

UNITED STATES INTERNATIONAL TRADE COMMISSION

PRESTRESSED CONCRETE STEEL WIRE STRAND
FROM BRAZIL, INDIA, KOREA, MEXICO, AND THAILAND

Investigations Nos. 701-TA-432 and 731-TA-1024-1028 (Preliminary)

DETERMINATIONS AND VIEWS OF THE COMMISSION
(USITC Publication No. 3589, March 2003)

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DETERMINATIONS

On the basis of the record¹ developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1671b(a) and 1673b(a))(the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from India of prestressed concrete steel wire strand (“PC strand”) that are alleged to be subsidized by the Government of India and by reason of imports from Brazil, India, Korea, Mexico, and Thailand of PC strand that are alleged to be sold in the United States at less than fair value (LTFV). The subject merchandise is provided for in subheading 7312.10.30 of the Harmonized Tariff Schedule of the United States.

Pursuant to section 207.18 of the Commission’s rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission’s rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) and 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in the investigations under sections 705(a) and 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

BACKGROUND

On January 31, 2003, a petition was filed with the Commission and Commerce by American Spring Wire Corp., Bedford Heights, OH; Insteel Wire Products Co., Mt. Airy, NC; and Sumiden Wire Products Corp., Stockton, CA, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized imports of PC strand from India and by reason of LTFV imports of PC strand from Brazil, India, Korea, Mexico, and Thailand. Accordingly, effective January 31, 2003, the Commission instituted countervailing duty investigation No. 701-TA-432 and antidumping duty investigations Nos. 731-TA-1024-1028 (Preliminary).

Notice of the institution of the Commission’s investigations 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

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

February 7, 2003 (68 FR 6511). The conference was held in Washington, DC, on February 21, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

Based on the record in these investigations, we find that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of prestressed concrete steel wire strand (PC strand) from Brazil, India, Korea, Mexico, and Thailand that allegedly are sold in the United States at less than fair value (LTFV) and of imports of PC strand from India that allegedly are subsidized.

The petitions in these investigations were filed on January 31, 2003, by domestic producers American Spring Wire Corp. (American), Insteel Wire Products Co. (Insteel), and Sumiden Wire Products Corp. (Sumiden) (collectively, Petitioners). Responding parties are Belgo Bekaert Arames S.A. (Belgo Bekaert), a Brazilian producer/exporter; Korea Iron & Steel Wire, Ltd. (Kiswire), Dong-II Steel Mfg. Co., Ltd. (Dong-II), Manho Rope & Wire, Ltd. (Manho), and Young Heung Iron & Steel Co., Ltd. (Young Heung), Korean producers (collectively, Korean Respondents); The Crispin Co. (Crispin), a U.S. importer; Camesa, Inc. (Camesa) and Universal Products Group, Inc. (Universal), U.S. importers, and Aceros Camesa, S.A. de C.V. (Aceros) and Cablesa, S.A. de C.V. (Cablesa), Mexican producers/exporters (collectively, Mexican Respondents); Cementhai SCT USA (Cementhai), a U.S. importer, and Siam Industrial Wire (Siam Industrial), a Thai producer (collectively, Thai Respondents).²

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determinations, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.³ In applying this standard, the Commission weighs the evidence before it and determines whether “(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation.”⁴

II. DOMESTIC LIKE PRODUCT

A. In General

To determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the

² Each participated in the conference. In addition, Belgo Bekaert, Korean Respondents, and Crispin (collectively, Joint Respondents) filed a joint post-conference brief (Joint Respondents’ Brief), and the Mexican Respondents filed a post-conference brief (Mexican Respondents’ Brief).

³ 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354-55 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

⁴ American Lamb, 785 F.2d at 1001; see also Texas Crushed Stone Co. v. United States, 35 F.3d 1535, 1543 (Fed. Cir. 1994).

Commission first defines the “domestic like product” and the “industry.”⁵ Section 771(4)(A) of the Tariff Act of 1930, as amended (the Act), defines the relevant domestic industry as the “producers as a

⁵ 19 U.S.C. § 1677(4)(A).

[w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁶ In turn, the Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation”⁷

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.⁸ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.⁹ The Commission looks for clear dividing lines among possible like products, and disregards minor variations.¹⁰ Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise allegedly subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.¹¹ The Commission must base its domestic like product determination on the record in these investigations. The Commission is not bound by prior determinations, pertaining even to the same imported products, but may draw upon previous determinations in addressing pertinent like product issues.¹²

B. Product Description

Commerce defined the imported merchandise within the scope of these investigations as follows: [P]restressed concrete steel wire strand (PC strand) is steel strand produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pretensioned and post-tensioned) applications. The product definition

⁶ Id.

⁷ 19 U.S.C. § 1677(10).

⁸ See, e.g., NEC Corp. v. Department of Commerce, 36 F. Supp.2d 380, 383 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); 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) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

⁹ See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess., at 90-91 (1979).

¹⁰ Nippon Steel, 19 CIT at 455; Torrington, 747 F. Supp. at 748-49; see also S. Rep. No. 249 at 90-91 (Congress has indicated that the domestic like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.”).

¹¹ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single domestic like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission’s determination of six domestic like products in investigations where Commerce found five classes or kinds).

¹² See Acciai Speciali Terni S.p.A. v. United States, 118 F. Supp.2d 1298, 1304-05 (Ct. Int’l Trade 2000); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1169 n.5 (Ct. Int’l Trade 1988) (particularly addressing like product determination); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1087-88 (Ct. Int’l Trade 1988).

encompasses covered and uncovered strand and all types, grades, and diameters of PC strand.¹³

PC strand is made from hot-rolled, high-carbon steel wire rod, which is first cleaned and descaled. The steel wire rod is then drawn into wire, fabricated into multi-wire strand, and thermally stress-relieved. The most common PC strand configuration consists of six wires wound helically around a single wire core.¹⁴

PC strand is used solely for prestressing concrete.¹⁵ PC strand introduces specified compressive forces into concrete to offset, or neutralize, forces that occur when the prestressed concrete is subject to load. Prestressed concrete, in turn, is used in the construction of, *inter alia*, bridge decks, bridge girders, pilings, precast concrete panels and structural supports, roof trusses, floor supports, and certain concrete foundations.¹⁶

Concrete is prestressed in one of two ways, by pre-tensioning (which some of the parties refer to as “precasting”) or by post-tensioning. In pre-tensioning, the PC strand is tensioned, that is, pulled and elongated, by a calibrated tensioning apparatus. The concrete is then poured around the PC strand. The tension is released after the concrete has cured. The tensile force of the strand induces a compressive force. The PC strand is installed in this application uncovered because it is the bond between the cured concrete and the PC strand that holds the concrete in compression.¹⁷

For post-tensioning, there is no bond between the PC strand and the cured concrete. The PC strand is tensioned using a calibrated tensioning apparatus after the concrete has cured, and tension is maintained by installing permanent mechanical anchors that hold the PC strand in place in the concrete after the tensioning apparatus is removed. There are two methods of post-tensioning, internal and external. For internal post-tensioning, PC strand is either “covered,” that is, lubricated with grease and encased in covering, or plastic or metal ducts are cast into the concrete and uncoated PC strand is passed through each duct. If the duct method is used, the ducts are filled with grout after the tensioning apparatus is removed. For external post-tensioning, PC strand may be coated with epoxy or galvanized to protect against corrosion because the PC strand is exposed. External post-tensioning is used primarily for repair and retrofit applications.¹⁸ Thus, either covered or uncovered PC strand may be used for post-tensioning, but covered PC strand is never used for pre-tensioning.

C. Analysis

Petitioners argue for a domestic like product definition that mirrors the scope of the investigations. In their view, the Commission should define the domestic like product as all PC strand, a finding that they

¹³ 68 Fed. Reg. 9050 (February 27, 2003) (antidumping duty investigations (Brazil, India, Korea, Mexico, and Thailand)); 68 Fed. Reg. 9058 (February 27, 2003) (countervailing duty investigation (India)).

¹⁴ Staff Report to the Commission, Inv-AA-029 (March 10, 2003) (CR) at I-5-I-6, public version (PR) at I-4.

¹⁵ “Prestressing” concrete is a term of art that refers to a specific type of tensile force applied to concrete.

¹⁶ CR at I-6, PR at I-4-I-5.

¹⁷ CR at I-5-I-6, PR at I-5.

¹⁸ CR at I-6-I-7, PR at I-5.

contend is supported by prior Commission determinations and the traditional six-factor test.¹⁹ Only Mexican Respondents dispute this approach at this stage of the investigations.²⁰ They argue

¹⁹ Postconference Brief on Behalf of Petitioners (Petitioners' Brief) at 2-8, citing Prestressed Concrete Steel Wire Strand from Japan, Inv. No. AA1921-188 (Review), USITC Pub. 3156 (Feb. 1999) (1999 Five-Year Review); Prestressed Concrete Steel Wire Strand from Brazil, Inv. No. 701-TA-152 (Final), USITC Pub. 1358 (Mar. 1983); Prestressed Concrete Steel Wire Strand from the United Kingdom, Inv. No. 731-TA-89 (Final), USITC Pub. 1343 (Feb. 1983); Prestressed Concrete Steel Wire Strand from France, Inv. No. 701-TA-153 (Final), USITC Pub. 1325 (Dec. 1982); Prestressed Concrete Steel Wire Strand from Spain, Inv. No. 701-TA-164 (Final), USITC Pub. 1281 (Aug. 1982); Wire Strand For Prestressed Concrete from Japan, Inv. No. AA1921-188 (Final), USITC Pub. 928 (Nov. 1978); Antidumping and Countervailing Duty Petition, vol. I (Petitions), at 9-10.

²⁰ Mexican Respondents' Brief at 6; contrast Joint Respondents' Brief, Appendix at 5.

for finding two domestic like products, uncovered PC strand and covered PC strand, the latter of which they contend is not domestically produced.²¹

Because covered PC strand is included within the scope, even if it were not domestically produced, the Commission would still have to find the next “most similar” article that is domestically produced.²² Covered PC strand is, however, made in the United States. While no PC strand producer itself “covers” its strand in the United States,²³ there are U.S. firms that cover PC strand on a toll basis, as well as U.S. firms that purchase domestically produced uncovered PC strand and cover it.²⁴ Hence, insofar as there is directly corresponding domestic material of covered PC strand, we consider whether it should be treated as a separate like product from domestic uncovered strand.

The record in this preliminary phase of our investigations does not establish a clear dividing line between covered and uncovered PC strand to warrant a finding of two domestic like products. Based on this record, the characteristics and uses of covered and uncovered PC strand appear to be marked more by their inherent similarities than any technical differences. All PC strand is used for prestressing concrete. PC strand’s function in the pre-tensioned and post-tensioned applications is the same and the two applications have overlapping uses.²⁵ Moreover, uncovered strand may be used in post-tensioned applications; specifically, for internal post-tensioning when the duct method is used and for external post-tensioning.²⁶ PC strand that is covered for a post-tensioning application, however, may not be used in a pre-tensioning application because of the need for the bond between the concrete and the PC strand. Similarly, for internal post-tensioning other than that involving the duct method, uncovered PC strand may not be used in place of covered PC strand.

With respect to channels of distribution, the U.S. producers report that almost all of their U.S. shipments of PC strand are made directly to end users.²⁷ Domestically produced PC strand that requires covering is covered in the U.S. market but such covering is handled by either the end users (many

²¹ Mexican Respondents’ Brief at 11.

²² See, e.g., Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Prelim.), USITC Pub. 3533 at 5 to 7 (Aug. 2002) (“Where, as here, there is no domestic product that is ‘like’ the subject imports, the statute calls for the Commission to find the domestic product that is ‘most similar’ in characteristics and uses.”); Nepheline Syenite from Canada, Inv. No. 731-TA-525 (Final), USITC Pub. 2502 at 7 (Apr. 1992) (Since nepheline syenite was not produced in the United States, the Commission defined the domestic like product to include two similar products, feldspar and aplite), aff’d, Feldspar Corp. v. United States, 825 F. Supp. 1095 (Ct. Int’l Trade 1993). Mexican Respondents do not address this level of statutory analysis.

²³ We note that Petitioners do not make covered strand, a further processed product, although they included covered strand in the scope, and we will address this issue in any final phase investigations.

²⁴ CR at I-7 n.17, III-1 n.1, PR at I-5 n.17, III-1 n.1.

²⁵ See, e.g., Tr. at 47-48 (H.O. Woltz, III, President and CEO, Insteel).

²⁶ CR at I-6-I-7, PR at I-5.

²⁷ CR at I-9, PR at I-7.

customers that use such product have the capacity to cover the product), or by arrangement with toll processors on behalf of domestic PC strand producers, for ultimate sale to end users.²⁸ While Petitioners and Respondents disagree as to the impact on competition of the uses to which end users may put covered and uncovered PC strand, as discussed in the conditions of competition section, it appears that domestically covered strand is either sold to end users or covered by them.

Both PC strand that is sold as uncovered and PC strand that is destined for covering are made using the same production facilities, processes, and employees. Covering is an additional step that ultimately differentiates the covered product but this step does not appear to outweigh the commonalities in the manufacturing process of the two products.²⁹ The parties disagree as to the value added by covering, and we will explore further in any final phase investigations the nature of the covering process.

We do not find on this record that producers and purchasers identify different types of PC strand within the scope as anything other than different forms of the same product. Moreover, while covering appears to add a price premium to the same product in uncovered form, the current record does not contain clear information on the amount of the premium. Nor is it apparent whether a premium for covered PC strand would differentiate the covered product from other types of PC strand, such as epoxy-coated or indented strand, which no party claims merit treatment as separate domestic like products.

In sum, based upon consideration of the traditional factors, we find that the domestic like product in these investigations is all PC strand co-extensive with Commerce's scope, that is, steel strand produced from wire of non-stainless, non-galvanized steel that is suitable for use in prestressed concrete (both pre-tensioned and post-tensioned) applications and that encompasses covered and uncovered strand and all types, grades, and diameters of PC strand.³⁰

III. DOMESTIC INDUSTRY

The domestic industry is defined as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”³¹ In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.³²

The sole issue raised is whether U.S. firms that perform covering operations should be included in the domestic industry.³³ In assessing the domestic activity associated with a particular operation and whether it constitutes sufficient activity to bring that operation within the meaning of domestic industry for purposes of the Act, the Commission generally considers six factors:

²⁸ CR at I-7 n.17, III-1 n.1, PR at I-5 n.17, III-1 n.1. The extent of actual toll production in the U.S. market is not entirely clear from the record and will be explored further in any final phase investigations.

²⁹ CR at I-8-I-9, PR at I-6-I-7.

³⁰ We will explore this issue further in any final phase of the investigations.

³¹ 19 U.S.C. § 1677(4)(A).

³² See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

³³ No party raised this issue at the conference. Mexican Respondents stated in their post-conference brief, however, that “it may be feasible” to define the producers of covered strand as “the producers of uncovered strand *and* the converters who perform the further manufacturing processes.” Mexican Respondents' Brief at 14 n.29. Cf. Joint Respondents' Brief, Appendix at 5 (“For purposes of this preliminary investigation, [Joint Respondents] have not taken the position that converters are part of the domestic industry.”).

- (1) source and extent of the firm's capital investment;
- (2) technical expertise involved in U.S. production activities;
- (3) value added to the product in the United States;
- (4) employment levels;
- (5) quantity and type of parts sourced in the United States; and
- (6) any other costs and activities in the United States directly leading to production of the like product.³⁴

No single factor is determinative and the Commission may consider any other factors it deems relevant in light of the specific facts of any investigation.³⁵

Two types of domestic firms are engaged in covering activities: end users that purchase the PC strand, cover it, and then either sell it or internally consume it, and toll processors that cover it on behalf of domestic PC strand producers. The record in this preliminary phase indicates that, relative to the requirements of a PC strand manufacturing operation, the capital investment for the covering operation is minimal, little technical expertise is required to grease and cover PC strand, and relatively few production workers are involved.³⁶ The parties dispute the value added to the product, one side characterizing it as "low" and the other "significant."³⁷ They also disagree as to the nature and practice of the entities that perform covering operations. Petitioners contend that many of these companies are not in the business of manufacturing and selling PC strand, but instead are in the business of providing post-tension design engineering services, of which covering is an incidental, initial part.³⁸ Respondents state that converters, including the largest companies involved in post-tensioned applications, have a separate business that involves the purchase, covering, and sale of PC strand, unrelated to other services.³⁹

We will seek additional information regarding converters in any final phase of these investigations, including whether the PC strand they cover is sourced within or outside the United States. For purposes of these preliminary determinations, we find that they are not part of the domestic

³⁴ See, e.g., Greenhouse Tomatoes from Canada, Inv. No. 731-TA-925 (Final), USITC Pub. 3499 at 10-11 (Apr. 2002); Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the Czech Republic, Japan, Mexico, Romania, and South Africa, Invs. Nos. 731-TA-846 to 850 (Prelim.), USITC Pub. 3221 at 12 n.49 (Aug. 1999); Fresh Atlantic Salmon from Chile, Inv. No. 731-TA-768 (Final), USITC Pub. 3116 at 9 (July 1998), aff'd as modified on other grounds by remand views, Asociacion de Productores de Salmon y Trucha de Chile A.G. v. United States, 180 F. Supp.2d 1360 (Ct. Int'l Trade 2002); Static Random Access Memory Semiconductors from Korea and Taiwan, Invs. Nos. 731-TA-761 to 762 (Final), USITC Pub. 3098 at 9 n.59 (Apr. 1998); Large Newspaper Printing Presses and Components Thereof from Germany and Japan, Invs. Nos. 731-TA-736 to 737 (Final), USITC Pub. 2988 at 8-9 (Aug. 1996), aff'd, Goss Graphics Sys., Inc. v. United States, 33 F. Supp.2d 1082 (Ct. Int'l Trade 1998), aff'd, 216 F.3d 1357 (Fed. Cir. 2000).

³⁵ See, e.g., Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands, Inv. No. 731-TA-652 (Final), USITC Pub. 2783 at I-8-I-9 & n.34 (June 1994) ("no single factor – including value added – is determinative and ... value added information becomes more meaningful when other production activity indicia are taken into account"), aff'd, Aramide Maatschappij V.O.F. v. United States, 19 CIT 884 (1995).

³⁶ Tr. at 19 (Mr. Woltz); Petitioners' Brief at 9.

³⁷ E.g., Tr. at 19 (Mr. Woltz); Joint Respondents' Brief at 5 & Appendix at 2; Mexican Respondents' Brief at 11.

³⁸ Petitioners' Brief at 9-10.

³⁹ E.g., Joint Respondents' Brief at 4.

industry⁴⁰ and that the domestic industry consists of the U.S. fabricators of uncovered PC strand, that is, the three Petitioners, American, Insteel, and Sumiden, as well as Strand Tech Martin, Inc. (Strand Tech) and Sivaco Georgia, LLC (Sivaco).^{41 42}

IV. CUMULATION⁴³

A. In General

For purposes of evaluating the volume and price effects for a determination of reasonable indication of material injury by reason of the subject imports, section 771(7)(G)(i) of the Act requires the Commission to assess cumulatively the volume and effect of imports of the subject merchandise from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the U.S. market.⁴⁴ In assessing whether subject imports compete with each other and with the domestic like product,⁴⁵ the Commission has generally considered four factors, including:

- (1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;

⁴⁰ C.f., e.g., Fresh Atlantic Salmon from Chile, USITC Pub. 3116 at 9-11 (finding that domestic industry did not include firms that processed whole salmon into salmon cuts due to insufficient production-related activities); Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain, Invs. Nos. 701-TA-363 to 364 (Final) and Invs. Nos. 731-TA-711 to 717 (Final), USITC Pub. 2911 (Aug. 1995) (not including threaders in the casing and tubing industry because of “limited levels of capital investment, lower levels of expertise, and lower levels of employment”).

⁴¹ CR at III-1-III-6, PR at III-1-III-3. Sivaco plans to terminate U.S. production in 2003. CR at III-4, PR at III-2.

⁴² If appropriate circumstances exist, the Commission may exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or that are themselves importers. 19 U.S.C. § 1677(4)(B). There are no related parties issues in this preliminary phase.

⁴³ PC strand imports from each of the five subject countries were above the negligibility thresholds during the relevant time period. 19 U.S.C. § 1677(24)(A)-(B). Subject (allegedly dumped) imports from Brazil, India, Korea, Mexico, and Thailand exceeded the three percent threshold for the 12 calendar months preceding the Petitions’ filing in January 2003 (January-December 2002). (Respectively, 10.8, 8.0, 26.9, 23.4, and 4.0 percent of total PC strand imports. CR, PR at Table IV-2.) Subject (allegedly subsidized) imports from India exceeded the four percent threshold, applicable to subsidized imports from developing countries, for the same period. (8.0 percent of total PC strand imports. CR, PR at Table IV-2.)

⁴⁴ 19 U.S.C. § 1677(7)(G)(i).

⁴⁵ The Statement of Administrative Action for the Uruguay Round Agreements Act (SAA) expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” SAA, H.R. 316, 103d Cong., 2d Sess., vol. I at 848 (1994), citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int’l Trade), aff’d, 859 F.2d 915 (Fed. Cir. 1988).

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

- (4) whether the subject imports are simultaneously present in the market.⁴⁶

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.⁴⁷ Only a “reasonable overlap” of competition is required.⁴⁸

Petitioners argued in favor of cumulation. The only challenge to cumulation in the preliminary phase of these investigations came from Mexican Respondents, who argue that subject imports from Mexico should not be cumulated.⁴⁹

B. Analysis

The conditions for cumulating subject imports from Brazil, India, Korea, Mexico, and Thailand have been satisfied. The petitions were filed with respect to all subject countries on the same day,⁵⁰ and based on the four factors that the Commission considers in analyzing cumulation, we find that there is a reasonable overlap of competition among subject imports and between subject imports and the domestic like product.

First, subject imports are sufficiently fungible with one another and the domestic like product. PC strand used in the United States conforms to applicable American Society for Testing and Materials (ASTM) specifications based on the physical size, physical configuration, and grade (minimum ultimate strength) of the PC strand.⁵¹ The vast majority of PC strand sold in the U.S. market, whether ultimately used in pre- or post-tensioned applications, is of 1/2-inch diameter, grade 270 (270,000 pounds per square inch (PSI)), low-relaxation product.⁵² Within each size, physical configuration, and grade, PC strand is interchangeable, whether it is ultimately used for pre- or post-tensioned applications.⁵³

⁴⁶ See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

⁴⁷ See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

⁴⁸ See Goss Graphics Sys., Inc. v. United States, 33 F. Supp.2d at 1087 (“cumulation does not require two products to be highly fungible”); Mukand Ltd. v. United States, 937 F. Supp. 910, 916 (Ct. Int'l Trade 1996); Wieland Werke, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”).

⁴⁹ Mexican Respondents’ Brief at 14-18.

⁵⁰ None of the statutory exceptions to cumulation apply in these investigations.

⁵¹ CR at I-7 n.20, PR at I-5 n.20.

⁵² Petitions at 17; Joint Respondents’ Brief, Appendix at 7.

⁵³ CR at I-7, PR at I-5. All U.S. producers reported that the domestic product was always interchangeable with subject imports. U.S. importers’ responses were more varied, with most reporting either “always” or “sometimes.” CR at II-11, PR at II-7, CR, PR Table II-1. With respect to the degree of interchangeability between subject products from the subject countries, U.S. producers reported that imported PC strand from all combinations of country pairs was always interchangeable. Four importers reported that imported PC strand from each combination of country pairs was always interchangeable, and three importers reported that each combination was frequently interchangeable. CR at II-14, PR at II-9.

As noted above, none of the five domestic producers currently has the capacity to cover PC strand⁵⁴ and minimal amounts of covered strand are imported from Brazil, India, Korea, and Thailand.⁵⁵ Mexico is the only subject country from which there are significant import volumes of covered PC strand, which may not be used in the pre-tensioned application and may be used only in certain post-tensioned applications for which uncovered strand is not interchangeable. However, according to official statistics, more uncovered product than covered product was imported from Mexico between 2000 and 2001.⁵⁶ For 2002, these data show that 62 percent of subject imports from Mexico were covered.⁵⁷ Overall, from 2000 to 2002, 53.1 percent of subject imports from Mexico were of the covered product.⁵⁸ Accordingly, irrespective of the degree of the competition between uncovered and covered product, an issue that we will explore further in any final phase investigations, there are sufficient quantities of subject imports of uncovered PC strand from Mexico to support a finding of a reasonable overlap of competition for purposes of cumulating subject imports from Mexico.

Second, we find overlapping geographic markets for subject imports and domestically produced PC strand. *** reported sales on a nationwide basis, while U.S. importers reported sales on a more regional basis. Importers of Mexican PC strand reported that they primarily serve Texas.⁵⁹ Mexican Respondents do not dispute that domestic product is sold or offered for sale in the Texas market, and Petitioners note that Texas is headquarters for Suncoast, the single-largest purchaser of PC strand in the United States.⁶⁰

Third, responses to the Commission's questionnaires indicate that almost all U.S. producer shipments of PC strand in the United States are made directly to end users rather than distributors. In 2000, 71 percent of subject importers' U.S. shipments were to distributors; during 2002, the figure dropped to 53.1 percent.⁶¹ Petitioners contend that these figures are in error, a result of misclassification by the U.S. importers in identifying post-tensioning customers as distributors when in fact they are end

⁵⁴ CR at III-1 n.1, PR at III-1 n.1.

⁵⁵ CR at IV-5, PR at IV-3. In fact, between 2000 and 2002, all reported U.S. imports from Brazil and Thailand entered the United States under the statistical reporting number for uncovered PC strand. Only 3.7 percent of the quantity of PC strand imported from India and only 0.08 percent of the quantity of PC strand imported from Korea between 2000 and 2002 was of covered strand. CR at IV-5, PR at IV-3.

⁵⁶ Petitioners' Brief, Exh. 1 (in short tons, 10,010, 11,632, and 10,273, respectively, for uncovered product in 2000, 2001, and 2002, as compared to 8,450, 11,012, and 16,732, respectively, for covered product in 2000, 2001, and 2002).

⁵⁷ Petitioners' Brief, Exh. 1.

⁵⁸ CR at IV-4-IV-5, PR at IV-1.

⁵⁹ CR at II-10-II-11, PR at II-7. Official import statistics, by customs district, reflect certain common geographic markets for imports of PC strand from the subject countries. These data for 2002 indicate that imports of PC strand from Brazil, India, Korea, and Mexico entered the United States into Texas and imports from Brazil, India, Korea, and Thailand entered into California. During 2000 and 2001, these statistics reflect imports of PC strand from all five subject countries into Texas and imports from India, Korea, and Thailand into California. For Brazil and India, the majority of imports entered through Houston-Galveston, Texas during the POI, for Korea and Thailand the majority entered through Los Angeles, California, and for Mexico nearly all imports entered through Laredo, Texas. CR at IV-5, PR at IV-4. While the district of entry does not necessarily dictate the ultimate destination for the product, these data evidence a reasonable overlap in sales or offers to sell in the same geographic markets. CR at II-11, PR at II-7.

⁶⁰ Petitioners' Brief at 15-16.

⁶¹ CR at I-9 n.31, PR at I-7 n.31.

users.⁶² In any event, the data indicate sufficient and increasing overlap in channels of distribution between the domestic product and subject imports.⁶³

Finally, there were imports from all subject countries in 2000, 2001, and 2002.⁶⁴ We therefore find that subject imports are simultaneously present in the market with the domestic like product.

For purposes of the preliminary phase of these investigations, we conclude that there is a reasonable overlap of competition in the U.S. market among subject imports and between subject imports and the domestic like product. Accordingly, we cumulate subject imports from Brazil, India, Korea, Mexico, and Thailand for purposes of analyzing whether there is a reasonable indication that the domestic industry is materially injured by reason of the subject imports.

VI. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LESS THAN FAIR VALUE IMPORTS

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines 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 imports under investigation.⁶⁵ In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.⁶⁶ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁶⁷ In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.⁶⁸ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁶⁹

For the reasons discussed below, we determine that there is a reasonable indication that the domestic industry producing PC strand is materially injured by reason of subject imports from Brazil, India, Korea, Mexico, and Thailand that allegedly are sold in the United States at LTFV and from India that allegedly are subsidized.

⁶² Petitioners’ Brief at 13-15. We will explore this issue further in any final phase investigations.

⁶³ We are mindful, as noted below, of Respondents’ positions respecting what Respondents view are the central competition issues in the case, namely market segmentation and so-called “Buy America” restrictions that purportedly limit the capacity of subject imports to compete with the domestic like product, but these conditions are not sufficient to show a lack of a reasonable overlap of competition for cumulation purposes for these preliminary determinations.

⁶⁴ CR, PR at Table IV-2. A review of monthly import data for 2002 indicates that imports of PC strand from each of the subject countries entered the U.S. in each month of 2002, except that there were no imports from Thailand in September. CR at IV-6, PR at IV-4.

⁶⁵ 19 U.S.C. § 1673b(a).

⁶⁶ 19 U.S.C. § 1677(7)(B)(i). The Commission “may consider such other economic factors as are relevant to the determination” but shall “identify each [such] factor . . . [a]nd explain in full its relevance to the determination.” 19 U.S.C. § 1677(7)(B); see also Angus Chemical Co. v. United States, 140 F.3d 1478 (Fed. Cir. 1998).

⁶⁷ 19 U.S.C. § 1677(7)(A).

⁶⁸ 19 U.S.C. § 1677(7)(C)(iii).

⁶⁹ 19 U.S.C. § 1677(7)(C)(iii).

A. Conditions of Competition

The demand for PC strand is derived from the demand for pre-tensioned and post-tensioned prestressed concrete. The demand for prestressed concrete, in turn, is derived from the demand for construction, particularly infrastructure projects, commercial and institutional construction, large housing projects and, to a lesser degree, single-family housing.⁷⁰ Although both pre-tensioned and post-tensioned applications may be used in any of these types of construction, public construction, which includes highway construction, requires pre-tensioned prestressed concrete, and residential construction primarily requires post-tensioned prestressed concrete. Public construction and residential construction were highly cyclical in the course of each year. Typically, February was the low month and August was the high month. Public construction and residential construction both grew between January 2000 and December 2002, with average monthly growth rates of 0.5 percent and 0.4 percent, respectively. Although private non-residential construction was not as cyclic, it fell significantly, declining by 0.6 percent per month on average between January 2000 and December 2002.⁷¹ Overall, apparent U.S. consumption of PC strand was 752.1 million pounds in 2002. Apparent U.S. consumption fell by 3.7 percent between 2000 and 2001 and by 1.3 percent between 2001 and 2002.⁷²

The U.S. market is supplied by domestic production, and subject and non-subject imports. Domestic production of PC strand declined by 14.9 percent from 2000 to 2002, from 633.9 million pounds in 2000, to 539.7 million pounds in 2002.⁷³ Most domestic PC strand is manufactured to specification for stocking in inventory rather than manufactured in response to a particular customer's order. U.S. producers' inventories, which accounted for between 8.4 percent and 9.3 percent of U.S. producers' U.S. shipments between 2000 and 2002, increased by 2.9 percent in 2001, but fell by 10.8 percent in 2002 to a level below that which was reported in 2000.⁷⁴ Non-subject imports accounted for between 8 percent and 9.2 percent of apparent U.S. consumption, with volumes of 63.3 million pounds in 2000 and 62.0 million pounds in 2002.⁷⁵

There are essentially no substitutes for PC strand in the construction of prestressed concrete; substitution may occur for prestressed concrete, to a limited extent, during the design phase.⁷⁶ Because of specification requirements, PC strand within each size, configuration, and grade, regardless of its ultimate application, is interchangeable.⁷⁷ No party has argued that quality differentiates the domestic product and subject imports. We find that the two are generally substitutable and that price is an important factor in purchasing decisions.⁷⁸

Two new issues not discussed in our prior investigations on PC strand are raised in these investigations as we consider the current domestic PC strand market: market segmentation and selective purchasing programs. Respondents contend that the market is bifurcated into separate pre-tensioned and

⁷⁰ CR at II-7, PR at II-5, CR, PR at Figure II-1.

⁷¹ CR at II-7-II-9, PR at II-5.

⁷² CR at II-9, PR at II-5, CR, PR at Table IV-5.

⁷³ CR, PR at Tables III-2, C-1.

⁷⁴ CR at III-9, PR at III-4, CR, PR at Tables III-5, C-1.

⁷⁵ CR, PR at Tables IV-2, C-1.

⁷⁶ CR at II-9, PR at II-5; Tr. at 67 (Mr. Woltz); Tr. at 184 (Thomas F. Mathews, Marketing Director, Universal).

⁷⁷ CR at I-7, PR at I-5.

⁷⁸ Tr. at 17, 63-64 (Mr. Woltz); See 1999 Five-Year Review, USITC Pub. 3156 at 8.

post-tensioned markets, in which there are no common customers.⁷⁹ Petitioners argue that domestic product and subject imports compete directly across the entire U.S. market.⁸⁰

U.S. importers and producers provided data in response to supplemental Commission questionnaires concerning their estimated shares of U.S. shipments of PC strand destined for the pre- and post-tensioned markets. The data show that U.S. importers of the subject product sell predominantly, but not exclusively, to the post-tensioned market, and most sales by U.S. producers are to the pre-tensioned market, but a significant quantity is also sold by U.S. producers to the post-tensioned market.⁸¹ U.S. producers made 73.6 percent, 69.2 percent, and 75.1 percent of their shipments of PC strand to the pre-tensioned market, respectively, in 2000, 2001, and 2002, with the remainder directed to the post-tensioned market. U.S. importers made *** percent, *** percent, and *** percent of their shipments of PC strand to the pre-tensioned market, respectively, in 2000, 2001, and 2002, with the remainder directed to the post-tensioned market.⁸²

Respondents also contend that federal, state, local, and private “Buy America” restrictions effectively reserve considerable sales volume for the domestic industry.⁸³ Petitioners argue that most of the U.S. PC strand market is not subject to such programs and that such programs are affected by low-priced import competition.⁸⁴ The data collected in this preliminary phase indicate that from 42.3 percent to 43.3 percent of U.S. producers’ shipments to the pre-tensioned market from 2000 to 2002 was subject to Buy America restrictions. During the same period, 15.3 percent to 25.4 percent of U.S. producers’ shipments to the post-tensioned market was subject to Buy America restrictions. Between 34.5 percent and 38.8 percent of U.S. producers’ total shipments of PC strand was subject to Buy America restrictions during the POI.⁸⁵ The share of total U.S. consumption of PC strand held by products subject to Buy America restrictions was between 28.2 percent and 30.6 percent during the POI.⁸⁶

We intend to examine the issues of market segmentation and selective purchasing programs and the impact of these conditions, if any, on competition between the domestic like product and subject imports more closely in any final phase of these investigations.

B. Volume of the Subject Imports

Section 771(C)(i) of the Act provides that 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.”⁸⁷

The quantity of cumulated subject imports increased in absolute terms by 37.3 percent from 2000 to 2002. Subject imports rose from 123.2 million pounds in 2000 to 130.5 million pounds in 2001 and to

⁷⁹ Joint Respondents’ Brief at 3-9.

⁸⁰ Petitioners’ Brief at 19-26.

⁸¹ CR, PR at Tables III-4, IV-3.

⁸² Memorandum INV-AA-033 (Mar. 14, 2003) (correcting CR at II-2).

⁸³ Joint Respondents’ Brief at 12-18; Mexican Respondents’ Brief at 19-32.

⁸⁴ Petitioners’ Brief at 27-28.

⁸⁵ CR at II-3, PR at II-2, CR, PR at Table III-4.

⁸⁶ CR at IV-10, PR at IV-6, CR, PR at Table IV-7.

⁸⁷ 19 U.S.C. § 1677(7)(C)(i).

169.1 million pounds in 2002.⁸⁸ Apparent U.S. consumption of PC strand declined by 5 percent during the same period, falling from 791.7 million pounds in 2000 to 762.2 million pounds in 2001 and 752.1

⁸⁸ CR, PR at Tables IV-2, C-1.

million pounds in 2002.⁸⁹ Even as apparent U.S. consumption was declining, subject imports, as a share of apparent U.S. consumption by quantity, increased by 6.9 percentage points from 2000 to 2002, from 15.6 percent of apparent U.S. consumption in 2000 to 17.1 percent in 2001 and 22.5 percent in 2002.⁹⁰ With non-subject imports' share of apparent U.S. consumption essentially flat overall between 2000 and 2002,⁹¹ U.S. producers' loss of market share during the period can be attributed to the subject imports. U.S. producers' share of apparent U.S. consumption declined by 7.2 percentage points from 2000 to 2002. U.S. producers' share of apparent U.S. consumption fell from 76.4 percent in 2000 to 73.7 percent in 2001 and 69.3 percent in 2002.⁹²

Even when the post-tensioned segment of the market alone is considered, U.S. producers lost considerable volume and market share to subject imports between 2000 and 2002. Apparent U.S. consumption in this segment increased from 262.3 million pounds in 2000 to 296.3 million pounds in 2002.⁹³ U.S. importers' U.S. shipments of subject-country imports increased from *** million pounds in 2000 to *** million pounds in 2002, or *** percentage points as a share of quantity.⁹⁴ During the same period, U.S. producers' U.S. shipments declined from 159.8 million pounds in 2000 to 129.5 million pounds in 2002, or 17.2 percentage points as a share of quantity.⁹⁵ As a share of quantity, non-subject imports declined *** percentage points during the same period, from *** million pounds in 2000 to *** million pounds in 2002.⁹⁶

In light of the above, we find that the volume and the increase in the volume of subject imports, both absolutely and relative to apparent U.S. consumption and production, are significant.

D. Price Effects of the Subject Imports

Section 771(C)(ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether –

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

⁸⁹ CR, PR at Tables IV-6, C-1.

⁹⁰ CR, PR at Tables IV-6, C-1.

⁹¹ Nonsubject imports' share of apparent U.S. consumption was 8.0 percent in 2000 and 8.2 percent in 2002. We note that it increased to 9.2 percent in 2001. CR, PR at Tables IV-6, C-1.

⁹² CR, PR at Tables IV-6, C-1. In addition, the ratio of subject import volume to domestic production rose from 19.4 percent in 2000 to 22.7 percent in 2001 and 31.3 percent in 2002. Calculated comparing CR, PR at Table IV-2 (subject import quantity) to CR, PR at Table III-2 (domestic industry production).

⁹³ CR, PR at Table IV-7.

⁹⁴ CR, PR at Table IV-7.

⁹⁵ CR, PR at Table IV-7.

⁹⁶ CR, PR at Table IV-7.

(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.⁹⁷

⁹⁷ 19 U.S.C. § 1677(7)(C)(ii).

Price, as noted above, is an important factor in PC strand purchasing decisions. The product for which the Commission solicited pricing data, ½-inch, grade 270, low-relaxation, uncovered PC strand, is the prevalent product sold in the United States by domestic producers and importers.^{98 99} Prices for carbon steel wire rod, the main material input in the production of PC strand, fluctuated between the first quarter of 2000 and the last quarter of 2002, increasing overall by four dollars per thousand pounds.¹⁰⁰

The U.S. product was almost always priced higher than the subject imports. Subject imports undersold the domestic product in 57 of 59 quarterly comparisons, at margins ranging from less than 0.05 percent to 18.4 percent.¹⁰¹ We find underselling by subject imports to be significant.

PC strand prices for the domestic product and all subject imports trended downward between the first quarter of 2000 and the fourth quarter of 2002. Average quarterly rates of decrease were 1.1 percent for the domestic product and ranged between 0.4 percent and 2.0 percent for subject imports.¹⁰²

The record also contains evidence of specific confirmed instances of lost sales (totaling \$***) and lost revenue (totaling \$***) by U.S. producers to lower-priced subject imports.¹⁰³

Based on the data collected in the preliminary phase of these investigations, we find significant underselling and significant price depression by the subject imports, which increased in volume and market share during a time of declining demand. We intend to examine closely the factors impacting domestic prices in any final phase investigations.

D. Impact of the Subject Imports

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.¹⁰⁴ 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

⁹⁸ CR at V-7, PR at V-6; Petitions at 15-17. Respondents argue that the failure to tie the product's pricing to the particular market segment defeats the utility of price comparisons between domestic and imported uncovered PC strand. Joint Respondents' Brief at 33-35; Mexican Respondents' Brief at 35-36. We will attempt in any final phase of these investigations to collect data for covered (and uncovered) product for pre-and post-tensioned applications.

⁹⁹ Pricing data represented 62.3 percent of total U.S. shipments by U.S. producers; 86.4 percent of subject imports from Brazil; 87.3 percent of subject imports from India; 97.4 percent of subject imports from Korea; 27.1 percent of subject imports from Mexico; and over 100 percent of subject imports from Thailand. CR at V-7, PR at V-6.

¹⁰⁰ CR at V-2, V-5, PR at V-3, CR, PR at Figure V-6, CR, PR at Table VI-2.

¹⁰¹ CR at V-9, PR at V-6, CR, PR at Table V-2. In the first quarter of 2001, Mexican product oversold the domestic product by *** percent; in the first quarter of 2002, Korean product oversold the domestic product by *** percent. CR at V-9, PR at V-6, CR, PR at Table V-2.

¹⁰² CR at V-7, PR at V-6, CR, PR at Figure V-7, CR, PR at Table V-2.

¹⁰³ CR at V-12-V-15, PR at V-9, CR, PR at Tables V-3 and V-4.

¹⁰⁴ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." Id. at 885).

is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”^{105 106}

Most indicators of the domestic industry’s condition declined between 2000 and 2002 at a rate greater than the decline in apparent U.S. consumption. As subject imports increased their share of the U.S. market and U.S. producers lost market share,¹⁰⁷ the domestic industry’s production, shipments, and sales all declined.¹⁰⁸ Capacity utilization declines exceeded any increase in production capacity during the period examined.¹⁰⁹

The financial performance of the domestic industry followed the same downward trend. The domestic industry went from operating profitably to operating at a loss during the period examined.¹¹⁰ The domestic industry’s employment and wages also declined over the same period.¹¹¹

¹⁰⁵ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 885; Live Cattle from Canada and Mexico, Invs. Nos. 701-TA-386 and 731-TA-812 to 813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 25 n.148.

¹⁰⁶ The statute instructs the Commission to consider the “magnitude of the dumping margin” in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its notice of initiation, Commerce estimated the antidumping margins on the bases of comparisons of the constructed export price to home market price (CEP/HMP), the CEP to constructed value (CEP/CV), the export price to CV (EP/CV), and the EP to HMP (EP/HMP). Commerce made the following estimates for subject imports for the identified country: Brazil, 118.75 percent (CEP/HMP); India, 65.23 percent (CEP/HMP) and 102.07 percent (CEP/CV); Korea, ranges from 18.67 to 27.06 percent (EP/HMP) and ranges from 42.62 to 54.19 percent (EP/CV); Mexico, 50.16 percent (EP/HMP) and 77.20 (EP/CV); and Thailand, 13.53 percent (EP/HMP) and 29.68 (EP/CV). 68 Fed. Reg. 9050, 9052-54 (February 27, 2003).

¹⁰⁷ Subject imports gained 6.9 percentage points of market share between 2000 and 2002, while domestic producers lost 7.2 percentage points of share during the same period. CR, PR at Tables IV-6, C-1. We note that the share of U.S. consumption accounted for by the pre-tensioned market fell from 63.3 percent in 2000 to 57.8 percent in 2002; the share of U.S. consumption accounted for by the post-tensioned market rose from 36.7 percent in 2000 to 42.2 percent in 2002. CR, PR at Table IV-7.

¹⁰⁸ While apparent U.S. consumption declined 5 percent between 2000 and 2002, domestic production declined 14.9 percent, falling from 633.9 million pounds in 2000 to 575.2 million pounds in 2001 and 539.7 million pounds in 2002. CR, PR at Tables III-2, IV-6, C-1. U.S. producers’ U.S. shipments declined 13.9 percent, from 605.1 million pounds in 2000 to 561.6 million pounds in 2001 and 521.1 million pounds in 2002. CR, PR at Tables III-3, C-1. Sales declined 12.9 percent, from 626.0 million pounds in 2000 to 573.7 million pounds in 2001 and 545.3 million pounds in 2002. CR, PR at Tables VI-1, C-1. Domestic shipment average unit values declined 8.0 percent, from \$281.87 per thousand pounds to \$259.41 per thousand pounds. CR, PR at Tables III-3, C-1.

¹⁰⁹ Production capacity increased 4.2 percent between 2000 and 2002, while production declined by 14.9 percent, causing capacity utilization to decline by 16.4 percentage points during the same period. CR, PR at Tables III-2, C-1. We note that Insteel closed its Jacksonville, Florida, facility in 2001. Sumiden closed its Victorville, California, facility in 2002. CR at III-3, III-6, PR at III-1, III-3. As noted above, Sivaco’s facility is scheduled for closure in 2003. The parties contest the cause of such closures, an issue that we will explore in any final phase investigations.

¹¹⁰ Operating income was \$12.72 million in 2000; it declined to \$1.92 million in 2001 and, further, to negative \$5.82 million in 2002. CR, PR at Tables VI-1, C-1. Operating income as a ratio to net sales dropped 11.3 percentage points between 2000 and 2002, from 7.2 percent in 2000 to 1.2 percent in 2001 and to negative 4.1 percent in 2002. CR, PR at Tables VI-1, C-1.

¹¹¹ The number of production workers fell from 405 in 2000 to 349 in 2001 and 306 in 2002, a decline of 24.4 percent. CR, PR at Tables III-6, C-1. The number of hours worked declined 27.1 percent, from 916,000 in 2000 to 780,000 in 2001 and 668,000 in 2002. CR, PR at Tables III-6, C-1. Wages declined 23.9 percent, from \$13.3 million in 2000 to \$11.9 million in 2001 and \$10.1 million in 2002. CR, PR at Tables III-6, C-1. We note that productivity increased as production declined: productivity rose from 692.0 pounds per hour to 807.9 pounds per hour between 2000 and 2002.

(continued...)

Capital expenditures increased in 2001 compared to 2000, and then decreased in 2002 to the lowest level in the three-year period. Research and development expenses decreased in each comparative period, with *** U.S. producers allocating funds to R&D in 2002.¹¹²

We attribute the domestic industry's losses over the period in significant part to the rapidly increasing volume of subject imports at prices that undersold and depressed domestic prices. We therefore find that the subject imports have had a significant adverse impact on the domestic industry.

CONCLUSION

For the reasons stated above, we determine that there is a reasonable indication that the domestic industry producing PC strand is materially injured by reason of subject imports from Brazil, India, Korea, Mexico, and Thailand that allegedly are sold in the United States at less than fair value and from India that allegedly are subsidized.

¹¹¹ (...continued)
CR, PR at Tables III-6, C-1.

¹¹² CR at VI-6, PR at VI-4, CR, PR at Table VI-5.