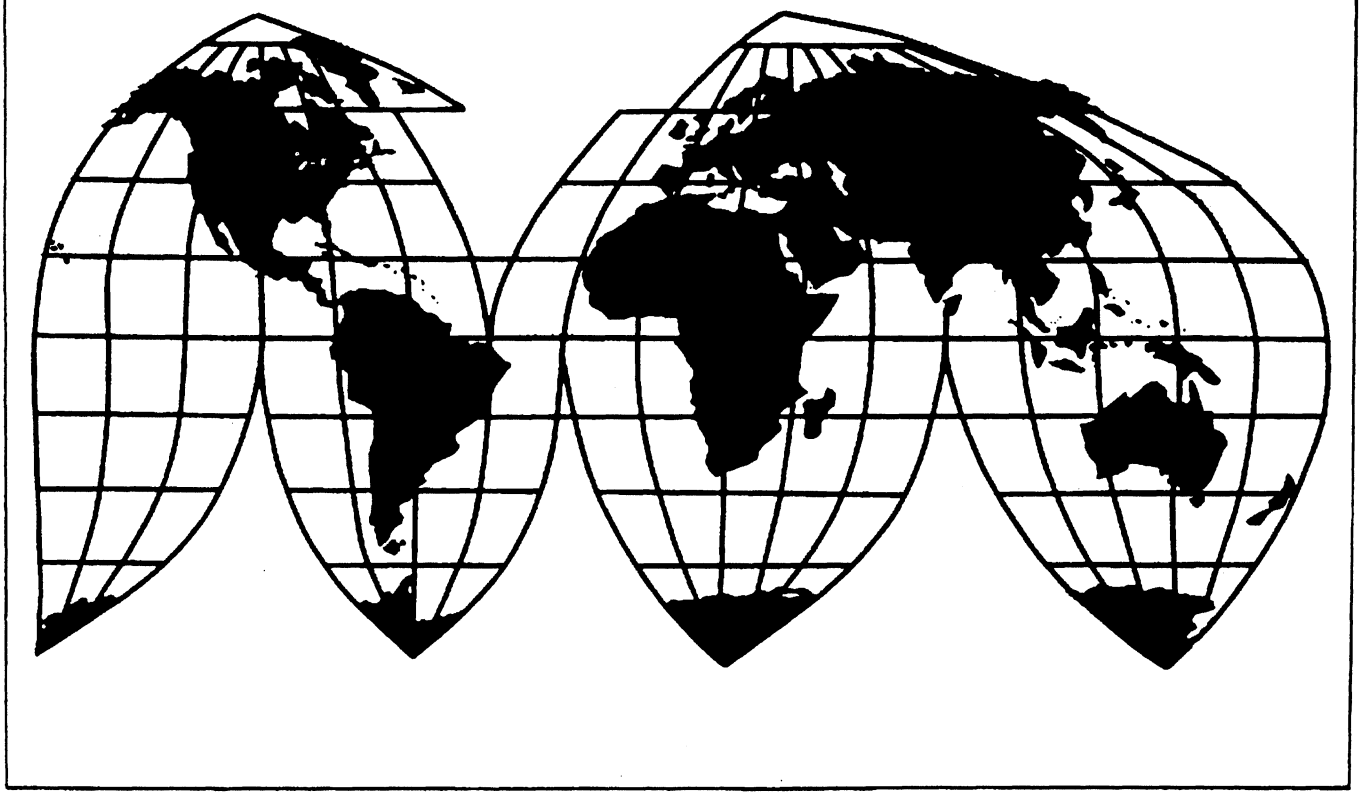
Certain Ductile Iron Waterworks Fittings From China

Investigation No. TA-421-4 (Critical Circumstances Phase)

Publication 3642 **October 2003**

U.S. International Trade Commission



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. TA-421-4

CERTAIN DUCTILE IRON WATERWORKS FITTINGS FROM CHINA

DETERMINATION

On the basis of information developed in the critical circumstances phase of the subject investigation, the United States International Trade Commission determines, pursuant to section 421(i) of the Trade Act of 1974,[1] that critical circumstances do not exist with respect to imports of certain ductile iron waterworks fittings from China. Specifically, the Commission makes a negative determination under section 421(i)(1)(A) with respect to whether delay in taking action under this section would cause damage to the relevant domestic industry which would be difficult to repair.[2]

BACKGROUND

Following receipt of a petition filed on September 5, 2003, on behalf of McWane, Inc.,[3] Birmingham, AL, the Commission instituted investigation No. TA-421-4, *Certain Ductile Iron Waterworks Fittings from China*, under section 421(b) of the Act to determine whether certain ductile iron waterworks fittings[4] from China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. The petition also alleged under section 421(i) of the Act that critical circumstances exist with respect to the subject products and requested that provisional relief be provided.

Notice of the institution of the Commission's investigation and of the scheduling of a staff conference during the critical circumstances phase and a subsequent public hearing to be held in the investigation 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 15, 2003 (68 F.R. 54010). The staff conference in connection with the critical circumstances phase of the investigation was held on September 26, 2003 in Washington, DC; all persons who requested the opportunity were permitted to appear in person or by counsel.

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[1] 19 U.S.C. § 2451(i).

[2] Commissioner Lane makes an affirmative determination under section 421(i)(1)(A), and therefore dissents. Commissioner Pearson did not participate in this determination.

[3] McWane operates three subsidiaries that produce the subject products including: Clow Water Systems Co., Coshocton, OH; Tyler Pipe Co., Tyler, TX; and Union Foundry Co., Anniston, AL.

[4] The products subject to this investigation are cast pipe or tube fittings of ductile iron (containing 2.5 percent carbon and over 0.02 percent magnesium or magnesium and cerium, by weight) with mechanical, push-on (rubber compression) or flanged joints attached. Included within this definition are fittings of all nominal diameters and of both full-bodied and compact designs. The imported products are provided for in statistical reporting number 7307.19.3070 of the Harmonized Tariff Schedule of the United States (HTS).

VIEWS OF THE COMMISSION ON CRITICAL CIRCUMSTANCES

I. INTRODUCTION

A. Determination

Pursuant to section 421(i)(1) of the Trade Act of 1974 (19 U.S.C. § 2451(i)(1)) and on the basis of the information obtained in the critical circumstances phase of this investigation, the Commission makes a negative critical circumstances determination with respect to imports of certain ductile iron waterworks fittings (DIWF) from China. Specifically, the Commission makes a negative determination under section 421(i)(1)(A) with respect to whether delay in taking action under this section would cause damage to the relevant domestic industry which would be difficult to repair.[1]

B. Background and scope of investigation

The Commission instituted this investigation effective September 5, 2003, following receipt of a petition filed by McWane, Inc., Birmingham, Alabama.[2] The petition alleged that DIWF from China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products, and that critical circumstances exist. The petition requested that provisional relief be provided pending completion of the full investigative process.

The imported DIWF from China that are the subject of this investigation consist of the following:

> cast pipe or tube fitting of ductile iron (containing 2.5 percent carbon and over 0.02 percent magnesium or magnesium and cerium, by weight) with mechanical, push-on (rubber compression) or flanged joints attached. Ductile iron waterworks fittings are used to join pipe, valves, and hydrants in straight lines or to change, divert, divide, or direct the flow of water or sewage in municipal utility and industrial piping systems. Included within this definition are fittings of all nominal diameters and of both full-bodied and compact designs.

Ductile iron is the material of choice for fittings used in waterworks applications.[3] DIWF are produced in a range of sizes. The most common sizes sold in the U.S. market are 4 inches, 6 inches, and 8 inches in nominal diameter, and fittings of 30 inches and below account for approximately 90 percent of the domestic market.[4] Ductile iron waterworks fittings below 42 inches in nominal diameter are used primarily in municipal water distribution systems, while those above 42 inches are produced primarily

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[1] Commissioner Lane dissenting and Commissioner Pearson not participating. Commissioner Lane joins in Part I and the domestic industry portion of Part II of these views. Her dissenting views in support of her determination that delay in taking action would cause damage to the domestic industry which would be difficult to repair follow these views.

[2] McWane operates three subsidiaries that produce the subject products: Clow Water Systems Co., Coshocton, OH; Tyler Pipe Co., Tyler, TX; and Union Foundry Co., Anniston, AL.

[3] Confidential Staff Report (CR) at I-6.

[4] CR at I-6-7.

for wastewater treatment plants.[5] DIWF is produced in both a lighter weight "compact" form and in a heavier weight "full-bodied" form.[6] All waterworks fittings and accessories sold in the U.S. market must conform to standards set by the American Waterworks Association (AWWA) and the American National Standards Institute (ANSI). Because all the subject waterworks fittings sold in the United States conform to AWWA/ANSI specifications, the domestic and imported products generally are recognized as interchangeable.[7]

C. Statutory framework

The statutory test for finding critical circumstances is set out in section 421(i)(1) of the Trade Act of 1974.[8] Section 421(i)(1) states that when a petition alleges that critical circumstances exist, the Commission must, not later than 45 days after the petition is filed, –

> (A) determine whether delay in taking action under this section would cause damage to the relevant domestic industry which would be difficult to repair; and
>
> (B) if the determination under subparagraph (A) is affirmative, make a preliminary determination of whether imports of the product which is the subject of the investigation have caused or threatened to cause market disruption.

The statute indicates that the Commission should first make a decision under subparagraph (A) and proceed to make a decision under subparagraph (B) only if its determination under subparagraph (A) is in the affirmative.

Once the Commission has completed the critical circumstances phase of its investigation, and regardless of its decision in that phase, the Commission proceeds to complete its investigation and make the determination required by section 421(b)(1). The Commission must make its determination under section 421(b)(1) no later than 90 days after the petition was filed, and must submit its report to the President and the U.S. Trade Representative, including its reasons and any remedy proposals, no later than 20 days after making its determination under section 421(b)(1).[9]

II. WHETHER DELAY IN TAKING ACTION WOULD CAUSE DAMAGE TO THE RELEVANT DOMESTIC INDUSTRY THAT WOULD BE DIFFICULT TO REPAIR

A. Domestic industry

In making its determination, the Commission first must define the domestic industry that may be damaged. Section 421(c) defines the domestic industry in terms of the producers of "like or directly competitive" products.

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[5] CR at I-5, 7.

[6] CR at I-6.

[7] CR at I-7. AWWA/ANSI standards cover compact fittings of 3 to 36 inches and full-bodied fittings of 3 to 48 inches in nominal diameter. Id.

[8] 19 U.S.C. § 2451(i)(1).

[9] Secs. 421(e)-(f); 19 U.S.C. § 2451(e)-(f).

1. Like or directly competitive domestic article

When assessing what constitutes the like or directly competitive product under section 421, the Commission applies the definition of "like or directly competitive" consistent with the legislative history of what is now section 202 of the Trade Act and considers such factors as (1) the physical properties of the article, (2) its customs treatment, (3) its manufacturing process (i.e., where and how it is made), (4) its uses, and (5) the marketing channels through which the product is sold.[10] If the Commission finds that there is domestic production of a like product, it generally has not found it necessary to look further and determine whether there are also domestic producers of directly competitive products.[11]

Petitioner argues that the Commission should define a single like product: domestic DIWF.[12] Respondent Pipeline Components, Inc. (PCI) asserts that small and large diameter DIWF are separate like products.[13] Several respondents take issue with whether the petitioner produces the full range of DIWF as defined in the petition.[14]

Based on the information developed to date in this investigation, we find, for purposes of this determination, that domestically produced DIWF are like the imported Chinese DIWF described in the Commission's Notice of Investigation. We find that the domestic DIWF have substantially the same physical properties as the imported DIWF from China, in that both the imported and domestic products are made of the same material, ductile iron, and made to meet the specifications for use in waterworks applications established by the AWWA and ANSI.[15] We find that the subject imports and domestic products fall within the same HTS statistical reporting number description for customs purposes. We find that the subject imports and domestic DIWF are produced in a similar manner, although the domestic manufacturing process may be more automated.[16] We also find that the evidence to date indicates that domestic producers as a whole produce a full range of sizes of fittings (as measured in nominal diameter), although there is a tendency for plants to focus on smaller or larger size ranges of fittings[17] with overlap between plants. We find that the subject imports and domestic product have the same uses, as fittings that meet AWWA and ANSI specifications for use in waterworks applications; and that the vast majority of imported and domestic products are sold through waterworks distributors, or so-called "waterworks houses."[18]

We also considered PCI's argument that the Commission should find that small and large diameter DIWF are separate like products. However, we find that the evidence currently before us supports a finding of one like product, with the various diameters and types part of a continuum of

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[10] *See, e.g., Certain Brake Drums and Rotors from China*, Inv. No. TA-421-3, USITC Pub. 3622 (August 2003) at 7-8.

[11] *See, e.g., Certain Brake Drums and Rotors from China*, Inv. No. TA-421-3, USITC Pub. 3622 (August 2003) at 8.

[12] Petitioner's post-conference brief at 2-7.

[13] PCI post-conference brief at 16-17.

[14] Chinese respondents' post-conference brief, responses to Commission staff questions at ii; PCI post-conference brief at 13; SIGMA post-conference brief at 19 and Exh. 4.

[15] Tr. at 69; *see also* petition at 5.

[16] Tr. at 73 (Mr. Green).

[17] *See* exhibit 4 to SIGMA post-conference brief.

[18] Staff report at I-9.

products. Although the petitioner may not produce a full range of sizes, the information shows domestic production of a full range of sizes of DIWF products, including significant domestic production of larger diameter DIWF (over 30 inches in diameter).[19] Our findings on this and other issues relating to the question of the like or directly competitive product and domestic industry are based on the information developed to date; we invite the parties to address these issues further during the remainder of this investigation.

2. The domestic industry

Neither section 421 nor its legislative history defines the term "domestic industry." However, the term is defined in other statutory authorities. Section 202(c)(6)(A)(i) of the Trade Act (19 U.S.C. § 2252(c)(6)(A)(i)) defines the term "domestic industry" to mean –

> with respect to an article, the domestic producers as a whole of the like or directly competitive article or those producers whose collective production of the like or directly competitive article constitutes a major proportion of the total domestic production of such article.

In previous section 421 investigations, having found domestic production of a like product, the Commission found the domestic industry to consist of the domestic firms and workers producing that product.[20] We follow that practice here.

In the current case, the Commission identified five firms that currently produce DIWF: Clow Water Systems Co., Tyler Pipe Industries, Union Foundry Co., American Cast Iron Pipe Co. (ACIPCO), and U.S. Pipe and Foundry Co. The Commission collected financial and other data from them.[21] We find the domestic operations of these five firms to constitute the relevant domestic industry.

B. Whether delay in taking action would cause damage to the domestic industry which would be difficult to repair

1. Statutory framework

This first part of the critical circumstances test under section 421(i)(1) requires the Commission to determine whether a delay in taking action under this section would cause damage to the domestic industry which would be difficult to repair. Neither the statute nor its legislative history defines the key terms in this determination, and the legislative history provides little guidance in interpreting these terms.

Any "delay in taking action" would be the difference in time between when the President would be expected to provide provisional relief in an investigation when critical circumstances are alleged, and when he would be expected to provide relief when critical circumstances are not alleged. We calculate

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[19] CR at Table I-3.

[20] *See, e.g., Certain Brake Drums and Rotors from China*, Inv. No. TA-421-3, USITC Pub. 3622 (August 2003) at 14.

[21] The Commission also collected information from a sixth firm, Griffin Pipe Products, for part of the period examined. Griffin ceased domestic production in 1999.

the delay to be about 3 months, but a more precise calculation will depend on how the President and the USTR interpret parts of the statute that apply to decisions they must make.[22]

2. Information in the record

In its petition, petitioner stated that, in the absence of provisional relief, it would close at least one of its DIWF facilities "imminently" and that this would result in damage difficult to repair.[23] Petitioner identified its ***, as the facility to be closed and cited ***.[24] Petitioner stated that it expected this would be a "permanent action" that would reduce its production and sale of domestically produced DIWF and eliminate the jobs associated with the closed facilities.[25]

Three weeks later at the staff conference a company official took a different position on plant closure. He said that McWane, in the absence of provisional relief, "will not announce an immediate shutdown," but rather will be forced to downsize operations further, withhold additional needed investments, and increase the number of days in which its plants are idle.[26] He did not indicate the nature of the downsizing or when it would occur, the needed investments that would be withheld, or when plants would be idled and for how long.

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[22] Under one method of calculating, on which petitioner and the Chinese respondents substantially agree, the delay would be 85 days. This method assumes that the President must make his decision no later than 65 days after the petition is filed when critical circumstances are alleged, but he must make his decision no later than 150 days after the petition is filed when the petition does not allege critical circumstances. The 65 days equals the sum of 45 days for the Commission to make its determination and transmit its report, 10 days for the USTR to make his recommendation to the President, and 10 days for the President to make his decision. The 150 days equals the sum of 80 days for the Commission to make its determination and transmit its report, 55 days for the USTR to make his recommendation, and 15 days for the President to make his decision. However, the delay could be as short as 60 days if section 421(h) is interpreted to apply and the USTR has up to 35 days to make his recommendation to the President, instead of the 10 days in section 421(i)(3).

[23] Petition at 2. The petition states (at 2): "Without the implementation of such provisional relief, the significant losses being suffered by the domestic industry will force McWane to close at least one of its DIWF facilities imminently."

[24] Petition at 29.

[25] Petition at 31.

[26] *See* testimony at the staff conference of David Green, president of Ransom Industries, a subsidiary of McWane that is responsible for overseeing and managing the operations of McWane's Union Foundry and Tyler Pipe facilities (tr. at 17). Green stated as follows (tr. at 20-21):

> As you know, we have requested interim relief under the critical circumstances provisions. The reason we have requested this provisional relief is the dire financial situation of the business. We don't know how much longer we can continue to lose money on every pound of product we sell.
>
> Does this mean if we don't get interim relief we will shut down our facilities immediately? No.
>
> First, we have an obligation to our customers to supply them so we will not precipitously close our plants. We will continue to do everything possible to try to increase our sales and maintain employment, and we obviously hope that the market will improve. But realistically, we will at a minimum have to increase the number of days our plants are idle.
>
> To be clear, we will not announce an immediate shutdown. We will, however, be forced to further downsize our operations and withhold additional needed investments. Moreover, in the event the Commission or the President reaches a negative final determination, we will likely reduce production capacity dramatically over the ensuing months to match the declining market for domestically produced DIWF.

Petitioner's questionnaire responses ***. In its post-conference brief the petitioner indicated that without provisional relief, it would ***. Petitioner's counsel alleges that "***."[27] Petitioner indicated that these *** would threaten its ability to retain skilled workers. Petitioner also asserted there was no basis for concluding that the subject imports will stabilize or decline, that it had good reason to believe that importers are already stockpiling Chinese DIWF to avoid having to pay higher prices in the future, and that without provisional relief importers could realistically import all of the DIWF they will need "for months or over a year" in the future.[28]

Other domestic producers supplied information relating to possible damage difficult to repair. *** noted that many ***.[29] *** indicated in its questionnaire response that it is considering *** DIWF. The company indicated if this happened, it would be costly to ***.[30]

The Chinese respondents and respondents PCI and SIGMA assert that there is no evidence that a delay in taking action will cause damage difficult to repair. The Chinese respondents assert that the petitioner has the burden of showing that critical circumstances exist, that the case for critical circumstances must be established on the face of the petition rather than developed through the investigative process, and that petitioner has done neither.[31] They also cite petitioner's statements at the staff conference indicating that it has backed off its claim of an imminent plant closure in the absence of provisional relief, and state that petitioner's claim of "eventual" harm fails to meet the detailed demonstration required by the Commission's rules.[32] PCI asserts that recent price increases by petitioner and a promise of another show that prices are not likely to decline during the delay period,[33] and that petitioner's marketing power over distributors and protection under Buy America provisions shelter it from import competition.[34] PCI also states that petitioner's claim about harm from loss of experienced workers is overstated because most of petitioner's production is on automated equipment run by machine operators, not skilled labor.[35] Respondent SIGMA states that there is no evidence of an imminent surge in imports, and that such a surge is unlikely given the relationship of sales to the construction season,

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[27] Post-conference brief, responses to staff questions, p. 21.

[28] Petitioner's post-conference brief at 35-36.

[29] CR at VI-6.

[30] CR at Table VI-3, Table VI-4.

[31] Chinese respondents' post-conference brief at 10. In support of their assertion, they cite section 206.44(h) of the Commission's rules, which states that a petitioner, when alleging critical circumstances, must provide "detailed information" in the petition supporting its claim as well as "detailed information" demonstrating that delay in taking action would cause damage to the domestic industry that would be difficult to repair.

[32] Chinese respondents' post-conference brief at 10.

[33] PCI post-conference brief at 7-8.

[34] PCI post-conference brief at 9.

[35] PCI post-conference brief at 10.

which is at its low point in winter.[36] SIGMA also notes that both petitioner and importers of the subject imports recently have raised prices to offset rising costs.[37]

3. Analysis

The evidence in the record does not support a finding that a delay in taking action would cause damage to the domestic industry which would be difficult to repair. Accordingly, we have made a negative determination with respect to the first criterion. We have considered the fact that the industry's overall condition has deteriorated since 1999, and recognize that its recent financial performance has been poor. The steady deterioration in the industry's condition, particularly since 1999, by itself does not satisfy the statutory criterion in this case. We do not find that the industry's recent difficulties rise to a level that would outweigh the analysis set out below indicating the lack of identifiable damage that would be difficult to repair.

In general, the claims made by petitioner and other domestic producers either lack specificity, do not relate to the delay period, or are not in the nature of damage difficult to repair.[38] Petitioner's most significant claim was the claim in its petition about an imminent plant closure. However, as noted above, petitioner subsequently retreated from that claim at the staff conference when it made clear that closure was not imminent. Petitioner subsequently stated that in the absence of provisional relief it would ***. The figures alleged by counsel for petitioner are for fixed costs and to retain current employees. However, there are no details provided that would allow the Commission to determine that these are additional expenses that will be borne by petitioner absent provisional relief, rather than simply a recitation of petitioner's current weekly expenditures. Moreover, petitioner is not alleging additional losses of contracts, sales, or revenues.

Petitioner claims that it will postpone capital expenditures, but does not indicate whether the expenditures at issue are discretionary, for example, to increase capacity, or are essential to maintain operations, such as to maintain existing equipment.[39] Petitioner claims that a surge in imports will occur during the winter months in the absence of provisional relief, but provides no evidence of orders, goods

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[36] SIGMA post-conference brief at 5-6.

[37] SIGMA post-conference brief at 6-8.

[38] We also considered Chinese respondents' argument that petitioner has a "burden" to demonstrate critical circumstances. Information provided by a petitioner can be particularly important in critical circumstances proceedings given the short statutory deadlines. The record in this proceeding includes not only information provided by the parties, but information separately collected by the Commission from questionnaires, through fieldwork, and from other sources. Nevertheless, the only formal "burden" placed on the petitioner by section 206.44(h) of the rules is the obligation to provide certain "detailed information" in its petition with regard to its claim that critical circumstances exist, a requirement included to assure a record on the critical circumstances issue despite the very short time available to investigate.

[39] Petitioner has identified one project that has been put on hold during these proceedings; ***. This project is aimed at cutting costs from current levels (post-conference brief, responses to staff questions, p. 20).

in transit, or other indicators that would support this claim.[40] Moreover, respondents, who are producers or importers of the Chinese product, dispute the claim.

The record includes claims that relate to two other domestic producers. With respect to the possible *** DIWF, that company states only that it "is considering" such action; it gives no date for such action or other specifics relevant to the question of how a delay in taking action would be a factor in this decision. *** statement in its questionnaire response relating to the importance of *** also lacks specificity in that it does not refer to any *** during the delay period, indicate that the loss would cause damage difficult to repair, or indicate how, except in general terms, a provisional remedy would assist the firm in *** during the delay period.

4. Conclusion

For the reasons stated above, we make a negative determination with respect to whether delay would cause damage to the domestic industry which would be difficult to repair. Having done so, we determine that critical circumstances do not exist.

[40] Petitioner cites the fact that inventories of DIWF from China held by U.S. importers increased over the period we examined. However, the ratio of these inventories to imports or to shipments of imports is not appreciably higher in the most recent period (January-June 2003) than in prior periods. CR at Table IV-3. Moreover, as petitioner acknowledges, relatively high inventories are normal with respect to DIWF because of the large number of product variations. Petitioner's post-conference brief at 35-36, nn. 31, 32.

DISSENTING VIEWS OF COMMISSIONER CHARLOTTE R. LANE ON CRITICAL CIRCUMSTANCES

While I agree with my colleagues with respect to their findings as to the like or directly competitive domestic article at issue in this investigation and the domestic industry producing that article, I respectfully disagree with their negative determination under section 421(i)(1) of the Trade Act of 1974. To the contrary, I find that delay in taking action under this section would cause damage to the domestic industry producing ductile iron waterworks pipe fittings (DIWF) that would be difficult to repair. Accordingly, I join part I of the majority opinion in its entirety, and join part II through section B.1. I present the remainder of my analysis below.

As a whole, section 421 provides for relief under two timeframes: the ordinary timeframe in which relief, if any, is granted 150 days after a petition has been filed, and the expedited timeframe providing provisional relief (requiring a finding of critical circumstances), in which any relief may be granted as soon as 65 days after a petition has been filed.[1] Thus, section 421(i)(1) allows for the granting of relief sooner rather than later, if the Commission finds that delay would cause damage that would be difficult to repair. I find that relief in this investigation is needed as soon as possible in order to diminish, if not halt, the damage to the domestic industry that is ongoing and will continue without that relief. The deterioration of the domestic industry should be addressed sooner rather than later, else dire consequences may result.

First, any delay in granting relief will hasten the closing of production facilities. While much has been made by respondents over the fact that McWane, Inc. alleged in its petition that it would face the imminent closure of its *** plant if provisional relief were not granted[2] and of McWane's partial retreat from this position for business reasons because of its obligation to supply its customers,[3] the fact remains that McWane will suffer serious financial losses absent provisional relief. It will be forced to close production facilities ***.[4] Over a period of two months, these costs would total ***. In an industry that has been suffering steadily increasing operating losses in every year of the period of investigation except one,[5] I find that these additional losses would certainly be difficult to repair.

These losses are quite believable in view of the fact that after an expenditure of ***.[6] This line produced ***;[7] a significant amount of production capacity and number of employees were lost within two months.[8]

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[1] 19 U.S.C. § 2451.

[2] Petition at 2, 29.

[3] Tr. at 21 (Mr. Green).

[4] Petitioners' Postconference Brief, Responses to Staff Questions at 21.

[5] The domestic industry's operating loss was $4.6 million in fiscal year 1998, $6.3 million in 2000, $13.4 million in 2001, and $20.9 million in 2002. It was $8.6 million in Jan.-June 2002 and was $16.1 million in Jan.-June 2003. CR at Table III-6.

[6] Petitioners' Postconference Brief at 12 & Responses to Staff Questions at 13. McWane increased its capital expenditures in order to modernize its plants from ***. Petitioners' Postconference Brief at 14.

[7] Petitioners' Postconference Brief, Responses to Staff Questions at 15.

[8] Petition at 22; Petitioners' Postconference Brief at 12. Union Foundry laid off 60 employees due to shift reduction in July 2003 and terminated 85 employees in August as its entire production line was shut down. Tr. at 43 (Mr. Kerwin). While the financial condition of McWane's Tyler plant is not as serious, it has ***. Petition at 30. The lack of provisional relief may well ensure this plant closure. Moreover, any decision by McWane to close one or more of its facilities would be permanent and decrease DIWF capacity and production, as well as eliminate jobs. Petition at 31.

In addition, because of the influx of subject imports, McWane decided the week of September 22, 2003 that it could not make a multi-million dollar investment; it will be too late to make this investment in November because the order had to be placed in September. As a result, there will be adverse financial consequences for the Union Foundry and Tyler plants within a few months, and a continued lack of a needed reduction in costs.[9] (It is important to implement investments now or at least in the late fall/early winter period in order to have them yield benefits when the market picks up in the spring.)[10] In addition, McWane was ***.[11] It is likely that McWane will have to forego other investments in the absence of a finding of critical circumstances.

However, McWane is not the only domestic producer that would incur such damage. Since January 2000, U.S. Pipe and Foundry Co. has been ***.[12] It was forced to take ***.[13] Yet it had ***.[14] Clearly, it did not contemplate ***.

U.S. Pipe has ***.[15] Further, ***.[16] U.S. Pipe has already had to ***.[17] In view of the experience of *** in downsizing its operation, U.S. Pipe could find itself on the verge of ***.[18]

Not only would the firms suffer in the absence of provisional relief, their workforce would be dealt a substantial blow. It is not possible or practical for McWane's employees to go to its other facilities in the event of closure; ***. Even if the plant remains open but is idled, continually idling the facilities would tarnish McWane's reputation as a place of dependable employment. As a result, the workers would seek alternate employment. Nor would it be a simple matter to replace certain qualified personnel, as it would take a significant amount of time to recruit them.[19] The number of DIWF workers overall has steadily decreased since Griffin closed its facility in 1999, with the industry losing approximately 50 employees between 2000 and 2002, and losing even more in interim 2003 as compared

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[9] Tr. at 62 (Mr. Rosenthal).

[10] Tr. at 100-01 (Mr. Rosenthal).

[11] Petitioners' Postconference Brief at 15 & n.16. McWane has stated that without provisional relief, it cannot make capital investments during the course of the next year, which could hasten a more precarious financial situation and perhaps force it out of business. Petitioners' Postconference Brief, Responses to Staff Questions at 29.

[12] U.S. Pipe's Domestic Producer's Questionnaire Response at III-11.

[13] I note that another domestic producer, Griffin Pipe Products, ceased producing DIWF in 1999. CR at I-19. I also find it noteworthy that all domestic producers, except Griffin, agreed that delay in granting them relief will result in harm that is difficult to repair. CR at VI-5.

[14] CR at III-13. U.S. Pipe's capital expenditures were ***. CR at Table III-9.

[15] CR at VI-9.

[16] CR at VI-11.

[17] U.S. Pipe's Domestic Producer's Questionnaire Response at II-2.

[18] U.S. Pipe has experienced ***. CR at Table E-2.

[19] Petitioners' Postconference Brief, Response to Staff Questions at 22.

to interim 2002.[20] As a result, it is likely that a number of DIWF employees will lose their jobs in the next two months in the absence of provisional relief.[21]

In sum, I find that a delay in granting relief to the domestic industry producing DIWF would cause damage that would be difficult to repair in terms of inevitable lost wages to workers; layoffs of some of those workers; the inability to invest capital in order to reduce costs and modernize equipment; the inability to become more competitive with subject imports in a timely fashion; further financial losses; and the closing of production lines and/or facilities.

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[20] There were 1,202 production and related workers in 2000; 1,193 in 2001; and 1,154 in 2002. There were 1,234 in Jan.-June 2002 and 1,098 in Jan.-June 2003. CR at Table III-5. I note that while their hourly wages increased steadily from 1998 to 2002, their total wages paid decreased between 2000-2002. Hourly wages were lower in interim 2003 as compared to interim 2002, however. CR at Table III-5. It appears that the domestic producers are seeking to keep their workers as long as possible by cutting back their hours. However, inevitably they must lay off some employees.

[21] I note that layoffs and plant closings have taken place during the summer months – the period of peak demand. *See* Tr. at 101 (Mr. Kerwin). It appears that layoffs will be more likely to occur during the slow period of November through March. *See* Tr. at 178 (Mr. McCutcheon).

PART I: INTRODUCTION

BACKGROUND

On September 5, 2003, a petition was filed on behalf of McWane, Inc.,[1] Birmingham, AL, requesting that the Commission institute an investigation under section 421(b) of the Trade Act of 1974 (19 U.S.C. § 2451(b)) (the Act), to determine whether certain ductile iron waterworks fittings (DIWF)[2] from China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. The petition also alleges under section 421(i) of the Act that critical circumstances exist with respect to the subject product and requests that provisional relief be provided. Effective September 5, 2003, the Commission instituted investigation No. TA-421-4, and will determine whether delay in taking action would cause damage to the relevant domestic industry which would be difficult to repair, and if that determination is affirmative, make a preliminary determination of whether imports of certain ductile iron waterworks fittings from China have caused or threaten to cause market disruption. Information relating to the timetable for the investigation is provided below.[3]

Effective date	Action
September 5, 2003	Petition filed with the Commission; institution of inv. No. TA-421-4 (68 FR 54010, September 15, 2003)
September 26, 2003	Staff conference
October 16, 2003	Scheduled date for the Commission's vote on critical circumstances and if necessary, preliminary vote on market disruption and proposed provisional measures
October 20, 2003	Critical circumstances determination and, if necessary, preliminary market disruption determination and recommendations on proposed provisional measures transmitted to the President
November 6, 2003	Commission's hearing
December 4, 2003	Scheduled date for the Commission's vote on market disruption
December 4, 2003	Commission's determination on market disruption transmitted to the President
December 15, 2003	Scheduled date for the Commission's vote on remedy (if necessary)
December 24, 2003	Commission's report transmitted to the President

[1] McWane operates three subsidiaries that produce the subject product including: Clow Water Systems Co., Coshocton, OH; Tyler Pipe Co., Tyler, TX; and Union Foundry Co., Anniston, AL.

[2] For a complete description of the product subject to this investigation, see the section of this part of the report entitled *The Subject Articles*.

[3] The *Federal Register* notice cited in the tabulation is presented in appendix A, and a list of witnesses appearing at the staff conference is presented in appendix B.

PREVIOUS INVESTIGATIONS

The U.S. Waterworks Fittings Producers Council and its individual members, Clow Water Systems, Tyler Pipe Industries, Inc., and Union Foundry Co., previously filed a petition on July 8, 1992, alleging that an industry in the United States was materially injured or threatened with material injury by reason of less than fair value (LTFV) imports of compact ductile iron waterworks fittings and accessories thereof [4] from China. Following the Department of Commerce's (Commerce) affirmative determination of LTFV imports, and the Commission's determination of material injury or threat of material injury,[5] an antidumping duty order was placed on imports of compact ductile iron waterworks fittings and glands from China on September 7, 1993.[6] The antidumping duty order was revoked on January 24, 2000.[7]

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Section 421(c) of the Act (19 U.S.C. § 2451(c)) states that:

> *market disruption exists whenever imports of an article like or directly competitive with an article produced by a domestic industry are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat of material injury, to the domestic industry.*

Further, as defined in section 421(d) (19 U.S.C. § 2451(d)), the Commission is instructed to consider the following objective factors in determining whether market disruption exists:

> *(1) the volume of imports of the product which is the subject of the investigation;*

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[4] The Commission found three separate like products in the antidumping duty investigation: (1) all iron waterworks fittings (including both full-bodied and compact ductile iron waterworks fittings and gray iron fittings as well as fittings over 16 inches in nominal diameter), (2) all iron glands, and (3) accessory packs. *See, Certain Compact Ductile Iron Waterworks Fittings and Accessories Thereof From The People's Republic of China* (Inv. No. 731-TA-621 (Final)), USITC Publication No. 2671 (August 1993) (hereinafter *1993 CDIWF Final*), pp. 5-20.

[5] The Commission found that an industry in the United States was threatened with material injury by reason of LTFV imports of certain compact ductile iron waterworks fittings from China. The Commission further determined that an industry in the United States was materially injured by LTFV imports from China of cast iron glands for such fittings but that an industry in the United States was not materially injured or threatened with material injury, and the establishment of an industry in the United States was not materially retarded, by reason of imports from China of accessory packs. *1993 CDIWF Final*, p. 1-2.

[6] The order imposed a PRC-wide margin of 127.38 percent *ad valorem* (58 *FR* 47117, September 7, 1993).

[7] Commerce's final determination subsequently was challenged in the U.S. Court of International Trade by China National Metal Products Import and Export Corporation (CMP), a Chinese exporter of the subject fittings, and SIGMA Corporation, a U.S. importer. On remand, Commerce determined CMP to be entitled to a separate rate that it further found to be *de minimis*. Accordingly, CMP was excluded from the order. The antidumping duty order continued in effect through January 2000 when it was revoked by Commerce during a five-year sunset review because no domestic party responded to Commerce's sunset review notice of initiation (65 *FR* 3661, January 24, 2000). Petitioners reported that the domestic industry decided not to participate in the sunset review because the effectiveness of the dumping order had been significantly reduced by Commerce's decision relating to CMP (petition, p. 11).

(2) the effect of imports of such product on prices in the United States for like or directly competitive articles; and

(3) the effect of imports of such product on the domestic industry producing like or directly competitive articles.

As the petition in the subject investigation has alleged critical circumstances, the Commission is directed under section 421(i) (19 U.S.C. § 2451(i)) to:

(A) determine whether delay in taking action . . . would cause damage to the relevant domestic industry which would be difficult to repair; and

(B) if the determination under subparagraph (A) is affirmative, make a preliminary determination of whether imports of the product which is the subject of the investigation have caused or threatened to cause market disruption.

Information on the subject articles, the like or directly competitive domestic articles, and the U.S. market for such articles is presented in *Part I.* Data pertaining to the volume of U.S. imports and the question of rapidly increasing imports is presented in *Part II.* Information relating to the questions of material injury, including U.S. industry data on capacity, production, shipments, inventories, employment, and financial condition, is presented in *Part III.* Available information relating to the question of the threat of material injury, including data on capacity, production, shipments, and inventories of manufacturers in China, is presented in *Part IV.* The question of the causal relationship between the alleged injury and imports, with information on U.S. market penetration of imports, imports relative to production, and pricing, is presented in *Part V.* Additional information regarding efforts by U.S. producers to compete and critical circumstances is presented in *Part VI.*

SUMMARY DATA

A summary of data collected in the investigation for DIWF is presented in appendix C, tables C-1 and C-2. U.S. industry data are based on the questionnaire responses of six firms that accounted for all known U.S. production of DIWF during the period examined (i.e., 1998-2002, January-June 2002, and January-June 2003). U.S. imports are compiled from responses to the Commission's questionnaires.

THE SUBJECT PRODUCT

As described in the Commission's notice of institution,[8] the product subject to this investigation is cast pipe or tube fittings of ductile iron (containing 2.5 percent carbon and over 0.02 percent magnesium or magnesium and cerium, by weight) with mechanical, push-on (rubber compression) or flanged joints attached. Ductile iron waterworks fittings are used to join pipes, valves, and hydrants in straight lines or to change, divert, divide, or direct the flow of water or sewage in municipal utility and industrial piping systems. Included within this definition are fittings of all nominal diameters and of both full-bodied and compact designs. The subject product is imported under statistical reporting number 7307.19.3070 of the Harmonized Tariff Schedule of the United States (HTS).

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[8] *Certain Ductile Iron Waterworks Fittings from China: Institution and scheduling of an investigation*, 68 FR 54010, September 15, 2003; and petition, pp. 3-4.

Excluded from the scope of the petition are (1) gray iron fittings; (2) grooved-end fittings or grooved couplings (HTS statistical reporting number 7307.19.3040); (3) threaded ductile iron fittings (HTS 7307.19.3060); (4) "other" ductile iron fittings (HTS 7307.19.3085); (5) iron glands; and (6) accessory packs for DIWF.

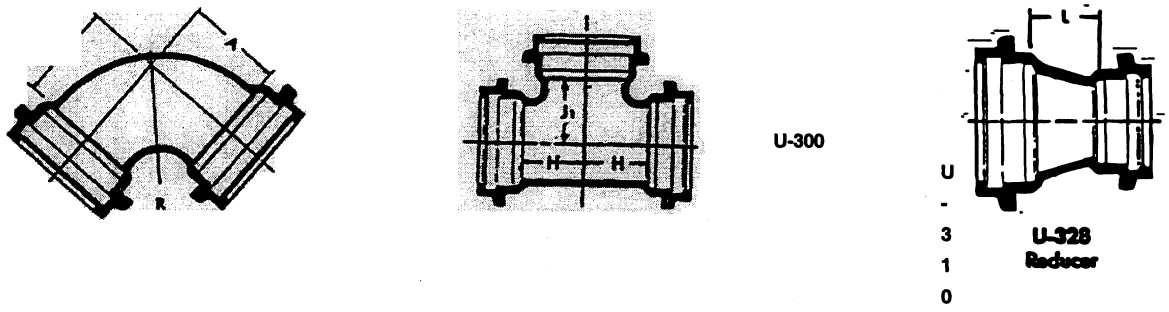
THE LIKE OR DIRECTLY COMPETITIVE DOMESTIC ARTICLE

In making determinations of what constitutes the domestic product like or directly competitive with the imports subject to investigation, the Commission considers such factors as (1) the physical properties of the article, (2) its customs treatment, (3) its manufacturing process (i.e., where and how it is made), (4) its uses, and (5) the marketing channels through which the product is sold.[9] Information regarding these factors is presented below.

Physical Properties and Uses

Waterworks fittings are used to join pipes, valves, and hydrants in straight lines and to change, divert, divide, or direct the flow of raw or treated water (primarily in municipal water distribution systems). Waterworks fittings are produced in a variety of shapes (e.g., bends, tees, crosses, elbows, wyes, reducers, and adapters) and range in size from 2 inches to 60 inches in nominal diameter (figure 1).[10]

Figure 1
Typical ductile iron waterworks fittings



Source: McWane, Incorporated. Pipe Economy 91.

The standard material for conveying water and sewage in municipal utility and industrial piping systems traditionally has been cast iron, which is available in essentially two forms--gray iron and ductile iron.[11] Because ductile iron has proven to be a far superior material in terms of strength, ductility, and corrosion resistance, it has, to a large degree, replaced gray iron as the material of choice for a significant

[9] *Certain Brake Drums and Rotors from China*, Inv. No. TA-421-3, USITC Pub. 3622 (September 2003) at 8.

[10] *1993 CDIWF Final*, p. I-5. Staff field trip notes, Union Foundry, Sept. 24, 2003.

[11] Staff field trip notes, Union Foundry, Sept. 24, 2003.

number of end users. Further, gray iron waterworks fittings (GIWF) are generally rated at not higher than 250 pounds per square inch (PSI), compared with 350 PSI for ductile iron waterworks fittings.[12]

Waterworks fittings come in either full-bodied or compact designs, that differ primarily in size and weight. Full-bodied fittings are bulkier, thicker-walled, heavier, and have a longer body design, or lay length. Compact fittings have a shorter lay length and thinner walls; as a result, they weigh only about half as much as comparably sized full-bodied fittings.[13] Although full-bodied ductile iron waterworks (FBDIW) fittings typically have the same use as CDIW fittings, conditions in which FBDIW fittings must be used include "extra heavy duty applications," such as water systems in earthquake zones, or municipalities that have not updated their specifications to include CDIW fittings. Some municipalities that have highly corrosive soils prefer full-bodied fittings because of their thicker walls.[14]

Each end of a waterworks fitting is designed so that it can be attached to a pipe, hydrant, valve, or to another fitting with a mechanical joint, push-on joint, or flanged joint. Certain accessories are required to complete the attachment. A mechanical joint requires the use of an iron gland, a styrene butadiene rubber (SBR) gasket, and the requisite number of steel or iron T-head bolts and nuts to secure the fitting to the pipe. Push-on joint waterworks fittings perform the same function as mechanical joint, except that push-on fittings require only an SBR gasket to secure the fitting to the pipe. Flanged joints require the use of a rubber gasket and the requisite number of bolts to secure one flanged joint to a second flange or to a fitting or hydrant. Flanged joints are used to facilitate disassembly and reassembly.

In the early 1990s, the market for ductile waterworks fittings shifted from full-bodied ductile iron fittings to compact ductile iron fittings because compact are less expensive to manufacture, easier to install, and lighter in weight.[15] The most common sizes of ductile iron waterworks fittings sold in the U.S. market are 4 inches, 6 inches , and 8 inches in nominal diameter.[16] Fittings of 24 inches and below account for more than 90 percent of the domestic market.[17] Ductile iron waterworks fittings above 42 inches in nominal diameter are produced primarily for wastewater treatment plants and those over 36 inches in nominal diameter are a small segment of the U.S. market.[18]

All waterworks fittings and accessories must conform to standards set by the American Waterworks Association (AWWA) and the American National Standards Institute (ANSI). Standards established for CDIW fittings of ductile iron from 3 inches through 36 inches are provided for under AWWA/ANSI standard C153/A21.53, and those for full-bodied waterworks fittings from 3 inches through 48 inches made of either ductile or gray iron are provided for under AWWA/ANSI standard C110/A21.[19] AWWA/ANSI standards provide that both full-bodied and compact fittings can be used with the same accessories, thus making them interchangeable with each other with respect to the configuration of the joint.

Because all the subject waterworks fittings sold in the United States conform to AWWA/ANSI specifications, domestic and imported products are generally recognized as interchangeable.[20] End users generally know the origin of the product being used because the specifications require the name of the manufacturer to be cast on the product.

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[12] *1993 CDIWF Final*, p. I-5.

[13] *Id.*

[14] Petition, pp. 4-5.

[15] Staff field trip notes, Union Foundry, Sept. 24, 2003.

[16] Conference transcript, p. 111 (Green).

[17] Staff field trip notes, Union Foundry, Sept. 24, 2003.

[18] *Id.*

[19] A third type of waterworks fitting, ductile iron flanged fittings, is also covered in the AWWA/ANSI standard C110/A21. The most significant differences in the standards are the working pressure requirements and joint-type requirements. The C110 standard for full-bodied fittings permits fittings to be rated at 250 PSI or 350 PSI, depending on whether the fitting is a mechanical joint, push-on joint, or flanged joint. The C153 standard requires all compact fittings to be rated for 350 PSI working pressure.

[20] Staff field trip notes, Union Foundry, Sept. 24, 2003.

Manufacturing Process

DIWF are manufactured by melting scrap iron, into which silicon and calcium carbide are added to improve the iron base and reduce the sulfur content of the iron to 0.15 percent or less. In addition, magnesium is added to the molten iron to give the iron "ductile" properties.[21] The addition of magnesium to the molten iron changes the chemical structure of graphite found in the iron from flake form (as found in gray iron) to a spheroidal form. The changes resulting from the addition of magnesium give the ductile iron twice the strength of gray iron.

The first stage of the manufacturing process consists of placing the raw materials in a cupola and heating to a molten or liquid state.[22] For both gray iron and ductile iron fittings, a pattern is placed in a flask and covered with green molding sand.[23] Each flask holds multiple compact fittings, but only one or two full-bodied patterns. Sand is compacted around the pattern, which is then removed, leaving an impression of the outside of the fitting.[24] The core is inserted into the molding cavity and a separate flask containing an impression of the other half of the fitting is placed on top. The completed mold then advances to the casting stage where molten iron in the cupola is poured into the assembled mold. Once the castings have cooled, they are removed from the flasks and excess molding sand is removed. For CDIWF, excess sand is removed on a continuous automated shakeout line.[25] The castings are then further cooled, after which they undergo finishing, machining, and coating operations. Such finishing operations may include shot-blasting the fittings to remove excess materials or irregularities, lining the inside surface of the fitting with cement, and coating the fittings with bitumen, a tar-like substance that prevents corrosion.

Marketing Channels

Information provided in response to the Commission's questionnaires regarding producer and importer sales by marketing channels is presented in table I-1. The vast majority of DIWF sold in the United States, whether domestically produced or imported from China, are sold through waterworks distributors or so-called "waterworks houses." Waterworks houses account for more than 90 percent of all DIWF sold in the United States. Only a limited quantity of DIWF are sold directly to contractors or municipal or regional water authorities.

Table I-1
DIWF: U.S. producers' and U.S. importers' commercial U.S. shipments, by channels of distribution, 1998-2002, January-June 2002, and January-June 2003

* * * * * * *

The prominence of waterworks distributors in the distribution chain has evolved only since the 1980s. Previously, sales of waterworks fittings were generally made directly from the manufacturer to the end user as part of the sale of water pipe.[26] Currently, U.S. waterworks distributors number over one hundred and generally handle the full spectrum of waterworks products, including iron glands, gland or accessory packs, pipes, valves, fire hydrants, and other products. Most waterworks distributors are independent firms, not owned by or affiliated with U.S. producers or importers of DIWF.

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[21] Petition, p. 5.

[22] Electric induction furnaces are also used by the industry to melt iron.

[23] Green sand is composed of clay, sand, sea coal, and water. Green sand is used in the production of fittings ranging from 2 inches to 36 inches in diameter. Fittings 36 inches in diameter and greater are produced using a resin coated no-bake system.

[24] A sand core is produced from a separate pattern to form the internal passages of the fitting.

[25] *1993 CDIWF Final*, p. I-5.

[26] *1993 CDIWF Final*, p. I-5.

Customs Treatment

Table I-2 presents current tariff rates for DIWF, which is provided for in HTS subheading 7307.19.30. During 1998-2001, DIWF was imported under statistical reporting number 7307.19.3080, a provision that included nonsubject ductile iron fittings. The product-specific category applicable to DIWF (statistical reporting number 7307.19.3070) was added to the HTS in 2002.[27]

Table I-2
DIWF: Tariff rates, 2003

HTS provision	Article description[1]	General[2]	Special[3]	Column 2[4]
		Rates *(percent ad valorem)*		
7307.19.3070	Tube or pipe fittings (for example, couplings, elbows, sleeves) of iron or steel: Other cast fittings: Ductile fittings: Other, with mechanical, push-on (rubber compression) or flanged joints attached	5.6	Free 1.4% (JO)	45.0

[1] An abridged description is provided for convenience; however, an unabridged description may be obtained from the respective headings, subheadings, and legal notes of the HTS.

[2] Normal trade relations, formerly known as the most-favored-nation duty rate, applicable to imports from China.

[3] Free rate applies to eligible goods under the Generalized System of Preferences, African Growth and Opportunity Act, Caribbean Basin Economic Recovery Act, Andean Trade Preference Act, Automotive Products Trade Act, Israel Free Trade Agreement, and NAFTA-originating goods of Canada and Mexico. The reduced "JO" rate is a concession stagged rate under the U.S.-Jordan Free Trade Agreement.

[4] Applies to imports from a small number of countries that do not enjoy normal or preferential trade relations duty status.

Source: Harmonized Tariff Schedule of the United States (2003).

[27] Petition, p. 16, fn. 14.

DOMESTIC LIKE OR DIRECTLY COMPETITIVE PRODUCT CONSIDERATIONS

As previously noted, products excluded from the scope of this investigation are (1) gray iron fittings;[28] (2) grooved-end fittings or grooved couplings;[29] (3) threaded ductile iron fittings;[30] (4) "other" ductile iron fittings;[31] (5) iron glands; and (6) accessory packs for DIWF.[32] No party has argued that these products be included in the domestic product that is like the imported product.

During this investigation, counsel for U.S. importer, Pipeline Components, Inc. (PCI) has argued that small (30 inches nominal diameter (ND) or less) and large (36 inches ND or greater) DIWF are separate like products.[33] Counsel argued that a) size differences preclude the substitution of one size range for the other in project applications; b) different production processes are used for the products (small DIWF using "green sand" and large DIWF using "resin-coated no bake system'); c) there are different end uses (small predominately in water and sewer lines in subdivision developments and large in water and sewage treatment plants); and d) different channels of distribution (small to waterworks houses distributors and large to specialty contractors).[34]

Petitioner argued that a) all DIWF comply with the same AWWA/ANSI standards; b) all are produced in similar manufacturing facilities with a significant degree of overlap among the types of machinery used; c) all DIWF are used as connections to change water direction or accommodate increase/decrease system diameters; and d) all are sold principally through distributors.[35]

Counsel for PCI also argued that the U.S. market for DIWF is segmented into small and large markets, with no significant presence by the petitioning companies in the large size segment.[36] Information regarding U.S. shipments by producers and importers, by sizes and types of DIWF, are presented in table I-3, figure I-1, and appendix D, table D-1. These data indicate that small diameter (30 inches ND and less) DIWF accounted for approximately 89 percent of U.S. commercial shipments during the period examined, and that U.S.-produced products accounted for the principal shares of the markets by size: *** percent of small diameter and *** percent of the large diameter (greater than

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[28] During the 1993 antidumping investigation of CDIWF, the Commission determined that compact gray iron waterworks fittings were included in the domestic like product. In response to the Commission's producers' questionnaire in this investigation, no U.S. producer reported production of GIWF. Petitioner also has noted that gray iron fittings are not manufactured in any significant quantities in China and are not exported to the United States from China. Petition, p. 3, fn. 2. U.S. importers reported limited amounts (2,000-4,000 short tons) of GWIF from all sources during the period of investigation.

[29] The majority of grooved-end fittings or grooved couplings are used in plumbing or fire protection applications involving pipes with relatively small diameters. As such, petitioner argued that grooved fittings and DIWF have distinct physical characteristics and end uses and do not compete with each other. Petition, p. 3, fn. 2.

[30] Threaded ductile iron fittings are used in applications that are distinct from the applications in which DIWF are used. These products are used in gas line applications involving smaller diameter pipe as compared to waterworks applications. *Id.*

[31] Petitioner noted that it is uncertain of the precise nature of the HTS category of this product, but believes that such product could include either flanges or iron glands. Neither of these products (or any other product that could be possibly classified under that subheading) is used in the waterworks applications in which DIWF are used. *Id.*

[32] Unlike the 1993 antidumping investigation, petitioner did not include these products in the scope of the petition for this investigation. Petitioner noted that "(s)ince the time of the Commission's prior Title VII investigation in 1993, the marketing of those products has changed such that iron glands and accessory packs are now sold separately from DIWF and are now regarded as a distinct product from DIWF and, as such, should not be considered a product that is like DIWF." *Id.*

[33] Postconference brief of Neville Peterson, pp. 16-17.

[34] *Id.*

[35] Petitioner's postconference, pp. 5-7.

[36] Postconference brief of Neville Peterson, pp. 13-15.

30 inches ND) DIWF markets.[37] Imports from China accounted for *** percent and imports from all other sources accounted for *** percent of the large diameter market. With respect to DIWF types, sales of compact fittings increased during the period examined, averaging two-thirds of total shipments of DIWF (based on quantity of short tons). See figure I-2.

Table I-3
DIWF: U. S. Commercial shipments of domestically produced and imported products, by sizes and types, shares based on quantity, 1998-2002, January-June 2002, and January-June 2003

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Figure I-1
DIWF: U. S. commercial shipments by sizes, shares of total based on quantity, 1998-2002, January-June 2002, and January-June 2003

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Figure I-2
DIWF: U. S. commercial shipments by types, shares of total based on quantity, 1998-2002, January-June 2002, and January-June 2003

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THE U.S. MARKET

U.S. Producers

Questionnaires were sent to the seven firms listed in the petition and to two additional firms that the Commission had reason to believe produced DIWF during the period of investigation. Table I-4 presents U.S. producers' plant locations, positions on the petition, and shares of total reported U.S. production in 2002.

Table I-4
DIWF: U.S. producers, their positions on the petition, plant locations, ownership, and shares of production, 2002

Firm	Position on petition	Plant location(s)	Related companies	Share of total reported U.S. production
American Cast Iron Pipe Co.	***	Birmingham, AL	Intercast/Brazil	***
Griffin Pipe Products Co.[1]	***	Downers Grove, IL	Amsted Industries/ 100%	***
McWane, Industries	Support/ Petitioner	Coshocton, OH; Tyler, TX; Anniston, AL	Clow Water Systems Tyler Pipe Union Foundry	*** *** ***
U.S. Pipe and Foundry Co.	***	Chattanooga, TN	Walter Industries, Inc./Parent Company	***

[1] Griffin ceased its U.S. production of DIWF during 1999.

Source: Compiled from data submitted in response to Commission questionnaires.

[37] U.S. producers *** reported shipments of large diameter DIWF.

Petitioners

McWane International was established in 1992 to promote the sale of ductile iron pipe, valves, and fittings on a worldwide basis. McWane is a leading producer of these products in the United States and Canada.[38]

Clow Water Systems Co. (Clow) is a wholly owned subsidiary of McWane, Inc., with manufacturing interests in pipes, fittings, waterworks valves, and fire hydrants.[39] Clow has its corporate offices in Oak Brook, IL, and produces pressure pipe and waterworks fittings at its production facility located in Coshocton, OH. Clow produces DIWF ranging from 2-36 inches ND and in bend and tee shapes. DIWF accounted for *** percent of its total establishment sales during 2002.

Tyler Pipe Industries (Tyler) is the largest U.S. producer of DIWF, accounting for *** percent of U.S. production of such products in 2002.[40] It is also owned by McWane through Ransom Industries, LP, a holding company. During the period for which information was requested, Tyler or its related or affiliated companies produced ductile and gray iron waterworks fittings, iron glands, SBR gaskets, watermain pipe, fabricated pipe, tapping sleeves, municipal castings, retainer glands, valve and service boxes, and grooved and swivel hydrant fittings. Tyler produces DIWF ranging from 3-24 inches ND and in all standard shapes (bends, tees, reducers, sleeves, etc.). DIWF accounted for *** percent of its total establishment sales during 2002.

Union Foundry Co. (Union) is also owned by McWane through Ransom Industries, and produces DIWF at its manufacturing facility located in Anniston, AL. Union produces DIWF ranging from 3-24 inches ND and in all shapes (bends, tees, reducers, sleeves, etc.). About *** percent of the value of Union's total establishment sales during 2002 were accounted for by DIWF.

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[38] Companies operated and products produced by McWane International (http://www.mcwaneinternational.com/) are as follows: Amerex Corporation - fire extinguishers; Atlantic States Cast Iron Pipe Co. - AWWA Ductile Iron Pipe; Bibby-Ste-Croix - AWWA Ductile Iron Pipe & ASTM Soil Pipe & Fittings; Canada Pipe Company - AWWA ISO 2531/BSEN545 Ductile Iron Pipe; Clow Canada - AWWA Valves and Fire Hydrants; **Clow Water Systems** - AWWA Ductile Iron Pipe & Fittings; Clow Valve Corporation - AWWA-UL/FM Valves & Fire Hydrants; Kennedy Valve - AWWA-UL/FM Valves & Fire Hydrants, BS 5163 Valves and DIN 3352 Valves; Manchester Tank - Pressure Vessels; McWane Cast Iron Pipe Co. - AWWA ISO 2531/BSEN545 Ductile Iron Pipe; M&H valve Company - AWWA Valves & Fire Hydrants; Pacific States Cast Iron Pipe Co. - AWWA Ductile Iron Pipe; **Tyler Pipe** - AWWA Ductile Iron Fittings & Accessories & ASTM Soil Pipe & Fittings; **Union Foundry Company** - AWWA Pipe, Fittings & Accessories; Wade Drains, Division of Tyler Pipe - Floor and Roof Drains & Accessories.

[39] "Clow Water Systems Company, a division of McWane, Inc., manufactures ductile iron pipe and fittings from a modern foundry located in Coshocton, Ohio. Clow produces ductile iron pipe in sizes 6"-30" according to AWWA standard C-151. Also, we produce flange, compact and MJ fittings according to AWWA standards C-110 and C-153. nationwide to plant contractors who construct water and wastewater treatment plants and pumping stations." Retrieved from Clow's website http://www.clowwatersystems.com/about.htm on September 16, 2003.

[40] Currently Tyler Pipe has foundries in Texas and Pennsylvania, and coupling/gasket production facilities in Missouri and California. Retrieved from Tyler's website http://www.tylerpipe.com/ on September 16, 2003.

Non-Petitioning Firms[41]

American Cast Iron Pipe Co. (ACIPCO) produces DIWF at its plant in Birmingham, AL.[42] ACIPCO produces a complete line of 14" through 64" ductile iron pipe and fittings. It recently purchased the foundry owned by Mid-American Casting Corporation in Pryor Creek, OK.[43] ACIPCO produces DIWF ranging from 14-64 inches ND and in all shapes (bends, tees, reducers, sleeves, etc.). DIWF accounted for *** percent of its total establishment sales during 2002.

Griffin Pipe Products (Griffin) is a wholly owned subsidiary of Amsted, Industries, Inc.[44] The firm produced compact and full-bodied DIWF through 1999. In 2000, ***.[45]

U.S. Pipe and Foundry Co. (U.S. Pipe), a subsidiary of Walter Industries, Inc., produces DIWF at its production facility located in Chattanooga, TN.[46] U.S. Pipe typically sells waterworks fittings in conjunction with the sale of waterpipe. U.S. Pipe produces DIWF ranging from 3-64 inches ND and in all standard shapes (bends, tees, reducers, sleeves, etc.). DIWF accounted for *** percent of its total establishment sales during 2002. U.S. Pipe also reported that it ***.[47]

U.S. Importers

Nine U.S. importers accounted for all known imports of DIWF from China and nonsubject sources during the period examined. A list of importers providing useable information to the Commission, their U.S. imports, and shares of total imports during 2002, is presented in table I-5. Two companies, SIGMA and Star, accounted for the vast majority of total imports from China (*** percent).

Table I-5
DIWF: U.S. importers, U.S. imports, and shares of total U.S. imports, by sources and firms, 2002

* * * * * * *

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[41] Russell Pipe & Foundry (Russell) produced DIWF during the Commission's 1993 investigation, but the firm ceased DIWF production during 1992.

[42] "Founded in 1905, ACIPCO is one of Birmingham's oldest companies and is the largest manufacturing employer in the city. It employs 3,000 workers in 16 facilities in the United States. ACIPCO manufactures a diversified product line for the waterworks, capital goods, and energy industries. Products manufactured in the company include ductile iron pipe and fittings, fire hydrants, valves, fire truck pumps, centrifugally cast steel tubes, static castings and fabricated assemblies, ERW steel pipe, and spiral-welded steel pipe. The ACIPCO plant facility covers more than 2,000 acres. Total employment is approximately 3,000 employees. ACIPCO is a privately held Company and operates as a beneficial trust with both employees and customers as beneficiaries." Retrieved from ACIPCO's website http://www.acipco.com/fortune100.cfm on September 16, 2003.

[43] ACIPCO recently purchased the assets of a foundry in Pryor, OK. The former company predominantly made OEM parts for commercial and agricultural equipment components. ***. In an e-mail message to the Commission, "***." E-mails dated October 1, 2003, and October 9, 2003.

[44] AMSTED Industries is a diversified manufacturer of industrial components serving primarily the railroad, vehicular, and construction and building markets. Retrieved from Amsted's website http://www.amsted.com/companyinfo.asp on September 16, 2003.

[45] U.S. producer questionnaire response.

[46] U.S. Pipe manufactures a complete range of Ductile Iron Pipe, Fittings, Valves, and Hydrants for the transmission and distribution of water and the collection and pumping of wastewater. Pipe and fittings are produced in sizes from 4" to 64" diameter and valves from 3" through 60" sizes. Retrieved from U.S. Pipe's website http://www.uspipe.com/custom/history.htm on September 16, 2003.

[47] U.S. producers questionnaire response, section II-2.

Apparent U.S. Consumption

Table I-6 presents apparent U.S. consumption of DIWF for the period examined. *See Part V* for an analysis of demand trends.

Table I-6
DIWF: Apparent U.S. consumption and market shares, 1998-2002, January-June 2002, and January-June 2003

Item	Calendar year					January-June	
	1998	1999	2000	2001	2002	2002	2003
	Quantity (*short tons*)						
U.S. producers' shipments	***	***	***	***	***	***	***
U.S. shipments of imports from--							
China	***	***	14,324	20,416	23,010	11,174	12,233
All other sources	***	***	***	***	***	***	***
Total U.S. shipments of imports	***	***	***	***	***	***	***
Apparent consumption	116,374	123,163	125,756	127,712	131,102	64,641	67,914
	Value (*$1,000*)						
U.S. producers' shipments	***	***	***	***	***	***	***
U.S. shipments of imports from--							
China	***	***	29,136	37,897	40,919	20,989	21,714
All other sources	***	***	***	***	***	***	***
Total U.S. shipments of imports	***	***	***	***	***	***	***
Apparent consumption	223,149	232,784	239,397	249,452	244,093	122,829	120,373

Source: Compiled from data submitted in response to Commission questionnaires.

PART II: THE QUESTION OF RAPIDLY INCREASING U.S. IMPORTS

U.S. IMPORTS

Because the subject products were imported under a "basket category" during most of the period of investigation, import data are based on the questionnaire responses of nine U.S. importers of DIWF from China and other nonsubject sources. Data regarding U.S. imports of DIWF are presented in table II-1 and imports from China are graphically depicted in figure II-1. Monthly import statistics for January-August 2003 (the period of time that imports would have been properly classified in the discrete DIWF HTS category) are presented in table II-2.

Table II-1
DIWF: U.S. imports, by sources, 1998-2002, January-June 2002, and January-June 2003

Source	Calendar year					January-June		Period changes[1]					
	1998	1999	2000	2001	2002	2002	2003	1998-2002	1998-1999	1999-2000	2000-2001	2001-2002	Interim 2002-2003
	Quantity (*short tons*)							(*Percent*, except where noted)					
China	***	***	14,768	24,404	25,070	13,772	14,022	***	***	***	65.2	2.7	1.8
Other sources	***	***	***	***	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***	***	***	***	***
	Value (*1,000 dollars*)[2]												
China	***	***	14,124	22,211	22,656	12,387	11,758	***	***	***	57.3	2.0	-5.1
Other sources	***	***	***	***	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***	***	***	***	***
	Unit value (*per short ton*)[2]												
China	***	***	$956	$910	$904	$899	$839	***	***	***	-4.8	-0.7	-6.8
Other sources	***	***	***	***	***	***	***	***	***	***	***	***	***
Average	***	***	***	***	***	***	***	***	***	***	***	***	***
	Share of quantity (*percent*)												
China[2]	***	***	***	***	***	***	***	***	***	***	***	***	***
Other sources[2]	***	***	***	***	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***	***	***	***	***
	Share of value (*percent*)												
China[2]	***	***	***	***	***	***	***	***	***	***	***	***	***
Other sources[2]	***	***	***	***	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***	***	***	***	***

[1] Period changes are in percentage points.
[2] Landed, duty-paid.

Source: Compiled from data submitted in response to Commission questionnaires.

Figure II-1
DIWF: U.S. imports from China, 1998-2002, January-June 2002, and January-June 2003

* * * * * * *

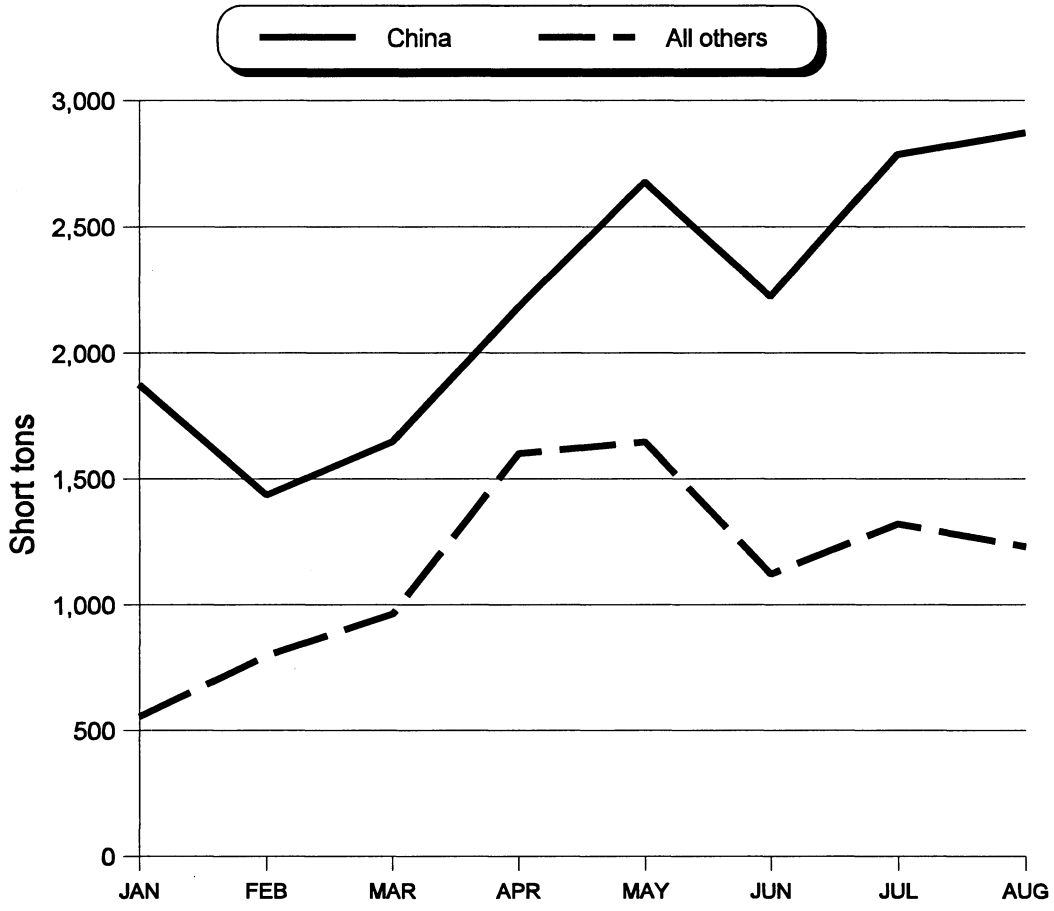
Table II-2
DIWF: Monthly U.S. imports, by sources, January-August 2003, and the six-month period January-June 2003

Source	Calendar year2003								Jan.-Jun.
	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	2003
Quantity (*short tons*)									
China	1,875	1,437	1,649	2,185	2,678	2,225	2,787	2,873	12,049
Other sources	557	799	964	1,602	1,648	1,124	1,323	1,232	6,693
Total	2,431	2,235	2,613	3,787	4,327	3,349	4,111	4,105	18,742
Value (*1,000 dollars*)[1]									
China	1,810	1,286	1,507	1,831	3,745	2,421	2,495	2,542	12,601
Other sources	2,544	979	1,219	1,957	2,000	1,364	1,582	1,292	10,064
Total	2,546	2,266	2,726	3,788	5,746	3,785	4,077	3,833	20,856
Unit value (*per short ton*)									
China	965	895	914	838	1,398	1,088	895	885	1,046
Other sources	4,571	1,226	1,264	1,222	1,214	1,214	1,196	1,048	1,504
Average	1,047	1,013	1,043	1,000	1,328	1,130	992	934	1,113
Share of quantity (*percent*)									
China	77.1	64.3	63.1	57.7	61.9	66.4	67.8	70.0	64.3
Other sources	22.9	35.7	36.9	42.3	38.1	33.6	32.2	30.0	35.7
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Share of value (*percent*)									
China	71.1	56.8	55.3	48.3	65.2	64.0	61.2	66.3	60.4
Other sources	99.9	43.2	44.7	51.7	34.8	36.0	38.8	33.7	48.3
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

[1] Landed, duty-paid.

Source: Compiled from official Commerce statistics for HTS 7307.19.3060.

Figure II-2
DIWF: Monthly imports, by sources, January-August 2003



Source: Table II-2.

PART III: THE QUESTION OF MATERIAL INJURY

The information in this section of the report was compiled from responses to questionnaires of the U.S. International Trade Commission. Four firms, which are believed to account for virtually all U.S. production of DIWF during the period examined, supplied information on such operations. These four firms include the petitioner, McWane, as well as, ACIPCO, Griffin, and U.S. Pipe. The majority of data presentations in this part of the report provide information on the U.S. industry as a whole. Company-by-company data are presented in appendix E.[1]

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

Table III-1 presents data (graphically presented in figure III-1) concerning capacity, production, and capacity utilization for domestic manufacturers of DIWF.

Table III-1
DIWF: U.S. production capacity, production, and capacity utilization, 1998-2002, January-June 2002, and January-June 2003

* * * * * * *

Figure III-1
DIWF: U.S. production capacity, production, and capacity utilization, 1998-02, January-June 2002, and January-June 2003

* * * * * * *

U.S. PRODUCERS' U.S. SHIPMENTS, EXPORT SHIPMENTS, AND INVENTORIES

U.S. producers' shipments of DIWF are presented in table III-2 and inventories are shown in table III-3. Industry witnesses have testified that high levels of inventory (about a four-month supply) are typically maintained because "our service levels are such that 95 percent of the time we will deliver to a customer his order complete, every item, every line item, within five days of when he places that order."[2]

Table III-2
DIWF: U.S. producers' shipments, by types, 1998-2002, January-June 2002, and January-June 2003

* * * * * * *

Table III-3
DIWF: U.S. producers' end-of-period inventories, 1998-2002, January-June 2002, and January-June 2003

* * * * * * *

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[1] As reported in Part I, Griffin did not produce subject product after 1999. As such Griffin's 1998 and 1999 data is not presented in app. E.

[2] Conference transcript, p. 112 (Green).

IMPORTS AND OTHER PURCHASES BY U.S. PRODUCERS

Table III-4 presents data, as reported by U.S. producers, on their imports, purchases of U.S. imports, and other purchases of DIWF.

Table III-4
DIWF: U.S. producers' direct imports, purchases of U.S. imports, other purchases, and ratios to production, by sources, 1998-2002, January-June 2002, and January-June 2003

* * * * * * *

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

All four firms that produced DIWF were able to supply employment information related to their U.S. establishments in which the subject product is produced. The data are shown in table III-5.

Table III-5
DIWF: U.S. producers' employment-related indicators, 1998-2002, January-June 2002, and January-June 2003

Item	Calendar year					January-June	
	1998	1999	2000	2001	2002	2002	2003
Production and related workers (PRWs)	1,182	1,320	1,202	1,193	1,154	1,234	1,098
Hours worked by PRWs (*1,000 hours*)	***	***	***	***	***	***	***
Wages paid to PRWs (*1,000 dollars*)	***	***	***	***	***	***	***
Hourly wages	$16.00	$16.85	$17.36	$17.82	$18.10	$18.08	$18.05
Productivity (*tons produced per 1,000 hours*)	34.2	34.6	37.5	33.9	38.0	37.6	37.7
Unit labor costs (*per ton*)	$467.64	$486.34	$462.57	$526.19	$475.88	$480.66	$478.74

Source: Compiled from data submitted in response to Commission questionnaires.

FINANCIAL EXPERIENCE OF U.S. PRODUCERS

Background

The financial data of the DIWF operations of four U.S. producers are reflected in this section of the report: ACIPCO, Griffin, McWane, and U.S. Pipe. The majority of producers reported their financial results on a calendar-year basis using U.S. generally accepted accounting principles (GAAP). Griffin reported on a fiscal-year basis ending September 30. U.S. Pipe revised its data to reflect calendar years for all annual periods. Griffin, ***, stopped DIWF operations in 1999 and is therefore not reflected in subsequent periods.

McWane's financial results represent the combined operations of Clow, Tyler, and Union with eliminations for transfers.[3] The separate operations of each McWane plant are presented in appendix E. U.S. Pipe's operations represent ***.[4] ACIPCO and Griffin each have operations at a single foundry.

Operations on DIWF

Income-and-loss data for U.S. producers are presented in table III-6 and on a unit basis in table III-7. Table III-8 presents selected company-specific data referenced in this section of the report.

Table III-6
DIWF results of U.S. producers' operations, fiscal years 1998-2002, January-June 2002, and January-June 2003

* * * * * * *

Table III-7
DIWF results of U.S. producers' operations (per short ton), fiscal years 1998-2002, January-June 2002, and January-June 2003

* * * * * * *

Table III-7A
DIWF results of U.S. producers' operations (per short ton), fiscal years 1998-2002, January-June 2002, and January-June 2003

* * * * * * *

Throughout the period McWane represented the largest share of sales (reported by U.S. producers) in terms of both volume and value. For all producers, the facilities where DIWF are produced include the production of other products. ACIPCO and Clow (a subsidiary of McWane) reported that ***. The other responding subsidiaries of McWane (Union and Tyler) and Griffin, while it was active, reported that fittings were the primary product produced. *** of U.S. Pipe's production (at the facilities where DIWF is produced) is devoted to valve and hydrant castings.

Product mix differences are evident in the reported information.[5] As shown in table III-8 and III-8A, *** consistently had the *** unit revenue and average unit cost of goods sold (COGS), while McWane had the ***. This appears to be due primarily to the DIWF sizes sold: ACIPCO and U.S. Pipe reportedly produce and sell larger diameter fittings, while McWane concentrates on smaller diameter fittings.[6] [7]

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[3] ***.

[4] ***.

[5] For example, ***. At the conference, McWane officials indicated that in general both the range of production and products sold were about the same from year to year. Conference transcript, p. 99 (Waugaman). Given the relatively wide range covered by the scope of this investigation and the fact that some differences in product mix do occur, a variance analysis is not presented.

[6] Conference transcript, pp. 178-179 (Saha).

[7] ***.

Table III-8
DIWF: Selected financial information of U.S. producers' operations, fiscal years 1998-2002, January-June 2002, and January-June 2003

* * * * * * *

Table III-8A
DIWF: Detailed information for COGS of U.S. producers' operations (per short ton), fiscal years 1998-2002, January-June 2002, and January-June 2003

* * * * * * *

While overall costs for McWane were characterized as generally stable, the company experienced ***.[8] Raw material costs also fluctuated somewhat.[9] As shown in tables III-9 and III-10, McWane recognized consistent capital expenditures throughout the period which were ***. The combination of increased overhead associated with these investments and higher input and energy-related costs (during parts of the period) is consistent with the generally *** reported by McWane.[10]

ACIPCO's ratio of selling, general, and administrative (SG&A) expenses to DIWF sales is ***.[11]

U.S. Pipe generated ***.[12] ***.[13]

Table III-9
DIWF operations: Capital expenditures, research and development (R&D) expenses, and overall value of property, plant, and equipment for fiscal years 1998-2002, January-June 2002, and January-June 2003

* * * * * * *

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[8] ***.

[9] A McWane company official stated that ". . . {t}wo years ago, electric prices were very high, but scrap steel was at a historical level. Electrical prices on a unit basis have come down. Scrap steel prices have gone up. Natural gas is cyclical. Some years it will be very high. Some years it will be very low . . . {i}n the last year we've seen a pretty good increase on the scrap steel prices, but overall our costs are relatively stable for the period of time in this investigation." Conference transcript, pp. 132 and 133 (Green).

[10] As noted in petitioner's postconference brief (p. 12, responses to staff questions), the costs associated with capital expenditures are expensed over time in the form of depreciation. Although depreciation normally increases directly as the result of capital investments, it should be noted that other operating expenses would also generally increase incrementally. ***.

[11] ***. October 1, 2003 phone interview with ***, ACIPCO.

[12] October 6, 2003 phone interview with Brad Kitterman, President, U.S. Pipe. *** part of U.S. Pipe's overall operations which is itself part of the Industrial Products segment of Walter Industries. U.S. Pipe's primary product is ductile iron pipe which is produced at four plants. Fittings are currently produced at a plant in Chattanooga, TN where valves and hydrants are also produced. As noted previously, until the first quarter of 2003, fittings were also produced by U.S. Pipe at a plant in Anniston, AL.

[13] ***. October 8, 2003 e-mail to ***, U.S. Pipe from David Boyland, ITC auditor. Information in the first quarter 2003 10-K of Walter Industries (U.S. Pipe's parent company) suggests that the increase in ***.

Table III-10
DIWF operations: Safety and environmental-related capital expenditures for fiscal years 1998-2002, January-June 2002, and January-June 2003

* * * * * * *

Capital Expenditures, Research and Development Expenses, And Investment in Productive Assets

The responding producers' data on DIWF capital expenditures, research and development (R&D) expenses, and the original cost and book value of property, plant, and equipment are shown in table III-9. Table III-10 presents safety and environmental-related capital expenditures.

McWane reported ***.

McWane's relatively large capital expenditures have been characterized as part of a modernization program after a period in which the company's previous ownership reportedly did not reinvest in the DIWF operations.[14] ***.[15]

In several periods, environmental and safety-related capital expenditures represented the majority of total expenditures. ***. ACIPCO was the ***. McWane indicated that *** R&D expenses because the product is mature and is produced to standard product specifications.

Capital and Investment

The Commission requested U.S. producers to describe any actual or anticipated negative effects due to imports of DIWF from China on their growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments. Their responses are presented in appendix F.

[14] A McWane company official stated "{w}e see that pretty regularly prior to acquisition, that the previous owners that would be losing money would not have the access to capital to make the necessary investments to stay in that business, so when we purchased these facilities we put the necessary capital amount that we believe was required in to grow and strengthen the business, versus just harvest it and watch it die." Conference transcript, pp. 98-96 (Green).

[15] October 1, 2003 phone interview with ***.

PART IV: THE QUESTION OF THREAT OF MATERIAL INJURY

THE CHINESE INDUSTRY AND MARKET

The Commission sent foreign producer questionnaires to 48 firms as identified in the petition and internet searches. Fourteen producers completed the Commission's questionnaire for their production operations in China, 7 additional exporting firms provided information, 14 firms stated they did not produce or export the subject products, and 13 firms did not respond to the Commission's questionnaires. The Chinese manufacturers and exporters, and their production and exports to the United States during 2002, are presented in table IV-1.

Table IV-1
DIWF: Chinese manufacturers and exporters, U.S. importing firms, production in China, and exports to the United States, by firms, 2002

* * * * * * *

Information with respect to the DIWF operations of manufacturers/exporters in China were provided by counsel for the Chinese respondents. The data were reported for only DIWF produced to AWWA/ANSI standards, as no ISO-standard products manufactured by the Chinese producers are sold in the U.S. market.[1] In addition AWWA-standard DIWF are not sold for use in the home market in China.[2] Data on the Chinese industry for DIWF provided by manufacturers in China are presented in table IV-2. Chinese capacity, production, and capacity utilization are graphically presented in figure IV-1.

U.S. IMPORTERS' INVENTORIES

Data on U.S. importers' inventories of DIWF are presented in table IV-3.

U.S. IMPORTERS' CURRENT ORDERS

Through the Commission's questionnaire, U.S. importers were asked whether they had arranged for the importation of the subject DIWF fittings from China for delivery after June 30, 2003. All importers (seven firms) of subject product from China responded in the affirmative, with firms reporting that they plan to take delivery of an estimated 12,705 short tons of DIWF during the remainder of 2003. Table IV-4 provides available semi-annual information (January-June 2002-2003, July-December 2002, and arranged July-December 2003) on subject imports from China for the seven importers.

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[1] Counsel for SIGMA has reported that DIWF produced to ISO standards cannot be sold in the United States because of safety, compatibility, and interchangeability issues. SIGMA postconference brief, p. 16.

[2] Chinese respondents' postconference brief, attachment A, answer E.1.

Table IV-2
DIWF: Chinese production capacity, production, shipments, and inventories, 1998-2002, January-June 2002, January-June 2003, and projected 2003-04

Item	Actual experience							Projections	
						January-June			
	1998	1999	2000	2001	2002	2002	2003	2003	2004
					Quantity (*short tons*)				
Capacity	***	***	***	34,612	36,568	19,759	18,546	34,043	34,043
Production	***	***	***	25,410	26,637	15,264	12,291	21,908	21,559
End of period inventories	***	***	***	2,192	2,923	1,925	1,363	2,130	2,671
Shipments:									
Internal consumption	***	***	***	0	0	0	0	0	0
Home market	***	***	***	0	0	0	0	0	0
Exports to--									
The United States	***	***	***	23,668	24,658	14,870	13,022	21,289	19,663
All other markets	***	***	***	***	***	***	***	***	***
Total exports	***	***	***	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***	***	***	***
					Value (*$1,000*)				
Exports to the United States	***	***	***	15,786	16,602	9,758	8,403	14,062	13,144
					Unit value (*per short ton*)				
Exports to the United States	***	***	***	$667	$673	$656	$645	$661	$668
					Ratios and shares (*percent*)				
Capacity utilization	***	***	***	73.4	72.8	77.3	66.3	64.4	63.3
Inventories to production	***	***	***	8.6	11.0	6.3	5.5	9.7	12.4
Inventories to total shipments	***	***	***	***	***	***	***	***	***
Share of total quantity of shipments:									
Internal consumption	***	***	***	0.0	0.0	0.0	0.0	0.0	0.0
Home market	***	***	***	0.0	0.0	0.0	0.0	0.0	0.0
Exports to--									
The United States	***	***	***	***	***	***	***	***	***
All other markets	***	***	***	***	***	***	***	***	***
All export markets	***	***	***	100.0	100.0	100.0	100.0	100.0	100.0

Source: Compiled from data submitted in response to Commission questionnaires.

Figure IV-1
DIWF: Chinese production capacity, production, and capacity utilization, 1998-2002, and projected 2003-04

* * * * * * *

Table IV-3
DIWF: U.S. importers' end-of-period inventories of imports, 1998-2002, January-June 2002, and January-June 2003

Item	Calendar year					January-June	
	1998	1999	2000	2001	2002	2002	2003
Imports from China:							
Inventories (*short tons*)	***	***	6,809	9,848	10,686	11,961	11,998
Ratio to imports (*percent*)	***	***	46.1	40.4	42.6	43.4	42.8
Ratio to U.S. shipments of imports (*percent*)	***	***	47.5	48.2	46.4	53.5	49.0
Imports from all other sources:							
Inventories (*short tons*)	***	***	***	***	***	***	***
Ratio to imports (*percent*)	***	***	***	***	***	***	***
Ratio to U.S. shipments of imports (*percent*)	***	***	***	***	***	***	***
Imports from all sources:							
Inventories (*short tons*)	***	***	***	***	***	***	***
Ratio to imports (*percent*)	***	***	***	***	***	***	***
Ratio to U.S. shipments of imports (*percent*)	***	***	***	***	***	***	***

Note.--Ratios for January-June periods are based on annualized imports and shipments.

Source: Compiled from data submitted in response to Commission questionnaires.

Table IV-4
DIWF: U.S. importers' semi-annual imports from China, January-June 2002-2003, July-December 2002, and arranged July-December 2003

* * * * * * *

Respondents have argued that a surge in imports of DIWF from China is highly unlikely because "the bulk of 2003 subject imports already have entered the United States,"[3] and that "imports of DIWF from China are seasonal, and that by November the volumes needed to service the lowered demand during the winter months have already entered."[4] Seasonal trends may be gleaned from a summary of available data regarding imports and the U.S. industry on a semi-annual basis (January 2002-June 2003). Such data are presented in appendix C, table C-2.

[3] Postconference brief of White & Case (Sigma), p. 5.

[4] Postconference brief of Paul Hastings (Chinese manufacturers), p. 20.

PART V: THE QUESTION OF THE CAUSAL RELATIONSHIP BETWEEN THE ALLEGED INJURY AND IMPORTS

U.S. MARKET PENETRATION OF IMPORTS

Apparent U.S. consumption and U.S. market shares are presented in table V-1 and figure V-1.

Table V-1
DIWF: Market shares of U.S. apparent consumption, 1998-2002, January-June 2002, and January-June 2003

Item	Calendar year					January-June	
	1998	1999	2000	2001	2002	2002	2003
	Quantity (*short tons*)						
Apparent consumption	116,374	123,163	125,756	127,712	131,102	64,641	67,914
	Value (*$1,000*)						
Apparent consumption	223,149	232,784	239,397	249,452	244,093	122,829	120,373
	Share of quantity (*percent*)						
U.S. producers' shipments	***	***	***	***	***	***	***
U.S. shipments of imports from--							
China	***	***	11.4	16.0	17.6	17.3	18.0
All other sources	***	***	***	***	***	***	***
Total shipments of imports	***	***	***	***	***	***	***
	Share of value (*percent*)						
U.S. producers' shipments	***	***	***	***	***	***	***
U.S. shipments of imports from--							
China	***	***	12.2	15.2	16.8	17.1	18.0
All other sources	***	***	***	***	***	***	***
Total shipments of imports	***	***	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Figure V-1
DIWF: Market shares of U.S. apparent consumption, 1998-2002, January-June 2002, and January-June 2003

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U.S. IMPORTS RELATIVE TO PRODUCTION

Table V-2 and figure V-2 present information regarding the relationship of U.S. imports of DIWF to U.S. production.

Table V-2
DIWF: Ratio of U.S. imports to U.S. production, 1998-2002, January-June 2002, and January-June 2003

Item	Calendar year					January-June	
	1998	1999	2000	2001	2002	2002	2003
U.S. production (*short tons*)	***	***	***	***	***	***	***
U.S. imports from--(*short tons*)							
China	***	***	14,768	24,404	25,070	13,772	14,022
All other sources	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***
Ratio of imports to production-(*percent*)							
China	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Figure V-2
DIWF: Market shares of shipments and ratios of imports to production for imports from China, 1998-2002, January-June 2002, and January-June 2003

* * * * * * *

PRICES AND RELATED INFORMATION

Market Segments and Channels of Distribution

DIWF is used in water treatment facilities and water pipe lines for homes and businesses. However, no matter what the end use, the ultimate end user is usually a municipality. There are a wide range of diameters and shapes, as well as a division between the more traditional full-bodied DIWF and more recent compact DIWF, with these and other distinctions resulting in over 1,500 possible "configurations" for DIWF.[1] Respondents have stated that demand is growing in the compact, large diameter market segment. Importers of Chinese DIWF stated that petitioners are strong in the smaller diameters and have some presence in the larger diameters but virtually none in the largest diameters, although the other two U.S. producers (ACIPCO and U.S. Pipe) do produce these sizes.[2] The data (table E-1) do not confirm these statements, and show that U.S. producers are present in all market segments, and always in greater volume than Chinese imports.[3] The McWane companies (petitioners) control

[1] Conference transcript, p. 72 (Waugaman). Compact DIWF is a majority of the market. See appendix E, table E-1.

[2] Conference transcript, pp. 170-172 (Saha).

[3] Conference transcript, pp. 201-203 (Bhattacharji and Rybacki). Importers stated that they developed the compact DIWF market and continue to be a more important source for this segment than petitioners. See table E-1 for data the Commission collected on this issue. Petitioners described their product range as broad. Conference transcript, p. 103 (Rosenthal).

approximately 75 percent of the market, with respondents describing producers ACIPCO and U.S. Pipe as a small part of the U.S. industry.[4]

DIWF is sold almost entirely[5] through distribution to "waterworks houses" that specialize in distributing pipe products for water projects.[6] There are over 100 such distributors, some local and others national chains with local branches. (The national chains account for about 50 percent of the national distribution network.)[7] *** stated that the national chains of distributors prefer to buy from McWane because the volume and range produced by McWane assures supply and the availability of nonsubject products. All the waterworks houses and other distributors sell either directly to municipalities or to contractors who sell project services to the municipalities (although a small proportion of DIWF sales go to plumbing contractors).[8]

Domestic producers and importers arrange transportation to distributors. The six producers had few sales within 100 miles of their facilities, but, except for ***, most producers' sales were within 1,000 miles of their facilities.[9] Importers also reported that most of their sales were between 100 and 1,000 miles of their facility, and most reported sales in at least the entire continental United States.[10]

Supply Considerations

Domestic Producers

U.S. DIWF producers also produce other products (including ductile iron mechanical joint glands, valve and hydraulic castings, and flanges) on the same equipment that they use for producing DIWF. Respondents allege that producers often bundle these products with DIWF in selling to purchasers.[11] However, the majority of U.S. producers' foundries are devoted to DIWF.

Domestic producers showed significant unused capacity from 1998 through June 2003. Domestic producers reported that they export a small percentage of their total production. Petitioners (as well as respondents) stated that they like to maintain high inventories as a means of ensuring deliveries. Sales are generally out of inventories, not made to order.[12] Thus, a lack of export markets constrains U.S. producers' supply response; however, U.S. producers have moderate ability to respond to changes in price with increased production because of the availability of some unused capacity and some production substitution potential. In addition, the existence of substantial inventories might allow some short-run

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[4] Conference transcript, pp. 161 (Rybacki).

[5] SIGMA estimated that 10 percent was sold directly from producers to end users and the rest of the market is through distributors. Conference transcript, p. 196 (Rybacki).

[6] Conference transcript, pp. 25 (Waugaman).

[7] Conference transcript, p. 80-83 (Waugaman) and 196 (Rybacki). Petitioners estimate that *** only domestically-produced DIWF. Petitioners' postconference brief, response to questions, p. 9.

[8] Conference transcript, p. 105 (Waugaman).

[9] *** reported that it mainly served the Midwest, but does ship throughout the United States. *** reported national sales, while *** said its sales were mainly east of the Mississippi River.

[10] The exceptions were ***. At the conference, PCI described importers as mostly serving coastal customers due to high transportation costs inland. Conference transcript, p. 198 (Saha). *** submitted both a producers' and importers' questionnaire; *** answers have been counted with the producers for purposes of this chapter, and *** did not answer the anecdotal questions.

[11] Conference transcript, p. 162 (Rybacki).

[12] Conference transcript, p. 33 (Teske) and p. 100 (Green).

increase in shipments; however, high inventories are a condition of competition in the DIWF market, and perhaps not too much should be assumed from high levels of inventories.

Purchasers were asked to provide inventories from 1998 through 2002. Of purchasers who responded to the question, twelve reported increasing inventories from 1998 through 2002, while three reported decreasing inventories over the same period. From 2000 through 2002, twelve purchasers reported increasing inventories while five reported decreasing inventories.[13]

Subject Imports

Chinese imports of DIWF grew during 1998-June 2003, but the growth acceleration slowed over 2001-June 2003. Chinese imports remain a much smaller part of the U.S. market than domestic production.

Importers' inventories of Chinese DIWF grew from 1998 through 2002. Like producers, importers make sales out of inventories. SIGMA stated that it imports 55 percent of its shipments in the first half of the year in order to have adequate inventories for seasonal demand in mid-year.[14]

While no producers saw any changes in the product range or marketing of DIWF (other than price declines to meet Chinese import competition), importers described a gradual market shift from full body to compact fittings, especially in sizes above 30 inches. The AWWA (American Waterworks Association) has added standards for these fittings in the 30 to 48 inch diameter range (previously the maximum diameter covered by the AWWA for DIWF was 24 inches). *** described Chinese importers as developing these markets before petitioners, who (according to importers) also need to import to meet new market demands for such larger diameter and compact DIWF.

In addition, importers described their market niche as one that values superior service[15] (including ***) and just-in-time delivery. (However, from the pricing data later presented in this chapter, it does not appear that importers charge more for these alleged advantages).

Nonsubject Imports

The major source of imported DIWF is China, but other import sources include Brazil, Korea, India, and Venezuela. Petitioners described nonsubject imports as a problem, but less of a problem than Chinese DIWF.[16]

Importers Star and SIGMA stated that they currently import from India (as well as Mexico and Korea for SIGMA).[17] They stated that if large tariffs were imposed on Chinese imports of DIWF, it would take less than a year for nonsubject foundries to be able to fill their orders. They added that the fact that most of their orders of Chinese DIWF are usually filled by this time of year (fall), there would be even less effect from any 421 tariff.[18]

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[13] Clow, Tyler, Star, and Union all submitted purchaser questionnaires. For purposes of this analysis, their reported inventories were not included.

[14] Conference transcript, p. 165 (Rybacki).

[15] Conference transcript, p. 172 (Saha).

[16] Conference transcript, pp. 53-54 (Rosenthal).

[17] Conference transcript, pp. 193-195 (Bhattacharji and Saha).

[18] Conference transcript, p. 165 (Rybacki).

Demand Considerations

Demand for DIWF is heavily associated with housing starts and other construction starts, since these new construction activities will require water and water pipes. There is some seasonality in demand due to the relative ease of construction in the summer versus the winter in the North.[19] DIWF is mostly used in underground pipe connections for water and sewer lines, but sewer treatment plants are also significant end users.[20] DIWF represents a small (2 to 10 percent) portion of the overall cost of such water projects.

Demand Trends

Producers and importers agreed that demand for DIWF had been strong since 1998, reflecting a strong construction market for new homes. Some firms, however, reported a recent slowing of DIWF demand connected to slowing construction nationally.[21]

Among producers, *** described demand shifting from the higher-priced full-bodied to lower-priced compact DIWF. *** cited new housing construction, new commercial construction, and increased water treatment plants as factors that had increased demand. *** described the market for DIWF as increasing from 1998-2000 (reaching a five year high) and then decreasing at four percent a year until the present, chiefly due to demand for water construction projects. *** described demand as stable over 1998 through June 2003, and estimated the level at 180,000 to 200,000 tons per year. *** described demand changes since 1998 as slight and based on economic conditions, especially housing starts and interest rates.

Among importers, *** described the market growing from 1998 through 2000 or 2001, and flattening since then. *** also described a rise in demand from 1998 to 2001, and attributed the growth to low interest rates and increasing homebuilding and private developments, as well as the "Clean Water Act" of the late 1990s prompting more construction or renovation of water treatment plants. It described the private development demand sector falling since 2001, while stating that demand from the government treatment plant market has remained strong. *** described similar conditions with some sectors slowing since 2000. It added that compliance with the Clean Water Act has meant more demand for DIWF with diameters of more than 36 inches.

Substitute Products

Neither producers nor importers described substitute products as having a large effect on their sales of DIWF. Producers and importers named PVC (especially in diameters under 4 inches), gray iron full bodied waterworks fittings, steel fabricated fittings (especially in diameters 24 inches and up), and welded outlet pipe as sometime substitutes. *** explained that PVC fittings can be used with PVC pipe, but that even for use with PVC pipe, many municipalities specify DIWF because of its greater durability over PVC fittings. According to ***, greater durability is also the reason DIWF has become preferred to gray iron fittings.

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[19] Conference transcript, p. 100 (Waugaman), p. 105 (Kerwin), and p. 173 (Saha).

[20] Conference transcript, pp. 83-84 (Waugaman).

[21] SIGMA, for example, described the construction market as flat since 2000. Conference transcript, p. 163 (Rybacki).

Lead Times

Among domestic producers and importers, *** reported that stock items were shipped in a matter of days, although *** stated that DIWF *** would take from one week to 16 weeks. *** reported lead times of three weeks, and *** added that made-to-order items would take 4 to 6 weeks.[22] *** reported lead times of 60 days.

Substitutability Issues

Chinese and U.S. DIWF are basically interchangeable, since all are made to the same AWWA specifications. Six producers and seven importers reported that U.S., Chinese, and nonsubject DIWF are used interchangeably. With regard to nonsubject DIWF, six producers and seven importers stated that U.S. and nonsubject, as well as Chinese and nonsubject, DIWF are used interchangeably.

When asked about significant differences between U.S. and Chinese DIWF, two producers stated that even though U.S. DIWF had more consistent quality and higher availability of test information, those advantages were not enough to prevent customers from buying imported DIWF that met AWWA specifications. All the producers believed there were no differences between U.S., Chinese, and nonsubject imports that were a significant factor in sales. Five importers, on the other hand, did cite "Buy American" provisions, U.S. producers' advantages with large distributor networks, and their own self-described advantages in quality and technical support as significant factors in sales. However, seven importers stated that there were no differences between Chinese and nonsubject imports that were a significant factor in sales.

Since the ultimate end user of DIWF is usually a municipality, some DIWF is bought under "Buy American" provisions. Petitioners stated that some localities have been moving away from such provisions lately due to lower priced imports.[23] They also stated that "Buy American" provisions are often in effect only if the price difference between U.S. and imported DIWF is within a certain range, and that since Chinese DIWF is often much lower priced, such provisions do not always hold.[24] Respondents stated that petitioners' use of "loyalty programs" means that distributors that wish to supply "Buy American" municipalities as even a minority of their customers must purchase all their DIWF from McWane in order to serve those areas.[25]

U.S. Purchasers

The Commission received responses from 24 purchasers. Thirteen purchasers described themselves as at least sometimes a "waterworks house." The other purchasers also described themselves as DIWF distributors, though possibly as a supplement to flange production or their own DIWF

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[22] In addition, petitioners alleged that respondents send out a "route truck" for immediate orders, charge low prices for these sales, and do not charge freight on even small orders. SIGMA agreed with the basics of the allegation, but disputed the lack of freight on the smallest orders and described the sales as limited to the southeastern United States. Conference transcript, p. 32 (Blair) and pp. 197-198 (Rybacki).

[23] Conference transcript, pp. 85-86 (Waugaman).

[24] See also "lost sales" section, lost sale allegation involving ***.

[25] As examples, *** cited the states of Pennsylvania and New Jersey and utilities like Washington Suburban Sewer and Sanitary Commission (WSSC). Also see conference transcript, p. 180-181 (McCutcheon).

production.[26] Most purchasers expressed enough familiarity with both U.S. and Chinese DIWF to compare them, although not all of them had actually purchased both recently. Sixteen purchasers stated that they were always aware of whether the DIWF they purchased was U.S.-produced or imported, and five said that they were usually aware. They were slightly less likely to know the manufacturer of the DIWF they purchased, with nine reporting that they were always aware of who the manufacturer was, five reporting they were usually aware, three reporting they were sometimes aware, and three reporting they were never aware. One additional purchaser said he was usually aware of who the producer was for domestic purchases, but never for purchases of imports. Purchasers felt their customers were less likely to be aware and/or interested in the country of origin of the DIWF they purchased. Four stated their customers were always aware, seven said they were usually aware, nine said they were sometimes aware, and one said they were never aware.[27]

When asked if they were aware of any new suppliers in the U.S. DIWF market, six purchasers cited PCI, two cited ACIPCO, and one cited Mexican producer Metalfit. Nine purchasers said that they were not aware of any new suppliers.

Eighteen purchasers stated that U.S. and Chinese DIWF are generally used in the same applications, with the others not answering. When asked if DIWF is only available from a single source, fourteen purchasers said no. However, five purchasers said that larger diameters (greater than 36 inches) were only available from non-petitioners, with three purchasers citing other U.S. producers and two citing Chinese imports.[28]

Ten purchasers reported increasing relative purchases of Chinese DIWF and/or decreasing relative purchases of U.S. DIWF, citing extended size ranges, pricing, availability, improved quality, higher demand, and U.S. producers not selling to them for competitive reasons.[29] No purchasers reported decreasing relative purchases of Chinese DIWF or increasing relative purchases of U.S. DIWF. Three purchasers who had purchased only from U.S. suppliers cited long term support from domestic producers, convenience, traditional source, and end user acceptance. *** stated that they purchase only imports as U.S. producers will not supply them because ***.

When asked if they had changed suppliers, seven purchasers reported at least one change. Among those changes, *** dropped Griffin when it closed its Mexico plant. *** added SIGMA, Linx, Tyler, and Union due to market price pressures, especially in smaller diameter fittings. *** reported adding Star and decreasing purchases from Tyler when Tyler found out that *** had purchased imported fittings and thus instituted higher pricing. (***). *** also described Tyler's DIWF as inferior quality and Tyler as an unreliable source of supply, while describing Star as having a better quality product, better product availability, better service, and lower prices. *** said that it added Sigma and PCI and dropped Union and Tyler due to quality and availability issues.

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[26] In some of the discussions that follow, the number of purchasers responding to a question may add up to less than 24. Not all purchasers gave usable answers to every question. Among the 24 purchasers, ***, but did not answer the anecdotal questions. One, ***, is also a respondent importer, and ***, are ***. Producers and importers purchase DIWF to supplement their product lines. SIGMA estimates that 15 to 20 percent of the national DIWF market is restricted by domestic preference specifications at the state and local level (in addition to any Federal construction under the Buy America Act). SIGMA's postconference brief, exhibit 5.

[27] Of the four who said their customers were always aware of the country of origin of the DIWF they purchased, three were ***, and hence not typical waterworks houses.

[28] In addition, purchaser *** stated that importers Star and SIGMA were superior to U.S. producer Tyler in the availability of large diameter DIWF.

[29] See "lost sales" section, lost sale allegation involving ***. Purchaser *** also reported a domestic firm offering discounts only if they purchased all their DIWF from that firm.

Purchasers were also asked to report purchases of DIWF from 1998 through June 2003. For the period 1998 through 2002, five purchasers who reported purchases of both U.S. and Chinese DIWF showed an increase in their purchases of Chinese DIWF (by value) with a simultaneous decrease in their purchases of U.S. DIWF, while only one showed an increase in its purchases of U.S. DIWF and a simultaneous decrease in its purchases of Chinese DIWF.[30] Nine purchasers who reported purchases of both U.S. and Chinese DIWF showed a larger percentage increase (or lower decrease) in purchases of Chinese DIWF than in purchases of U.S. DIWF, and one showed the opposite.[31]

DIWF purchasers do qualify suppliers. Qualification of new suppliers was based on many factors, including quality of product, availability, product range, price, reputation, and acceptance by end user. Qualification can take weeks to even multiple years depending on the purchaser.

Factors Affecting Purchasing Decisions

Available data indicate that availability and quality are the most important factors that influence purchasing decisions for DIWF.[32] Purchasers were asked to list the top three factors that they consider when choosing a supplier of DIWF. Table V-3 summarizes responses to this question. Purchasers were also asked to describe the importance of various purchasing factors, as summarized in table V-4. Most purchasers did not report that price was as critical a purchasing factor as others. However, while quality (meeting specification) was reported as "very important" by most purchasers, quality (exceeding specifications) was not considered as important.[33]

Table V-3
DIWF: Ranking of purchasing factors by purchasers

Factor	Number of firms reporting		
	Number 1 factor	Number 2 factor	Number 3 factor
Availability	5	8	1
Quality	5	5	4
Price	2	2	10
Traditional supplier	3	2	0
Existing contract	3	0	0
End user acceptance/ domestic requirement	2	1	1
Delivery	0	2	1
Range	0	1	3

Note.--Other factors mentioned include service, relationship, and responsiveness. These answers were not included above.

Source: Compiled from data submitted in response to Commission questionnaires.

[30] This analysis was performed only on purchasers not affiliated with U.S. producers or importers.

[31] For the period 2000 through 2002, the results are slightly different. Three purchasers showed an increase in their purchases of Chinese DIWF with a simultaneous decrease in their purchases of U.S. DIWF, while one showed an increase in its purchases of U.S. DIWF and a simultaneous decrease in its purchases of Chinese DIWF. Seven purchasers who reported purchases of both U.S. and Chinese DIWF showed a larger percentage increase (or lower decrease) in purchases of Chinese DIWF than in purchases of U.S. DIWF, while three showed the opposite.

[32] When asked what defines the quality of DIWF, purchasers cited the product appearance, meeting AWWA standards, and customer perception.

[33] When asked how often they purchased the lowest priced DIWF available, 17 purchasers said sometimes, three said usually, and one said never.

Table V-4
DIWF: Importance of purchasing factors

Factor	Average importance score[1]	Factor	Average importance score[1]
Availability	2.9	Product quality- meeting specs	3.0
Delivery terms	2.5	Product quality- exceeding specs	2.2
Delivery time	2.9	Product range	2.6
Discounts offered	2.5	Reliability of supply	3.0
Lowest price	2.4	Technical support	2.2
Minimum quantity requirements	2.0	Transportation network	2.0
Packaging	1.9	U.S. transportation costs	2.0
Product consistency	2.9		

[1] 3 = very important, 2 = somewhat important, 1 = not important.

Source: Compiled from data submitted in response to Commission questionnaires.

Summaries of purchaser comparisons of domestic, subject, and nonsubject DIWF are presented in table V-5. Based on responses, purchasers consider U.S., Chinese, and nonsubject DIWF as comparable in most factors although Chinese DIWF is regarded as less expensive. Thus, although price was not given a high relative importance in table V-3, it is clearly the factor of greatest perceived contrast between U.S. and Chinese DIWF.

Elasticity Estimates

Elasticity estimates are discussed below and may be used in the preparation of remedy recommendations.

U.S. Supply Elasticity

The domestic supply elasticity for DIWF depends on factors such as the level of excess capacity, the ability to shift production to alternate products, and the availability of alternate markets. Producers have rising inventories and low capacity utilization, but limited alternative production possibilities and no major exports. Analysis of these factors indicates that the domestic producers of DIWF have some ability to alter domestic shipments in response to a change in the relative price of DIWF. An estimate in the range of 4 to 8 is suggested.

Table V-5
DIWF: Number of purchasers' comparisons of U.S. product and imports

Factor	U.S. vs. China[1]			U.S. vs. nonsubject[1]			China vs. nonsubject[1]		
	S	C	I	S	C	I	S	C	I
Availability	3	10	5	2	12	6	0	4	0
Delivery terms	2	12	4	2	16	2	0	4	0
Delivery time	4	10	4	6	10	4	0	4	0
Discounts offered	0	13	5	1	15	4	1	3	0
Lowest price[2]	0	5	13	0	7	13	2	2	0
Minimum quantity requirements	1	13	4	0	16	4	0	4	0
Packaging	0	17	1	1	16	3	0	4	0
Product consistency	1	13	4	0	13	7	0	4	0
Product quality- meeting specs	1	13	4	1	16	3	0	4	0
Product quality- exceeding specs	3	10	5	1	17	2	0	4	0
Product range	1	14	3	2	14	4	0	2	2
Reliability of supply	5	9	4	3	13	4	1	2	1
Technical support	6	10	2	5	12	3	0	2	2
Transportation network	3	14	1	1	19	0	0	4	0
U.S. transportation costs	1	16	0	0	18	0	0	4	0

[1] S = first named source superior, C = products comparable, I = first named source inferior.
[2] A rating of superior means that the price is generally lower. For example, if a firm reports "U.S. superior," it means that the price of the U.S. product is generally lower than the price of the imported product.

Note– "Nonsubject" is Brazil, India, Korea, Mexico, and Venezuela. *** also mentioned "willing to sell" as an area in which U.S.-produced DIWF is inferior to Chinese imports. *** compared Tyler to Star and SIGMA separately. It listed SIGMA first in its supplier list, and so the SIGMA comparisons were used in the tabulation above. Several purchasers (as well as ***) noted that some importers sell all their imported DIWF out of the same inventory, and do not distinguish between DIWF from China or nonsubject countries. When this lack of distinction was recorded, staff tabulated the results in both the China and nonsubject comparisons above. However, it should be noted that this lack of distinction may have occurred in other cases where purchasers did not note it or only marked "China."

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. Demand Elasticity

The U.S. demand elasticity for DIWF depends on the availability of substitute products as well as the share of DIWF in the production cost of downstream products. There are few substitutes for DIWF, and DIWF is a small part of a water project's cost. Based on the available information, the aggregate demand for DIWF is likely to be relatively inelastic. An estimate in the range of 0.2 to 0.4 is suggested.

Substitution Elasticity

The elasticity of substitution depends on the extent of product differentiation between the domestic and imported products. Product differentiation depends on factors such as the range of products produced, quality, availability, and the reliability of supply. Based on available information, Chinese DIWF is substitutable for domestic DIWF for both the AWWA-certified small diameter DIWF that comprise the bulk of the U.S. DIWF market and the larger diameter DIWF. Based on these factors, staff estimates the substitution elasticity between domestic DIWF and those imported from China to be in the range of 10 to 15.

Factors Affecting Pricing

Exchange Rates

The nominal value of the Chinese yuan relative to the U.S. dollar has remained virtually unchanged since the first quarter of 1998, at 8.28 yuan per dollar.

Tariff Rates and Transportation Costs to the U.S. Market

The U.S. normal trade relations *ad valorem* import duty rate was 5.6 percent for imports of all cast ductile iron or steel fittings for tubes or pipes under HTS subheading 7307.19.30 during January 1999-June 2003.[34] Such goods that are the product of China, which include DIWF, have been subject to these rates during these periods.[35] Transportation charges for imports of DIWF (a subset of the products under the above HTS rate line) from China to the U.S. ports of entry, as a share of declared import values, averaged 15.3 percent during July 2002-June 2003, the most recent 12-month period for which data were available. A U.S. antidumping duty order was in place on DIWF from China during January 1998-January 2000,[36] and Commerce revoked the order on January 24, 2000.

Pricing Practices

Domestic producers and importers reported that pricing is usually based on transaction-by-transaction negotiation off of a price list, usually based on the published McWane price list. This price list is used in conjunction with discounts through a "multiplier" that varies from one local region to another. Price competition actually occurs in terms of quoting multipliers off of the widely available price lists. (This multiplier is often less than 0.5, meaning that real price levels bear little relation to the quoted prices on price lists).[37] Petitioners stated that while there have been list price increases in recent years, multiplier decreases have often overwhelmed these increases.[38] Importers and *** stated that they also determine prices by taking a market discount off the McWane price list. Several importers (including ***) issue their own price lists, but admit that such lists are not very different from the McWane price list. Some importers reported limited use of volume discounts.

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[34] The import duty rate was 5.7 percent during 1998. The 5.6 rate, effective as of Jan. 1, 1999, is the final scheduled staged reduction of the NTR rate as a result of Uruguay Round concessions.

[35] Under the NAFTA Canada/Mexico Preference, cast ductile iron or steel fittings for tubes or pipes imported from Canada and Mexico under the above HTS subheading qualifying for North American treatment were accorded a free duty rate during January 1998-June 2003. In addition, under the Jordan FTA preference, the import duty rate for imports of these products was 4.2 ad valorem percent beginning in 2001, 2.8 percent in 2002, and 1.4 percent in 2003; a free import duty rate will apply starting in January 2004.

[36] The largest Chinese producer was excluded from the antidumping duty during this period because the Commerce Department determined that the firm's separate rate was *de minimis*.

[37] Conference transcript, pp. 25-27 (Waugaman) and pp. 30-31 (Blair). See also lost sales allegations of ***.

[38] Conference transcript, pp. 123-124 (Waugaman). Respondents alleged that McWane raised prices four to five percent in November 2002 and raised prices multiple times in 2003. These alleged increases would be price list increases, though, and not de facto increases. Conference transcript, p. 163 (Rybacki) and p. 174 (Saha). They also provided information about list price increases from their own firms in the SIGMA postconference brief, pp. 7-8. More information about the timing of U.S. producer multiplier decreases is available in petitioners' postconference brief, exhibit 6.

Petitioners also offer "loyalty rebates" to customers who purchase only from McWane, and especially to those who do not purchase imports. Respondents stated that these loyalty rebates sometimes reach 17 percent and result in less expensive U.S. product than imported product. Petitioner stated that such rebates are currently in the range of *** percent.

All U.S. producers reported that over *** percent of their sales were spot sales. For the producers' *** contracts, the duration was typically one year, the contract fixed price only, and there were no standard minimum quantity requirements. Six of seven importers reported 100 percent of their sales were spot, with *** reporting 100 percent contract sales. *** all reported that their sales are on a delivered basis.

Producers and importers stated that DIWF is usually priced to distributors on a delivered basis from producers, with shipment usually arranged by the producer or importer. U.S. inland transportation accounts for a small share of the cost of DIWF, with producers and importers reporting transportation costs generally between two and eight percent. Purchasers also generally reported transportation costs in this range when they were aware of them.

Twelve purchasers reported weekly purchases, five reported daily purchases, and three reported monthly purchases.[39] Six purchasers reported contacting only one supplier for a typical order and nine reported contacting one to three suppliers. Two additional purchasers stated that they usually purchased from the same suppliers. Only one purchaser (***) said that price is always a component of purchase volume. Other purchasers were more likely to say they rarely, infrequently, or never vary purchase volumes based on price. When asked how frequently price changes, purchasers responded with a wide variety of answers, from once a year to five times a year.

Price Data

The Commission requested quarterly data for the total quantity and value of commercial shipments of five DIWF products. Data were requested for the period January 1998 through June 2003. The products for which pricing data were requested are as follows:

Product 1.– Compact ductile iron (ASTM A536) mechanical joint 45 degree bend, 6 inch nominal diameter, without accessories, conforming to AWWA/ANSI specification C153/A21.53, cement-lined, tar-coated, rated for waterworking pressure of 350 PSI.

Product 2.– Compact ductile iron (ASTM A536) mechanical joint 90 degree bend, 6 inch nominal diameter, without accessories, conforming to AWWA/ANSI specification C153/A21.53, cement-lined, tar-coated, rated for waterworking pressure of 350 PSI.

Product 3.–Compact ductile iron (ASTM A536) mechanical joint tee, 6 inch nominal diameter (6 inch by 6 inch tee), without accessories, conforming to AWWA/ANSI specification C153/A21.53, cement-lined, tar-coated, rated for waterworking pressure of 350 PSI.

Product 4.–Compact ductile iron (ASTM A536) mechanical joint 45 degree bend, 8 inch nominal diameter, without accessories, conforming to AWWA/ANSI specification C153/A21.53, cement-lined, tar-coated, rated for waterworking pressure of 350 PSI.

Product 5.–Full- bodied ductile iron (ASTM A536) mechanical joint 90 degree bend, 8 inch nominal diameter, without accessories, conforming to AWWA/ANSI specification C110/21.10, cement-lined, tar-coated, rated for waterworking pressure of 350 PSI.

[39] None of the purchasers who reported monthly purchases were waterworks houses.

Five U.S. producers[40] and three importers[41] provided usable pricing data for sales of the requested products in the U.S. market, although not all firms reported pricing data for all products for all quarters. In general, most producers' reported prices were close to their fellow producers' reported prices, and importers' reported prices were close to other importers' reported prices. However, *** prices were generally higher than other producers' prices for products 1-4 and lower for product 5.[42] The reported price data accounted for 5.0 percent of the 2002 value of domestically-produced commercial shipments of DIWF, as well as 6.6 percent of the 2002 value of shipments of imports of DIWF from China. Data on reported weighted-average selling prices and quantities for products 1 through 5 are presented in tables V-6 through V-10, and figures V-3 through V-12. Table V-11 shows the extent of U.S. and Chinese DIWF price declines over different periods. Due to some potential seasonality in the data, the comparisons in table V-11 are made using second quarter data from each year.

Products 1 through 4 are typical compact DIWF suggested by petitioners. Product 5 is a full-bodied DIWF suggested by petitioners and was also used in the previous Commission investigation. As shown in tables V-6 through V-9 and figures V-1 through V-8, as well as table V-11, U.S. and Chinese prices for DIWF show a similar pattern over multiple periods investigated: a consistently higher U.S. price with some price declines over 1998 through 2003 and an increase in the volume of Chinese shipments. Product 5 (table V-10 and figures V-9 and V-10) shows a more severe U.S. price decline and larger rise in the volume of Chinese imports.

Chinese DIWF always undersold U.S. DIWF in all quarters for products 1 to 4. In product 1, margins of underselling ranged from 15.3 to 23.7 percent. For product 2, margins of underselling ranged from 16.5 to 23.6 percent. For product 3, margins of underselling ranged from 18.2 to 34.3 percent. For product 4, margins of underselling ranged from 13.6 to 28.4 percent. For product 5, Chinese DIWF undersold U.S. DIWF in 19 of 22 quarters examined. Margins of underselling ranged from 7.8 to 23.1 percent. Margins of overselling ranged from 1.5 to 16.9 percent.

Table V-6
DIWF: Weighted-average selling prices and quantities as reported by U.S. producers and importers of product 1 from China, with margins of underselling, by quarters, January 1998-June 2003

* * * * * * *

Figure V-3
DIWF: Weighted-average selling prices as reported by U.S. producers and importers of product 1 from China, by quarters, January 1998-June 2003

* * * * * * *

[40] *** also submitted some price data, but staff has unresolved questions about these data and they have not been included in the data set yet. In a staff interview, *** stated that most of its sales of pricing products ***. Staff has asked *** to resubmit pricing data for ***; staff does not believe these revised data will significantly change the overall trends or margins in the price data when and if they are included. See staff interview with ***, October 2, 2003.

[41] ***.

[42] *** stated that its products are typical of these "generic" products requested. Staff interview with ***.

Figure V-4
DIWF: Quantities as reported by U.S. producers and importers of product 1 from China, by quarters, January 1998-June 2003

* * * * * * *

Table V-7
DIWF: Weighted-average selling prices and quantities as reported by U.S. producers and importers of product 2 from China, with margins of underselling, by quarters, January 1998-June 2003

* * * * * * *

Figure V-5
DIWF: Weighted-average selling prices as reported by U.S. producers and importers of product 2 from China, by quarters, January 1998-June 2003

* * * * * * *

Figure V-6
DIWF: Quantities as reported by U.S. producers and importers of product 2 from China, by quarters, January 1998-June 2003

* * * * * * *

Table V-8
DIWF: Weighted-average selling prices and quantities as reported by U.S. producers and importers of product 3 from China, with margins of underselling, by quarters, January 1998-June 2003

* * * * * * *

Figure V-7
DIWF: Weighted-average selling prices as reported by U.S. producers and importers of product 3 from China, by quarters, January 1998-June 2003

* * * * * * *

Figure V-8
DIWF: Quantities as reported by U.S. producers and importers of product 3 from China, by quarters, January 1998-June 2003

* * * * * * *

Table V-9
DIWF: Weighted-average selling prices and quantities as reported by U.S. producers and importers of product 4 from China, with margins of underselling, by quarters, January 1998-June 2003

* * * * * * *

Figure V-9
DIWF: Weighted-average selling prices as reported by U.S. producers and importers of product 4 from China, by quarters, January 1998-June 2003

* * * * * * *

Figure V-10
DIWF: Quantities as reported by U.S. producers and importers of product 4 from China, by quarters, January 1998-June 2003

* * * * * * *

Table V-10
DIWF: Weighted-average selling prices and quantities as reported by U.S. producers and importers of product 5 from China, with margins of underselling, by quarters, January 1998-June 2003

* * * * * * *

Figure V-11
DIWF: Weighted-average selling prices as reported by U.S. producers and importers of product 5 from China, by quarters, January 1998-June 2003

* * * * * * *

Figure V-12
DIWF: Quantities as reported by U.S. producers and importers of product 5 from China, by quarters, January 1998-June 2003

* * * * * * *

Table V-11
DIWF: Analysis of changes in price levels by product, source, and time period

Product	Change in price of U.S. DIWF, 2nd quarter 1998 to 2nd quarter 2003	Change in price of Chinese DIWF, 2nd quarter 1998 to 2nd quarter 2003
	Percent increase	*Percent increase*
1	-7.7	-4.4
2	-7.0	-7.4
3	-7.9	-5.9
4	-5.8	-6.3
5	-20.8	-0.7
Product	**Change in price of U.S. DIWF, 2nd quarter 2001 to 2nd quarter 2003**	**Change in price of Chinese DIWF, 2nd quarter 2001 to 2nd quarter 2003**
	Percent increase	*Percent increase*
1	-7.2	-4.6
2	-6.8	-6.1
3	-7.1	-5.3
4	-7.2	-5.6
5	-20.9	-6.9
Product	**Change in price of U.S. DIWF, 2nd quarter 2002 to 2nd quarter 2003**	**Change in price of Chinese DIWF, 2nd quarter 2002 to 2nd quarter 2003**
	Percent increase	*Percent increase*
1	-1.1	-1.3
2	1.8	-2.9
3	-0.2	-4.4
4	-2.4	-1.5
5	-19.6	5.7

Source: Tables V-6 through V-10.

Lost Sales and Lost Revenues

The Commission requested U.S. producers of DIWF to report any instances of lost sales or revenues they experienced due to competition from imports of DIWF from China during 1998-2003. Petitioners did not submit any lost sales or revenues allegations with the petition, but did submit some information on lost sales allegations in their questionnaires. They submitted these lost sales in two forms: a list of three distributors where they had lost sales, and a list of municipalities where petitioners'

distributors had lost sales. In addition, non-petitioning producer *** was able to submit lost sales in the form requested by the Commission.

Petitioners' Lost Sales Allegations at the Distributor Level

Petitioners submitted a list of three distributors (***) who had reduced purchases from petitioners. The allegations are summarized in table V-12 below:

Table V-12
Alleged reductions in volumes of DIWF sales to lost distributor accounts

* * * * * * *

Purchasers questionnaires were sent to all three, and the standard questionnaire answers would elucidate the data petitioners provided. Currently, only *** has responded. Its purchase data were provided only in dollars, but does show a steep reduction in U.S. purchases in 2002 and year-to-date 2003.[43] In its questionnaire response, ***.

Petitioners' Lost Sales Allegations at the Municipality Level

Petitioners also submitted a list of seven municipalities which had allegedly purchased Chinese DIWF instead of U.S.-produced DIWF for projects during 2001 through 2003. Commission staff has contacted some of the purchasers named in the allegations, and descriptions of these contacts follow.

Petitioners alleged that its distributors lost a bid for ***.[44]

Petitioners also alleged that its distributors lost ***.[45]

Petitioners further alleged that its distributors lost ***.[46]

Petitioners alleged that its distributors lost ***.[47]

Petitioners alleged that its distributors lost the ***.[48]

Other Lost Sales Allegations

Lost sales allegations from *** are summarized in table V-13.

***.[49]

***.[50]

---

[43] The percentage reductions are not the same as in the allegation. In table V-12 above, *** allegedly reduced purchases to *** percent of 2001 purchases in 2002 and to *** percent of half-year 2001 purchases in YTD 2003. In *** questionnaire response, they reduced purchases to *** percent of 2001 purchases in 2002 and to *** percent of half-year 2001 purchases in YTD 2003.

[44] Staff interview with ***.

[45] Fax from ***.

[46] Staff interview with ***.

[47] Fax from ***.

[48] Fax from ***.

[49] Staff interview with ***.

[50] ***.

Table V-13
DIWF: *'s lost sales allegations**

* * * * * * *

PART VI: EFFORTS BY U.S. PRODUCERS TO COMPETE AND CRITICAL CIRCUMSTANCES

EFFORTS BY U.S. PRODUCERS TO COMPETE

U.S. firms were requested in the Commission's producer questionnaire to provide information on their competitive efforts since January 1998, and the adjustments they would make in their DIWF operations if import relief were granted. Their responses are presented in tables VI-1 and VI-2, respectively. For the majority of the firms, the capital expenditures for the purchase of replacement equipment and environmental items were the leading expenditures.

Table VI-1
DIWF: Responses regarding efforts undertaken to compete since January 1, 1998, by firm

* * * * * * *

Table VI-2
DIWF: Responses regarding adjustments to operations if import relief were provided, by firm

* * * * * * *

CRITICAL CIRCUMSTANCES AND PROVISIONAL RELIEF

Damage Difficult to Repair

The Commission's producer's questionnaire asked the following: "The petition has alleged that critical circumstances exist and that delay in taking action . . . would cause damage to the relevant domestic industry which would be difficult to repair. Do you agree with this allegation?" Petitioner McWane (Clow, Tyler, and Union), as well as *** responded affirmatively. "***." Firms responding in the affirmative provided information regarding reasons why damage would be difficult to repair (table VI-3) and costs associated with reversing actions (table VI-4).

Table VI-3
DIWF: Responses regarding why damage would be difficult to repair, by firm

* * * * * * *

Table VI-4
DIWF: Responses regarding costs associated with reversing actions, by firm

* * * * * * *

Provisional Relief

Petitioner requested that the Commission recommend a tariff of 95 percent on imports of DIWF from China as a provisional remedy based upon ***.[1] Petitioner argued that the imposition of a 95 percent tariff should facilitate price increases in the U.S. market that will allow the domestic industry to sell DIWF at prices that will enable it to regain its financial health.[2]

[1] The tariff rate was calculated using ***. Petitioner's postconference brief, p. 41.

[2] Petition, p. 33, and petitioner's postconference brief, p. 41.

APPENDIX A

FEDERAL REGISTER NOTICE

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–421–4]

Certain Ductile Iron Waterworks Fittings From China

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of an investigation under section 421(b) of the Trade Act of 1974 (19 U.S.C. 2451(b)) (the Act).

SUMMARY: Following receipt of a petition, on September 5, 2003, on behalf of McWane, Inc.,[1] Birmingham, AL, the Commission instituted investigation No. TA–421–4, Certain Ductile Iron Waterworks Fittings from China, under section 421(b) of the Act to determine whether certain ductile iron waterworks fittings[2] from China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. The petition also alleges under section 421(i) of the Act that critical circumstances exist with respect to the subject products and requests that provisional relief be provided. Accordingly, the Commission will determine whether delay in taking action would cause damage to the relevant domestic industry which would be difficult to repair, and if that determination is affirmative, make a preliminary determination of whether imports of certain ductile iron waterworks fittings

[1] McWane operates three subsidiaries that produce the subject products including: Clow Water Systems Co., Coshocton, OH; Tyler Pipe Co., Tyler, TX; and Union Foundry Co., Anniston, AL.

[2] The products subject to this investigation are cast pipe or tube fittings of ductile iron (containing 2.5 percent carbon and over 0.02 percent magnesium or magnesium and cerium, by weight) with mechanical, push-on (rubber compression) or flanged joints attached. Ductile iron waterworks fittings are used to join pipes, valves, and hydrants in straight lines or to change, divert, divide, or direct the flow of water or sewage in municipal utility and industrial piping systems. Included within this definition are fittings of all nominal diameters and of both full-bodied and compact designs.

The imported products are provided for in statistical reporting number 7307.19.3070 of the Harmonized Tariff Schedule of the United States (HTS). Although the HTS category is provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

from China have caused or threaten to cause market disruption.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 206, subparts A and E (19 CFR part 206).

EFFECTIVE DATE: September 5, 2003.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187 or *fruggles@usitc.gov),* 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. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

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

Limited disclosure of confidential business information (CBI) under an administrative protective order (APO) and CBI service list.—Pursuant to section 206.47 of the Commission's rules, the Secretary will make CBI gathered in this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven 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 CBI under the APO.

Service of the petition.—The Secretary shall promptly notify a petitioner when, before the establishment of a service list under section 206.17(a)(4) of the Commission's rules, he or she approves an application under section 206.17(a)(2) pursuant to section 206.47. When practicable, this notification shall be made by facsimile transmission. The petitioner shall then serve a copy of the petition, including all confidential business information, on the approved lead authorized applicants in accordance with section 206.17(f) within two (2) calendar days of the time notification is made by the Secretary.

Upon establishment of the service list, the petitioner shall serve the lead authorized applicants enumerated on the list established by the Secretary pursuant to section 206.17(a)(4) that have not been served pursuant to the preceding paragraph within two (2) calendar days of the establishment of the Secretary's list.

Conference.—The Commission has scheduled a conference in connection with this investigation beginning at 9:30 a.m. on September 26, 2003, at the U.S. International Trade Commission Building. Subjects related to critical circumstances and provisional remedy proposals may be addressed at the conference. Parties wishing to participate in the conference should contact Fred Ruggles (202–205–3187; e-mail: *fruggles@usitc.com)* not later than September 23, 2003, to arrange for their appearance. Parties in support of the imposition of provisional import relief in this investigation and parties in opposition to the imposition of such relief will each be collectively allocated one hour within which to make an oral presentation at the conference. Oral testimony and written materials to be submitted at the conference are governed by sections 201.6(b)(2) and 201.13(f) of the Commission's rules.

Hearing.—The Commission has also scheduled a hearing in connection with this investigation beginning at 9:30 a.m. on November 6, 2003, at the U.S. International Trade Commission Building. Subjects related to both market disruption or threat thereof and remedy may be addressed at the hearing. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 28, 2003. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 30, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the hearing are governed by sections 201.6(b)(2) and 201.13(f) of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party is encouraged to submit briefs to the Commission. The deadline for filing postconference briefs relating to critical circumstances market disruption and/or provisional remedy proposals is October 1, 2003. The deadline for filing prehearing briefs is October 28, 2003, and the deadline for posthearing briefs is November 12, 2003. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the consideration of critical circumstances market disruption and/or provisional import relief on or before October 1, 2003; and a written statement related to the consideration of market disruption or threat thereof and/or remedy on or before November 12, 2003. Parties may submit final comments on market disruption on or before November 26, 2003, and on remedy on or before December 8, 2003. Final comments shall contain no more than ten (10) double spaced and single sided pages of textual material, and shall only concern information disclosed after the filing of posthearing briefs. Comments containing new factual information shall be disregarded. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain CBI must also conform with the requirements of section 201.6 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Remedy.—Parties are reminded that no separate conference or hearing on the issues of provisional remedy or final remedy will be held. Those parties wishing to present arguments on the issues of remedy may do so orally at the conference or hearing; or in their postconference briefs, prehearing briefs, posthearing briefs, or final comments on remedy.

Authority: This investigation is being conducted under the authority of section 421 of the Trade Act of 1974; this notice is

published pursuant to section 206.3 of the Commission's rules.

Issued: September 9, 2003.
By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 03–23420 Filed 9–12–03; 8:45 am]

APPENDIX B

CONFERENCE WITNESSES

CALENDAR OF THE PUBLIC CONFERENCE

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the following investigation:

Subject: **Certain Ductile Iron Waterworks Fittings from China**

Inv. No.: **TA-421-4**

Date and Time: **September 26, 2003 - 9:30 am**

The conference was be held in Room 101 (Main Hearing Room) of the United States International Trade Commission Building, 500 E Street, SW, Washington, DC.

IN SUPPORT OF IMPORT RELIEF:

Collier Shannon Scott
Washington, DC
on behalf of

Ransom Industries, LP
David Green, President

Tyler Pipe Co.
Don Waugaman, Vice President for Sales & Administration
Joel Blair, National Sales Manager for Utility Products

East Jordan Iron Works, Inc.
Thomas Teske, General Manager, Vice President of Sales & Marketing

United Steelworkers Union of America
William Klinefelter, Assistant to the International President, Legislative and Political Director

Georgetown Economic Services, LLC
Michael Kerwin
Brad Hudgens

Paul Rosenthal)
Robin Gilbert) --OF COUNSEL

IN OPPOSITION TO IMPORT RELIEF:

Paul, Hastings, Janofsky & Walker LLP
Washington, DC
on behalf of

Beijing Tongzhou Songzhuang Foundry, Beijing Cheng Hong Foundry and the China Chamber of Commerce of Metals, Minerals & Chemical Importers and Exporters

John Reilly, Nathan Associates, Inc

Hamilton Loeb
Scott Flicker)–OF COUNSEL
Alexander W. Koff

White & Case
Washington, DC
on behalf of

SIGMA
Victor Pais, President
Siddharth Bhattacharji, Vice President
Larry Rybacki, Vice President, Marketing

Keir Whitson, Consultant

Robert Gosselink)–OF COUNSEL

Neville Peterson, LLP
Washington, DC
on behalf of

Pipeline Components, Inc.
Steve Saha, Executive Vice-President

Lawrence J. Bogard)–OF COUNSEL

IN OPPOSITION TO IMPORT RELIEF:--Continued

Lafave & Sailer LLP
Washington, DC
on behalf of

Star Pipe Products, Inc.
Dan McCutcheon, Vice President

Francis J. Sailer)--OF COUNSEL

APPENDIX C

SUMMARY DATA

Table C-1
DIWF: Summary data concerning the U.S. market, 1998-2002, January-June 2002, and January-June 2003

(Quantity=*short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per short ton*; and period changes=*percent*, except where noted)

Item	Calendar year					January-June		Period changes					
	1998	1999	2000	2001	2002	2002	2003	1998-2002	1998-1999	1999-2000	2000-2001	2001-2002	Jan.-June 2002-Jan.-June 2003
U.S. consumption quantity:													
Amount	116,374	123,163	125,756	127,712	131,102	64,641	67,914	12.7	5.8	2.1	1.6	2.7	5.1
Producers' share[1]	***	***	***	***	***	***	***	***	***	***	***	***	***
Importers' share:[1]													
China	***	***	11.4	16.0	17.6	17.3	18.0	***	***	***	4.6	1.6	0.7
Other sources	***	***	***	***	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***	***	***	***	***
U.S. consumption value:													
Amount	223,149	232,784	239,397	249,452	244,093	122,829	120,373	9.4	4.3	2.8	4.2	-2.1	-2.0
Producers' share[1]	***	***	***	***	***	***	***	***	***	***	***	***	***
Importers' share:[1]													
China	***	***	12.2	15.2	16.8	17.1	18.0	***	***	***	3.0	1.6	1.0
Other sources	***	***	***	***	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***	***	***	***	***
U.S. shipments of imports from--													
China:													
Quantity	***	***	14,324	20,416	23,010	11,174	12,233	***	***	***	42.5	12.7	9.5
Value	***	***	29,136	37,897	40,919	20,989	21,714	***	***	***	30.1	8.0	3.5
Unit value	***	***	$2,034	$1,856	$1,778	$1,878	$1,775	***	***	***	-8.7	-4.2	-5.5
Ending inventory	***	***	6,809	9,848	10,686	11,961	11,998	***	***	***	44.6	8.5	0.3
Other sources:													
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***	***	***	***	***	***	***	***

Table continued on next page.

(Quantity=*short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per short ton*; and period changes=*percent*, except where noted)

Item	Calendar year					January-June		Period changes					
	1998	1999	2000	2001	2002	2002	2003	1998-2002	1998-1999	1999-2000	2000-2001	2001-2002	Jan.-June 2002-Jan.-June 2003
All sources													
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***	***	***	***	***	***	***	***
U.S. producers'--													
Capacity quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Capacity utilization[1]	***	***	***	***	***	***	***	***	***	***	***	***	***
U.S. shipments:													
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***
Export shipments:													
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Inventories/total shipments[1]	***	***	***	***	***	***	***	***	***	***	***	***	***
Production workers	1,182	1,320	1,202	1,193	1,154	1,234	1,098	-2.4	11.7	-8.9	-0.7	-3.3	-11.0
Hours worked (*1,000 hours*)	***	***	***	***	***	***	***	***	***	***	***	***	***
Wages paid (*1,000 dollars*)	***	***	***	***	***	***	***	***	***	***	***	***	***
Hourly wages	$16.00	$16.85	$17.36	$17.82	$18.10	$18.08	$18.05	13.2	5.3	3.0	2.7	1.6	-0.2
Productivity (*tons/1,000 hrs*)	34.2	34.6	37.5	33.9	38.0	37.6	37.7	11.2	1.3	8.3	-9.8	12.4	0.2
Unit labor costs	$467.64	$486.34	$462.57	$526.19	$475.88	$480.66	$478.74	1.8	4.0	-4.9	13.8	-9.6	-0.4
Net sales:													
Quantity	***	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***	***

Table continued on next page.

(Quantity=*short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per short ton*; and period changes=*percent*, except where noted)

Item	Calendar year					January-June		Period changes					
	1998	1999	2000	2001	2002	2002	2003	1998-2002	1998-1999	1999-2000	2000-2001	2001-2002	Jan.-June 2002-Jan.-June 2003
COGS	***	***	***	***	***	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***	***	***	***	***
Operating income	***	***	***	***	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***	***	***	***	***
Unit operating income	***	***	***	***	***	***	***	***	***	***	***	***	***
COGS/sales[1]	***	***	***	***	***	***	***	***	***	***	***	***	***
Operating income or (loss)/sales[1]	***	***	***	***	***	***	***	***	***	***	***	***	***

[1] Period changes are in percentage points.
[2] Not applicable.

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

Source: Compiled from data submitted in response to Commission questionnaires.

Table C-2
DIWF: Summary data concerning the U.S. market, January-June 2002, July-December 2002, and January-June 2003

(Quantity=*short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per short ton*; and period changes=*percent*, except where noted)

Item	Reported data			Period changes		
	Jan.-June 2002	July-Dec. 2002	Jan.-June 2003	Jan.-June 2002-2003	Jan.-June 2002 - July-Dec. 2002	July- Dec. 2002 - Jan.-June 2003
U.S. consumption quantity:						
Amount	64,571	66,405	67,916	5.2	2.8	2.3
Producers' share[1]	***	***	***	***	***	***
Importers' share:[1]						
China	17.3	17.8	18.0	0.7	0.5	0.2
Other sources	***	***	***	***	***	***
Total	***	***	***	***	***	***
U.S. consumption value:						
Amount	122,695	121,167	120,173	-2.1	-1.2	-0.8
Producers' share[1]	***	***	***	***	***	***
Importers' share:[1]						
China	17.1	16.4	18.1	1.0	-0.7	1.6
Other sources	***	***	***	***	***	***
Total	***	***	***	***	***	***
U.S. shipments of imports from--						
China:						
Quantity	11,174	11,835	12,233	9.5	5.9	3.4
Value	20,989	19,929	21,714	3.5	-5.1	9.0
Unit value	$1,878	$1,684	$1,775	-5.5	-10.4	5.4
Ending inventory	11,961	10,686	11,998	0.3	-10.7	12.3
Other sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***
All sources						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory	***	***	***	***	***	***
U.S. imports from--[2]						
China:						
Quantity	13,772	11,298	14,022	1.8	-18.0	24.1
Value	12,387	10,269	11,758	-5.1	-17.1	14.5
Unit value	$899	$909	$839	-6.8	1.1	-7.7
All other sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
All sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***

Table continued on next page.

(Quantity=*short tons*; value=*1,000 dollars*; unit values, unit labor costs, and unit expenses are *per short ton*; and period changes=*percent*, except where noted)

Item	Reported data			Period changes		
	Jan.-June 2002	July-Dec. 2002	Jan.-June 2003	Jan.-June 2002-2003	Jan.-June 2002 - July-Dec. 2002	July- Dec. 2002 - Jan.-June 2003
U.S. producers'--						
Capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization[1]	***	***	***	***	***	***
U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments[1]	***	***	***	***	***	***
Production workers	1,244	1,080	1,106	-11.1	-13.2	2.4
Hours worked (*1,000 hours*)	***	***	***	***	***	***
Wages paid (*1,000 dollars*)	***	***	***	***	***	***
Hourly wages	$18.06	$18.10	$18.03	-0.2	0.2	-0.4
Productivity (*tons/1,000 hrs*)	37.7	41.1	37.8	0.3	9.2	-8.2
Unit labor costs	$479.55	$440.29	$477.40	-0.4	-8.2	8.4
Net sales:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
COGS	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income	***	***	***	***	***	***
COGS/sales[1]	***	***	***	***	***	***
Operating income or (loss)/sales[1]	***	***	***	***	***	***

[1] Period changes are in percentage points.
[2] Data for imports are not included in apparent consumption but are presented for informational purposes.

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

Source: Compiled from data submitted in response to Commission questionnaires.

APPENDIX D

U.S. SHIPMENTS BY SIZE AND TYPES

Table D-1
DIWF: U.S. producers' U.S. shipments, U.S. shipments of imports, by product categories, 1998-2002, January-June 2002, and January-June 2003

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APPENDIX E

U.S. PRODUCERS' COMPANY-BY-COMPANY COMPARISONS

Table E-1
DIWF: U.S. producer trade and employment comparisons, by firms, 1998-2002, January-June 2002, and January-June 2003

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Table E-2
DIWF: U.S. producers' financial data, by firms, fiscal years 1998-2002, January-June 2002, and January-June 2003

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APPENDIX F

EFFECTS OF IMPORTS OF CERTAIN DUCTILE IRON WATERWORKS FITTINGS FROM CHINA ON U.S. FIRMS' EXISTING DEVELOPMENT AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO RAISE CAPITAL

The Commission requested U.S. firms to describe any actual or anticipated negative effects, since January 1, 2000, of imports of certain ductile iron waterworks fittings from China on their growth, investment, and ability to raise capital or development and production efforts (including efforts to develop a derivative or more advanced version of the product).[1] Responses are shown below.

Actual Negative Effects

ACIPCO	***.
McWane[2]	***.
U.S. Pipe	***.

Anticipated Negative Effects

ACIPCO	***.
McWane[2]	***.
U.S. Pipe	***.

[1] ***.

[2] Actual negative effects were described by the individual subsidiaries. The anticipated negative effects were described in McWane's consolidated response.