely to have acquired some of the business of firms that ceased producing carbon steel pipe nipples in 1991 or 1992.

²³ Practical capacity was defined as the greatest level of output a plant can achieve within the framework of a realistic work pattern. Producers were asked to consider, among other factors, a normal product mix and an expansion of operations that could be reasonably attained in their industry and locality in setting capacity in terms of the number of shifts and hours of plant operations.

Table 3

Carbon steel pipe nipples: U.S. capacity, production, and capacity utilization, 1991-93, Jan.-June 1993, and Jan.-June 1994

Item	1991	1992	1993	Jan.-June--	
				1993	1994
Average-of-period capacity (1,000 pounds)	97,517	97,885	109,335	54,675	54,998
Production (1,000 pounds)	57,463	61,232	74,725	36,631	33,717
Capacity utilization (percent)	58.9	62.6	68.3	67.0	61.3

Note.--Capacity utilization is calculated using data of firms providing both capacity and production information.

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

U.S. Producers' Inventories

U.S. producers' yearend inventories increased *** percent from 1991 to 1992 and increased *** percent from 1992 to 1993 (table 5). Inventories at the end of June 1994 were *** percent below inventories at the end of June 1993.

Employment and Wages

The number of production and related workers producing carbon steel pipe nipples decreased 2.0 percent from 1991 to 1992 and increased 18.9 percent from 1992 to 1993 (table 6). The number of production and related workers during January-June 1994 was 9.8 percent above the number of such workers during January-June 1993. Hours worked increased 0.6 percent from 1991 to 1992 and increased 19.4 percent from 1992 to 1993. Hours worked during January-June 1994 increased 12.9 percent over hours worked during January-June 1993. Productivity, measured in pounds per hour, increased 5.5 percent from 1991 to 1992 and 3.2 percent from 1992 to 1993. Productivity during January-June 1994 was 16.8 percent below productivity during January-June 1993. Unit labor costs dropped 2.0 percent from 1991 to 1992 and rose by 2.1 percent from 1992 to 1993. Unit labor costs during January-June 1994 increased 17.6 percent when compared with unit labor costs during January-June 1993.

Table 4

Carbon steel pipe nipples: Shipments by U.S. producers, by types, 1991-93, Jan.-June 1993, and Jan.-June 1994

Item	1991	1992	1993	Jan.-June-- 1993	1994
<i>Quantity (1,000 pounds)</i>					
Company transfers	***	***	***	***	***
Domestic shipments	***	***	***	***	***
Subtotal	56,107	60,820	71,062	32,917	36,726
Exports	0	0	0	0	0
Total	56,107	60,820	71,062	32,917	36,726
<i>Value (1,000 dollars)</i>					
Company transfers	***	***	***	***	***
Domestic shipments	***	***	***	***	***
Subtotal	52,550	56,919	67,897	30,674	36,720
Exports	0	0	0	0	0
Total	52,550	56,919	67,897	30,674	36,720
<i>Unit value (per pound)</i>					
Company transfers	\$***	\$***	\$***	\$***	\$***
Domestic shipments	***	***	***	***	***
Average94	.94	.96	.93	1.00
Exports	(1)	(1)	(1)	(1)	(1)
Average94	.94	.96	.93	1.00

¹ Not applicable.

Note.--Unit values are calculated using data of firms supplying both quantity and value information.

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

Table 5

Carbon steel pipe nipples: End-of-period inventories of U.S. producers, 1991-93, Jan.-June 1993, and Jan.-June 1994

* * * * *

Table 6

Average number of U.S. production and related workers producing carbon steel pipe nipples, hours worked,¹ wages and total compensation paid to such employees, and hourly wages, hourly total compensation, productivity, and unit labor costs,² 1991-93, Jan.-June 1993, and Jan.-June 1994³

Item	1991	1992	1993	Jan.-June--	
				1993	1994
Production and related workers (PRWs)	540	529	629	592	650
Hours worked by PRWs (<i>1,000 hours</i>)	944	950	1,134	526	594
Wages paid to PRWs (<i>1,000 dollars</i>)	7,895	8,232	10,261	4,804	5,383
Total compensation paid to PRWs (<i>1,000 dollars</i>)	9,643	10,034	12,618	6,045	6,677
Hourly wages paid to PRWs	\$8.36	\$8.67	\$9.05	\$9.13	\$9.06
Hourly total compensation paid to PRWs	\$10.22	\$10.56	\$11.13	\$11.49	\$11.24
Productivity (<i>pounds per hour</i>)	58.0	61.2	63.1	65.2	54.2
Unit labor costs (<i>per pound</i>)	\$0.18	\$0.17	\$0.18	\$0.18	\$0.21

¹ Includes hours worked plus hours of paid leave time.

² On the basis of total compensation paid.

³ Firms providing employment data accounted for 100 percent of reported total U.S. shipments (based on quantity) in 1993.

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

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

Four producers (Capitol, Grinnell, Missouri Pipe Fittings, and Perfection) reported that their production and related workers who produce carbon steel pipe nipples are represented by unions. Eight producers reported that their production and related workers do not belong to unions.

Several producers of carbon steel pipe nipples reported reductions in employment during January 1991-June 1994. A summary of those reductions is presented in table 7.

Table 7

Carbon steel pipe nipples: Reductions in employment by U.S. producers, Jan. 1991-June 1994

* * * * *

Financial Experience of U.S. Producers

Ten producers²⁴ of carbon steel pipe nipples, representing approximately *** percent of estimated 1993 production, reported income-and-loss and other financial information on their operations.

Overall Establishment Operations

In addition to producing carbon steel pipe nipples, some producers manufacture other types of nipples, as well as couplings, fittings, and other types of steel products. Data on overall establishment operations of the U.S. producers are shown in table 8.

Operations on Carbon Steel Pipe Nipples

Income-and-loss data for the carbon steel pipe nipple operations are shown in table 9. Net sales increased by *** percent from *** in 1991 to *** in 1992. In 1993, net sales were ***, an increase of *** percent. Operating income was *** in 1991, *** in 1992, and *** in 1993. Operating income ratios, as a share of net sales, were *** percent in 1991, *** percent in 1992, and *** percent in 1993. Two companies incurred operating losses in 1991, and three companies incurred operating losses in 1992 and 1993.

Net sales in interim 1994 were ***, an increase of *** percent over interim 1993 sales of ***. Operating income was *** in interim 1993 and *** in interim 1994. Operating income ratios were *** percent in interim 1993 and *** percent in interim 1994. Four companies incurred operating losses in interim 1993, but *** in interim 1994.

Individual Company Analysis

Income-and-loss and unit cost data for each company are presented in table 10. Profitability for individual firms was mixed during the period of investigation. Generally, sales volume and revenues increased between 1991 and 1993; *** producers had increased sales volume and sales revenue between interim 1993 and interim 1994.

In terms of net sales, ***.

Separate data for welded and seamless pipe operations are presented in appendix C. Welded pipe accounts for most of the carbon steel pipe nipple operations. Profitability for seamless pipe was *** than that for welded pipe. Some of the smaller companies were not able to break down their financial data into seamless or welded pipe. Data for these companies were included in operations for welded pipe.

The cost of pipe is the largest component cost in producing carbon steel pipe nipples. ***. The cost of pipe accounts for approximately *** percent of the cost of the finished pipe nipple.²⁵ Petitioners state that the cost of the carbon steel pipe has *** during the period of investigation.²⁶

²⁴ These producers are AAA, Atlas, Beck, Capitol, D&T, Grinnell, Lansdale, Missouri, Seminole, and Wisconsin.

²⁵ Postconference brief of McKenna & Cuneo, p. 10.

²⁶ Ibid, app. A, p. 2.

Table 8

Income-and-loss experience of U.S. producers on the overall operations of their establishments wherein carbon steel pipe nipples are produced, fiscal years 1991-93, Jan.-June 1993, and Jan.-June 1994¹

Item	1991	1992	1993	Jan.-June--	
				1993	1994
Value (1,000 dollars)					
Net sales	171,463	167,276	187,811	88,101	101,403
Cost of goods sold	132,927	132,266	144,708	68,694	77,014
Gross profit	38,536	35,010	43,103	19,407	24,389
Selling, general, and administrative expenses	26,668	25,590	27,896	13,119	14,865
Operating income	11,868	9,420	15,207	6,288	9,524
Interest expense	2,088	1,984	1,677	845	700
Other expense items	55	222	59	23	136
Other income items	798	541	740	316	411
Net income before income taxes	10,523	7,755	14,211	5,736	9,099
Depreciation and amortiza- tion	3,225	3,222	3,053	1,560	1,737
Cash flow ²	13,748	10,977	17,264	7,296	10,836
Ratio to net sales (percent)					
Cost of goods sold	77.5	79.1	77.0	78.0	75.9
Gross profit	22.5	20.9	23.0	22.0	24.1
Selling, general, and administrative expenses	15.6	15.3	14.9	14.9	14.7
Operating income	6.9	5.6	8.1	7.1	9.4
Net income before income taxes	6.1	4.6	7.6	6.5	9.0
Number of firms reporting					
Operating losses	1	2	2	3	0
Net losses	3	4	2	4	0
Data	10	10	10	10	10

¹ The producers and their respective fiscal yearends are Beck ***; Grinnell ***; AAA, D&T, and Seminole ***; and Atlas, Capitol, Lansdale, Missouri, and Wisconsin ***.

² Cash flow is defined as net income or loss plus depreciation and amortization.

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

Table 9

Income-and-loss experience of U.S. producers on their operations producing carbon steel pipe nipples, fiscal years 1991-93, Jan.-June 1993, and Jan.-June 1994

* * * * *

Table 10

Income-and-loss experience of U.S. producers on their operations producing carbon steel pipe nipples, by firms, fiscal years 1991-93, Jan.-June 1993, and Jan.-June 1994

* * * * *

Investment in Productive Facilities and Net Return on Assets

Data on assets and return on assets for eight producers are shown in table 11.

Table 11

Value of assets and return on assets of U.S. producers' establishments wherein carbon steel pipe nipples are produced, fiscal years 1991-93, Jan.-June 1993, and Jan.-June 1994

* * * * *

Capital Expenditures

Data on capital expenditures for eight producers are shown in table 12.

Table 12

Capital expenditures by U.S. producers of carbon steel pipe nipples, by products, fiscal years 1991-93, Jan.-June 1993, and Jan.-June 1994

* * * * *

Research and Development Expenses

Research and development expenses for two producers are shown in table 13.

Table 13

Research and development expenses of U.S. producers of carbon steel pipe nipples, by products, fiscal years 1991-93, Jan.-June 1993, and Jan.-June 1994

* * * * *

Capital and Investment

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of carbon steel pipe nipples from Mexico on their growth, investment, ability to raise capital, or existing development and production efforts (including efforts to develop a derivative or more advanced version of the product). Their responses are shown in appendix D.

CONSIDERATION OF THE QUESTION OF THREAT OF MATERIAL INJURY

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 any merchandise, the Commission shall consider, among other relevant economic factors²⁷--

- (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,
- (VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 736, are also used to produce the merchandise under investigation,

²⁷ 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."

(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.²⁸

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 the Question of Alleged Material Injury to an Industry in the United States." Available information on U.S. inventories of the subject products (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII) above); and any other threat indicators, if applicable (item (VII) above), follows. Other threat indicators have not been alleged or are otherwise not applicable.

U.S. Importers' Inventories

Importers' inventories are presented in table 14. All inventories consisted of finished welded carbon steel pipe nipples. Niples del Norte stated at the Commission's conference that it does not maintain inventories in the United States but only produces based on orders.²⁹ Therefore, reported importers' inventories are those of ***. Importers' inventories of carbon steel pipe nipples from Mexico *** percent from 1991 to 1992 and *** percent from 1992 to 1993. Inventories at the end of June 1994 were *** percent *** inventories at the end of June 1993.

Table 14

Carbon steel pipe nipples: End-of-period inventories of U.S. importers, by sources, 1991-93, Jan.-June 1993, and Jan.-June 1994

* * * * *

²⁸ 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."

²⁹ Conference transcript, p. 86.

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

As previously noted, there are three carbon steel pipe nipple producers in Mexico that export those products to the United States. Cohart de Mexico and Niples del Norte retained counsel and actively opposed the petition before the Commission. The other Mexican producer, Niples el Superior, did not file an entry as a party to this investigation.

The Commission requested counsel for Cohart de Mexico and Niples del Norte to provide information on the firms' operations in Mexico. The information requested consisted of production, capacity, capacity utilization, home-market shipments, exports to the United States, and total exports for 1991-93; projected changes in production, capacity, or capacity utilization in 1994-95; and intentions or projections as to the quantity of exports of the subject carbon steel pipe nipples to the United States in 1994-95.

Data received from counsel are presented in table 15 for Cohart de Mexico and Niples del Norte. As shown, capacity ***.³⁰ According to the reported data, capacity utilization *** during 1991-93 and *** during January-June 1994 when compared with capacity utilization during January-June 1993. Production ***. Exports to the United States *** from 1991 to 1992 and *** from 1992 to 1993. Exports to the United States *** during January-June 1994 when compared with such exports during January-June 1993. Exports to the United States are projected to *** during 1994-95.

Exports to markets other than the United States *** from 1991 to 1993 but are projected to *** during 1994-95. Home market shipments *** from 1991 to 1992, *** from 1992 to 1993, and are projected to *** in 1994 and 1995.

The same information was requested for all Mexican producers through diplomatic channels, but no information was received. However, with respect to exports to the United States, Cohart de Mexico and Niples del Norte account for at least *** percent of the total (see tables 1 and 15).

There are no known antidumping findings or investigations on exports of carbon steel pipe nipples from Mexico in any country other than the United States.

Table 15

Carbon steel pipe nipples: Mexico's capacity, production, inventories, shipments, and capacity utilization, 1991-93, Jan.-June 1993, Jan.-June 1994, and projected 1994-95

* * * * *

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

U.S. Imports

Official U.S. Department of Commerce data cannot be used in this investigation for January 1991-June 1992 because HTS statistical reporting number 7307.99.50.15 for carbon steel pipe nipples was not established until July 1992. Therefore, questionnaire data were used for imports for Mexico for January 1991-June 1994, official Commerce data were used for countries other than Mexico for July 1992-June 1994, and estimates based on Commerce data were used for imports from countries other than Mexico during January 1991-June 1992 (table 16). Questionnaire responses have been

³⁰ ***.

received from all large importers of carbon steel pipe nipples from Mexico and the import data from Mexico are virtually complete.

All imports of carbon steel pipe nipples from Mexico, as reported in response to the Commission's questionnaires, were of finished welded pipe nipples. The use of seamless pipe nipples in the United States is small compared with the use of welded carbon steel pipe nipples; therefore, imports of carbon steel pipe nipples from countries other than Mexico were assumed to be of welded pipe.

Imports of carbon steel pipe nipples from Mexico *** percent, based on quantity, from 1991 to 1992 and *** percent from 1992 to 1993. Imports from Mexico during January-June 1994 *** percent when compared with imports during January-June 1993. Based on value, imports of carbon steel pipe nipples from Mexico *** percent from 1991 to 1992 and *** percent from 1992 to 1993. The value of imports from Mexico during January-June 1994 *** percent when compared with the value of imports during January-June 1993.

In response to the question, "Has your firm imported, or arranged for the importation of, carbon steel pipe nipples from Mexico for delivery after June 30, 1994?" ***.

Table 16

Carbon steel pipe nipples: U.S. imports, by sources, 1991-93, Jan.-June 1993, and Jan.-June 1994

* * * * *

Market Penetration of Imports

U.S. imports from Mexico of carbon steel pipe nipples as a share of apparent U.S. consumption are presented in table 17. Based on quantity, market penetration by imports from Mexico *** from *** percent in 1991 to *** percent in 1992 and *** to *** percent in 1993. Market penetration by imports from Mexico during January-June 1994 *** to *** percent compared with *** percent during January-June 1993. Market penetration based on value followed similar trends. Market penetration by imports from Mexico is overstated because not all U.S. producers, and former producers, responded to the Commission's questionnaires.

Table 17

Carbon steel pipe nipples: Apparent U.S. consumption and market penetration, 1991-93, Jan.-June 1993, and Jan.-June 1994

* * * * *

Prices

Market Characteristics

U.S. producers of carbon steel pipe nipples issue price schedules intended to show list prices at a retail level for each configuration and size of nipple and showing various quantity discounts. In practice, substantial discounts are given from the list prices depending on the level of sale, business relationships, and other similar factors.³¹ It is common for master distributors and other large purchasers to pay as little as 30 to 40 percent of the listed price after all discounts (although some discounts may be as large as 85 percent of the list price) and to resell to the next level of trade at approximately 50 percent of the listed price. Particularly large orders may receive additional quantity discounts. Importers of Mexican nipples report similar but not identical sales practices. Southland, the importer of record for Niples del Norte, states that the Mexican producer issues price lists and that prices are established ***. Waxman, the importer of nipples produced by its subsidiary Cohart, sells its product through three U.S. divisions that issue price lists. Two divisions use these lists ***. Waxman's Consumer Group, which serves the do-it-yourself (DIY) retail trade, customizes the price structure for each customer through rebates, allowances, and other forms of discounts.

Many U.S. producers report that sales are quoted on an f.o.b. manufacturing plant basis, but industry practice is for the supplier to pay for freight on shipments exceeding a particular weight, effectively reducing the delivered cost to the purchaser. The threshold above which the producer absorbs the freight expenses is set as low as 500 pounds by some producers and up to 1,000 pounds by others.³² When purchases of nipples are combined with other products produced by the same firm, these thresholds may differ.³³ Freight charges for domestic producers were estimated as generally between 2 percent and 6 percent of the total value, although some producers reported that freight could reach 10 percent of total cost.

Importers estimated that freight charges can range up to *** percent of the delivered value. Southland reports that all nipples produced by Niples del Norte enter through Laredo, TX and, while Southland arranges the transportation, the purchaser is responsible for inland U.S. transportation charges. Freight for sales of Mexican nipples made by Waxman, on the other hand, is generally at the expense of the seller.

Most domestic producers sell carbon steel pipe nipples to a wide market. Some U.S. producers maintain warehouses in various geographic regions of the United States to ensure prompt shipment of the product to customers. Apparently, few shipments are made across the Rocky

³¹ It is common for a new price schedule to be issued each year, and list prices generally have increased in recent years. As discussed, such changes in list prices may not be reflected in actual selling prices, depending on the discounts producers are willing to grant.

³² In addition, some producers set a threshold on the basis of the dollar value of the order rather than a particular weight.

³³ Counsel for Niples del Norte also contends that sales made by their client are exclusively on the basis of a full 40,000-pound truckload *** (postconference brief of Manatt, Phelps, & Phillips, p. 23). In practice, however, most producers' shipments are mixed, containing more than a single size nipple or, in the case of some U.S. producers, other types of products. Therefore an order could conceivably be as large as 40,000 pounds. However, while the price information *per se* does not support counsel's conclusion, the fact that delivery charges are absorbed by the producer for shipments of as little as 500 pounds indicates that shipments by U.S. producers are likely to be *** than those by Niples del Norte. If a truckload is made up exclusively of one type of nipple, staff estimates such a shipment could contain as many as 800,000 pieces of short 1/2-inch diameter nipples or 170,000 3/4-inch by 3-inch nipples.

Mountains and producers on the west coast tend to market only in the west. The two larger importers of Mexican nipples market throughout the United States.

U.S. producers reported lead times between spot order and delivery to the customer ranging from 2 to 10 days when nipples are shipped from existing inventories, although most producers reported less than 1 week.

Importers' practices regarding lead time differ significantly. The U.S. importers of nipples produced by Niples del Norte do not maintain inventories in the United States but instead order from their foreign supplier on behalf of their customers. Niples del Norte states that such orders require 75 to 90 days to complete. ***. Waxman reports that as part of its overall service to its customers, it can meet orders from some customers ***.

Although virtually all responding firms agreed that nipples from Mexico may be used interchangeably with those produced in the United States in the final application, there appear to be distinctions that may constrain complete substitutability. Several responding producers *** stated that there are no important quality differences between U.S.-produced and Mexican nipples, but this opinion was not universal. A number of responding U.S. producers *** reported that there are quality differences between domestic and imported carbon steel pipe nipples. These firms indicated that the domestic product is superior to the imported product in terms of consistency, the quality of the pipe from which the nipples are made, thread accuracy, ream and chamfer quality, and in the ability of the customer to receive follow-up service. Several producers *** referred to lower quality, or in some cases the complete lack of, protective coatings on Mexican nipples. *** also noted that Mexican nipples are often packaged for retail sale rather than sale to the trade. ***, a petitioner, stated that, "The Mexicans off-set the quality differences with significantly lower prices (30-to-40% or more)."

Questionnaire Price Data

The Commission requested U.S. producers and importers to provide quarterly pricing data for sales to distributors of the following six types of carbon steel pipe nipples during the period January 1991-June 1994:³⁴

- Product 1: 1 inch by 2 inch, black, welded pipe nipple
- Product 2: 1 inch by 4 inch, black, welded pipe nipple
- Product 3: 1/2 inch by close,³⁵ galvanized, welded pipe nipple
- Product 4: 3/4 inch by 3 inch, galvanized, welded pipe nipple
- Product 5: 1 inch by 2 inch, black, seamless pipe nipple

³⁴ These products were selected after consultation with counsel for the petitioners. Petitioners stated their belief that most competition with Mexican nipples was in welded products such as the selected sizes. Seamless products were identified as considerably less common in trade. Petitioners also noted that the vast majority of sales are to distributors, although several other categories of purchasers exist. Finally, petitioners stated that most sales are made on a per unit, f.o.b. basis although freight allowances, generally on a weight basis, are common.

³⁵ The term "close" is applied to the shortest practical length for any specific diameter nipple. For such a nipple, the threads at one end are separated from the threads at the other end only by a very small unthreaded area.

Product 6: 3/4 inch by 3 inch, black, seamless pipe nipple

All products were to meet industry standards as specified by ASTM A-733 for dimensions and ANSI B.1.20.1 for thread specifications, and to be manufactured from welded carbon steel pipe capable of meeting ASTM A-53/A-120 specifications or from seamless carbon steel pipe consistent with ASTM A-106.

Specific pricing data requested for each product include the quantity, net f.o.b. price per unit, and net delivered price for each firm's largest single sale of each product in each quarter, as well as the total quantity shipped, and total net f.o.b. and delivered values shipped for each product in each quarter. Six U.S. producers and three importers provided pricing data for sales of the requested items in the U.S. market, although not necessarily for all products, countries, or quarters over the investigation period (tables 18-20 and figure 1).^{36 37}

Table 18

Carbon steel pipe nipples: Prices reported by producers and importers for sales of products 1 and 2, and margins of underselling (overselling), by quarters, Jan. 1991-June 1994

* * * * *

Table 19

Carbon steel pipe nipples: Prices reported by producers and importers for sales of products 3 and 4, and margins of underselling (overselling), by quarters, Jan. 1991-June 1994

* * * * *

Table 20

Carbon steel pipe nipples: Prices reported by producers and importers for sales of products 5 and 6, and margins of underselling (overselling), by quarters, Jan. 1991-June 1994

* * * * *

Figure 1

Carbon steel pipe nipples: Prices reported by producers and importers for sales of products 1 through 6, by quarters, Jan. 1991-June 1994

* * * * *

Analysis and comparisons of price data are complicated by several factors relating to business practices and differences in the types of customers to which producers and importers sell. First, although U.S. producers quote a price on an f.o.b. basis, the vast majority of sales are of sufficient size that the producer pays freight costs. This means that the price quoted is actually a delivered price rather than an f.o.b. price. Only a few producers made this distinction in their questionnaire

³⁶ Importers providing usable pricing data were ***. These account for nearly all imports from Mexico.

³⁷ U.S. producers providing usable data were AAA Pipe and Nipple, Atlas Pipe Threading Co., Beck, Grinnell, Seminole, and Wisconsin Nipple and Fitting. These firms represent more than *** percent of total reported 1993 production. Of those in support of the petition, Bayonne Nipple and Missouri Pipe Fittings did not provide price information in a form that could be used. Wisconsin represents approximately *** percent of 1993 production; Bayonne did not provide production data on which to calculate its share of production. *** did not provide data in a usable form.

responses and therefore all U.S. prices discussed below are based on what is, in fact, a delivered price. Simultaneously, Niples del Norte's sales are on the basis of f.o.b. Laredo, TX, and Waxman's sales may be either f.o.b. or delivered, depending on which division makes a particular sale. Both importers, however, responded to the questionnaire with what they state are f.o.b. prices. The effect of these distinctions is that all comparisons of prices and the margins calculated from the comparisons are biased toward increased underselling.

A second factor reducing the reliability of price comparisons based on questionnaire data is the differing channels to which U.S. producers and importers sell. The Commission requested that parties provide data on their largest sales to distributors and it is believed that U.S. producer data reflect that channel. However, Waxman reported that the *** of its sales are to mass merchandisers and other large retail outlets³⁸ and Southland reported that its sales are exclusively 40,000-pound shipments to ***.³⁹ It is unclear whether sales to these types of purchasers are based on a different price structure than those to the traditional distributor channel.⁴⁰

Price Trends

U.S. producers observed that the largest share of their sales is in welded carbon steel pipe nipple products, represented in the Commission's sample by products 1-4. During the period January 1991-June 1994, the average total sales reported for these products ranged from *** per quarter for product 4 to *** per quarter for product 1. In contrast, total sales of the two seamless products selected averaged about *** nipples quarterly. Total sales of these products reported by importers were substantially less. Importers reported quarterly sales averaging *** for product 1, *** for product 2, *** for product 3, and *** for product 4. Importers reported that neither of the two primary Mexican exporters produce seamless carbon steel pipe nipples.

Weighted-average prices⁴¹ for the four U.S.-produced welded products sold to distributors fluctuated, but three of the four increased by 7.5 percent to 19.8 percent during the period for which data were collected. Product 2 declined in price by 5.4 percent during the period. Average prices of the two seamless products 5 and 6 were similarly irregular in behavior; the average price of product 5 increased by 26 percent from January-March 1991 to April-June 1994, while the average price of product 6 declined by 18 percent during the same period.

Prices of imported Mexican nipples fluctuated but generally increased during the period for which data were collected. These increases ranged from 6.2 percent for product 2 to 25.0 percent for product 3.

³⁸ Counsel for Waxman contacted staff while completing the Commission's questionnaire regarding this point. Counsel stated that *** Waxman's sales are to mass merchandisers such as ***, and similar stores. Based on those representations, staff requested Waxman to provide prices for the largest sales to that channel of distribution and to explicitly note on the questionnaire that this was the case. Although no notation was made, those customers identified in the questionnaire appear to be ***.

³⁹ Counsel for Niples del Norte stated in its postconference brief that the firm sells primarily to mass retail hardware merchandisers. (Manatt brief, p. 22.) However, the customers for which questionnaire price data were provided ***. Also see discussion regarding shipment size in Market Characteristics, *supra*.

⁴⁰ Counsel for Niples del Norte contends that ". . . due to intense competition among mass merchandisers, sales prices to that segment of the industry are 30 to 40 percent lower than sales prices to industrial users." (Postconference brief of Manatt, Phelps, & Phillips, pp. 22, 23.)

⁴¹ As discussed above, the Commission requested that producers report f.o.b. prices net of transportation costs and other factors but generally received prices that included freight paid by the producer to effect delivery to the customer. These prices, therefore, include freight charges estimated between 5 and 10 percent. Prices reported by importers are believed to be f.o.b. U.S. shipping location.

Margins of Underselling

Imported carbon steel pipe nipples from Mexico were sold at prices consistently below those reported for U.S. pipe nipples.⁴² Margins of underselling were generally between 25 percent and 40 percent, although the range extended from 8.0 percent to 48.2 percent. There were no instances showing importers' prices above those of U.S. producers.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the nominal value of the Mexican New Peso depreciated 11.0 percent during the period examined in the investigation. When adjusted for movements in producer price indexes in the United States and Mexico, the real value of the Mexican currency appreciated 19.3 percent during the same period (figure 2).

Lost Sales and Lost Revenues

Fifteen U.S. producers of carbon steel pipe nipples responded to the Commission's questionnaire. Of these 15 producers, *** provided specific allegations of lost sales totaling *** annually but did not identify specific incidents of lost revenues.⁴³ Six producers explicitly indicated that they had not lost sales or revenues to imports from Mexico, seven producers indicated that they had lost either sales or revenues but provided no additional information, and one provided information in a form that removed any identification of the customers involved in its claims.

*** noted that he considered the state of the market to have been caused to a large extent by the growth in substitute products and by competition from several foreign sources, including Mexico, China, and Taiwan. However, *** also noted that his firm has not purchased from foreign sources and the reduction in their purchases from *** is a result of ***, not because of a switch to imported product. ***.

***. Currently *** purchases Mexican nipples from ***. *** stated that the quality of the Mexican product is as good as U.S. the product but that service is not as good. In particular, *** observed that he must deal with several importers because they are not reliable sources and may not be able to fill his orders when he needs the product, whereas *** would always ship 100 percent of an order.

*** alleged the loss of sales to *** valued at approximately *** annually. *** stated that the reason for the switch was price, an important factor in sales to *** that is served by ***. *** also stated that the industrial market is, by and large, served by domestic producers of nipples.

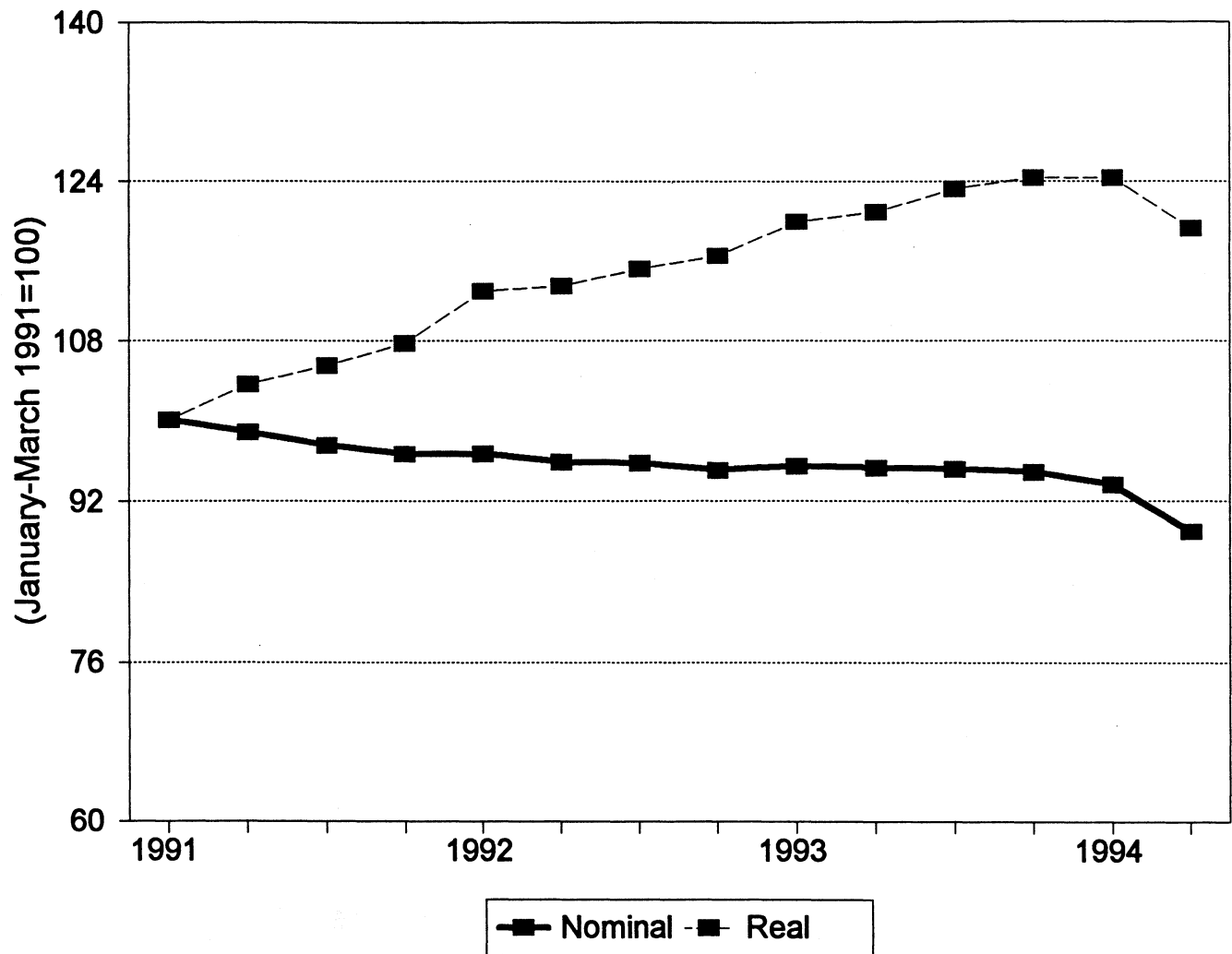
Asked about quality and other factors that go into his decisions in purchasing nipples, *** stated that the *** percent price advantage of Mexican nipples is most important but that quality and service are considerations. He noted that four years ago a seller of Mexican nipples had asked him to try the imported product but that the quality was so poor that the salesman had been told not to return. His current source, however, has shipped good quality nipples and the sales representative contacts him every 4 to 6 weeks to make certain everything is satisfactory.

⁴² As observed above, data from importers and from U.S. producers are not strictly comparable. U.S. producer prices generally include freight costs while importer prices do not. In addition, *** reported prices ***.

⁴³ ***. The details of this allegation are discussed below. *** and several other producers stated generally that prices in the U.S. market have been suppressed by the presence of low-priced imports from Mexico.

Figure 2

Exchange rates: Indexes of nominal and real exchange rates of the Mexican New Peso relative to the U.S. dollar, by quarters, Jan. 1991-June 1994



Source: International Monetary Fund, International Financial Statistics, September 1994.

*** also alleged lost sales totaling *** annually to ***. *** could not be reached.

*** alleged lost sales totaling *** annually in sales to ***.

*** alleged in the petition that the firm had been unable to make sales to the *** as a result of competition from Niples del Norte. *** estimated the lost sales in the range of *** annually.

*** stated that the firm is a master distributor serving plumbing wholesalers and retail chains. The firm does approximately *** of business annually, of which *** is in pipe nipples. ***.

***.

The names of two customers were also raised in testimony at the conference. These accounts, Home Depot and D.A. Fehr, were identified as having switched from U.S. sources of nipples to those imported from Mexico.⁴⁴

***.

⁴⁴ Home Depot was identified as having previously purchased Mexican nipples from Waxman but, as part of an effort to source more products in the United States, had switched to Grinnell in 1993. Representatives from Waxman testified that Home Depot had subsequently returned to Waxman because Grinnell was unable to satisfactorily service the demands of the Home Depot account. Staff contacted the individual identified by Waxman as being able to confirm this information ***.

APPENDIX A
***FEDERAL REGISTER* NOTICES**

in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by October 17, 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: August 31, 1994.

FOR FURTHER INFORMATION CONTACT: Tedford Briggs (202-205-3181), 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 August 31, 1994, by the U.S. Pipe Nipples Group, an *ad hoc* trade association consisting of five domestic producers of carbon steel pipe nipples.¹

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.

¹ Member firms are AAA Pipe & Nipple Co., Inc., Milwaukee, WI; Beck Manufacturing Inc., Waynesboro, PA; Grinnell Corp., Exeter, NH; Missouri Pipe Fittings Co., St. Louis, MO; and Seminole Tubular Products Co., Houston, TX.

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

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in 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 September 21, 1994, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Tedford Briggs (202-205-3181) not later than September 19, 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 September 26, 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.

UNITED STATES INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-719 (Preliminary)]

Carbon Steel Pipe Nipples From Mexico

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-719 (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 Mexico of carbon steel pipe nipples, provided for in subheading 7307.99.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold

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: September 1, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94-22178 Filed 9-7-94; 8:45 am]

BILLING CODE 7020-02-P

International Trade Administration

[A-201-818]

**Initiation of Antidumping Duty
Investigation: Carbon Steel Pipe
Nipples from Mexico**

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

EFFECTIVE DATE: September 26, 1994.

FOR FURTHER INFORMATION CONTACT:
Michelle Frederick or John Brinkmann,
Office of Antidumping Investigations,
Import Administration, International
Trade Administration, U.S. Department
of Commerce, 14th Street and
Constitution Avenue NW., Washington,
D.C. 20230; telephone: (202) 482-0186
or (202) 482-5288, respectively.

INITIATION OF INVESTIGATION:

The Petition

On August 31, 1994, we received a petition filed in proper form by the U.S. Pipe Nipples Group (petitioner). At the request of the Department of Commerce (the Department), petitioner filed a supplement to support and clarify the petition's data on September 16, 1994. In accordance with 19 CFR 353.12 (1994), petitioner alleges that carbon steel pipe nipples (pipe nipples) from Mexico 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.

Petitioner states 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, such party should file a written notification with the Assistant Secretary for Import Administration. 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 publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

Scope of Investigation

The products covered by this investigation are carbon steel pipe nipples, both finished and unfinished, defined as cut carbon steel pipe having a maximum length of 12 inches. Unfinished pipe nipples (nipple blanks) have not been subjected to any machining following the cutting of the pipe. Finished pipe nipples have been machined after the cutting, including, but not limited to, the following processes: reaming/deburring, chamfering, and/or threading. The type of finish on one end of a pipe nipple need not be the same as the finish on the other end. For threaded pipe nipples, threading is performed along the outside diameter to permit fastening of the pipe nipple to other components with a matching inside diameter thread.

Pipe nipples manufactured from plain (black), galvanized, welded and seamless carbon steel pipe are included within the scope of this investigation.

The products under investigation are currently classifiable under subheading 7307.99.5015 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is 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 F.O.B. U.S. port price lists (for November 1993 and July 1994) obtained

for pipe nipples produced by a Mexican manufacturer. Petitioner calculated USP by subtracting the estimated cost of shipping expenses based on the percentage difference between customs value and C.I.F. value for pipe nipples from Mexico. Because petitioner provided home market price quotes from 1994, the Department is basing USP on the 1994 prices. We recalculated USP to include value-added taxes (VAT) in accordance with section 772(d)(1)(C) of the Act. In making our adjustment for VAT, we followed the instructions of the United States Court of International Trade (CIT) in *Federal Mogul Corp. v. United States*, 834 F.Supp. 1391 (CIT 1993). We also deducted the amount of tax due solely to price deductions in the original tax base. By making this additional tax adjustment, we avoid a distortion that could cause the creation of a dumping margin even where pre-tax dumping is zero. For discussion of this adjustment see Final Results of Administrative Review: Certain Industrial Forklifts from Japan, (59 FR 1374, January 10, 1994) and Final Determination of Sales at Less Than Fair Value: Certain Stainless Steel Wire Rods from France, (58 FR 68865, December 29, 1993).

Petitioner based foreign market value (FMV) on a home market price list for identical merchandise, exclusive of VAT, obtained from a Mexican manufacturer of pipe nipples. These prices are August 1994 ex-factory prices. We recalculated FMV to include VAT. FMV was converted to U.S. dollars based on the New York Federal Reserve's quarterly exchange rate for the period July 1 through September 30, 1994.

Petitioner also supplied information on constructed value. Because petitioner was able to provide information on home market sales, and because of the regulatory preference for a home market price-to-price comparison over constructed value, we based FMV for purposes of this initiation notice on the home market price-to-price comparison (19 CFR 353.12(b)(7) and 19 CFR 353.48).

The range of alleged dumping margins of pipe nipples from Mexico, based on a home market price-to-price comparison, is from 1.71 to 92.64 percent.

Initiation of Investigation

We have examined the petition for pipe nipples from Mexico, as amended, and have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of pipe

nipples from Mexico are being, or are likely to be, sold in the United States at less than fair value. If this investigation proceeds normally, we will make our preliminary determination by February 7, 1995.

International Trade Commission (ITC) Notification

Section 732(d) of the Act requires us to notify the ITC of these actions and we have done so.

Preliminary Determinations by the ITC

The ITC will determine by October 17, 1994, whether there is a reasonable indication that imports of pipe nipples from Mexico are materially injuring, or threaten material injury to, a U.S. industry. Pursuant to section 733(a) of the Act, a negative ITC determination in this investigation will result in the termination of this investigation; 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: September 20, 1994.

Susan G. Esserman,
Assistant Secretary for Import
Administration.

[FR Doc. 94-23768 Filed 9-23-94; 8:45 am]

BILLING CODE 3510-DS-P

APPENDIX B

**LIST OF WITNESSES APPEARING AT
THE COMMISSION'S CONFERENCE**

CALENDAR OF PUBLIC CONFERENCE

Investigation No. 731-TA-719 (Preliminary)

CARBON STEEL PIPE NIPPLES FROM MEXICO

Those listed below appeared at the United States International Trade Commission's conference held in connection with the subject investigation on September 21, 1994, in the Hearing Room of the USITC Building, 500 E Street SW., Washington, DC.

In support of the imposition of antidumping duties

McKenna & Cuneo--Counsel
Washington, DC
on behalf of--

The U.S. Pipe Nipples Group

Beck Manufacturing Inc.
Waynesboro, PA

Stephen E. Beck, President

Peter Buck Feller)
Andrew E. Bej)--OF COUNSEL

In opposition to the imposition of antidumping duties

Manatt, Phelps & Phillips--Counsel
Washington, DC
on behalf of--

Niples del Norte, S.A.
Monterrey, Mexico

Ing. Jorge Hinojosa, Director General

Southland Pipe Nipple Co.
Olmito, TX

Ralph Schneeweiss Inc.
Ocala, FL

Ralph Schneeweiss, President

David R. Amerine--OF COUNSEL

In opposition to the imposition of antidumping duties--Continued

Adduci, Mastriani, Schaumberg & Schill--Counsel
Washington, DC
on behalf of--

Cohart de Mexico
Tijuana, Mexico

Barnett Inc.
Jacksonville, FL

Waxman Industries, Inc.
Waxman Consumer Products Group
Bedford Heights, OH

Walter Himmelman, Operational Controller

Western American Manufacturing Inc.
San Diego, CA

Tony Penn, Vice President and General Manager

Thomas D. Emrich--Trade Resources Co., Washington, DC

Barbara A. Murphy)
Larry L. Shatzer II)-OF COUNSEL

APPENDIX C
SUMMARY DATA

Table C-1

Carbon steel pipe nipples: Summary data concerning the U.S. market, 1991-93, Jan.-June 1993, and Jan.-June 1994

(Quantity = 1,000 pounds; value = 1,000 dollars; unit values, unit labor costs, and unit COGS are per pound; period changes = percent, except where noted)

Item	Reported data					Period changes			
	1991	1992	1993	Jan.-June-- 1993	1994	1991-93	1991-92	1992-93	Jan.-June 1993-94
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share ¹	***	***	***	***	***	***	***	***	***
Importers' share: ¹									
Mexico	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share ¹	***	***	***	***	***	***	***	***	***
Importers' share: ¹									
Mexico	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. importers' imports from--									
Mexico:									
Imports quantity	***	***	***	***	***	***	***	***	***
Imports value	***	***	***	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	\$***	\$***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Other sources:									
Imports quantity	***	***	773	383	370	***	***	***	-3.4
Imports value	***	***	1,042	488	390	***	***	***	-20.1
Unit value	\$***	\$***	\$1.35	\$1.28	\$1.05	***	***	***	-17.5
Ending inventory quantity	***	***	0	0	0	***	***	***	0
All sources:									
Imports quantity	***	***	***	***	***	***	***	***	***
Imports value	***	***	***	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	\$***	\$***	***	***	***	***
U.S. producers'--									
Average capacity quantity	97,517	97,885	109,335	54,675	54,998	+12.1	+0.4	+11.7	+0.6
Production quantity	57,463	61,232	74,725	36,631	33,717	+30.0	+6.6	+22.0	-8.0
Capacity utilization ¹	58.9	62.6	68.3	67.0	61.3	+9.4	+3.6	+5.8	-5.7
U.S. shipments:									
Quantity	56,107	60,820	71,062	32,917	36,726	+26.7	+8.4	+16.8	+11.6
Value	52,550	56,919	67,897	30,674	36,720	+29.2	+8.3	+19.3	+19.7
Unit value	\$0.94	\$0.94	\$0.96	\$0.93	\$1.00	+2.0	-0.1	+2.1	+7.3
Export shipments:									
Quantity	0	0	0	0	0	0	0	0	0
Exports/shipments ¹	0	0	0	0	0	0	0	0	0
Value	0	0	0	0	0	0	0	0	0
Unit value	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventory/shipments ¹	***	***	***	***	***	***	***	***	***
Production workers	540	529	629	592	650	+16.5	-2.0	+18.9	+9.8
Hours worked (1,000s)	944	950	1,134	526	594	+20.1	+0.6	+19.4	+12.9
Total compensation (\$1,000)	9,643	10,034	12,618	6,045	6,677	+30.9	+4.1	+25.8	+10.5
Hourly total compensation	\$10.22	\$10.56	\$11.13	\$11.49	\$11.24	+8.9	+3.4	+5.3	-2.2
Productivity (pounds/hour)	58.0	61.2	63.1	65.2	54.2	+8.8	+5.5	+3.2	-16.8
Unit labor costs	\$0.18	\$0.17	\$0.18	\$0.18	\$0.21	+0.1	-2.0	+2.1	+17.6

See footnotes at end of table.

Table C-1--Continued

Carbon steel pipe nipples: Summary data concerning the U.S. market, 1991-93, Jan.-June 1993, and Jan.-June 1994

(Quantity = 1,000 pounds; value = 1,000 dollars; unit values, unit labor costs, and unit COGS are per pound; period changes = percent, except where noted)

Item	Reported data					Period changes			
	1991	1992	1993	Jan.-June--		1991-93	1991-92	1992-93	Jan.-June 1993-94
				1993	1994				
U.S. producers'--									
Net sales--									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***
Gross profit (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income (loss)	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	\$***	\$***	\$***	\$***	\$***	***	***	***	***
COGS/sales ¹	***	***	***	***	***	***	***	***	***
Operating income (loss)/sales ¹	***	***	***	***	***	***	***	***	***

¹ "Reported data" are in percent and "period changes" are in percentage points.² Not applicable.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated from the unrounded figures, using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce for countries other than Mexico. Data for imports from other countries were estimated for 1991 and January-June 1992 from Commerce data.

Table C-2

Welded carbon steel pipe nipples: Summary data concerning the U.S. market, 1991-93, Jan.-June 1993, and Jan.-June 1994

(Quantity = 1,000 pounds; value = 1,000 dollars; unit values, unit labor costs, and unit COGS are per pound; period changes = percent, except where noted)

Item	Reported data					Period changes			
	1991	1992	1993	Jan.-June- 1993	1994	1991-93	1991-92	1992-93	Jan.-June 1993-94
U.S. consumption quantity:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share ¹	***	***	***	***	***	***	***	***	***
Importers' share: ¹									
Mexico	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. consumption value:									
Amount	***	***	***	***	***	***	***	***	***
Producers' share ¹	***	***	***	***	***	***	***	***	***
Importers' share: ¹									
Mexico	***	***	***	***	***	***	***	***	***
Other sources	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***
U.S. importers' imports from--									
Mexico:									
Imports quantity	***	***	***	***	***	***	***	***	***
Imports value	***	***	***	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	\$***	\$***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Other sources:									
Imports quantity	***	***	773	383	370	***	***	***	-3.4
Imports value	***	***	1,042	488	390	***	***	***	-20.1
Unit value	\$***	\$***	\$1.35	\$1.28	\$1.05	***	***	***	-17.5
Ending inventory quantity	***	***	0	0	0	***	***	***	0
All sources:									
Imports quantity	***	***	***	***	***	***	***	***	***
Imports value	***	***	***	***	***	***	***	***	***
Unit value	\$***	\$***	\$***	\$***	\$***	***	***	***	***
U.S. producers'--									
Average capacity quantity	86,213	86,642	97,574	48,800	48,940	+13.2	+0.5	+12.6	+0.3
Production quantity	52,198	55,155	67,171	32,748	30,282	+28.7	+5.7	+21.8	-7.5
Capacity utilization ¹	60.5	63.7	68.8	67.1	61.9	+8.3	+3.1	+5.2	-5.2
U.S. shipments:									
Quantity	50,924	54,783	64,036	29,535	33,116	+25.7	+7.6	+16.9	+12.1
Value	46,198	49,687	59,473	26,642	32,308	+28.7	+7.6	+19.7	+21.3
Unit value	\$0.91	\$0.91	\$0.93	\$0.90	\$0.98	+2.4	(2)	+2.4	+8.2
Export shipments:									
Quantity	0	0	0	0	0	0	0	0	0
Exports/shipments ¹	0	0	0	0	0	0	0	0	0
Value	0	0	0	0	0	0	0	0	0
Unit value	(4)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)
Ending inventory quantity	9,391	9,801	12,920	12,959	10,272	+37.6	+4.4	+31.8	-20.7
Inventory/shipments ¹	18.4	17.9	20.2	21.9	15.5	+1.7	-0.6	+2.3	-6.4
Production workers	496	482	570	535	589	+14.9	-2.8	+18.3	+10.1
Hours worked (1,000s)	860	857	1,023	471	534	+19.0	-0.3	+19.4	+13.4
Total compensation (\$1,000)	8,873	9,150	11,511	5,489	6,092	+29.7	+3.1	+25.8	+11.0
Hourly total compensation	\$10.32	\$10.68	\$11.25	\$11.65	\$11.41	+9.1	+3.5	+5.4	-2.1
Productivity (pounds/hour)	57.7	60.9	62.8	64.7	54.0	+8.7	+5.6	+3.0	-16.5
Unit labor costs	\$0.18	\$0.18	\$0.18	\$0.18	\$0.21	+0.3	-2.0	+2.3	+17.3

See footnotes at end of table.

Table C-2--Continued

Welded carbon steel pipe nipples: Summary data concerning the U.S. market, 1991-93, Jan.-June 1993, and Jan.-June 1994

(Quantity=1,000 pounds; value=1,000 dollars; unit values, unit labor costs, and unit COGS are per pound; period changes=percent, except where noted)

Item	Reported data					Period changes			
	1991	1992	1993	Jan.-June-- 1993	1994	1991-93	1991-92	1992-93	Jan.-June 1993-94
U.S. producers'--									
Net sales--									
Quantity	48,310	53,236	62,049	27,188	31,213	+28.4	+10.2	+16.6	+14.8
Value	46,572	50,284	59,141	25,950	31,639	+27.0	+8.0	+17.6	+21.9
Cost of goods sold (COGS)	33,348	37,440	43,713	19,603	23,607	+31.1	+12.3	+16.8	+20.4
Gross profit (loss)	13,224	12,844	15,428	6,347	8,032	+16.7	-2.9	+20.1	+26.5
SG&A expenses	9,236	9,811	11,129	4,968	5,760	+20.5	+6.2	+13.4	+15.9
Operating income (loss)	3,988	3,033	4,299	1,379	2,272	+7.8	-23.9	+41.7	+64.8
Capital expenditures	1,051	1,559	1,784	1,264	678	+69.7	+48.3	+14.4	-46.4
Unit COGS	\$0.69	\$0.70	\$0.70	\$0.72	\$0.76	+2.1	+1.9	+0.2	+4.9
COGS/sales ¹	71.6	74.5	73.9	75.5	74.6	+2.3	+2.9	-0.5	-0.9
Operating income (loss)/sales ¹	8.6	6.0	7.3	5.3	7.2	-1.3	-2.5	+1.2	+1.9

¹ "Reported data" are in percent and "period changes" are in percentage points.² A decrease of less than 0.05 percent.³ Not applicable.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated from the unrounded figures, using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce for countries other than Mexico. Data for imports from other countries were estimated for 1991 and January-June 1992 from Commerce data.

Table C-3

Seamless carbon steel pipe nipples: Summary data concerning the U.S. market, 1991-93, Jan.-June 1993, and Jan.-June 1994

(Quantity = 1,000 pounds; value = 1,000 dollars; unit values, unit labor costs, and unit COGS are per pound; period changes = percent, except where noted)

Item	Reported data					Period changes			
	1991	1992	1993	Jan.-June- 1993	1994	1991-93	1991-92	1992-93	Jan.-June 1993-94
U.S. consumption quantity:									
Amount	5,183	6,037	7,026	3,382	3,610	+35.6	+16.5	+16.4	+6.7
Producers' share ¹	100.0	100.0	100.0	100.0	100.0	0	0	0	0
Importers' share: ¹									
Mexico	0	0	0	0	0	0	0	0	0
Other sources	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0
U.S. consumption value:									
Amount	6,352	7,232	8,424	4,032	4,412	+32.6	+13.9	+16.5	+9.4
Producers' share ¹	100.0	100.0	100.0	100.0	100.0	0	0	0	0
Importers' share: ¹									
Mexico	0	0	0	0	0	0	0	0	0
Other sources	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0
U.S. importers' imports from--									
Mexico:									
Imports quantity	0	0	0	0	0	0	0	0	0
Imports value	0	0	0	0	0	0	0	0	0
Unit value	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Ending inventory quantity	-	-	-	-	-	-	-	-	-
Other sources:									
Imports quantity	0	0	0	0	0	0	0	0	0
Imports value	0	0	0	0	0	0	0	0	0
Unit value	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Ending inventory quantity	-	-	-	-	-	-	-	-	-
All sources:									
Imports quantity	0	0	0	0	0	0	0	0	0
Imports value	0	0	0	0	0	0	0	0	0
Unit value	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
U.S. producers'--									
Average capacity quantity	11,304	11,243	11,761	5,875	6,058	+4.0	-0.5	+4.6	+3.1
Production quantity	5,265	6,077	7,554	3,883	3,435	+43.5	+15.4	+24.3	-11.5
Capacity utilization ¹	46.6	54.1	64.2	66.1	56.7	+17.7	+7.5	+10.2	-9.4
U.S. shipments:									
Quantity	5,183	6,037	7,026	3,382	3,610	+35.6	+16.5	+16.4	+6.7
Value	6,352	7,232	8,424	4,032	4,412	+32.6	+13.9	+16.5	+9.4
Unit value	\$1.23	\$1.20	\$1.20	\$1.19	\$1.22	-2.2	-2.3	+0.1	+2.5
Export shipments:									
Quantity	0	0	0	0	0	0	0	0	0
Exports/shipments ¹	0	0	0	0	0	0	0	0	0
Value	0	0	0	0	0	0	0	0	0
Unit value	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Inventory/shipments ¹	***	***	***	***	***	***	***	***	***
Production workers	44	47	59	57	61	+34.1	+6.8	+25.5	+7.0
Hours worked (1,000s)	84	93	111	55	60	+32.1	+10.7	+19.4	+9.1
Total compensation (\$1,000)	770	884	1,107	556	585	+43.8	+14.8	+25.2	+5.2
Hourly total compensation	\$9.17	\$9.51	\$9.97	\$10.11	\$9.75	+8.8	+3.7	+4.9	-3.6
Productivity (pounds/hour)	61.1	63.7	66.6	69.3	56.0	+9.1	+4.2	+4.7	-19.1
Unit labor costs	\$0.15	\$0.15	\$0.15	\$0.15	\$0.17	-0.3	-0.5	+0.3	+19.3

See footnotes at end of table.

Table C-3--Continued

Seamless carbon steel pipe nipples: Summary data concerning the U.S. market, 1991-93, Jan.-June 1993, and Jan.-June 1994

(Quantity=1,000 pounds; value=1,000 dollars; unit values, unit labor costs, and unit COGS are per pound; period changes=percent, except where noted)

Item	Reported data				Period changes				
	1991	1992	1993	Jan.-June-- 1993	1994	1991-93	1991-92	1992-93	Jan.-June 1993-94
U.S. producers'--									
Net sales--									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***
Gross profit (loss)	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***
Operating income (loss)	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***
Unit COGS	\$***	\$***	\$***	\$***	\$***	***	***	***	***
COGS/sales ¹	***	***	***	***	***	***	***	***	***
Operating income (loss)/sales ¹	***	***	***	***	***	***	***	***	***

¹ "Reported data" are in percent and "period changes" are in percentage points.² Not applicable.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated from the unrounded figures, using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce for countries other than Mexico. Data for imports from other countries were estimated for 1991 and January-June 1992 from Commerce data.

APPENDIX D

COMMENTS RECEIVED FROM PRODUCERS ON THE EFFECT OF IMPORTS OF CARBON STEEL PIPE NIPPLES FROM MEXICO ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, AND EXISTING DEVELOPMENT AND PRODUCTION EFFORTS

The Commission requested U.S. producers to describe any actual or anticipated negative effects of imports of carbon steel pipe nipples from Mexico on their growth, investment, ability to raise capital, or existing development and production efforts, including efforts to develop a derivative or more advanced version of the product. Their comments are as follows:

1. Since January 1, 1991, has your firm experienced any actual negative effects on its growth, investment, ability to raise capital, or existing development and production efforts, including efforts to develop a derivative or more advanced version of the product, as a result of imports of carbon steel pipe nipples from Mexico?

* * * * *

2. Does your firm anticipate any negative impact of imports of carbon steel pipe nipples from Mexico?

* * * * *

3. Has the scale of capital investments undertaken been influenced by the presence of imports of carbon steel pipe nipples from Mexico?

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