

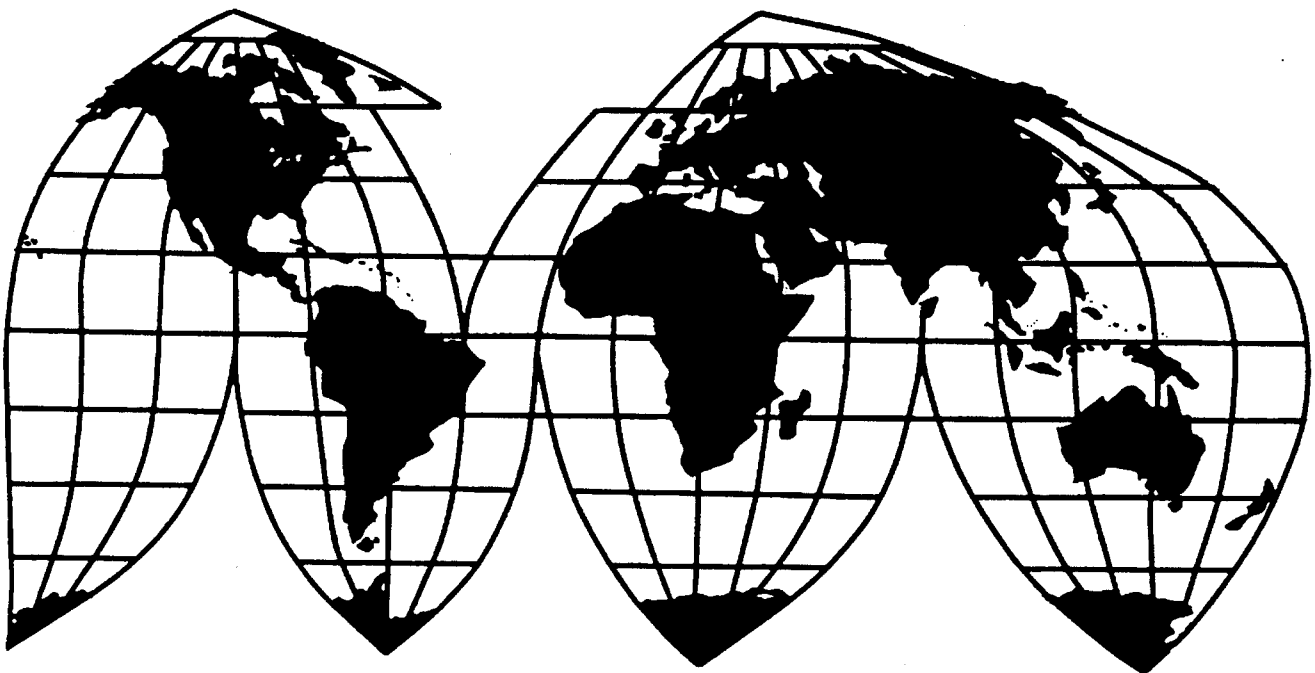
Tin- and Chromium-Coated Steel Sheet From Japan

Investigation No. 731-TA-860 (Final)

Publication 3337

August 2000

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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GLOSSARY

AISI	American Iron and Steel Institute
ASTM	American Society of Testing and Materials
Ball	Ball Corp.
Berlin Metals	Berlin Metals, Inc.
Bethlehem	Bethlehem Steel Corp.
BHP	Broken Hill Proprietary Co., Ltd.
Bohler	Bohler-Uddeholm Corp.
British Steel	British Steel Plc (currently part of the Corus Group)
BWAY	BWAY Corp.
C.i.f.	Cost, insurance, and freight
COGS	Cost of goods sold
Commerce	U.S. Department of Commerce
Commission	U.S. International Trade Commission
COMPAS	Commercial policy analysis system
Corus	Corus Staal BV
Crown	Crown Cork & Seal
CSN	Companhia Siderúrgica Nacional
Dofasco	Dofasco, Inc.
Dongbu	Dongbu Steel Co., Ltd.
Dongyang	Dongyang Tinsplate Corp.
EDDP	Ex-dock duty paid
F.o.b.	Free on board
FR	Federal Register
FTZ	Foreign trade zone
G&S Metal	G&S Metal Products Co., Inc.
Heinz	H.J. Heinz Co.
Hoogovens	Hoogovens Steel USA, Inc.
HTS	Harmonized Tariff Schedule of the United States
Huachipato	Compañía Siderurgica Huachipato, S.A.
Hylsa	Hylsamex, S.A.
Independent Can	Independent Can Co.
ISU	Independent Steelworkers Union
Itochu	Itochu International, Inc.
Kanematsu USA	Kanematsu USA, Inc.
Kawasaki	Kawasaki Steel Corp.
Kawasho	Kawasho Corp. of Japan
Kawasho USA	Kawasho International USA, Inc.
LTFV	Less than fair value
LTV	LTV Steel Co.
Marubeni USA	Marubeni America Corp.
Maui Pineapple	Maui Pineapple Co.
Metalcor	Metalcor, Inc.
Mitsubishi	Mitsubishi Steel Manufacturing Co., Ltd.
Mitsubishi USA	Mitsubishi International Steel Co.
Mitsui	Mitsui & Co., Ltd.
Mitsui USA	Mitsui & Co., USA, Inc.

Multi Dynamic	Multi Dynamic USA, Inc.
Multi-Line	Milti-Line Cans, Inc.
NAPP	NAPP Systems, Inc.
National	National Steel Corp.
Nestle	Nestle USA, Inc. (formerly Friskies Pet Care Co.)
NIAC	NIAC Steel Sales, Inc. (Nissho Iwai USA)
Nichimen USA	Nichimen American, Inc.
Nippon Steel	Nippon Steel Corp.
Nippon Steel USA	Nippon Steel Trading America, Inc. (d/b/a Nittetsu Shoji America, Inc.)
Nissho Iwai USA	Nissho Iwai American Corp.
NKK	NKK Corp.
Norton Packaging	Norton Packaging, Inc.
Ohio Coatings	Ohio Coatings Co.
Okaya	Okaya & Co., Ltd.
Okaya USA	Okaya USA, Inc.
Olsher Metals	Olsher Metals International Corp.
Otto Wolff	Otto Wolff U.S. Sales Corp.
Pacific Coast	Pacific Coast Producers
Phoenix	Phoenix Packaging Corp.
Pohang	Pohang Iron & Steel Co., Ltd.
Pre-Coat	Pre-Coat Metals
PRWs	Production and related workers
R&D	Research and development
Randall	Randall Metals Corp.
Rasselstein	Rasselstein Hoesch Gmb (Quast & Co.)
Sandvik	Sandvik Steel Co.
Sequa	Sequa Can Machinery Co.
SG&A expenses	Selling, general, and administrative expenses
Silgan	Silgan Containers Corp.
Sollac	Sollac S.A. (member of the Usinor Group)
Sonoco	Sonoco Products Co.
Sumitomo USA	Sumitomo Corp. of America
TCCSS	Tin- and chromium-coated steel sheet
Titan	Titan Steel Corp.
Titan Industrial	Titan Industrial Group
Tomen USA	Tomen America, Inc.
Ton Yi	Ton Yi Industrial Corp.
Toyo Kohan	Toyo Kohan Co., Ltd.
Toyota	Toyota Tsusho America, Inc.
TR	June 29, 2000 hearing transcript
Trade Arbed	Trade Arbed, Inc. (Luxembourg)
Usinor	Usinor Steel Corp.
U.S. Can	U.S. Can Co.
USS Posco	USS Posco Industries, Inc.
U.S. Steel	U.S. Steel Group
U.S. Tobacco	U.S. Tobacco Co.
USW	United Steelworkers of America, AFL-CIO
Van Can	Van Can Co.
VSZ	VSZ as Kosice (Slovakia)

Weirton Weirton Steel Corp.
Wheeling-Pittsburgh Wheeling-Pittsburgh Steel Corp.
White Cap White Cap, Inc.

Note.--Business proprietary information that would reveal confidential operations of individual concerns is denoted by (***) in this report.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-860 (Final)

TIN- AND CHROMIUM-COATED STEEL SHEET FROM JAPAN

DETERMINATION

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission determines,² pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Japan of tin- and chromium-coated steel sheet, provided for in subheadings 7210.11.00, 7210.12.00, 7210.50.00, 7212.10.00, and 7212.50.00 if of non-alloy steel and under subheadings 7225.99.00 and 7226.99.00 if of alloy steel (other than stainless steel) of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

BACKGROUND

The Commission instituted this investigation effective October 28, 1999, following receipt of a petition filed with the Commission and the Department of Commerce by Weirton Steel Corp., Weirton, WV, the Independent Steelworkers Union, and the United Steelworkers of America, AFL-CIO. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of tin- and chromium-coated steel sheet from Japan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of April 24, 2000 (65 FR 21791). The hearing was held in Washington, DC, on June 29, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² Chairman Stephen Koplán and Commissioner Thelma J. Askey dissenting.

IEWS OF THE COMMISSION

Based on the record in this investigation,¹ we determine that an industry in the United States is materially injured by reason of subject imports of tin- and chromium-coated steel sheet (“TCCSS”) from Japan that the Department of Commerce (“Commerce”) found to be sold in the United States at less than fair value (“LTFV”).²

I. DOMESTIC LIKE PRODUCT

A. In General

To determine whether an industry in the United States is materially injured, or threatened with material injury, by reason of imports of the subject merchandise, the Commission first defines the “domestic like product” and the “industry.”³ Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant industry as the “producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”⁴ In turn, the Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation”⁵

The decision regarding the appropriate domestic like product(s) in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.⁶ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.⁷ The

¹ Respondents have asked us to strike an exhibit to Petitioners’ final comments from the record on the grounds that it constitutes new factual information not permitted under Commission Rule 207.30, 19 C.F.R. §207.30 because it was submitted after the record closing date. When the Commission adopted Rule 207.30 it specifically stated that while comments not directed to new factual information were “strongly discouraged,” only “new factual information” contained in final comments would be disregarded. 61 Fed. Reg. 37818, 37827 (July 22, 1996). We note that Petitioners’ exhibit is largely a reinterpretation of facts already on the record. Accordingly, we deny respondents’ request to strike.

² Chairman Stephen Koplun and Commissioner Thelma J. Askey dissenting. They join Sections I and II of these views.

³ 19 U.S.C. § 1677(4)(A).

⁴ 19 U.S.C. § 1677(4)(A).

⁵ 19 U.S.C. § 1677(10).

⁶ See, e.g., NEC Corp. v. Dep’t of Commerce and U.S. Int’l Trade Comm’n, 36 F. Supp. 2d 380 (Ct. Int’l Trade 1998); Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See Nippon, 19 CIT at 455 n.4; Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

⁷ See, e.g., S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

Commission looks for clear dividing lines among possible like products, and disregards minor variations.⁸ Although the Commission must accept Commerce's determination as to the scope of the imported merchandise sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.⁹

B. Product Description

In its notice of initiation, Commerce defined the imported merchandise within the scope of this investigation as:

tin mill flat-rolled products that are coated or plated with tin, chromium or chromium oxides. Flat-rolled steel products coated with tin are known as tin-plate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed, or further processed, such as scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single- or double-reduced), and whether or not coated with a plastic material. The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS"), under HTSUS subheadings 7210.11.0000, 7210.12.0000, 7210.50.0000, 7212.10.0000, and 7212.50.0000 if of non-alloy steel and under HTSUS subheadings 7225.99.0090, and 7226.99.0000 if of alloy steel.¹⁰

TCCSS is a downstream product made by electroplating both sides of a cold-rolled steel sheet with a thin layer of tin, chromium, or chromium oxide. A variety of steel thicknesses and widths, coating thicknesses, tempers, and surface finishes are available.¹¹ The resulting merchandise is used primarily to manufacture "tin cans" for food and other products.¹²

⁸ Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991).

⁹ Hosiden Corp. v. Advanced Display Manufacturers, 85 F.3d 1561 (Fed. Cir. 1996) (Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-52 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

¹⁰ Notice of Final Determination, 65 Fed. Reg. 39364, 39365 (June 26, 2000). Products outside the scope and products specifically excluded from the investigation appear in Commerce's Notice of Final Determination, presented in the Staff Report at Appendix A.

¹¹ Confidential Report ("CR") at I-6 - I-7, and Public Report ("PR") at I-5 - I-6.

¹² CR at I-7, PR at I-6.

C. Domestic Like Product

In the preliminary phase of this investigation, the Commission found a single like product covering both tin- and chromium-coated steel sheet.¹³ The Commission found that tin-coated and chromium-coated steel sheet are physically similar in that they consist of a flat steel substrate covered by a layer of another metal, and are generally sold in similar thicknesses, widths, coating thicknesses, tempers, and surface finishes.¹⁴ In making its finding, the Commission noted that: (1) tin- and chromium-coated steel are technically interchangeable; (2) both are used primarily in the production of metal cans for storing food, paints, and other substances; (3) the channels of distribution are the same; (4) most companies that produce tin-coated steel also produce chromium-coated steel, using the same production facilities, workers, and production process; and (5) there is some overlap in prices between the two products.¹⁵

None of the parties advocated that the Commission should alter its like product finding from the preliminary phase of the investigation. Moreover, no new evidence has been obtained in this final phase of the investigation that would call this finding into question. Consequently, we reaffirm our finding in the preliminary determination that the domestic like product consists of both tin- and chromium-coated steel sheet corresponding to Commerce's definition of the scope of the investigation.¹⁶

II. DOMESTIC INDUSTRY AND RELATED PARTIES

A. In General

Section 771(4)(A) of the Act defines the relevant industry as the "domestic producers as a [w]hole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product . . ." ¹⁷ In defining the domestic industry, the Commission's general practice has been to include producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States.¹⁸

¹³ Tin- and Chromium-Coated Steel Sheet From Japan, Inv. No. 731-TA-860 ("Preliminary"), USITC Pub. 3264 (Dec. 1999) ("Preliminary Determination") at 5.

¹⁴ Preliminary Determination at 5.

¹⁵ Preliminary Determination at 5.

¹⁶ In its Final Determination the Department of Commerce modified its original scope to exclude certain products not produced by the domestic industry after the Commission's Preliminary Determination. See Department of Commerce Notice of Final Determination 65 Fed. Reg. 39364, 39365 (June 26, 2000).

¹⁷ 19 U.S.C. § 1677(4)(A).

¹⁸ See, e.g., DRAMs from Taiwan, Inv. No. 731-TA-811 (Final), USITC Pub. 3256 at 6 (Dec. 1999); Stainless Steel Wire Rod from Germany, Italy, Japan, Korea, Spain, Sweden and Taiwan, Inv. Nos. 701-TA-373, 731-TA-769-775 (Final), USITC Pub. 3126, at 7 (Sept. 1998); Manganese Sulfate from the People's Republic of China, Inv. No. 731-TA-725 (Final), USITC Pub. 2932, at 5 & n.10 (Nov. 1995) (the Commission stated it generally considered toll producers that engage in sufficient production-related activity to be part of the domestic industry); see generally, e.g., Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain, Inv. Nos. 701-

B. Domestic Industry

Based on its findings in the preliminary determination of a single domestic like product, the Commission found that the domestic industry consisted of all domestic producers of TCCSS.¹⁹ In the final phase of the investigation, no party challenged this finding. Further, the parties have not presented any new evidence which would call into question the Commission's preliminary finding on this point. We find, therefore, that the domestic industry consists of all domestic producers of tin- and chromium-coated steel sheet.

C. Related Parties

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to 19 U.S.C. § 1677(4)(B). That provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise, or which are themselves importers.²⁰ Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.²¹

In its preliminary determination the Commission found that National Steel is a related party as defined under the statute because NKK Corp., a foreign producer and exporter of subject merchandise, owns 70 percent of National Steel.²² However, the Commission ultimately found that appropriate

TA-363-364 (Final) and Inv. Nos. 731-TA-711-717 (Final), USITC Pub. 2911 (Aug. 1995) (not including threaders in the casing and tubing industry because of "limited levels of capital investment, lower levels of expertise, and lower levels of employment").

¹⁹ Preliminary Determination at 6.

²⁰ 19 U.S.C. § 1677(4)(B).

²¹ 19 U.S.C. § 1677(4)(B). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and
- (3) the position of the related producer vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

See, e.g., Torrington Co. v. United States, 790 F. Supp. 1161 (CIT 1992), aff'd without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interest of the related producer lies in domestic production or importation. See, e.g., Open-End Spun Rayon Singles Yarn from Austria, Inv. No. 731-TA-751 (Preliminary), USITC Pub. 2999, at 7 n.39 (Oct. 1996).

²² Preliminary Determination at 6. The Commission has previously decided that "control does not exist, absence evidence to the contrary, if the ownership interest is less than that necessary, in and of itself, to establish control." Certain Structural Steel Beams From Germany, Japan, Korea, and Spain, Invs. Nos. 701-TA-401 & 731-TA-852-855 (Prelim.), USITC Pub. 3225 at 8, n. 40 (Sept. 1999); see also Engineered Process Gas Turbo-Compressor Systems from Japan, Inv. No. 731-TA-748 (Prelim.), USITC Pub. 2976 at 8 (July 1996). *** is likely to be enough, by itself, to constitute control.

circumstances did not exist to exclude National Steel from the domestic industry²³ because: (1) National Steel is a major producer of the domestic like product; (2) it did not import any subject merchandise during the period of examination; and (3) it ***.²⁴

The Commission also found in its preliminary determination that Ohio Coatings was not a related party even though an importer of the subject merchandise owns shares in the company. The importer's shares are ***.²⁵ Moreover, the Commission determined that the record did not contain any additional information illustrating direct or indirect control by the importer over the company.²⁶

In the final phase of the investigation the parties have presented no new arguments and little new evidence which would call into question the Commission's preliminary findings on these points.²⁷ We therefore find that appropriate circumstances do not exist to exclude any domestic producer from the domestic industry.

III. CONDITIONS OF COMPETITION

We consider several conditions of competition to be relevant to our analysis in this investigation. Purchasers require TCCSS for the manufacture of metal containers. While these containers are used primarily in food processing, other significant uses include the manufacture of aerosol cans, oil filters, snuff containers, bottle tops, paint containers, pails, furniture, toys, household utilities, computer applications, and bake ware.²⁸ Most purchasers indicated that there has been no change in demand since 1997, and the record indicates that U.S. demand for TCCSS has been relatively stable for many years.²⁹ Producers and importers also reported "flat" demand, but noted the effects of a poor harvest in 1998.³⁰ Responding purchasers, however, indicated that there was very little or no effect of the agricultural cycle on demand.³¹

²³ Preliminary Determination at 6.

²⁴ Preliminary Determination at 6-7.

²⁵ Preliminary Determination at 7.

²⁶ Preliminary Determination at 7.

²⁷ But see, *** Memorandum of January 8, 1999 (negotiations with *** Director, Procurement & Transportation, ***): In negotiations with ***, the company ***."

²⁸ CR at I-7, II-1, PR at I-6, II-1.

²⁹ CR at II-3-4, PR at II-2.

³⁰ CR at II-3, PR at II-2.

³¹ CR at II-3, PR at II-2. We note that changes in the apparent U.S. consumption of TCCSS have tended to be moderate, decreasing by 5.1 percent between 1997 and 1998 and then increasing between 1998 and 1999 by 3.2 percent. Overall, apparent consumption declined from *** short tons in 1997 to *** short tons in 1999. Apparent U.S. consumption in the first quarter of 2000 (*** short tons) was nearly identical to the level in the first quarter of 1999 (*** short tons). CR and PR at Table IV-3. The relative stability of apparent U.S. consumption of TCCSS in the United States over the period examined in this investigation reflects a lack of symmetry between fluctuations in the agricultural cycle and demand for TCCSS.

All domestic producers and a majority of importers and purchasers reported that TCCSS products are used interchangeably.³² The majority of importers and purchasers noted the higher quality and consistency, as well as the lower overall prices, of Japanese TCCSS and some niche products,³³ but purchasers also cited domestic producers' superiority to Japanese producers in terms of both availability and delivery time.³⁴

The record indicates that non-price factors such as product quality, product consistency, and on time delivery are very important in choosing suppliers. However, the record also reflects that during annual contract negotiations, price is a critical factor. The market is therefore characterized by a high degree of price sensitivity. TCCSS supply contracts are negotiated annually and establish both price and target quantities for the coming year.³⁵ In negotiating prices, the domestic producers first establish a base-level price, based on an industry price list ***, and then offer the buyers percentage discount rates from the list price. The domestic producers generally announce increases in the list price in October.³⁶ During the negotiation process, the sellers (i.e., the domestic producers and importers) and purchasers reach agreement on the applicable percentage discount to be deducted from the list price. Hence, the final pricing formula is based on the current list price minus the discount agreed to by the seller and the purchaser.³⁷ In most years, producers increase the list price.³⁸ However, no increase in the list price was announced for 1999.³⁹

The TCCSS market is characterized by a relatively small number of sellers and buyers. Specifically, there are seven domestic producers, approximately two dozen importers, and some 22 purchasers. Most of the concentration in the purchasing segment occurred over the last decade, and by 1999 six purchasers accounted for 75 percent of all TCCSS purchases. While the degree of purchaser consolidation increased somewhat between 1997 and 1999, most of this consolidation took place prior to the Commission's period of investigation.⁴⁰

Another characteristic of the purchaser - seller relationship in this market is the location of four can manufacturers with facilities on Weirton's property. These purchasers have leasing agreements with *** which require the purchasers to satisfy *** percent of their TCCSS requirements through ***.⁴¹ Because these particular can-making operations represent *** of apparent U.S. consumption, we find that these supply arrangements provide, at most, limited insulation to *** from import competition, and

³² CR at II-6, PR at II-4.

³³ CR and PR at Table II-5.

³⁴ CR and PR at Table II-5.

³⁵ CR at V-4, PR at V-3.

³⁶ Hearing Tr. at 118.

³⁷ Hearing Tr. at 118-119.

³⁸ CR at V-4, PR at V-3.

³⁹ CR at V-4, PR at V-3.

⁴⁰ Petitioners' Posthearing Br. at A-14 - A-18. This issue is discussed in greater detail infra.

⁴¹ CR at V-5, PR at V-4.

no insulation whatsoever to the remainder of the industry.⁴²

The market for TCCSS is a national market. While most domestic producers are located in the East and Midwest and many tend to ship much of their production to destinations near their plants, one U.S. producer, USS Posco, is located on the West Coast, and another, ***, ships nearly half of its volume to purchasers located on the West Coast.⁴³ With one exception, ***, all domestic producers sell to purchasers on the West Coast, notwithstanding the fact that generally they must absorb the cost of transporting their shipments to these purchasers.⁴⁴ Moreover, Japanese merchandise also competes throughout the United States.⁴⁵ Indeed, only nonsubject imports do not compete throughout the United States, as significant head-to-head competition in the West is limited to U.S. and Japanese TCCSS.⁴⁶

Finally, nonsubject imports (primarily from Europe, Canada, Mexico, and Asia) are a significant competitive factor in the market. However, while nonsubject imports accounted for a somewhat greater proportion of total U.S. market share than subject imports during most of the period of investigation,⁴⁷ subject imports' total market share increased at a substantially greater rate than nonsubject imports.⁴⁸ Moreover, by the end of the period of investigation, subject imports' total market share had surpassed that of all other imports combined.

IV. MATERIAL INJURY BY REASON OF THE SUBJECT IMPORTS

In the final phase of an antidumping duty investigation, the Commission determines whether an industry in the United States is materially injured by reason of the subject imports under investigation.⁴⁹ In making this determination, the Commission must consider the volume of the subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.⁵⁰ The statute defines "material

⁴² We note that *** lessees do not comply with this purchase requirement, and purchase additional volumes, including Japanese TCCSS. CR at V-5, PR at V-4; *** Memorandum to file of October 2, 1998.

⁴³ CR at III-2, footnote 2, PR at III-2, footnote 2.

⁴⁴ CR at II-1 and V-1, PR at II-1 and V-1. Freight equalization requires a producer to charge its customers the equivalent shipping expenses of the nearest producer in that region, forcing producers to absorb the excess freight costs. We note that, both the western and non-western markets display similar downward price trends, similar conditions of competition, and adverse effects from the subject imports.

⁴⁵ CR at II-12 - II-13, PR at II-7.

⁴⁶ See e.g., Respondents Posthearing Br. Vol II, Exhibit 1.

⁴⁷ CR and PR at Table IV-4. Nonsubject imports' market share increased from *** percent in 1997 to *** percent by 1999. See *id.* Subject imports' market share increased from *** percent in 1997 to *** percent by 1999. See *id.*

⁴⁸ CR and PR at Table IV-4.

⁴⁹ 19 U.S.C. § 1673d(b).

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

injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁵¹ In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.⁵² No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁵³

A. Volume of the Subject Imports

Section 771(7)(C)(I) of the Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”⁵⁴

The volume of subject imports grew rapidly over the period of investigation. In absolute terms, the quantity of imports of the subject merchandise from Japan was 181,287 short tons in 1997; 245,872 short tons in 1998; 336,961 short tons in 1999; and 98,854 short tons in the first quarter of 2000.⁵⁵ The quantity of imports of subject merchandise increased by 35.6 percent between 1997 and 1998; by 37.0 percent between 1998 and 1999; and was 8.1 percent higher in the first quarter of 2000 than in the first quarter of 1999.⁵⁶ Thus the quantity of subject imports increased in absolute terms by 85.9 percent between 1997 and 1999, and continued to increase rapidly through the first quarter of 2000.

These significant increases in the volume of subject imports occurred during a period of declining domestic consumption of TCCSS, as noted above. Thus, the market shares of subject imports increased significantly. Relative to consumption of TCCSS in the United States, the quantity of imports of the subject merchandise from Japan was *** percent in 1997; *** percent in 1998; *** percent in 1999; and *** percent in the first quarter of 2000.^{57 58} Relative to consumption of TCCSS in the United States, the quantity of imports of the subject merchandise from Japan increased by *** percentage points

⁵¹ 19 U.S.C. § 1677(7)(A).

⁵² 19 U.S.C. § 1677(7)(C)(iii).

⁵³ 19 U.S.C. § 1677(7)(C)(iii).

⁵⁴ 19 U.S.C. § 1677(7)(C)(i).

⁵⁵ Table IV-2, CR at IV-3, PR at IV-3. Similarly, the value of imports of the subject merchandise from Japan was \$115.6 million in 1997; \$150.8 million in 1998; \$195.8 million in 1999; and \$56.4 million in the first quarter of 2000. Id.

⁵⁶ Table IV-2, CR at IV-3. Similarly, the value of imports of the subject merchandise from Japan increased by 30.4 percent between 1997 and 1998; by 29.9 percent between 1998 and 1999; and was 5.1 percent higher in the first quarter of 2000 than in the first quarter of 1999. Id.

⁵⁷ Table IV-4, CR at IV-5, PR at IV-5. Similarly, on a value basis, subject merchandise from Japan held *** percent of the U.S. market in 1997; *** percent in 1998; *** percent in 1999; and *** percent in the first quarter of 2000. Id.

⁵⁸ Because the U.S. industry’s production includes a significant volume of export shipments (see Table III-3, CR at III-7, PR at III-5), we find that a comparison of the volume of subject imports to apparent U.S. consumption reflects the nature and extent of competition in the United States more fully than a comparison of the volume of subject imports to production in the United States.

between 1997 and 1998; by *** percentage points between 1998 and 1999; and was *** percentage points higher in the first quarter of 2000 than in the first quarter of 1999.⁵⁹ Thus, the quantity of subject imports, relative to consumption of TCCSS in the United States increased by *** percentage points between 1997 and 1999, and continued to increase rapidly through the first quarter of 2000.⁶⁰

We thus find the volume of subject imports and the increase in the volume of subject imports both absolutely and relative to domestic consumption, to be significant.

We are not persuaded by Respondents' argument that the volume and rate of increase in the volume of subject imports is insignificant because half of the subject imports are sold on the West Coast. On the contrary, we find that imports from Japan to the West Coast did not attenuate subject imports' negative impact on the domestic industry as a whole. As stated above, the market for TCCSS is a national one. U.S. producers, although mainly located in the East and the Midwest, compete throughout the United States.⁶¹ Also, subject imports increased over the period of investigation not only in the West Coast but also in the remainder of the United States. At the same time, domestic shipments also declined both on the West Coast and elsewhere.⁶² Finally, we note that the only U.S. producer located on the West Coast, USS-Posco, experienced declines in shipments, price, and financial performance similar to those declines experienced by other domestic producers over the same period.⁶³

B. Price Effects of the Subject Imports

Section 771 (C) (ii) of the Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether there has been significant price underselling by the imported merchandise as compared with the price of the domestic like product, and whether the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.⁶⁴

As noted earlier, the U.S. market for TCCSS is price sensitive. The domestic TCCSS market is concentrated, with a small number of sellers and a relatively small number of purchasers. Price, in the form of discount rates, is negotiated intensely, often down to the hundredths of one percent.⁶⁵ Therefore,

⁵⁹ CR and PR Table IV-4 Similarly, on a value basis, the market share held by imports of the subject merchandise from Japan increased by *** percentage points between 1997 and 1998; by *** percentage points between 1998 and 1999; and was *** percentage points higher in the first quarter of 2000 than in the first quarter of 1999. *Id.*

⁶⁰ We note that a portion of nonsubject imports entered a free trade zone and were subsequently exported. To the extent that such shipments never entered the customs area of the United States as imports for consumption, nonsubject import volume is inflated. *See* questionnaire response of ***.

⁶¹ CR at III-2, footnote 2, PR at III-2, footnote 2.

⁶² Investigations Memorandum INV-X-144, Table IV-2a.

⁶³ CR and PR Table VI-3. USS-Posco's operating income declined from *** million in 1997 to *** million in 1999.

⁶⁴ 19 U.S.C. § 1677(7)(C)(ii).

⁶⁵ *See, e.g.*, Letter from *** to *** (February 19, 2000), summarizing agreement on discount rates of *** percent and *** percent from 1999 and 2000 list prices, respectively. Petitioners' Posthearing Br. at Exhibit 27; Internal *** Memorandum (from ***, dated August 6, 1998), summarizing *** proposal to increase the discount rate from

because of the critical nature of the annual pricing negotiations between a small number of buyers and sellers, the Commission gathered comprehensive data on list prices and discount rates as well as detailed information on the bidding process, including data on opening and final bids.

The evidence shows a clear trend of generally declining prices paid by purchasers over the period of investigation.⁶⁶ Even though the list price increased slightly in 1997 and 1998, discount rates increased significantly in both years resulting in a net decline in prices.⁶⁷ In 1999, this trend was magnified by the fact that domestic producers were not able to increase the list price while discount rates continued to increase.

Coinciding with this declining trend in pricing, the frequency and the magnitude of underselling by subject merchandise increased dramatically over the period of investigation.⁶⁸ In 1997, four Japanese bids out of thirteen undersold the domestic producers' bids. In 1998, seven out of sixteen bids undersold domestic bids. By 1999 that number had risen to 21 out of 25 bids.⁶⁹ Compounding this trend was the significant increase in the magnitude of the underselling. In 1997 Japanese bids were generally not underselling domestic bids. In 1998 Japanese bids undersold domestic bids by 0.70 percent on average and by 1999, when subject import volume was greatest, the magnitude of underselling had risen to 5.77 percent on average.⁷⁰

Given the recognized quality and substitutability of Japanese TCCSS and the very price sensitive nature of the TCCSS market, we find this aggressive pricing of the Japanese TCCSS to be significant. Indeed, the record reflects that the aggressive pricing by importers of Japanese TCCSS has been used by at least some purchasers in their price negotiations with the domestic suppliers, and Japanese supply is recognized as an important factor affecting U.S. prices. See for example:

*** percent to *** percent. Respondents' Posthearing Br. at Vol. IV; Internal *** Memorandum (from ***, dated May 18, 1998), contrasting *** discount rate of *** percent with other suppliers' discount rates of *** and higher and stating that *** Respondents' Posthearing Br. at Vol. IV.

⁶⁶ Major purchasers (***) reported data in terms of discounts. For each of these companies, discounts from all sources of supply (domestic, Japan, and others) increased for each period examined. However, increases in the list prices at least partially offset rising discounts in 1998 and 2000. For companies reporting in terms of bid prices, domestic prices were mixed between 1997 and 1998 (up for ***, mixed for ***, down for ***) but down across the board (except for ***) in 1999. More limited information regarding 2000 was mixed. Japanese price movements were mixed between 1997 and 1998 (down for ***, stable for ***, and mixed for ***) but down across the board (except for ***) in 1999. Except for sales to ***, Japanese prices appear to have firmed in 2000, following the filing of the petition. CR and PR Tables V-1 through V-13.

⁶⁷ Product mix issues may lessen the utility of average unit values as a consistent proxy for market prices. We note, however, that reported purchaser prices are broadly consistent with the trends in average unit values. The average unit values of U.S. shipments fell by 1.1 percent between 1997 and 1998, while those of subject imports fell by 3.9 percent. Between 1998 and 1999, the average unit values of U.S. shipments fell by 3.6 percent, while those of subject imports fell by an additional 6.8 percent. In the first quarter of 2000, the average unit values of U.S. shipments increased by 0.1 percent, while those of the subject imports decreased by 2.2 percent. CR and PR Table C-1.

⁶⁸ CR and PR at V-1 through V-13.

⁶⁹ In interim 2000, thirteen out of eighteen Japanese bids undersold domestic bids. CR at V-22, PR at V-8

⁷⁰ CR and PR Table V-16.

- Internal *** Memorandum (from ***, dated February 9, 1998), summarizing ***'s price negotiations with *** and stating that: “*** A separate internal *** Memorandum (from ***, dated February 9, 1998), summarizes the same meeting and states that ***. See Respondents Posthearing Br. Vol. IV, “Customer A.”
- Internal *** (from ***, dated September 4, 1998), summarizing tin mill product supply for 1999 and stating that: ***. See Respondents Posthearing Br. Vol. IV, “Customer C.”
- Internal *** Memorandum (from ***, dated February 14, 2000), evaluating current tin mill product pricing and stating that: ***. See Respondents Posthearing Br. Vol. IV, “Customer C.”
- Internal *** Memorandum (from ***, dated January 24, 2000), evaluating negotiating strategies with domestic and foreign mills for ***, ***. See Respondents Posthearing Br. Vol. IV, “Customer C.”

Moreover, *** provided credible testimony that the much greater availability of low-priced imports from Japan depressed prices in 1999. ***, stated that the company did not attempt a price increase for 1999 shipments because of the availability of low-priced Japanese TCCSS.⁷¹

The adverse effect of subject imports is also reflected in, among other things, confirmed lost revenues allegations made by ***. Four purchasers confirmed that *** either had been forced to reduce its price to these purchasers because of lower prices by sellers of Japanese TCCSS or had lost a sale outright.⁷²

Respondents make much of the fact that the four purchasers that participated in the Commission's hearing claim that imports from Japan have no effect on TCCSS prices. These purchasers asserted repeatedly that the negotiations with foreign suppliers, including Japanese, take place only after

⁷¹ We find the *** affidavit credible because the statements made therein about the intentions of two major purchasers to increase their purchases of Japanese TCCSS due to its low price is borne out by the purchasing history of these two companies. Specifically, in 1999, *** increased its purchases of Japanese TCCSS by *** short tons in (while reducing its purchases from domestic suppliers by *** short tons). CR and PR Table II-1.

⁷² With respect to the three largest unconfirmed lost sales, we note the following:

*** alleged that it lost *** short tons of sales to *** in 1999. *** contends that ***'s correspondence did not constitute a bid (although the company purchased a significant volume from *** in 1999). ***'s purchases of TCCSS from Japan increased from *** short tons in 1998 to *** short tons in 1999.

*** alleged that it lost *** short tons of sales to *** in 1999. *** contends that any domestic producer that lost a bid in 1998 did so to another domestic producer. ***'s purchases of TCCSS from domestic sources fell from *** short tons in 1998 to *** short tons in 1999, and its purchases of TCCSS from Japan increased from *** short tons in 1998 to *** short tons in 1999.

*** alleged that it lost *** short tons of sales to *** in 1999. *** contends that it did not purchase chromium-coated steel sheet from Japan in 1998 and 1999. ***'s purchases of tin-plated steel sheet from Japan increased from *** in 1998 to *** short tons in 1999. Compare CR at V-23-25 with CR at II-7-8.

As we discuss in greater detail below, the evidence of lost revenue and sales undermined the credibility of purchaser testimony and Respondents' argument that Japanese and domestic suppliers do not compete for the same business.

We take note that Respondents dispute these allegations and take this into account in our evaluation.

the negotiations with the domestic producers are completed.⁷³ Even if the negotiations were conducted sequentially (i.e., with domestic supply negotiations completed in the autumn and winter and import supply negotiations completed in the spring), the purchasers would know and be able to use the subject import supply prices in the next round of domestic supply negotiations. More importantly, we find the purchasers' testimony on this issue not to be credible because it is not supported by the record evidence. The record shows that negotiations with importers often take place simultaneously with domestic supply negotiations. See for example:

- Supplemental Questionnaire Response of *** (July 10, 2000), stating that ***
- Supplemental Questionnaire Response of *** (July 6, 2000), ***
- Supplemental Questionnaire Response of *** (July 25, 2000), attaching various documents, including: (1) an internal *** memorandum (from ***, dated October 18, 1999), ***; (2) internal *** memorandum (from ***, dated August 10, 1999), ***; and (3) internal *** memorandum (from ***, dated July 16, 1999), reporting that *** The July 16 memorandum also indicates that ***.⁷⁴
- Internal *** Memorandum (from ***, dated September 27, 1999), reporting on ***'s negotiations with *** for 2000 shipments and also referencing ***'s negotiations with ***, and others. Respondents. See Respondents Posthearing Br. Vol. IV, "Customer C."
- Letter from *** to *** (dated December 8, 1998), providing ***'s "revised proposal for 1999 ex-***" shipments. APO document 200007255024 Correspondence Filed by *** to Commission staff member.
- Letter from *** (dated November 9, 1998), *** See Respondents Posthearing Br. Vol. IV, "Customer C."
- *** Memorandum (dated October 5, 1998), reporting that *** had submitted a proposal to *** and indicating that *** the next week. See Respondents Posthearing Br. Vol. III, "Trading Company A."

⁷³ For instance, Mr. Yurko of U.S. Can stated at the Commission's Preliminary Conference that: "From our perspective as a purchaser, our domestic suppliers and our foreign suppliers compete in separate arenas in the market," adding that "the foreign suppliers compete with the foreign suppliers" and "the domestic suppliers compete with domestic suppliers." Conf. Tr. at 93. He reiterated this argument at the Commission's Hearing claiming that "first, domestic suppliers compete against each other. Only after this is completed do foreign suppliers compete against each other. The two processes are basically different." Hearing Tr. at 194 (Yurko); See also, Testimony of Mr. Rourke of Bway ("so there's a traditional experience to want to get the domestic mills' understanding of what pricing is going to go to in a given year, and then a lot of times the foreign guys will follow suit." Hearing Tr. at 207; *** Questionnaire Response (May 16, 2000) ("We then negotiate with each group of suppliers separately – Typically, we negotiate with the domestic mills first and then the foreign mills.").

⁷⁴ Thus, these documents show that *** had entered its supply contracts with Japanese suppliers for year 2000 shipments in July 1999, well before the start of the autumn negotiation process. These documents flatly contradict Mr. Owen's testimony at the Commission's hearing in which he stated that "once you settle with the domestics the foreign guys say what did the domestics settle out at...." Tr. at 232.

- Internal *** Memorandum (from ***, dated February 9, 1998), *** and indicating that *** had informed *** of the ***. See Respondents Posthearing Br. Vol. IV, “Customer A.”
- Letter from *** to *** (dated November 20, 1997), *** See Respondents Posthearing Br. Vol. III, “Trading Company A.”
- *** Memorandum (dated November 12, 1997), reporting that *** (representing ***) had made a proposal to *** for 1998 shipments. See Respondents Posthearing Br. Vol. III, “Trading Company A.”

Therefore, given the substitutability of the Japanese product, the intensity with which price terms are negotiated, the significant underselling by Japanese suppliers, and the fact that the purchasers often negotiate simultaneously with domestic and Japanese suppliers, we do not accept the notion that the sharply increasing volume of imports from Japan is not having significant adverse price effects.

Respondents alleged that declining domestic prices during the period of investigation were a direct result of rapid purchaser consolidation and not of underselling from subject merchandise. We are not persuaded by this argument, however. As noted earlier, with only seven domestic producers, there is a similar degree of concentration between the major U.S. purchasers and the domestic producers. Moreover, the most significant buyer consolidation occurred between 1990 and 1996, when the percent of total purchases accounted for by the top six purchasers increased from *** percent to *** percent.⁷⁵ The consolidation that occurred in those years did not substantially affect domestic prices. Weirton demonstrated that its weighted average price remained within a narrow range of between *** and *** per net ton from 1990 and 1996.^{76 77} The only large-scale acquisition during the period of investigation was *** purchase of *** in 1998. This acquisition accounted for *** short tons in a total market of *** short tons in 1998.⁷⁸ The overall quantity of TCCSS consumed by just the top 6 purchasers ***. Thus, we find the effect that purchaser consolidation had on domestic price declines during the period of investigation was slight.

The Respondents also claim that there is no contemporaneous documentation linking Japanese prices to domestic prices.⁷⁹ In fact, however, there are documents indicating the significant price effects of imports from Japan, as discussed above.⁸⁰ Moreover, given the selective presentation of documents,

⁷⁵ Respondents Prehearing Br. at 10-11; Petitioner Posthearing Br. at A-18.

⁷⁶ Petitioner Posthearing Br. at A-18 and Exhibit 13.

⁷⁷ Respondents Prehearing Br. at 11. Between 1997 and 1998 purchaser concentration rose slightly from *** to *** percent but then dipped between 1998 and 1999 to *** percent.

⁷⁸ Petitioner Posthearing Br. at A-14.

⁷⁹ Respondents Final Comments at 2.

⁸⁰ We note that *** annual supply contract with *** contains a provision indicating that *** prices are expected to be competitive with other domestically produced tin mill products of comparable quality and quantities. See *** Questionnaire Response at Attachment III (May 11, 2000). The fact that a company may undertake to match other domestic suppliers does not mean that imports from Japan are having no adverse price effects in the U.S. market.

we are unable to draw any firm conclusions from the relative dearth of specific references to the price effects of imports from Japan. We find it significant, in this regard, that the purchasers failed to provide any documentation regarding their contract negotiations with importers of Japanese product even though they were asked to do so. Lastly, we note that during contract negotiations purchasers typically do not disclose to their suppliers the identity of competing suppliers.⁸¹ It is therefore not surprising that Japanese suppliers are not routinely identified in ***'s documents.

Respondents concede that imports from nonsubject countries were a “dominant force” in the market, but attribute no such significance to subject merchandise.⁸² Although nonsubject imports were a significant factor in the domestic market during the period of investigation, subject imports grew more rapidly and were generally priced more aggressively.⁸³ By 1999, the volume of imports from Japan alone nearly equaled the volume of imports from all other sources combined. High quality subject imports frequently undersold high quality nonsubject imports and even undersold lesser quality nonsubjects as well.⁸⁴ Therefore, because subject imports’ market share is comparable to the nonsubject imports’ market share, and because in recent years subject imports generally undersold nonsubject imports, we find that subject imports have a significant adverse effect on domestic prices distinct from any adverse price effects of nonsubject imports.

Based on the foregoing considerations and the other evidence on the administrative record, we find that there has been significant price underselling by subject merchandise, and that significant volumes of subject imports have depressed prices and prevented increases in prices that would otherwise have occurred to a significant degree.

C. Impact of Subject Imports on the Domestic Industry

Section 771(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”⁸⁵ These factors include output, sales, inventories, capacity utilization, market share,

⁸¹ Both Petitioners and purchasers alike agree that in the bargaining process, the identity of other suppliers are kept strictly confidential. See e.g., Hearing Tr. at 150-151 (Weirton executive stating “I only know that competitors are quoting different types of prices. I don’t know specifically who’s doing it, so consequently, I could not identify that it was a specific Japanese product. . .;” See also, Declaration of *** of ***, filed Nov. 23, 1999; Internal *** Memorandum from ***, dated October 11, 1999, showing that *** stipulated to *** in its 1999-2000 negotiations that ***, Internal *** Memorandum from ***, dated May 18, 1998.

⁸² Respondents Final Comments at 11.

⁸³ CR and PR Tables V-1 through V-13.

⁸⁴ Compare CR and PR Tables V-1 through V-13, with CR and PR Table II-6. A summary of these data indicates that TCCSS from Canada, Germany, and the Netherlands (countries that, like Japan, are sources of high quality TCCSS) were priced higher than TCCSS from Japan in five of seven comparisons. In 1997-98, imports from Japan generally oversold imports from other nonsubject countries (those whose principal sales advantages are favorable prices and/or discounts), but in 1999-2000, imports from Japan matched or undersold imports from these countries in half of the comparisons. See Staff Document of July 31, 2000.

⁸⁵ 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 (“In material injury determinations, the Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an industry is

employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the industry.”^{86 87} For the reasons discussed below, we conclude that the significant volume of subject imports at declining prices, and their frequent underselling of the domestic like product, have adversely affected the domestic TCCSS industry.

The domestic industry’s output, or production, declined from 3,728,441 short tons in 1997 to 3,433,592 short tons in 1999, a net decline of 7.9 percent.⁸⁸ Capacity utilization fell from 76.8 percent in 1997 to 74.5 percent in 1999.⁸⁹ The number of production workers producing TCCSS fell from 6,922 in 1997 to 6,004 in 1999 and to 5,677 in the first quarter of 2000. Hours worked exhibited a similar trend, decreasing by 13.0 percent between 1997 and 1999 and by 2.6 percent between the first quarter of 1999 and the first quarter of 2000.⁹⁰

As discussed previously, the share of the U.S. market held by the domestic industry declined from *** percent in 1997 to *** percent in 1999, and was *** percent in the first quarter of 2000. The significant increase in the volume of subject imports from Japan displaced a substantial volume of U.S. shipments, and accounted for the largest portion of the domestic industry’s reduced market share. U.S. shipments decreased markedly over the period examined in this investigation, declining from 3,554,766 short tons in 1997 to 3,227,134 short tons in 1999 (a net decrease of 9.2 percent) and continuing to fall in the first quarter of 2000.⁹¹ Moreover, the value of U.S. shipments decreased even more markedly, reflecting the dual impact of decreasing volume and falling average unit values.⁹² Despite sustained export sales volumes, net sales exhibited a depressed trend, due to declining sales in the United States.

As the domestic industry suffered declining sales volume, sales prices, and market share, its financial performance deteriorated between 1997 and 1999, with the worst results occurring the 1999,

facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” *Id.* at 885).

⁸⁶ 19 U.S.C. § 1677(7)(C)(iii).

⁸⁷ The statute instructs the Commission to consider the “magnitude of the dumping margin” in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). Commerce’s final antidumping duty margins are 95.29 percent and an all others rate of 32.52 percent. Final Determination, 65 Fed. Reg 39364 (June 26, 2000).

⁸⁸ Table III-2, CR at III-6, PR at III-4. We note that the generally-stable levels of production in 1999 and the first quarter of 2000 reflect a significant increase in exports by the domestic industry, rather than U.S. shipments.

⁸⁹ Table III-2, CR at III-6, PR at III-4.

⁹⁰ Table III-2, CR at III-6, PR at III-4. Wages paid fell during 1997-99, as declining hours worked overwhelmed the effects of generally stable wages rates (\$24.89 per hour in 1997; \$25.37 in 1998; and \$25.89 in 1999). Wage rates increased in the first quarter of 2000 to \$26.01 per hour. Productivity increased moderately over the period examined, contributing to a slight decrease in unit labor costs. *Id.*

⁹¹ Table III-3, CR at III-7, PR at III-5.

⁹² Table III-3, CR at III-7, PR at III-5. The average unit value of the domestic industry’s U.S. shipments fell throughout 1997-99, and did not stabilize until the first quarter of 2000. *Id.*

when annual subject import volume was at its peak.⁹³ The domestic industry's operating losses widened from \$21 million in 1997 to \$64 million in 1998 and to \$132 million in 1999. On average, domestic producers lost \$6 per ton sold in 1997, \$18 in 1998, and \$38 in 1999. Operating losses as a ratio to net sales soared from 0.9 percent in 1997 to 3.0 percent in 1998 and to 6.5 percent in 1999. In the first quarter of 2000, the domestic industry's operating losses narrowed to \$12 per ton sold (1.9 percent on net sales); this improvement, however, reflected a marked decline in unit costs, rather than an increase in unit sales values. Similarly, the domestic industry's cash flow sank from \$54 million in 1997 to \$33 million in 1998, and to a cash outflow of \$46 million in 1999.⁹⁴

Finally, the domestic industry's capital expenditures fluctuated over the period examined, declining between 1997 and 1998; increasing between 1998 and 1999; and declining in the first quarter of 2000. The domestic industry's research and development expenditures also fluctuated over the period examined, declining between 1997 and 1998; increasing between 1998 and 1999; and declining in the first quarter of 2000.⁹⁵

Respondents claimed that the majority of the increase in the volume of imports from Japan (147,000 tons total over the period of investigation) was by a few large customers due to non-price reasons. Respondents cite to purchasers' testimony and documents that raise delivery and quality issues of domestic suppliers. While it is true that some domestic producers' on-time performance was poor during the period of investigation,⁹⁶ we are not persuaded by respondents' inconsistent and contradictory testimony that purchasers turned to Japanese sourcing solely because of non-price reasons.

For instance, U.S. Can claimed that it began shifting more business to Japanese suppliers because of their willingness to supply its increasingly global operations, and the shift accelerated in 1999 due to domestic suppliers' poor performance.⁹⁷ U.S. Can accounted ***, increasing its purchases of Japanese TCCSS by ***, representing roughly *** of the total increase in subject imports. Thomas Yurco of U.S. Can testified at the Commission's Preliminary Conference that his company had reduced volume purchased from Weirton because of delivery problems and had switched that volume to other domestic suppliers, rather than to imports from Japan or other nonsubject country sources. However, U.S. Can's purchasing history shows that in 1999 the company reduced its purchases from domestic producers by approximately *** short tons while it increased its purchases of Japanese TCCSS by approximately *** short tons. Its purchases of nonsubject TCCSS did not increase in 1999. Thus, contrary to the statements in the *** internal memorandum cited above (and contrary to the representations made by *** to *** officials), other U.S. producers – specifically *** – were not beneficiaries of Weirton's alleged delivery problems in 1999.⁹⁸

⁹³ CR at VI-1, PR at VI-1.

⁹⁴ Tables VI-1 and VI-2.

⁹⁵ Table VI-5.

⁹⁶ *** Memorandum to ITC dated November 22, 1999. ***. See also, Memorandum from *** to File dated January 6, 1998. See Respondents Posthearing Br. Vol. IV, "Customer A."

⁹⁷ Conf. Tr. at 95; see also, internal *** memorandum from ***, dated February 2000.

⁹⁸ We note that *** was the only U.S. producer to increase its U.S. shipments between 1997 and 1999, other than a one-percent increase by ***. Even between 1998 and 1999, when apparent U.S. consumption increased, only *** were able to increase their U.S. shipments. Questionnaire Responses of U.S. producers. Mr. Yurco also testified that U.S. mills are not willing to compete for their European business. However, Weirton exports to five countries in

Therefore, we find that subject imports are having a significant adverse impact on the domestic industry. As noted above, subject imports have taken substantial volume and market share from the domestic producers, which resulted in a significant reduction in industry revenues and employment. Moreover, we are persuaded that the much greater availability of this substitutable product at low prices has depressed and suppressed domestic prices to a significant degree. Accordingly, we find that the record of this investigation indicates that the subject imports have had a significant impact on the domestic industry's condition.

CONCLUSION

For the reasons stated above, we determine that an industry in the United States is materially injured by reason of imports of tin- and chromium-coated steel sheet from Japan that are sold in the United States at less than fair value.

Europe, including Germany, the United Kingdom and Italy, where U.S. Can facilities are located, and Weirton's exports to Europe in 1999 exceeded the combined tonnage of all Japanese producers. Petitioners Posthearing Br. At 36.

**DISSENTING VIEWS OF CHAIRMAN STEPHEN KOPLAN IN
TIN- AND CHROMIUM-COATED STEEL SHEET FROM JAPAN,
INV. NO. 731-TA-860 (FINAL)**

On the basis of the record in this investigation, I determine that an industry in the United States producing tin- and chromium-coated steel sheet (“tin plate”) is not materially injured by reason of imports of tin plate from Japan that are being sold in the United States at less-than-fair-value (“LTFV”). I concur with my colleagues’ findings with respect to the domestic like product and the domestic industry. However, for the reasons discussed below, I dissent from the Commission’s determination that the tin plate industry in the United States is materially injured by reason of the subject imports.

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the subject imports under investigation.¹ In making this determination, the Commission must consider the volume of the subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.² The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”³ In assessing whether the domestic industry is materially injured by reason of subject imports, I consider all relevant economic factors that bear on the state of the industry in the United States.⁴ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁵

I. The Conditions of Competition

The following conditions of competition unique to the U.S. tin plate industry, which were identified in the preliminary determination, are central to my analysis: (1) tin plate is almost always sold in the United States pursuant to annual contracts that establish fixed prices and target volumes; (2) reliable delivery is extremely important to the purchasers -- the domestic can makers -- because food must be canned as soon as possible after it reaches the canning facility; (3) the purchasers have consolidated and are now highly concentrated (the six largest purchasers account for more than three-quarters of apparent domestic consumption); (4) several of the major purchasers operate canning facilities on the grounds of Weirton’s mill and commit to buy a minimum volume of steel from Weirton; (5) non-subject imports entered the U.S. market in a larger volume than subject imports from Japan during the period of investigation (POI) and non-subject imports occupied a greater market share than did imports from Japan; (6) most domestic producers, including petitioner Weirton, are located either on the East Coast or in the Midwest and focus their sales in regions near their mills; and (7) demand in the canning industry is affected by the harvest of agricultural goods used for canned foods.

¹19 U.S.C. §§ 1671d(b) and 1673d(b).

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

³19 U.S.C. § 1677(7)(A).

⁴19 U.S.C. § 1677(7)(C)(iii).

⁵19 U.S.C. § 1677(7)(C)(iii).

II. The Volume of Subject Imports

Section 771(7)(C)(I) of the Tariff Act of 1930 provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”⁶ Domestic apparent consumption declined by 5.1 percent from 1997 to 1998 and then increased by 3.2 percent from 1998 to 1999.⁷ During the POI, total domestic apparent consumption declined by 2.1 percent. U.S. shipments of subject imports increased from 182,157 tons in 1997 to 329,645 tons in 1999 and subject import market share rose from *** percent of apparent consumption in 1997 to *** percent of apparent consumption in 1999. Thus, subject import volume increased 147,488 short tons over the POI, a 3.9 percentage point increase in market share from a relatively small base. From 1998 to 1999, subject import market share increased about two percentage points.

A portion of the increase in subject import volume must be attributed to the domestic industry’s own actions. Several customers testified that they imported from Japan in large part because of inadequate delivery by domestic mills. Some of the purchasers submitted internal documents which purport to show poor performance by some domestic producers -- frequently ***.⁸ In response to a question I posed at the hearing, Weirton, the sole petitioner, supplied data reporting its delivery performance for 1997-2000.⁹ Those data show that Weirton’s delivery performance was ***, including delivery to those purchasers located on-site at Weirton’s mill.¹⁰

These delivery problems had their genesis in December, 1998, when Weirton shut down one of its two blast furnaces and began relying on imported slab. Weirton had difficulties sourcing the slab, which adversely affected its on-time delivery performance. Those problems were alleviated when Weirton re-started its second blast furnace in December, 1999. By February, 2000, Weirton’s on-time performance ***.¹¹ Thus, the purchasers’ allegations regarding Weirton’s ***.¹²

Weirton argues that, despite these difficulties, [t]he decline in U.S. shipments [in 1999] was clearly caused by increasing exports from Japan. As Mr. Riederer [Weirton’s CEO] stated at the hearing, in 1999, Weirton had the highest level of non-attainment on supply contracts it had ever experienced.¹³

⁶19 U.S.C. § 1677(7)(C)(i).

⁷CR & PR at IV-5, Table IV-4.

⁸See *** Memorandum to ITC dated November 22, 1999 *** 1998/1999 on-time performance). See also, Memorandum from *** to File dated January 6, 1998 ***; Memorandum from *** dated January 24, 2000 ***; Memorandum from *** dated October 3, 1998 ***.

⁹Pet. Post-hearing brief at Exhibit 5.

¹⁰*Id.* Those data show that, as a percent of items delivered, Weirton’s on-time performance *** percent in *** and, as a percent of tons delivered, it ***. This performance reached ***, when Weirton delivered *** on time. *Id.* See also, Memorandum from *** to File dated June 14, 1999 ***.

¹¹Pet. Post-hearing brief at Exhibit 5. See also, Tr. at 94 (Glyptis):

At the Commission conference last November [1999], I heard comments from some of our customers criticizing our delivery performance. These problems stem directly from the difficulties of running Weirton Steel with a one blast furnace operation being supplemented by slab purchases. After a very successful start up of the second blast furnace in December [1999], our on time delivery performance has been better than 90 percent throughout 2000, and we continue to aim for 100 percent on time delivery . . .

¹²I also note that, in the event Weirton’s on-time performance *** Letter from *** dated May 5, 1998; see also, Letter from *** dated May 12, 1999 ***.

¹³Pet. Post-hearing brief at 5 citing Tr. at 128.

Weirton set forth data showing the volume of non-attainment of contract purchase levels, which it claimed “increased along with the increase in Japanese shipments to the United States.”¹⁴

However, those data demonstrate that, while there may have been a coincident rise in subject imports and non-attainment of Weirton’s contractual volumes, only an insignificant amount of that volume might be attributable to subject imports. First, it is noteworthy that there was *** from Weirton under contract. Indeed, the total amount contracted for in 1999 was *** of Weirton’s net sales that year. In 1997, the amount contracted for *** of Weirton’s net sales that year. Thus, in 1999 the amount under contract was *** and, as a percent of Weirton’s net sales, it was ***. Purchasers did not *** from Weirton.

More significantly, Weirton alleged that, because of subject imports, *** were not in fact purchased. However, of that ***, about one third *** were contracted for but not purchased by ***. *** did not import from Japan. An additional *** were contracted for but not purchased by ***. *** also did not import from Japan. Similarly, Weirton contends that *** failed to purchase *** of its contracted for volume in 1999.¹⁵ However, *** imported only *** from Japan in 1999 and *** advised the Commission that it imported tin plate in 1999 in part due to ***.¹⁶

According to petitioner, *** failed to purchase *** of the *** contracted for in 1999. However, *** that it did not purchase the full amount contracted for from Weirton that year because of Weirton’s very poor on-time performance.¹⁷ As to *** Weirton’s poor performance in 1999 cannot seriously be disputed.¹⁸ In addition, *** (and perhaps other purchasers) had a financial incentive to meet the contractual volume requirements, as failure to do so ***.¹⁹

Thus, at most, only a small portion of the *** contracted for but not purchased from Weirton in 1999 could be attributed to subject imports.²⁰ Indeed, it is noteworthy that, ***²¹ actually purchased *** from Weirton in 1999 than it contracted for – *** the amount contracted for.²² Finally, regardless of where the purchasers obtained the replacement material, the record evidence makes clear that the domestic industry would have benefitted from those sales had its performance not deteriorated.

Domestic producers focus their sales in regions near their mills. As a result, few domestic producers ship to the West.²³ The reported percentage of shipments to the West over the POI was: 2.9 percent for ***; 5.2 percent for ***; 2.3 percent for ***; 10.2 percent for ***; 48.5 percent for ***; and 100 percent for ***.²⁴ Thus, ***, are the only domestic suppliers with significant shipments to the West.²⁵

¹⁴*Id.* Those data appear in Pet. Post-hearing brief at Exhibit 1.

¹⁵Exhibit 1 ***.

¹⁶*** questionnaire response at II-2. *** also cited ***. *Id.* *** advised that *** and that *** was disqualified at its West Coast facility due to *** *Id.* at III-26.

¹⁷*** percent of Weirton’s shipments to *** went to the on-site facility and that facility ***. CR at III-3.

¹⁸*See* Pet. post-hearing brief at Exhibit 5. There is some question regarding *** motivation in increasing its imports from Japan. As indicated above, *** alleges that it imported due to Weirton’s poor service and delivery performance in 1999. Petitioner takes the position that *** imported due to attractive subject import prices. However, under its contract with Weirton, *** Letter from *** dated May 5, 1998. Nevertheless, regardless of *** motivation in importing, at most, the total quantity that *** failed to purchase from Weirton was ***.

¹⁹*See* Letter from *** dated May 21, 1998 ***. In addition, these agreements also ***

²⁰As to ***, Weirton alleges only that *** below its contractual volume. ***. CR at III-3.

²¹Pet. post-hearing brief at A-6.

²²Pet. Post-hearing brief at Exhibit 1. Indeed, *** began purchasing subject imports in 1999, yet it *** in 1999 by ***. *** questionnaire response at II-1.

²³*See* *** questionnaire at 15 ***; facsimile from *** dated June 16, 1998 ***; Memorandum from *** dated January 24, 2000 ***; *** questionnaire at II-3; *see also*, ***, November 3, 1997 ***.

²⁴CR at III-2, fn. 2.

²⁵Office of Investigations Memorandum INV-X-144, Table 4-2-A.

However, the majority of imports from Japan are sold in the West. Competition with more than half of subject imports is attenuated for most of the domestic industry.²⁶ In addition, *** increased their shipments to the West from 1998 to 1999, and total domestic shipments to the West increased from *** tons in 1998 to *** tons in 1999. Thus, the *** domestic mills competing most directly with subject imports actually sold more product in 1999 than in 1998, even as subject import volume increased slightly.

Given the foregoing, and in light of the limited effect of subject imports on domestic prices, discussed below, I do not find that the volume of subject imports is significant.

II. The Effect Of Subject Imports On Domestic Prices

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

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

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.²⁷

Domestic prices declined during the period of investigation.²⁸ Prices of subject imports also declined throughout most of the POI.²⁹ Throughout the POI, subject imports undersold the domestic product. Indeed, the number of instances where the Japanese bid was below the U.S. bid increased over the POI.³⁰ Thus, on its face, it would appear that the increasing volume of lower-priced subject imports significantly adversely affected domestic prices during the POI, particularly in 1999.

However, the record evidence in this investigation is unique in several critical respects and a careful examination of the dynamics of the tin plate market compels my conclusion that the subject imports did not materially contribute to the decline in domestic prices. Domestic producers make the vast majority of their sales to end users under annual contracts.³¹ It is undisputed that every Fall ***, announces its price list for the upcoming year and that the *** list is quickly adopted as the industry-wide price list. Purchasers then attempt to negotiate discounts off of the industry's list price. The greater the discount, the lower the price paid.

Tin mill customers also reported reliability as the most important factor in choosing among suppliers.³² It is vital that the can manufacturers furnish product to the canneries precisely when the fruits and vegetables are ready to be packed. Consequently, on-time delivery is essential for the can manufacturers, the purchasers of tin plate. For this reason, the domestic producers' proximity to their customers better positions them to satisfy fluctuations in can makers' needs. Therefore, domestic

²⁶Some portion of the subject imports also include product that cannot be produced domestically. *See, e.g.*, *** questionnaire at IV-5.

²⁷19 U.S.C. § 1677(7)(C)(ii).

²⁸CR & PR at Tables V-1-V-13.

²⁹CR & PR at Tables V-1-V-13. The Department of Commerce's final antidumping duty margins for the specified producers/exporters are 95.29 percent for Kawasaki, 95.29 percent for Nippon, 95.29 percent for NKK, 95.29 percent for Toyo Kohan and 32.52 percent for all others. 65 FR 39364 (June 26, 2000).

³⁰CR at V-22; PR at V-8.

³¹CR at II-1, V-4; PR at II-1, V-3.

³²CR at II-6; PR at II-4.

producers are able to maintain a price premium over all imported merchandise. In addition, purchasers have no incentive to substitute away from reliable suppliers.³³ The stability of supplier-purchaser relationships is evidenced by the prevalence of long term relationships between purchasers, especially larger purchasers, and the domestic producers. Indeed, five major purchasers have facilities located at, or next to, Weirton's mill.

According to respondents, and some of the purchasers who testified at the hearing, purchasers first negotiate with the domestic producers to fulfill the majority of their needs and then negotiate with the foreign producers to supplement their needs.³⁴ Petitioners assert that regardless of when domestic price negotiations occur, those negotiations are not conducted independent of external price information regarding subject imports. Nevertheless, regardless of the timing of the various negotiations, the lack of a nexus between subject import prices and domestic prices is reflected in the competitive dynamics of the domestic tin plate market.

First, it appears that the long term annual contracts, which cover the vast majority of product sold, require the U.S. mills to meet **only other domestic prices**. For example,

- *** December 29, 1998 contract with *** states: ****"
- *** August 31, 1999 agreement with *** states: ****³⁵

*** evidently has routinely used such a clause in its supply contracts. Other documents demonstrate that other domestic producers utilize substantially similar contractual clauses.³⁶ Thus, it appears that this language is customary in the industry. If so, for product sold under long term contracts, it would stand to reason that the import price does not play a direct role in the annual negotiations. If a domestic producer's contract expressly specifies that it must meet only the price of its domestic competition, then the domestic mill is free to limit its negotiation to the prices offered by other domestic competitors.

The question then is whether, despite such clauses, subject imports nevertheless play a role in price negotiations under such contracts. Remarkably, when asked in the questionnaires whether prices were reduced or whether price increases were rolled back because of subject imports, *** answered "no," and *** indicated it did not roll back price increases because of imports, but did not respond regarding price reductions. Thus, these major producers advised that subject imports did not affect their prices. *** did not answer those questions. Consequently, only three of the seven domestic producers, representing about 45 percent of domestic production, are even *alleging* that subject import prices affected their prices.

Indeed, as mentioned above, in the Fall of each year *** announces its price list for the upcoming year and that list is then adopted by the industry.³⁷ In 1999, *** announced that its 1999 price list would

³³CR at II-10; PR at II-5.

³⁴ *** , for example, submitted a document and certain telephone notes indicating that it negotiates first with the domestic mills and then with importers. Those notes allegedly show contacts with the domestic mills from January to April, 1999. There is a single reference to subject imports. A February 8, 1999 *** phone note states that *** contacted *** because *** wanted *** That reference indicates that *** was gathering intelligence on the status of *** negotiations with the domestic mills. It does not evidence negotiations regarding price or volume for 1999. In the past, negotiations with the domestic mills had been concluded by February and *** may have thought as much when it inquired as to where those negotiations stood. In any event, this telephone note does not alter my conclusion regarding the absence of a material effect by subject imports on domestic prices, given the overwhelming evidence demonstrating the lack of nexus between subject import prices and domestic prices.

³⁵See also, Pet. Post-hearing Brief at Exhibit 27, letter from *** dated March 8, 1998 ***

³⁶See, e.g., Letter from *** dated May 12, 1999.

³⁷CR at V-4; PR at V-3.

be unchanged from 1998. Thus, ***, advised that subject imports did not cause reductions in price or roll backs in price increases at any time during the POI, including in 1999.

Petitioner also conceded that subject import prices are not cited in its annual negotiations.³⁸ In addition, four major purchasers testified that import prices do not have a bearing on domestic prices.³⁹ In light of this testimony, I requested that petitioner Weirton, the four purchasers who testified (Ball, Silgan, U.S. Can, and B-Way), and the Japanese respondents submit any and all documents relating to price and negotiations between the parties from 1997 to 1999. Voluminous documents were submitted in response to that request.

Weirton concedes that none of its documents reference subject imports generally, much less subject import prices.⁴⁰ In addition, there was only a single document supplied by a purchaser that reflects that subject imports were referenced in a discussion with a domestic mill and that document does not indicate that specific import prices were discussed.⁴¹ By contrast, the domestic mills frequently are discussed.⁴²

The remaining question for me then is whether the pricing data on the record reveals that subject imports significantly affected domestic prices, notwithstanding the contracts, the witness testimony, the voluminous documents, and the questionnaire responses of ***. As to the questionnaire pricing data, because the industry's list prices did not change from 1998 to 1999, it is appropriate to look at the changes in discount rates and reported per ton prices from 1998 to 1999. Customer-by-customer, those data show a lack of nexus between subject import prices and domestic prices.⁴³

- For ***, the domestic price generally *increases* at the *** facilities where *** purchases subject imports (even as the subject import price declines) and the domestic price generally *decreases* at ***, where *** does not purchase subject imports.⁴⁴
- *** domestic discount increased from *** percent in 1998 to *** percent in 1999, an increase of

³⁸Tr. at 150-151 (Reiderer) (“Do I get specific quotes from Japanese producers? No. Do I get specific quotes even from customers saying this is the Japanese price of the product? No. I only know that other competitors are quoting different kinds of prices. I don’t know specifically who’s doing it, so consequently, I could not identify that it was a specific Japanese product that was coming in and being competitive or pulling down prices. You only know after the fact.”)

³⁹See, e.g., Tr. at 225 (Yurco) (“The domestic mills do not recognize foreign mill prices as competitive situations that they can -- they choose to meet or are being asked to meet. They flatly, absolutely do not recognize it.”). In this regard, it is critical that two of the four purchasers who testified did not buy significant quantities of Japanese product. In fact, *** had no purchases of subject product and *** only purchased a small volume of imports from Japan. See also, Memorandum from *** dated December 16, 1999 ***; *** Memorandum of ***; *** (November 21, 1997)***.

⁴⁰Pet. Post-hearing brief at Exhibit 27 ***.

⁴¹Memorandum from *** dated February 9, 1998 ***.

⁴²The following is typical of the documents submitted:

Memorandum from *** dated January 26, 1998. See also, *** (undated, but apparently 1998) ***; Memorandum from *** dated December 11, 1998 ***; Memorandum from *** to File dated January 26, 1998 ***, *** (undated, but from 1998)***

⁴³CR at Table V-16 (Margin of Underselling for Tin- and Chromium-Coated Steel Sheet from Japan, 1997-2000).

⁴⁴See generally, *** questionnaire (*** Declaration).

*** percentage points. *** did not import subject product.

- *** domestic discount increased from *** percent in 1998 to *** percent in 1999, a *** percentage point increase in the discount. Thus, *** domestic discount increased by less than did *** domestic discount even though *** imported subject merchandise.⁴⁵
- *** domestic price *** from 1998 and 1999. Thus, *** domestic price ***, even though *** began importing subject product in 1999.
- *** domestic discount rate *** from 1998 to 1999, ***. Thus, even though it imported some subject product, *** than did *** price.
- There is no comparable data for *** for 1998. However, the underselling margin for *** in 1997 to *** in 1999. As discussed below, *** price in 1999 reflects discounts it received due to *** that year.⁴⁶ Regardless of the amount of the ***, however, the margins of underselling to *** are of a magnitude commensurate with that received for all offshore material as a result of the longer lead times associated with imports.⁴⁷
- The remaining customers did not purchase significant quantities of tin plate, though it appears that subject imports actually oversold domestic product to one of the two customers for which comparisons could be made.⁴⁸

In addition, as referenced above, *** competes most directly with the majority of subject imports. A comparison of *** average prices to total U.S. average prices over the POI reveals that *** average price was the same as the total U.S. average price until 1999 when *** the total U.S. average price by ***.⁴⁹ Thus, in 1999, *** Indeed, *** average price for calendar year 1999 is actually *** This trend means that ***.⁵⁰

Usually the Commission is faced with a market in which purchasers reference subject import prices in an attempt to leverage down, or stem increases in, domestic prices. However, as discussed above, the record in this investigation demonstrates that entirely different market dynamics are at work. Based on the foregoing, I conclude that the evidence is overwhelming and compelling that subject imports did not materially contribute to domestic price declines during the POI.

The statute requires that I determine whether the subject imports materially contributed to the price decline in the U.S. market. The statute does not require a separate assessment of each of the causes that collectively resulted in the price declines. Nevertheless, I considered the factors other than subject imports that appear to have driven prices down in 1999. First, negotiations for the 1999 contracts commenced in the Fall of 1998 and continued into the Spring of 1999. After increasing slightly from

⁴⁵From 1997 to 1999, *** discount *** percentage points and *** percentage points.

⁴⁶See Letter from *** dated March 24, 1999.

⁴⁷See CR at II-9; PR at II-4; Hearing Transcript at 233-235. The purchase of imported product was also found to present greater risk of loss through damage than domestic product, thereby justifying a price discount.

⁴⁸See CR at Table V-16 ***.

⁴⁹See Pet. Post-hearing Brief at Table E2. I note that the total U.S. average price includes *** average price and therefore is skewed upwards. Thus, the gap between *** price and the Eastern mills' price was likely greater than *** per ton.

⁵⁰Finally, with limited exceptions, the lost sales and lost revenue allegations were not confirmed. CR at V-24-25.

1996 to 1997, domestic apparent consumption declined in each quarter of 1998, reaching a period low in the fourth quarter of 1998.

Moreover, the competition among the domestic mills was intense for sales to the concentrated downstream market. Since 1992 nearly half of the canning companies then in existence left the market. Only 26 canners remained by 1999.⁵¹ Both petitioner and respondents agree that six of the remaining canning companies comprise 78 percent of the total market.⁵² I took into account the fact that the bulk of the consolidation of the purchaser base occurred before the POI.⁵³ However, regardless of the timing of the consolidation, the clear result is that today the purchasers are highly concentrated and have very significant bargaining power.⁵⁴ Indeed, petitioner conceded as much.⁵⁵ By way of example, in June, 1998 ***.⁵⁶ In an environment of reduced demand, and with purchasers exerting significant market power, price leader *** announced that its 1999 price list would be unchanged from 1998.⁵⁷

In addition, if *** on-time performance fell below certain required levels, ***.⁵⁸ This *** for poor performance is not limited to ***. *** and *** apparently both had similar problems.⁵⁹ Thus, some of the 1999 price decline was the direct result of the domestic industry's poor performance.⁶⁰

In addition, Bethlehem had a planned outage and another unplanned outage in 1999. In late 1998, U.S. Steel rationalized production between its mills in Fairless Hills, Pennsylvania and Gary, Indiana.⁶¹ At this same time, Posco engaged in de-bottlenecking to improve its quality. Those operational changes must have affected the industry's net sales and net sales value in 1999.

⁵¹Res. Prehearing Br. at 8.

⁵²Pet. Prehearing Br. at 16-18 and Res. Prehearing Br. at 10-11.

⁵³Pet. Prehearing Br. at 19. Respondents, for their part, claim that even small changes in purchaser market power as a result of consolidation will affect prices exponentially when the market is so concentrated. Hearing Transcript at 269-270 (Prusa).

⁵⁴See, e.g., Memorandum from *** dated October 11, 1999 *** Memorandum from *** to File dated December 11, 1998.***.

⁵⁵See Memorandum from Christopher Cassise and Sandra Rivera to File dated May 22, 2000 at 5 ***. See also, *** questionnaire at 16 ***.

⁵⁶Thus, the industry's decline in net sales value in 1999 reflects to some extent the results of *** acquisition of ***. *** documents report that at least *** thought the price reduction to *** would amount to a *** percent industry-wide price reduction. See Memorandum of *** While that acquisition occurred ***, the full annual industry-wide effect of that event first appeared in the 1999 net sales value.

⁵⁷I recognize that in a market in which purchasers have significant negotiating power the effects of subject imports -- representing an additional source of supply -- might be amplified. However, there is no evidence that the purchasers in fact used the subject imports -- or any imports for that matter -- as leverage in price negotiations with the domestic mills.

⁵⁸See Letter from *** dated March 24, 1999.

⁵⁹See Letter from *** dated August 26, 1998:

See also, Memorandum from *** to File dated February 9, 1998 ***; Memorandum of ***. I note that these types of arrangements generally appear to have commenced in 1998. See, e.g., Memorandum from *** to File dated May 14, 1998 ***.

⁶⁰Although it appears to have involved a relatively small volume of product, there also was some additional concern about Weirton's quality, including its ability to ***. For example, *** requested a ***. Weirton responded that it *** Letter from *** dated April 13, 1998. In response, Weirton *** Memorandum from *** dated April 13, 1998. According to Weirton, this would ***. *Id.* Thus, a portion of the decline in price and net sales value was due to Weirton's inability to meet quality requirements.

⁶¹***. See *** questionnaire at 3.

Finally, non-subject import volume and market share exceeded subject import volume and market share over the POI. 93 percent of non-subject imports entered the East Coast and prices for most non-subject imports were below both subject import prices and domestic prices.⁶²

III. The Impact of Subject Imports on the Domestic Industry

The domestic industry performed poorly during the POI and its performance worsened in 1999. The domestic industry's poor financial performance in 1999 resulted from declining net sales and declining net sales value combined with stable costs.⁶³ I took into account the fact that this poor performance coincides with an increase in subject imports and that subject imports undersold the domestic product during the POI.

Nevertheless, because I find that the volume of subject imports was not significant and that subject imports did not materially contribute to price declines during the POI, I determine that subject imports did not materially injure the domestic industry producing tin- and chromium-coated steel sheet.

IV. Threat of Material Injury to The Domestic Industry

Section 771(7)(F) of the Tariff Act of 1930, as amended, directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."⁶⁴ The Commission may not make such a determination "on the basis of mere conjecture or supposition,"⁶⁵ and considers the threat factors "as a whole." In making my determination, I have considered all factors that are relevant to these investigations.⁶⁶ Based on an evaluation of the relevant statutory factors, for the reasons described below, I do not find that the domestic industry is threatened with material injury by reason of subject imports from Japan.

There is no record evidence that would lead me to conclude that, while subject imports have not materially contributed to the domestic industry's current condition, they will do so in the imminent future. Indeed, if anything, subject imports should have less of an impact in the imminent future. Japanese capacity utilization is high and Weirton, having re-started its second blast furnace, is positioned to improve its performance and recapture any sales lost due to poor on-time performance. Imports from Japan into the West have held relatively constant as a percent of their total imports for roughly ten years. I do not anticipate that ratio changing.⁶⁷ Thus, I would not expect subject import volume to increase imminently or to shift to a greater emphasis away from the West. Nor do I anticipate any changes in the nature of competition such that subject imports will imminently have a significant effect on domestic prices. Consequently, I conclude that subject imports do not threaten to materially harm the domestic industry producing tin- and chromium-coated steel sheet.

⁶²Office of Investigations Memorandum INV-X-144, Table 2A; CR & PR at V-1-V-13.

⁶³CR & PR at Table VI-2.

⁶⁴19 U.S.C. §§ 1673b(a) and 1677(7)(F)(ii).

⁶⁵19 U.S.C. § 1677(7)(F)(ii). An affirmative threat determination must be based upon "positive evidence tending to show an intention to increase the levels of importation." *Metallwerken Nederland B.V. v. United States*, 744 F. Supp. 281, 287 (Ct. Int'l Trade 1990), citing *American Spring Wire Corp. v. United States*, 590 F. Supp. 1273, 1280 (Ct. Int'l Trade 1984). See also, *Calabrian Corp. v. United States*, 794 F. Supp. 377, 387-88 (Ct. Int'l Trade 1992), citing H.R. Rep. No. 1156, 98th Cong., 2d Sess. 174 (1984).

⁶⁶19 U.S.C. § 1677(7)(F)(i). Factors I and VII are inapplicable since these investigations do not involve a countervailable subsidy or the importation of agricultural products. See 19 U.S.C. § 1677(7)(F)(iii)(I).

⁶⁷Res. Post-hearing brief at Volume II, Exhibit 1.

**DISSENTING VIEWS OF
COMMISSIONER THELMA J. ASKEY**

Based on the record in these investigations, I determine that an industry in the United States is neither materially injured nor threatened with material injury by reason of imports of tin- and chromium-coated steel sheet (“tin mill products”) from Japan. I discuss the reasons for my determination below. Because I concur with the Commission majority’s findings concerning the domestic like product and domestic industry, I join their opinion with respect to those issues.

I. NO MATERIAL INJURY BY REASON OF LTFV IMPORTS OF TIN MILL PRODUCTS FROM JAPAN

In the final phase of antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the subject imports under investigation.¹ In making this determination, the Commission must consider the volume of the subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.² The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”³ In assessing whether the domestic industry is materially injured by reason of subject imports, the Commission considers all relevant economic factors that bear on the state of the industry in the United States.⁴ No single factor is dispositive, and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”⁵

A. Conditions of Competition

The U.S. market for tin mill products is characterized by the following conditions of competition:

First, tin mill products are primarily used in the production of cans and containers for the food processing industry; a smaller portion is used in the production of non-food containers, such as paint cans, aerosol cans and oil filters.⁶ Accordingly, demand for tin mill products in the U.S. market is predominantly derived from demand for cans used in the food processing industry.⁷ As a result of this linkage to demand in the food processing industry, demand for tin mill products is also indirectly

¹ 19 U.S.C. § 1673d(b).

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

³ 19 U.S.C. § 1677(7)(A).

⁴ 19 U.S.C. § 1677(7)(C)(iii).

⁵ 19 U.S.C. § 1677(7)(C)(iii).

⁶ CR at II-1, PR at II-1.

⁷ CR at II-3, PR at II-2.

dependent on the size of the U.S. food and vegetable crop⁸ and fluctuations in the supply of agricultural products can have a significant effect on demand for tin mill products. Nonetheless, most purchasers reported that agricultural production in the United States had little or no impact on demand for cans and tin mill products during the period of investigation.⁹

Demand for tin mill products in the United States has fluctuated somewhat throughout the period of investigation but has generally remained stable. Apparent U.S. consumption of tin mill products declined somewhat between 1997 and 1998, decreasing from *** million short tons in 1997 to *** million short tons in 1998. U.S. consumption then grew somewhat between 1998 and 1999, increasing to *** million short tons in that year.¹⁰ Consumption has remained essentially flat between interim 1999 and 2000, staying at the *** thousand short ton level during the first quarter of each year.¹¹

Second, the domestic industry consists of seven producers, six of whom are integrated steel producers that produce the flat-rolled material used as the raw material input for their tin mill production process. Each of the integrated firms produces a relatively similar share of domestic production; during 1999, for example, all six integrated firms had a share of domestic production that was in the *** to *** percent range. Only one domestic producer, Ohio Coatings, is not an integrated producer; that company coats flat-rolled steel purchased from other steel producers, including its parents, Wheeling Pittsburgh and the Korean producer Dongyang.¹² Ohio Coatings entered the tin mill market as a start-up operation in January 1997 and has accounted for an increasing share of domestic production during the period of investigation.¹³ The record indicates that Ohio Coatings has a ***.¹⁴

Third, purchasers of tin mill products have become significantly more concentrated during the past decade. In 1990, according to petitioners, the six largest purchasers accounted for only *** percent of tin mill consumption.¹⁵ In 1999, however, the six largest tin mill purchasers accounted for nearly three-quarters of apparent domestic consumption of tin- and chromium-coated steel sheet.¹⁶ The significant consolidation and increasing concentration of purchasers has continued during the period of investigation, with several of the largest tin mill purchasers acquiring smaller purchasers or joining

⁸ CR at II-3, PR at II-2.

⁹ CR at II-3, PR at II-2.

¹⁰ CR and PR at Table IV-4.

¹¹ CR and PR at Table IV-4.

¹² CR at VI-4, PR at VI-1, n. 2.

¹³ See CR and PR at Table VI-3. Ohio Coating's net sales quantities increased from *** thousand short tons in 1997 to *** thousand short tons in 1998 to *** thousand short tons in 1999. Their net sales quantities increased even further between interim 1999 and 2000, rising from *** thousand short tons in 1999 to ***. Ohio Coating accounted for *** percent of domestic production in 1999.

¹⁴ CR and PR at Table VI-3 & VI-10, n. 3. ***

¹⁵ CR at V-6, PR at V-4.

¹⁶ CR at V-6, PR at V-4.

purchasing alliances.¹⁷ As a result, the six largest tin mill purchasers have gained significant market power in the tin mill market and have used this market power to obtain lower prices from their suppliers.¹⁸ In fact, an official at Weirton explicitly recognized the impact of consolidation on lowering prices during the course of this proceeding, informing Commission staff that the result of purchaser consolidation in the industry was a greatly diminished power on the part of the suppliers to negotiate and a general decrease in market prices.¹⁹

Fourth, the large majority of tin- and chromium-coated steel sheet is sold in the United States pursuant to annual contracts that establish annual prices and target volume for annual purchases by a particular customer. Purchasers typically negotiate these contracts with both domestic producers and importers during the fourth quarter of each year for the following calendar year.²⁰ Although negotiations with domestic and foreign suppliers can and do often occur simultaneously, the record indicates that purchasers generally keep their domestic supplier negotiations separate from their foreign supply negotiations.²¹ For example, several purchasers specifically reported that they negotiate for their supply contracts with domestic producers first, then turn to Japanese and other producers after finalizing their domestic contracts.²² Moreover, the large volume of sales negotiation documents supplied by both the domestic industry and foreign suppliers in this case contain little evidence indicating that purchasers use subject import prices to drive down domestic prices during the course of their negotiations with domestic suppliers.²³

Fifth, the tin mill market in the United States is highly regionalized. Due to freight cost issues, domestic producers ship the large bulk of their production to purchasers located less than five hundred miles from the producers' facilities.²⁴ This regionalization of supply is most pronounced in the Western region of the United States, where two domestic suppliers, ***, account for nearly *** percent of

¹⁷ CR at V-6-7, PR at V-4-5. For example, *** acquired the can-making plants of *** in ***, thus increasing its tin mill purchases by *** thousand tons. Similarly, *** entered into a buying alliance with ***, while *** acquired the *** plants of ***. Purchasers' Questionnaire Responses.

¹⁸ CR at V-7, PR at V-5.

¹⁹ Staff Report on Trip to Weirton, dated May 22, 2000, at 4.

²⁰ See, generally, Domestic Producer's Questionnaire Responses at Question IV-A-5(i).

²¹ CR at V-6, PR at V-4.

²² CR at V-6, PR at V-4. For example, *** reported that *** Similarly, *** stated that *** Finally, the procurement officer at *** reported that *** Purchaser Questionnaire Responses of *** at Question V-6; Purchaser Questionnaire Response of *** at 7.

²³ See generally Petitioners' Posthearing Brief at Ex. 27; Japanese Respondents Posthearing Brief at Volume III and IV.

²⁴ CR at III-2, PR at III-2. The domestic producers report shipping approximately *** percent of their shipments to purchasers located less than 101 miles from their facilities, approximately *** percent of their shipments to purchasers located between 101 and 300 miles from their facilities, and approximately *** percent of their shipments to purchasers located between 301 and 500 miles from their facilities. Producer Questionnaire Responses at Question IV-A-7(b).

domestic shipments in 1999.²⁵ The record indicates that the other five domestic suppliers ship only a small percentage of their tin mill production to the Western United States.²⁶ Moreover, the record indicates that nearly one-half of tin mill imports from Japan enter the Western market,²⁷ despite the fact that the Western market accounts for only a quarter of total U.S. consumption of tin mill products.²⁸

Sixth, reliability in meeting delivery schedules is the most important purchase factor for U.S. purchasers, apparently because tin mill purchasers are subject to contractual delivery requirements for their own customers.²⁹ Accordingly, tin mill purchasers place a premium on their suppliers' ability to respond quickly to changes in their needs. Since domestic producers are closer than foreign suppliers to domestic customers, they are better able to meet this need and are therefore able to command a price premium over subject and non-subject imported merchandise.³⁰ Domestic producers report that the lead times for their merchandise vary between 6 to 12 weeks while lead times for imports vary from 2.5 months to 7 months, with most importers reporting lead times of between 3 and 4.5 months.³¹ In fact, all responding purchasers reported that the domestic product was considered superior to the subject imports with respect to lead times.³² Although the domestic producers generally have a reputation for having better lead times than the subject imports, a number of purchasers reported that they experienced significant delivery delays for domestic product during 1998 and 1999.³³

Seventh, there is a limited level of substitutability between the domestic and subject merchandise. In addition to the fact that the domestic merchandise is unanimously rated as being superior to the subject merchandise in terms of delivery lead time and availability, purchasers also consistently rate the subject imports as superior to the domestic merchandise with respect to quality and product consistency.³⁴ Moreover, nine out of sixteen reporting purchasers stated that the subject and

²⁵ See also CR at III-2, n. 2, PR at III-2, n. 2.

²⁶ *Id.* The other producers report shipping between *** and *** percent of their shipments to the Western regions of the United States, which are defined as being west of the Rocky Mountains.

²⁷ CR and PR at Table IV-4-2a.

²⁸ The record indicates that, in 1999, there were 11.4 thousand short tons of imports of tin mill products from non-subject sources, 162 thousand short tons of imports from Japan, and *** thousand short tons of tin mill products shipped from domestic sources into the Western United States. Investigations Memorandum INV-X-144; CR at Table IV-2a. Thus, total apparent Western consumption was approximately *** thousand tons, which compares with a total U.S. consumption figure of *** million tons in 1999. CR and PR at Table IV-4; CR at Table IV-2a.

²⁹ CR at II-6, PR at II-4.

³⁰ CR at II-6-9, PR at II-4-5.

³¹ CR at II-13, PR at II-7.

³² CR and PR at Table II-5.

³³ See, e.g. Purchaser Questionnaire Responses of ***, ***, and *** at Question II-2.

³⁴ Six of eight purchasers rated the Japanese imports as being superior to the domestic merchandise with respect to product consistency, while seven of eight purchasers rated the Japanese imports as being superior to the domestic merchandise in terms of product quality. CR and PR at Table II-4.

domestic product could not be used in the same applications.³⁵

Eighth, purchasers rate delivery time, availability, product consistency, product quality and reliability of supply as being the most important factors in the purchase decision.³⁶ This suggests that price is not normally the decisive factor with respect to a purchaser's choice of a vendor. In fact, purchasers rate price as only the seventh most important factor in the purchase decision, ranking it behind reliability of supply, delivery time, availability, consistency, quality and technical service and support.³⁷

Ninth, several major purchasers operate canning facilities on or near the grounds of Weirton's West Virginia mill. Four canning firms lease facilities at Weirton's Half Moon tin mill facility while one other purchaser operates a can production facility near the Half Moon plant. These five purchasers are subject to contracts requiring them purchase *** percent of their tin mill needs at these facilities from Weirton.³⁸ The contracts for these sales also provide that Weirton is obligated to ***.³⁹ Sales to these companies account for as much as *** percent of Weirton's tin mill plate production.

Finally, throughout the three full years of the period of investigation, nonsubject imports held a somewhat larger share of the market than the subject imports from Japan. The market share of the non-subject imports grew from *** percent in 1997 to *** percent in 1998 and then to *** percent in 1999.⁴⁰ The market share trends of the subject imports were similar during this period, increasing from *** percent in 1997 to *** percent in 1998 and then to *** percent in 1999.⁴¹ The market share of the subject imports was higher than the non-subject imports only in interim 2000, when the subject import share of the market was *** percent while the non-subject market share was *** percent.⁴² Throughout this period, the average unit values of the non-subject imports were lower than the average unit values of the subject imports, usually significantly so.⁴³

I have taken all of these conditions of competition into account when performing my analysis in this case.

B. Volume of the Cumulated Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative

³⁵ CR at II-12, PR at II-7.

³⁶ CR and PR at Table II-4.

³⁷ CR and PR at Table II-4.

³⁸ CR at V-5, PR at V-3-4.

³⁹ CR at V-5, PR at V-3-4.

⁴⁰ CR and PR at Table IV-4.

⁴¹ CR and PR at Table IV-4.

⁴² CR and PR at Table IV-4.

⁴³ CR and PR at Table C-3.

to production or consumption in the United States, is significant.”⁴⁴

In light of the conditions of competition in the tin mill products market, I find that the volume and market share of the subject imports of tin mill products from Japan are not significant. In making this finding, I note that the volume and the market share of the subject imports did increase consistently throughout the period of investigation. The quantity of the subject Japanese imports increased from 182 thousand short tons in 1997 to 246 thousand short tons in 1998 and then to 336 thousand short tons in 1999, for an increase of approximately 155 thousand tons during the three full years of the period.⁴⁵ The market share of the subject Japanese imports also increased during the period of investigation, rising from *** percent in 1997 to *** percent in 1998 and then to *** percent in 1999.⁴⁶ Nonetheless, I believe that the market share and volume increases exhibited by the subject imports during the period of investigation have been relatively modest, especially given that the domestic industry retains a dominant share of this market and that non-subject imports have exhibited similar volume and market share increases during the period.⁴⁷

Moreover, and perhaps more to the point, the record of this investigation clearly indicates that these modest volume and market share increases were not due, in significant part, to LTFV pricing competition from the subject imports. On the contrary, the record clearly indicates that purchasers generally began sourcing more merchandise from the Japanese primarily for reasons that had nothing to do with price.

First, the record indicates that several large purchasers shifted small volumes of their purchases to subject and non-subject import sources primarily because domestic producers were unable to supply them with tin mill products of sufficient quality in a timely fashion. For example, ***, one of the largest tin mill purchasers in the United States, accounted for the *** increase in subject import purchases by any purchaser during the POI.⁴⁸ Nonetheless, in its purchaser questionnaire response, *** clearly explained that it shifted a portion of its purchases to the subject imports because its domestic suppliers had been unable to provide the company with merchandise in a timely fashion in late 1998 and early 1999.⁴⁹ As *** reported in its questionnaire response, it discovered that ***⁵⁰ *** also reported that it faced similar delivery time issues with respect to its domestic suppliers *** and ***. As a result, the purchaser reported, it chose to increase shipments of merchandise from its more reliable subject and non-subject suppliers.⁵¹ Moreover, *** added, its decision to shift more business to Japanese suppliers was consistent with its objective of sourcing more merchandise for its increasingly global operations from

⁴⁴ 19 U.S.C. § 1677(7)(C)(i).

⁴⁵ CR and PR at Table IV-2. Between interim 1999 and interim 2000, the quantity of the subject imports increased from 91.4 thousand tons to 98.8 thousand tons.

⁴⁶ CR and PR at Table IV-4. The market share of the subject imports increased between interim 1999 and interim 2000 as well, from *** percent to *** percent.

⁴⁷ CR and PR at Table IV-4.

⁴⁸ CR and PR at Table II-2.

⁴⁹ Purchaser Questionnaire Response of *** at Question II-2.

⁵⁰ *Id.*

⁵¹ *** Purchasers' Questionnaire Response, at Question II-2.

globally oriented suppliers.⁵² In its questionnaire response, *** noted that the domestic producers were simply not interested in pursuing its European business. Clearly, given these considerations, ***'s decision to shift a somewhat small percentage of its tin mill purchases to the Japanese imports cannot be attributable to unfair import pricing. I note that the increase in ***'s purchases of subject imports accounts for nearly *** of the total increase in subject import volume during the period of investigation.⁵³

Other large tin mill purchasers also reported that they shifted a small portion of their purchases away from domestic producers in 1998 and 1999 due to the producers' inability to meet the purchasers' quality and on-time delivery requirements. For example, *** – also one of the largest tin mill purchasers --only began purchasing tin mill products from Japan in 1999 because it disqualified two domestic mills, ***, when they were unable to meet ***'s quality and delivery requirements.⁵⁴ Moreover, *** noted, other domestic suppliers, such as ***, were unwilling to supply *** with product from their Eastern U.S. facilities to replace the disqualified product.⁵⁵ As a result, *** stated, it was forced to purchase approximately *** thousand tons of Japanese steel in 1999.⁵⁶ This increase in subject sourcing by *** represents approximately *** percent of the *** thousand ton increase in Japanese import volumes during the period from 1997 to 1999.

Similarly, the large purchaser *** reported that it had dropped *** as a supplier during the period of period of investigation because of quality concerns.⁵⁷ At the same time that *** was reducing its purchases of tin mill products from *** from *** thousand short tons in 1998 to *** thousand short tons in 1999, *** was also increasing its purchases of subject imports from *** thousand short tons in 1998 to *** thousand short tons.⁵⁸ This shift in sourcing suggests that ***'s decision to source more merchandise from the subject producers was due in significant part to quality and service issues on the domestic producers' part. Moreover, according to ***, it disqualified one Japanese producer because of poor performance, which indicates that ***'s purchasing decisions are based primarily on quality and service issues, not price.⁵⁹

Even the large purchaser ***, the only purchaser who stated that it began sourcing merchandise from foreign sources for price reasons, reported that its sourcing decisions in 1999 and 2000 were motivated by a concern "with supply disruptions at U.S. mills and quality and service issues" at other

⁵² *Id.*

⁵³ During the period of investigation, *** increased its purchases of tin mill products from Japan by approximately *** thousand tons. CR and PR at Table II-1. Because the volume of the subject imports increased by approximately *** thousand short tons during the period of investigation, *** accounted for nearly *** of the total increase in import volumes during the period. CR and PR at Table IV-4.

⁵⁴ *** Purchaser Questionnaire Response at Question II-2.

⁵⁵ *Id.*

⁵⁶ *** Purchaser Questionnaire Response at Question II-2; CR and PR at Table II-1 & V-2.

⁵⁷ *** Purchaser Questionnaire Response at Question II-2.

⁵⁸ CR and PR at Table V-9.

⁵⁹ *** Purchaser Questionnaire Response at Question II-2.

domestic mills.⁶⁰ However, I would note that *** also increased its purchases of domestic merchandise significantly in 1999,⁶¹ at the same time that it first began sourcing from foreign sources, which suggests that the increase in its purchases from subject sources did not have a significant impact on domestic volumes in 1999.

Finally, *** – the final large purchaser that shifted some merchandise to subject sources during the period⁶² -- made very clear in its questionnaire response that the shift in its sourcing patterns was not due to LTFV pricing by the subject imports. Instead, *** reported that the slight increase in the volume of merchandise sourced from Japan was the result of a number of non-price factors, such as the company's desire to reduce their number of global suppliers and its decision to shift a significant proportion of their can production operations from *** to their *** facility, which has been traditionally been supplied by the Japanese firms ***.⁶³ In fact, in its questionnaire response, ***'s chief procurement operator stated that ***'s allegations of unfair "competition with Japanese mills struck *** as quite odd... *** that was not *** impression of market dynamics" in the tin mill market.⁶⁴ On the contrary, the *** official reported, it had been ***'s experience that the domestic producers competed primarily with each other for certain segments of ***'s business, while the subject Japanese producers *** competed with each other for other segments of the company's business.⁶⁵ According to the official, winning business from *** was "about long term supplier relationships," not the "lowest price."

Given all of the foregoing, I find that the record clearly indicates that the large bulk of the modest volume and market share increases obtained by the subject imports during the period of investigation were the result of non-price-related purchasing decisions and cannot be attributed to LTFV pricing.

Moreover, as further support for my finding that these small volume and market share increases were not significant, I note that nearly half of all subject imports and nearly half of the increase in subject import volumes occurred in the Western region of the United States during the period from 1997 to 1999. Unlike the Eastern United States, which is served primarily by six of seven domestic producers, the Western tin mill market is served primarily by two domestic producers, ***. Although the bulk of the subject import volume increase occurred in the Western market, the record indicates that the shipments of these two producers to the Western region increased during the period from 1997 to 1999,⁶⁶ which suggests that the majority of the subject import volume changes did not have a significant volume effect on the two producers who focused on that region during the three year period of investigation.

⁶⁰ *** Questionnaire Response at II-2.

⁶¹ *** Questionnaire Response at Question II-1 (showing that *** increased its purchases of domestic merchandise from *** thousand tons in 1997 to *** thousand tons in 1999.)

⁶² During the period, *** reported that it increased its purchases of tin mill products from Japan from *** thousand short tons in 1997 its fiscal year 1998 (ending April 1998) to *** thousand short tons in its fiscal year 2000 (ending April 2000). *** Questionnaire Response at Question II-1.

⁶³ *** Questionnaire Response at Affidavit of ***, at 2-3.

⁶⁴ *** Questionnaire Response at Affidavit of ***, at 4.

⁶⁵ *** Questionnaire Response at Affidavit of ***, at 5-6.

⁶⁶ The quantity of domestic shipments made by the two producers *** increased from *** thousand short tons in 1997 to *** thousand short tons in 1999.

This further indicates that the modest volume and market share increases of the subject imports during the period had little appreciable effect on the industry as a whole.

Accordingly, I find the volume and market levels of subject imports of tin mill products from Japan are not significant in this marketplace. In this regard, I do not believe that the dumping laws were intended to prevent purchasers from seeking alternate sources of supply when domestic producers are unable to provide them with merchandise that meets their quality or lead time requirements.

C. Price Effects of the Cumulated Subject Imports

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

- (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
- (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.⁶⁷

I find that the subject imports of tin mill products from Japan have not had significant adverse effects on domestic prices during the period of investigation. In coming to this conclusion, I have closely examined the record data in this investigation which indicates that there have been declines in domestic and import prices throughout most of the period of investigation,⁶⁸ that the subject imports have been consistently offering deeper discounts from the standard industry price lists than have the domestic producers throughout the period,⁶⁹ that the Japanese imports appear to have been underbidding domestic producers on an increasing basis toward the end of the period of investigation,⁷⁰ and that the domestic industry's profitability levels have been declining throughout most of the period in the face of increasing costs.⁷¹ Nonetheless, even a superficial review of the record indicates that these price and profitability declines have not been caused, in significant part, by imports of subject Japanese tin mill products.

Several factors clearly establish that the subject imports have not been a significant cause of price suppression or depression during the period. First, and perhaps most importantly, purchasers in this market consistently report that they conduct their price negotiations separately for their suppliers and their foreign suppliers, including the subject suppliers, and that they do not use subject prices as leverage in their negotiations with domestic producers. Although the record indicates that purchasers can and do negotiate with domestic and foreign suppliers simultaneously, several purchasers specifically reported that they negotiate for their supply contracts with domestic producers first, then turn to Japanese and

⁶⁷ 19 U.S.C. § 1677(7)(C)(ii).

⁶⁸ CR and PR at Table C-1.

⁶⁹ CR and PR at Tables V-1-V-13.

⁷⁰ CR at V-22, PR at V-8.

⁷¹ CR and PR at Table VI-3.

other producers after finalizing their domestic contracts.⁷² Indeed, one indication of the lack of significant price competition between the domestic and subject merchandise is that the domestic producers (including petitioner) specifically include provisions in a number of their contracts stating that they are not obligated to meet any price offered by foreign producers. Moreover, I note that the large volume of sales negotiation documents supplied by both the domestic industry and foreign suppliers in this case contain little evidence suggesting that purchasers actually used subject import prices to drive down domestic prices during the course of their sales negotiations.⁷³ In light of this, I believe that there is limited, if any, record data suggesting a causal nexus between subject import prices and domestic price declines.

Second, although the record indicates that the subject producers consistently “underbid” the domestic merchandise throughout the period, the record suggests that these price declines are not the result of head-to-head price competition between the domestic and subject merchandise. On the contrary, the record indicates that purchasers were able to obtain increased discounts off published price lists or price declines from domestic producers, whether or not the purchasers negotiated with the subject importers or purchased the subject product. For example, the *** did not purchase any tin plate merchandise from subject producers at all during the period of investigation and received no bids from subject producers on that merchandise during the period.⁷⁴ Nonetheless, *** was able to obtain significant increases in the price discounts it received from its domestic suppliers for tin plate merchandise during each year of the period of investigation.⁷⁵ In fact, the discounts *** obtained throughout the period were similar to those obtained by purchasers who purchased tin mill products from subject producers.⁷⁶ Similarly, *** was able to obtain significant price declines for tin mill products purchased from the domestic producers between 1999 and interim 2000, despite not purchasing any subject Japanese product at all in 1999 and 2000.⁷⁷ Finally, *** was able to obtain significant price declines for its purchases of chromium single and double-rolled product for its *** location between 1998 and interim 2000, despite the fact that it received no final bids from Japanese producers for these products during this period.⁷⁸ In my view, the fact that these price declines occurred in the absence of subject price competition indicates that the presence of the subject imports in the bidding process was not a significant factor in the ability of purchasers to obtain price declines from the domestic producers during the period of investigation.

Third, the record further indicates that the consistent “underbidding” by the subject imports during the period simply reflects the price premium that the industry is able to command from purchasers because of its ability to deliver product to purchasers more quickly than importers. As I discussed

⁷² CR at V-6, PR at V-4. For example, *** Purchaser Questionnaire Responses of *** at Question V-6; Purchaser Questionnaire Response of *** at 7.

⁷³ See generally Petitioners’ Posthearing Brief at Ex. 27; Japanese Respondents Posthearing Brief at Volume III and IV.

⁷⁴ CR and PR at Table V-6.

⁷⁵ CR and PR at Table V-6.

⁷⁶ See CR and PR at Tables V-1-V-13.

⁷⁷ CR and PR at Table V-7.

⁷⁸ CR and PR at Table V-16 (Hillman Request).

above, reliability in meeting delivery schedules is the most important purchase factor for U.S. purchasers.⁷⁹ Domestic producers report that the lead times for their merchandise vary between 6 to 12 weeks while lead times for imports vary from 2.5 months to 7 months, with most importers reporting lead times of between 3 and 4.5 months.⁸⁰ The domestic industry has been able to use its lead time advantage to leverage price premiums from purchasers during the period of investigation, which is one reason that the subject imports appear to be underbidding the domestic merchandise.⁸¹

Fourth, there is a limited level of substitutability between the domestic and subject merchandise. As I previously discussed, the record indicates that the domestic merchandise is consistently considered to be superior to the subject merchandise with respect to the ability to deliver product with a short lead time,⁸² which is a critical factor in the purchase decision for most tin mill products. Accordingly, for those products for which purchasers need short delivery times, the subject imports are unlikely to be able to compete effectively with domestic products on price. Similarly, purchasers also consistently rate the subject imports as being superior to the domestic merchandise with respect to quality and product consistency.⁸³ Thus, for those products for which quality and consistency are a critical consideration for the purchaser, the domestic products are unlikely to be able to compete effectively with the subject imports on price. In fact, given that the record indicates that the majority of purchasers assert that Japanese and domestic merchandise are not used in the same applications and that the Japanese producers sell only a fraction of the number of specifications in the United States that the domestic producers do, I find that the record suggests that there was little actual price competition on a grade-specific basis between the Japanese and the domestic producers during the period of investigation.

Fifth, the record also indicates that purchasers rate delivery time, availability, product consistency, product quality and reliability of supply as being the most important factors in the purchase decision⁸⁴ In fact, purchasers rate price as only the seventh most important factor in the purchase decision, ranking it behind reliability of supply, delivery time, availability, consistency, quality and technical service and support.⁸⁵ Accordingly, I find that this indicates that price is not normally the decisive factor with respect to a purchaser's choice of a vendor, which further minimizes the possibility that the subject imports had significant adverse effects on domestic prices.

Sixth, I note that nearly half of the subject imports were imported into the Western region of the United States. Because the Western tin mill market is only approximately a third of the size of the Eastern U.S. market for tin mill products, the subject imports occupy a substantially higher percentage of the Western market than the Eastern market. Despite the more substantial subject import presence in the Western U.S. market, the two producers who ship substantial amounts of merchandise to the Western

⁷⁹ CR at II-6, PR at II-4.

⁸⁰ CR at II-13, PR at II-4-5.

⁸¹ CR at II-6-9, PR at II-4.

⁸² CR and PR at Table II-5.

⁸³ Six of eight purchaser rated the Japanese imports as being superior to the domestic merchandise with respect to product consistency, while seven of eight purchasers rated the Japanese imports as being superior to the domestic merchandise in terms of product quality. CR and PR at Table II-4.

⁸⁴ CR and PR at Table II-4.

⁸⁵ CR and PR at Table II-4.

market, ***, have generally enjoyed operating income levels that are among the highest operating returns of all of integrated producers during the period of investigation.⁸⁶ This indicates that the more significant declines in domestic revenues and profitability suffered by other domestic producers during the period of investigation cannot be attributable in significant part to the subject imports.

Finally, I note that nonsubject imports held a somewhat larger share of the market than the subject imports from Japan throughout the three full years of the period of investigation and that their market share increased at similar rates to the Japanese imports. Throughout the period of investigation, the average unit values of the non-subject imports were significantly lower than the average unit values of the subject imports.⁸⁷ Given this, I find it difficult to conclude that the subject imports have been a significant cause of price declines in this market.

In fact, I believe that two other factors are most likely to be responsible for the domestic industry's price and revenues declines during the period of investigation. First, as I previously discussed, the U.S. can production industry has gone through extensive consolidation since 1993. In 1999, the six largest tin mill purchasers accounted for nearly three-quarters of apparent domestic consumption of tin- and chromium-coated steel sheet in 1999.⁸⁸ The record of this investigation indicates that the significant and increasing concentration of purchasers has allowed them to assert increasing amounts of market power and that they have been able to use this market power to obtain lower prices from their suppliers.⁸⁹

In fact, one of Weirton's own employees explicitly recognized the impact of consolidation on domestic prices in this market, stating that purchaser consolidation had greatly diminished the negotiating power of the suppliers and resulted in a significant decrease in domestic prices.⁹⁰ Accordingly, I find that the consolidation of the purchasing firms in this market has caused, to a great degree, domestic price declines during the period of investigation.

Second, the market was marked by the entry of a new domestic producer, Ohio Coatings, in January 1997, the first year of the period of investigation. Ohio Coatings was the first new tin plating facility constructed in the United States in nearly thirty years and was able to significantly increase its production and shipments levels during each year of the period of investigation.⁹¹ The record indicates that Ohio Coatings has a ***⁹² and that it has generally been the *** amongst the domestic producers throughout the period of investigation.⁹³ Given this, and given that the record indicates that domestic producers compete primarily with other domestic producers in tin mill negotiations, I believe that the entrance of Ohio Coatings into the tin mill market in 1997 was (together with purchaser consolidation)

⁸⁶ CR and PR at Table VI-3.

⁸⁷ CR and PR at Table C-3.

⁸⁸ CR at V-6, PR at V-4.

⁸⁹ CR at V-7, PR at V-4-5.

⁹⁰ Staff Report on Trip to Weirton, dated May 22, 2000, at 4.

⁹¹ See, e.g., CR and PR at Table VI-3.

⁹² CR and PR at Table VI-3 & VI-10, n. 3. (based on a comparison of cost of goods sold for the domestic producers.)

⁹³ CR and PR at Tables V-1-V-13. For the record, the staff informed me that the bids in these charts reported to be submitted by ***.

responsible for domestic price declines in this market during the period of investigation.

Accordingly, I find that the subject imports have not had significant adverse effects on domestic prices during the period of investigation.

E. Impact of the Cumulated Subject Imports on the Domestic Industry⁹⁴

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, “shall evaluate all relevant economic factors which have a bearing on the state of the industry.”⁹⁵ These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the industry.”⁹⁶

I find that the subject imports have not had a significant negative impact on the condition of the industry during the period of investigation. As I noted previously, the record indicates that the subject imports have not had significant adverse volume and price effects on the domestic industry during the period of investigation. Accordingly, I find that the record indicates that they have had little or no adverse impact on the domestic industry’s sales, production, shipments, profitability or investment levels. I recognize that the industry’s profitability levels remained low throughout the period and that they declined significantly in the second half of 1998 and 1999, when a significant number of producers experienced supply and quality issues. I also recognize that the industry’s production, shipment, sales and employment levels have declined somewhat during the period of investigation, and that the industry has lost some market share to imports, both subject and non-subject.⁹⁷

Nonetheless, the industry retains a dominant share of the market and its production, shipment, sales and capacity utilization levels remain relatively high and stable.⁹⁸ Moreover, the record indicates that the industry’s operating income levels have improved considerably in interim 2000, even though the market share of the subject imports further increased in interim 2000. On the whole, I believe the record of this investigation clearly indicates that the domestic industry suffered a significant downturn in its operating and production results in late 1998 and 1999 primarily because of its inability to supply quality merchandise to its customers in a timely manner. Moreover, I find that an increasingly concentrated group of purchasers in the market has been able to achieve significant price concessions from a relatively dispersed group of domestic producers, especially with the entry of a new domestic supplier into the market in January 1997. Thus, I find little evidence in the record to indicate that the subject imports

⁹⁴ I note that I considered the size of the dumping margins announced for the Japanese producers by Commerce when performing my analysis in this proceeding. I find that the large size of the margins do not offset the other considerations I discuss in my views.

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

⁹⁶ 19 U.S.C. § 1677(7)(C)(iii).

⁹⁷ CR and PR at Tables III-2 & VI-3.

⁹⁸ CR and PR at Tables III-2 & VI-3.

were a cause of material injury to the domestic industry.

Accordingly, I find that the cumulated subject imports have not had a significant adverse impact on the domestic industry producing tin mill products. I further determine that the domestic industry producing tin mill products is not materially injured by reason of the subject imports from Japan.

II. NO THREAT OF MATERIAL INJURY BY REASON OF THE SUBJECT JAPANESE IMPORTS OF TIN MILL PRODUCTS

In determining whether a domestic industry is threatened with material injury by reason of the subject imports, section 771(7)(F) of the Act requires an assessment of whether “further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted.”⁹⁹ Such a determination may not be made “on the basis of mere conjecture or supposition,” and the threat factors must be considered “as a whole in making a determination whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued.”¹⁰⁰ In making my determination, I have considered all statutory factors that are relevant to this investigation.¹⁰¹

As an initial matter, I do not find the domestic industry to be particularly vulnerable to any possible future impact from the subject imports. As I stated above, the industry retains a dominant share of the tin mill products market and has seen a significant increase in its operating income levels in interim 2000. Despite a temporary decline in its revenues and operating income levels in late 1998 and 1999, the industry’s production, shipment and sales levels all remain reasonably strong. Moreover, the industry is insulated from competition with the subject imports to a great degree because of the conditions of competition I previously discussed, such as the bifurcated nature of the domestic and import sales negotiation processes.

For the reasons discussed below, I find that further imports are not imminent and that the subject Japanese imports do not threaten to cause material injury to the industry upon revocation of the order. First, the record indicates that the subject Japanese producers have been operating at very high capacity utilization rates throughout the period of investigation and that their capacity utilization rates have increased even further in interim 2000. In this regard, the Japanese producers’ aggregate capacity utilization remained at or near the ninety percent level throughout the period of investigation and even increased in interim 2000.¹⁰² Moreover, the Japanese producers do not expect to increase their capacity levels in the imminent future.¹⁰³ Accordingly, I find that the existing unused and likely capacity levels of the subject Japanese producers do not indicate that there is a likelihood of substantially increased imports of subject merchandise into the United States in the imminent future.

I also do not find that there has been a significant rate of increase in the volume and market share of the subject imports indicating the likelihood of substantially increased imports in the imminent future.

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

¹⁰⁰ 19 U.S.C. § 1677(7)(F)(ii).

¹⁰¹ 19 U.S.C. § 1677(7)(F)(I).

¹⁰² The subject producers capacity utilization rates were 89 percent in 1997, 85.4 percent in 1998 and 88.5 percent in 1999. Their capacity utilization rate was 91 percent in interim 2000 and is projected to stay at similar levels in 2000 and 2001. CR and PR at Table VII-2.

¹⁰³ ***

As I discussed above, the subject Japanese imports increased their volume and market share somewhat during the period. However, these increases were not particularly large. Moreover, as I also discussed above, these modest increases were not the result of LTFV price competition by the subject imports. Accordingly, I do not find that these increases are indicative of a likelihood of substantially increased subject volumes in the imminent future, especially given the Japanese producers' current high capacity utilization levels.

I also found previously that the subject imports have not had significant price-suppressive or price-depressive effects on domestic prices during the period of investigation. I do not find that the record contains any information indicating that the conditions of competition in this market place will change so significantly in the imminent future that the subject imports will begin to have significant adverse effects on domestic prices.

I further note that the home market inventory levels of the Japanese respondents have fallen during the period of investigation while their U.S. inventories remain minimal compared to total domestic consumption in 1999.¹⁰⁴ Accordingly, I do not find that the respondents' inventory levels suggest that there is likely to be an imminent threat of material injury by reason of the subject imports.

In addition, I find that there is little evidence in the record to indicate a likelihood of significant product shifting in the Japanese producers' tin mill facilities. Although the Japanese firms produce other flat-rolled steel products in the same facilities as their tin mill products, the record indicates that the subject producers' coating lines are operating at high capacity utilization levels currently. Therefore, the record indicates that the Japanese producers do not have the capacity to increase tin mill plate production, even if they had available flat-rolled steel.

I note that the record contains no evidence of a significant negative effect on the domestic industry's development and production efforts. Indeed, the domestic industry appears to have been able to make significant capital investments in its plants and facilities during the period of investigation.¹⁰⁵

Finally, I taken into account the imposition of a dumping order on Japanese exports of tin mill products by Indonesia in April 1999.¹⁰⁶ At that time, Indonesia applied a 68 percent antidumping duty on tin mill products from Japan.¹⁰⁷ Nonetheless, Japanese exports to that country are minimal and appear not to have been affected significantly by the order.¹⁰⁸ Accordingly, I do not find that the imposition of the order by Indonesia indicates that there is a threat of material injury to the industry.

I therefore find that the domestic industry producing tin mill products is not threatened with material injury by reason of the subject imports of tin mill products from Japan.

¹⁰⁴ CR and PR at Tables VII-2 & VII-3.

¹⁰⁵ CR and PR at Table C-4.

¹⁰⁶ CR at VII-1, PR at VII-1.

¹⁰⁷ CR at VII-2, PR at VII-1.

¹⁰⁸ Japanese Respondents' Posthearing Brief at Vol. II, p. 14.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by Weirton, Weirton, WV, the ISU, and the USW, on October 28, 1999, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of LTFV imports of tin- and chromium-coated steel sheet¹ (TCCSS) from Japan. Information relating to the background of the investigation is provided below.²

<i>Date</i>	<i>Action</i>
October 28, 1999 . . .	Petition filed with Commerce and the Commission; institution of Commission investigation (64 FR 60225, November 4, 1999)
November 17	Commerce's notice of initiation (64 FR 66892, November 30, 1999)
December 21	Commission's preliminary determination (64 FR 71497, December 21, 1999)
April 12, 2000	Commerce's preliminary determination (65 FR 19737, April 12, 2000); ³ scheduling of final phase of Commission investigation (65 FR 21791, April 24, 2000)
June 21	Commerce's final determination (65 FR 39364, June 26, 2000)
June 29	Commission's hearing ⁴
August 2	Commission's vote
August 9, 2000	Commission determination transmitted to Commerce

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of 7 firms that accounted for approximately 100 percent of U.S. production of TCCSS during 1999. U.S. imports are based on 18 importer questionnaire responses representing virtually 100 percent of Japanese imports and approximately 51.4 percent of the imports from nonsubject countries. With regard to imports from nonsubject countries, data from Commerce have been used after subtraction of reported imports of product specifically excluded from the scope of this investigation (see table I-1).

¹ TCCSS is defined in the "Product" section of this report. The subject merchandise is classified under subheadings 7210.11.00, 7210.12.00, 7210.50.00, 7212.10.00, and 7212.50.00 of the HTS if of non-alloy steel and under subheadings 7225.99.00 and 7226.99.00 if of alloy steel (other than stainless steel). The normal trade relations tariff rates ranging from 1.4 percent to 2.6 percent *ad valorem* are applicable to products of Japan.

² *Federal Register* notices cited in the tabulation are presented in app. A.

³ Commerce calculated preliminary LTFV margins to be as follows: (1) Kawasaki: 95.29 percent; (2) Nippon Steel: 95.29 percent; (3) NKK: 95.29 percent; (4) Toyo Kohan: 95.29 percent; and (5) all others: 32.52 percent. Nippon Steel and Toyo Kohan indicated that they would not participate in Commerce's investigation and failed to respond to questionnaires in their entirety while Kawasaki and NKK provided inadequate responses. Therefore, after determining that the taking of adverse inferences was warranted, Commerce's company-specific margin determination was based upon the petitioner's highest petition margin. On June 21, 2000, the Commission received Commerce's final margin determination. After continued non-cooperation by the Japanese respondents, Commerce determined that its final margin calculations would be identical to its preliminary calculations stated above.

⁴ App. B contains a list of witnesses that appeared at the hearing.

THE PRODUCT

This section presents information on both imported and domestically produced TCCSS, as well as information related to the Commission's "domestic like product" determination.⁵

Definition

The imported products subject to this investigation are TCCSS from Japan. For purposes of this investigation, the scope includes tin mill flat-rolled products of non-alloy steel or of other alloy steel⁶ that are coated or plated with tin, chromium, or chromium oxides. Flat-rolled steel products coated with tin are known as tin-plate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed, or further processed, and scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, or chromium oxide), reduction (single- or double-reduced), and whether or not coated with a plastic material.

All products that meet the written physical description are within the scope of this investigation unless specifically excluded. After Commerce's preliminary determination, the following products were deemed specifically excluded from the scope of this investigation:

Certain Photographic Quality Tin-Free Steel for Film Canisters:⁷ Fuji Photo Film, Inc. and Nippon Steel requested that this product, used to manufacture 35mm film canisters, be excluded from the scope of this investigation. This tin-free steel product requires strict specifications and is claimed not to be available from U.S. producers.

⁵ The Commission's decision regarding the appropriate domestic products that are "like" the subject imported products is based on a number of factors including (1) physical characteristics and uses; (2) common manufacturing facilities and production employees; (3) interchangeability; (4) customer and producer perceptions; (5) channels of distribution; and, where appropriate, (6) price. During the final phase of this investigation, no "domestic like product" issues have been advanced by the parties.

⁶ "Other alloy" steel excludes stainless steel and is defined in note 1(f) to section XV of the HTS.

⁷ This product is specifically defined as: single-reduced electrolytically chromium-coated steel with a thickness of 0.238 mm (85 pound base box) (+/- 10%) or 0.251 mm (90 pound base box) (+/- 10%) or 0.255 mm (+/- 10%) with 770 mm (minimum width) (-0/+1.588 mm) by 900 mm (maximum length if sheared) sheet size or 30.6875 inches (minimum width) (-0/+ 1/16 inch) and 35.4 inches (maximum length if sheared) sheet size; with type MR or higher (per ASTM) A623 steel chemistry; batch annealed at T2½ anneal temper, with a yield strength of 31 to 42 kpsi (214 to 290 Mpa); with a tensile strength of 43 to 58 kpsi (296 to 400 Mpa); with a chrome coating restricted to 32 to 150 mg/m²; with a chrome oxide coating restricted to 6 to 25 mg/m² with a modified 7B ground roll finish or blasted roll finish; with roughness average (Ra) 0.10 to 0.35 micrometers, measured with a stylus instrument with a stylus radius of 2 to 5 microns, a trace length of 5.6 mm, and a cut-off of 0.8 mm, and the measurement traces shall be made perpendicular to the rolling direction; with an oil level of 0.17 to 0.37 grams/base box as type BSO, or 2.5 to 5.5 mg/m² as type DOS, or 3.5 to 6.5 mg/m² as type ATBC; with electrical conductivity of static probe voltage drop of 0.46 volts drop maximum, and with electrical conductivity degradation to 0.70 volts drop maximum after stoving (heating to 400 degrees F for 100 minutes followed by a cool to room temperature).

Certain Single-Reduced Tin Mill Products At or Below 65 Pound Base Box Weight:⁸

Reynolds Metals Co., Kawasaki, and Berlin Metals requested that this product, used to produce cable sheathing, be excluded from the scope of this investigation. They claim that this product is not produced in the United States.

Certain Single-Reduced Chromium-Coated Steel Sheet Products:⁹ Petitioners requested that this product, claimed not to be produced domestically, be excluded from the scope of this investigation.

Certain Single-Reduced Chromium-Coated Steel Sheet Products:¹⁰ Petitioners requested that this product, claimed not to be produced domestically, be excluded from the scope of this investigation.

Certain Bright Finish Tin-Coated Steel Products:¹¹ Petitioners requested that this product, claimed not to be produced domestically, be excluded from the scope of this investigation.

Table I-1 below sets forth the U.S. production and U.S. imports, by quantity and value, of the products excluded by Commerce from the scope of the investigation in its preliminary determination (the sum of the products above).

Table I-1

TCCSS: U.S. production and U.S. imports, by quantity, value, unit value, and share of total U.S. production or imports, of products excluded from the scope of the investigation, 1997-99, January-March 1999, and January-March 2000

* * * * *

⁸ This product is specifically defined as: single-reduced electrolytically chromium- or tin-coated steel in the gauges of 0.0040 inch nominal, 0.0045 inch nominal, 0.0050 inch nominal, 0.0061 inch nominal (55 pound base box weight), 0.0066 inch nominal (60 pound base box weight), and 0.0072 inch nominal (65 pound base box weight), regardless of width, temper, finish, coating, or other properties.

⁹ This product is specifically defined as: single-reduced electrolytically chromium-coated steel in the gauge of 0.024 inch, with widths of 27.0 inches or 31.5 inches, and with T-1 temper properties.

¹⁰ This product is specifically defined as: single-reduced electrolytically chromium-coated steel, with a chemical composition of 0.005% max carbon, 0.030% max silicon, 0.25% max manganese, 0.025% max phosphorous, 0.025% max sulfur, 0.070% max aluminum, and the balance iron, with a metallic chromium layer of 70-130 mg/m², with a chromium oxide layer of 5-30 mg/m², with a tensile strength of 260-440 N/mm², with an elongation of 28-48%, with a hardness (HR-30T) of 40-58, with a surface roughness of 0.5-1.5 microns Ra, with magnetic properties of Bm (KG) 10.0 minimum, Br (KG) 8.0 minimum, Hc (Oe) 2.5-3.8, and μ 1400 minimum, as measured with a Riken Denshi DC magnetic characteristic measuring machine, Model BHU-60.

¹¹ This product is specifically defined as: bright finish tin-coated sheet with a thickness equal to or exceeding 0.0299 inch, coated to thickness of ¼ pound (0.000045 inch) and 1 pound (0.00006 inch).

On June 21, 2000, the Commission received Commerce's final antidumping duty determination, which included three additional specifically excluded items. They are as follows:

Certain Ultra-Flat Chromium-Coated Sheet:¹² This exclusion, ***, is for a product used to manufacture letterpress and flexographic printing plates to be utilized in newspaper and magazine publishing. Importers reported to the Commission the following imports of this product during the period examined:

<u>Year</u>	<u>Quantity (short tons)</u>	<u>Value (1,000)</u>	<u>Unit value</u>
1997	***	***	\$***
1998	***	***	***
1999	***	***	***

¹² This product is specifically defined as: electrolytically chromium-coated steel having ultra flat shape defined as oil can maximum depth of 5/64 inch (2.0 mm) and edge wave maximum of 5/64 inch (2.0 mm) and no wave to penetrate more than 2.0 inches (51.0 mm) from the strip edge and coilset or curling requirements of average maximum of 5/64 inch (2.0 mm) (based on six readings, three across each cut edge of a 24 inches (61 cm) long sample with no single reading exceeding 4/32 inch (3.2 mm) and no more than two readings at 4/32 inch (3.2 mm)) and (for 85 pound base box item only: crossbuckle maximums of 0.001 inch (0.0025 mm) average having no reading above 0.005 inch (0.127 mm)), with a camber maximum of 1/4 inch (6.3 mm) per 20 feet (6.1 meters), capable of being bent 120 degrees on a 0.002 inch radius without cracking, with a chromium coating weight of metallic chromium at 100 mg/square meter and chromium oxide of 10 mg/square meter, with a chemistry of 0.13% maximum carbon, 0.60% maximum manganese, 0.15% maximum silicon, 0.20% maximum copper, 0.04% maximum phosphorous, 0.05% maximum sulfur, and 0.20% maximum aluminum, with a surface finish of Stone Finish 7C, with a DOS-A oil at an aim level of 2 mg/square meter, with not more than 15 inclusions/foreign matter in 15 feet (4.6 meters) (with inclusions not to exceed 1/32 inch (0.8 mm) in width and 3/64 inch (1.2 mm) in length), with thickness/temper combinations of either 60 pound base box (0.0066 inch) double reduced CADR8 temper in widths of 25.00 inches, 27.00 inches, 27.50 inches, 28.00 inches, 28.25 inches, 28.50 inches, 29.50 inches, 29.75 inches, 30.25 inches, 31.00 inches, 32.75 inches, 33.75 inches, 35.75 inches, 36.25 inches, 39.00 inches, or 43.00 inches, or 85 pound base box (0.0094 inch) single-reduced CAT4 temper in widths of 25.00 inches, 27.00 inches, 28.00 inches, 30.00 inches, 33.00 inches, 33.75 inches, 35.75 inches, 36.25 inches, or 43.00 inches, with width tolerance of -0/+ 1/8 inch, with a thickness tolerance of +/- 0.0005 inch, with a maximum coil weight of 20,000 pounds (9,071.0 kg), with a minimum coil weight of 18,000 pounds (8,164.8 kg) with a coil inside diameter of 16 inches (40.64 cm) with a steel core, with a coil maximum outside diameter of 59.5 inches (151.13 cm), with a maximum of one weld (identified with a paper flag) per coil, with a surface free of scratches, holes, and rust.

Certain Tin-Plate with Differential Coating:¹³ The Commission does not possess specific quantity and value data regarding the imports of this product into the United States.

Certain Tin-Plate with Differential Coating and Lithograph Logo Print:¹⁴ The Commission does not possess specific quantity and value data regarding the imports of this product into the United States.

Description and Uses

Tin-Plate

Tin-plate is a tin-coated flat-rolled steel product that is manufactured from black plate, an uncoated flat-rolled steel which is the basic material for the production of tin mill products. To create tin-plate, black plate is coated on both sides with commercially pure tin via electrolytic deposition. Tin coatings vary by thickness, depending on intended end use. The most common commercial coating weight for tin is 20 pounds/base box.¹⁵ In addition, tin-plate is available with different coating weights on the two sides of the sheet. Single-reduced electrolytic tin-plate is commonly produced in thicknesses of 0.38 mm and lighter while double-reduced electrolytic tin-plate is normally produced in thicknesses of 0.28 mm and lighter. Tin-plate is manufactured to a number of ASTM Standard Specifications, including A623, A624, and A626.

¹³ This product is specifically defined as: electrolytically tin-coated steel having differential coating with 1.00 pound/base box equivalent on the heavy side, with varied coating equivalents in the lighter side (detailed below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 0.7 mg/square foot of chromium applied as a cathodic dichromate treatment, with coil form having restricted oil film weights of 0.3-0.4 grams/base box of type DOS-A oil, coil inside diameter ranging from 15.5 to 17 inches, coil outside diameter of a maximum 64 inches, with a maximum coil weight of 25,000 pounds, and with temper/coating/dimension combinations of: (1) CAT4 temper, 1.00/.050 pound/base box coating, 70 pound/base box (0.0077 inch) thickness, and 33.1875 inch ordered width; or (2) CAT5 temper, 1.00/0.50 pound/base box coating, 75 pound/base box (0.0082 inch) thickness, and 34.9375 inch or 34.1875 inch ordered width; or (3) CAT5 temper, 1.00/0.50 pound/base box coating, 107 pound/base box (0.0118 inch) thickness, and 30.5625 inch or 35.5625 inch ordered width; or (4) CADR8 temper, 1.00/0.50 pound/base box coating, 85 pound/base box (0.0093 inch) thickness, and 35.5625 inch ordered width; or (5) CADR8 temper, 1.00/0.25 pound/base box coating, 60 pound/base box (0.0066 inch) thickness, and 35.9375 inch ordered width; or (6) CADR8 temper, 1.00/0.25 pound/base box coating, 70 pound/base box (0.0077 inch) thickness, and 32.9375 inch, 33.125 inch, or 35.1875 inch ordered width.

¹⁴ This product is specifically defined as: electrolytically tin-coated steel having differential coating with 1.00 pound/base box equivalent on the heavy side, with varied coating equivalents on the lighter side (detailed below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 0.5 mg/square foot of chromium applied as cathodic dichromate treatment, with ultra flat scroll cut sheet form, with CAT5 temper with 1.00/0.10 pound/base box coating, with a lithograph logo printed in a uniform pattern on the 0.10 pound coating side with a clear protective coat, with both sides waxed to a level of 15-20 mg/216 square inch, with ordered dimension combinations of (1) 75 pound/base box (0.0082 inch) thickness and 34.9375 inch x 31.748 inch scroll cut dimensions; or (2) 75 pound/base box (0.0082 inch) thickness and 34.1875 inch x 29.076 inch scroll cut dimensions; or (3) 107 pound/base box (0.0118 inch) thickness and 30.5625 inch x 34.125 inch scroll cut dimension.

¹⁵ "Base box" is a unit for measuring the quantity of TCCSS and is equivalent to 31,360 square inches or 217.78 square feet. See, *infra*, p. V-2.

Chromium-Coated Steel Sheet

Chromium-coated steel sheet, also known in the industry as “tin-free steel,” generally consists of black plate that is further processed via the electrolytic deposition of metal chromium and chromium oxide on both sides. Single-reduced chromium-coated steel sheet is commonly available in thicknesses of 0.38 mm and lighter, while double-reduced electrolytic chromium-coated steel sheet is normally available in thicknesses of 0.28 mm and lighter. Minimum and maximum coating weights for chromium-coated steel sheet range from 3 to 13 milligrams per square foot of metallic chromium and 0.7 to 2.5 milligrams per square foot of chromium oxide. Chromium-coated steel sheet is manufactured to ASTM Standard Specification A657.

Uses

Major end uses of tin-plate are in the manufacture of welded food, beverage, aerosol, and paint cans. Chromium-coated steel sheet is used primarily for beer and soft drink two-piece drawn cans and ends, as well as ends for food cans and caps and crowns for glass containers. Tin-plate is used for the can itself because it imparts a shinier surface than chromium coating while chromium-coated steel sheet, with its duller surface finish, is considered adequate for use in the ends of cans. According to figures published by the AISI, nearly 90 percent of all U.S. shipments of chromium-coated steel sheet in 1998 were used in container and packing applications, including cans, crown caps, and other closures.¹⁶

Interchangeability

TCCSS produced in the United States, Japan, and nonsubject countries are generally interchangeable with the exception of some specialty materials. With regard to tin-plate vis-à-vis chromium-coated steel sheet, a number of purchasers, ***, stated that the two products are interchangeable in the production of can ends, but not in the production of can bodies. Other purchasers, ***, stated that they purchase solely tin-plate for their can-making operations and believed that there is limited interchangeability between the two products.¹⁷

Manufacturing Process

Both tin-plate and chromium-coated steel sheet are manufactured in five major steps. The processes for producing both products and the production workers employed are identical until the final coating stage.

Hot Rolling and Cold Reduction¹⁸

Both tin-plate and chromium-coated steel sheet are produced from molten steel that is either cast into slabs or poured as ingots which are rolled into slabs in a separate mill. While hot, the slabs are reduced in thickness and greatly elongated by further rolling through a series of roughing and finishing stands in a hot strip mill. The hot strip passes between rolls and in successive passes is reduced to a predetermined thickness, typically between 1.6 and 2.5 mm. On leaving the last finishing stand, the strip

¹⁶ AISI Publication 16C, 1998.

¹⁷ ***.

¹⁸ This section is based on information that appears in “Tin Mill Products,” *Steel Products Manual*, Iron and Steel Society, pp. 5-11.

is coiled. After cooling, the hot-rolled strip is uncoiled and pickled by passing it through a series of tanks or sprays of diluted acid to remove the oxide scale formed in the hot-rolling process. The pickled strip is then typically dried, oiled, and recoiled. The oil serves as a protection against rusting prior to, and as a lubricant during, cold reduction. The hot-rolled and pickled strip is then generally cold reduced by passing it through a series of rollers, in much the same manner as in the hot-rolling operation except that a lubricant is applied between the stands as an aid in reduction and to prevent undue heating of the rolls and strip. The cold-reduction process hardens the strip, requiring it to be subsequently annealed.

Annealing¹⁹

There are two basic types of annealing operations. In *batch annealing* the coiled strips are placed in a sealed container and slowly heated to, and cooled from, a subcritical temperature to soften the steel and to relieve stresses produced during reduction. A relatively bright surface finish is obtained and oxidation is reduced by the introduction of an inert or slightly reducing gas into the container during the operation. Batch annealing produces a steel product with greater flexibility. *Continuous annealing* takes place by passing the cold-reduced strip through a series of vertical passes within a furnace consisting of heating, soaking, and cooling zones. Continuous annealing results in a steel product with less flexibility than batch annealed steel. The strip is heated rapidly to the desired temperature and cooled before leaving the furnace.

Temper Rolling²⁰

After annealing, single-reduced strip is rolled in one or more passes through a temper mill. The object of temper rolling is to improve mechanical and surface properties by imparting the desired degree of stiffness and hardness, minimizing fluting and stretcher straining, and producing the type or texture of surface desired.

Additional Cold Reduction

Double-reduced strip is typically not temper rolled; instead, it is subjected to a second cold-reduction process after annealing to impart mechanical and surface properties to the steel. This reduction is accomplished by passing the strip through either one or a series of rollers using a suitable lubricant. This second cold reduction supplies the final thickness and finish and the desired stiffness, strength, and flatness and produces a stronger, lighter-weight product. After final reduction, the coils are ready to be trimmed and sheared, which occurs in a series of operations. Because this "black plate" is highly susceptible to rusting in storage and transportation, it is typically oiled, or chemically-treated and then oiled, after cold reduction. The oil is then removed prior to coating.

Coating²¹

In the electroplating process, the temper-rolled or double-reduced coiled strip travels through a lower and upper plating unit where individual plating cells are arranged in tandem. The plating cells contain the plating solution, a halogen plating solution for tin-plate and a chromate solution for

¹⁹ Id.

²⁰ Id.

²¹ This section is based on information provided in *The Making, Shaping and Treating of Steel*, U.S. Steel, 9th edition, 1971, p. 1004.

chromium-coated steel sheet. A conductor roll at the end of each cell rides along the top surface of the strip and serves as the cathode while the tin- or chromium-coating material is deposited in the bottom of each cell and serves as the anode. The coating solution dissolves into the plating solution and is electrochemically deposited on the steel substrate. The electroplating process is followed by rinsing, drying, quenching, and application of a lubricating film.

Tin-plate and chromium-coated steel sheet are produced in varying coating weights and can also be differentially coated, where the heavier coated surface is employed as the more protected inside of the container and the lighter coated surface is employed as the exterior of the container to conserve raw materials and to lower container costs. Conversations with U.S. tin mill product manufacturers indicate that most producers that manufacture both tin-plate and chromium-coated steel sheet do so in the same mill, but on different coating lines. Although the coating process is similar for both products, it is impractical to shift product to another production line because of the expense that would be involved in retrofitting the production line.

After coating, the coiled sheets are further processed, typically by the can manufacturers (the end users) and in a location close to the packing facility. Here the coil may be cut into sheets or slit into several coils of narrow width and decorated by applying lacquer to either one or both sides, before being sliced into can bodies and welded into a can.

Channels of Distribution

Table I-2 presents the channels of distribution for domestically produced and imported TCCSS. Both tin-plate and chromium-coated steel sheet share identical channels of distribution. The vast majority of shipments were made to end users, U.S. can makers (food, aerosol, and other general packaging cans), and automotive oil filter manufacturers.

Table I-2
TCCSS: Channels of distribution for U.S. shipments by U.S. producers and U.S. importers, 1997-99, January-March 1999, and January-March 2000

Item	Calendar year			January-March	
	1997	1998	1999	1999	2000
U.S. producers' commercial shipments to-					
Share (percent)					
End users	92.7	92.6	91.5	91.5	91.6
Distributors	7.3	7.4	8.5	8.5	8.4
Total	100.0	100.0	100.0	100.0	100.0
Importers' U.S. commercial shipments to-					
Share (percent)					
End users	99.1	98.5	97.2	98.8	96.5
Distributors	0.9	1.5	2.8	1.2	3.5
Total	100.0	100.0	100.0	100.0	100.0
Source: Compiled from data submitted in response to Commission questionnaires.					

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET SEGMENTS

TCCSS is used primarily in the production of containers for the food processing industry. Other reported uses of TCCSS include oil filters, snuff containers, bottle tops, paint containers, pails, furniture, aerosol cans, toys, household utilities, computer applications, film canisters, and bake ware. The majority of U.S. TCCSS producers are located in the Eastern and Midwestern regions of the United States. Most U.S. suppliers in these regions report that they do not typically supply customers on the West Coast due to high transportation costs,¹ while importers tend to serve a wider area.

Within the domestic market, most customers prefer to purchase from several suppliers during a given contract period. Diversification of supply is due to different specialty and contract options offered by each TCCSS producer, both domestic and foreign. Some contracts, or purchase agreements as producers sometimes call them, offer more flexibility in changing orders; others provide specialty products; still others supply a certain geographic region. Domestic producer contracts are typically annual, while importers have annual and shorter (3-6 month) contracts.² Besides U.S. and Asian producers, TCCSS is supplied to U.S. purchasers by Latin American and European producers.

A few U.S. firms purchasing TCCSS have reported increased globalization of their operations and the desire to purchase the product from those suppliers able to produce in more than one geographic region. For example, ***. TCCSS purchasers report that their supply channels are being consolidated, reducing the number of producers they contact within a given year.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic Production

Based on available information, U.S. TCCSS producers are likely to respond to changes in demand with moderate changes in the quantity of shipments of U.S.-produced TCCSS to the U.S. market. The contributing factors are discussed below.

Industry capacity

U.S. producers' capacity utilization for TCCSS ranged from 81.6 percent in the first quarter of 2000 to 70.4 percent in 1998. Domestic producers' capacity utilization rate rose to 74.5 in 1999. When comparing first quarters of 1999 and 2000, utilization continues to increase, from 74.4 (1Q 1999) to 81.6 (1Q 2000) percent. The level of available capacity suggests that firms have some ability to increase production in response to increases in demand.

Inventory levels

U.S. producers' inventories were 9.6 percent of their total shipments in 1997, 10.2 percent in 1998, and 10.0 percent in 1999. First quarter 1999 and 2000 have relatively consistent ratios: U.S.

¹ ***.

² Producer questionnaire responses.

producers' inventories were 10.8 percent and 10.6 percent respectively. Domestic firms thus have some ability to increase shipments from existing inventories.

Production alternatives

Four of the 6 responding producers reported generating other products on the same lines as TCCSS. Alternative products include cold-rolled products, coated steel sheet, galvanized sheet, electrozinc sheet, black plate, and hot-rolled sheet. This increases the producers' flexibility to increase or reduce their production of TCCSS in response to changes in relative prices.

Export markets

U.S. producers exported 5.2 percent of their total production in 1997, 5.9 percent in 1998, and 7.2 percent in 1999. They reported export markets in Canada, Mexico, Taiwan, and Germany. This relatively low level of exports gives the domestic firms a moderate degree of flexibility to increase or reduce sales to the U.S. market.

U.S. Demand

Demand Characteristics

Demand for TCCSS is predominantly derived from demand for containers, food processing primarily but also in aerosol.³ In turn, demand for food containers is dependent on U.S. food and vegetable crop annual supply and consumer demand for processed food products. Fluctuations in supply of agricultural commodities is expected to have a cyclical effect on TCCSS demand of food can makers, according to U.S. producers and representatives of the U.S. food processing industries.⁴

All responding purchasers, however, report that there was very little or no effect of the agriculture cycle on demand. One purchaser reported that there is "not a lot" of an effect, but stated (inconsistently) that a bad growing season for vegetables and fruits did reduce demand for TCCSS.⁵ At the hearing, Silgan testified that growth in demand for food cans over the past 10-15 years has been extremely flat. Further, U.S. Can reported that demand for aerosol cans has shown little to no growth.⁶ Both producers and importers reported flat demand, and both mentioned a fall in 1998 due to the poor harvest.⁷

Apparent domestic consumption has fallen somewhat over the past 3 years, from *** million short tons in 1997 to *** million tons in 1999; first quarter 1999 and 2000 data show a continued fall from *** tons in 1999 to *** tons in 2000.

Fourteen of 18 responding purchasers state that there was no change in demand since 1997. Four of 18 reported an increase in demand; 2 of these purchasers reported that demand had increased because of new business or because their market share increased.⁸ Six purchasers stated that demand for their final product had actually decreased for a variety of reasons: (1) flooded domestic markets from foreign canned ***, (2) fall in sales of large-sized ***, (3) the conversion of one size from steel to aluminum

³ TR, pp. 228-229 (Yurko, U.S. Can; and Rourke, BWAY).

⁴ *** in 1998, El Nino reduced harvests, thus reducing can makers' demand for steel sheet.

⁵ *** purchaser questionnaire.

⁶ TR, pp. 228-229 (Owen, Silgan; and Yurko, U.S. Can).

⁷ Producer and importer questionnaire responses.

⁸ ***. One of these is included in the 13 purchasers that reported demand was unchanged.

***, (4) that its largest customers declared bankruptcy ***, and (5) poor quality and performance of domestic supplier forced *** to import steel to demonstrate superior quality and performance.⁹

Substitute Products

Eight of 16 purchasers reported that there were no substitutes for TCCSS. The remaining 8 purchasers reported possible substitutes including cold-rolled, zinc-plated, and stainless steel; plastic; glass; paper board; and aluminum containers. However, 4 of these purchasers noted that a switch might require extensive research and expense.¹⁰ Although a few importers reported that plastic and aluminum are substitutes, most say there are none. In contrast, virtually all producers say that aluminum, plastics, glass, and paper are substitutes.

Product Mix

Purchasers were asked at the hearing whether the number and type of TCCSS specifications from Japan has changed over the period examined. Seanor from Ball testified that their product mix has not changed.¹¹ Yurko from U.S. Can followed up by saying that product mix probably changes in everyone's business.¹²

Cost Share

Depending on the final product, TCCSS can be a very large or relatively small part of the final product cost. For example, for paint can bottoms, the cost of TCCSS is estimated at 80 percent of total cost whereas for half-pound cans of tuna, it is 6.8 percent.¹³ The following tabulation gives the percentage of cost accounted for by TCCSS in a range of end-use products, as reported by purchasers in questionnaire responses:

Food cans	0.25 lb. tuna (***)%; 1 lb. tuna (***)%; 0.5 lb. tuna (***)%; fruit juice cans (***)%; food cans (***)%; fruit cans (***)%
Other cans	Plastic and tin cans (***)%; metal cans (***)%; aerosol (***) %; cans (***)%; paint cans (***)%; container (***)%
Can tops and bottoms	Crowns (***)%; composite can closures (***)%; ends (***)%; paint can ring/plugs (***)%; tobacco can lid (***)%
Pet food cans	1 lb. dog food (***)%; 5.5 oz. catfood (***)%; 307x109 pet food cans (***)%; 300x400 pet food cans (***)%; 300x500 pet food cans (***)%
Other	Printing plates (***)%; closures (***)%; decorative tins (***)%

Both producers and importers report the following end uses: food cans, oil filters, paint cans, and parts for electrical appliances. Importers also report cable armor and auto components.

⁹ *** purchaser questionnaires. As a note of caution, 2 of these are included in the 18 purchasers that reported demand was unchanged.

¹⁰ *** purchaser questionnaires.

¹¹ TR, p. 216 (Seanor, Ball).

¹² TR, p. 218 (Yurko, U.S. Can).

¹³ *** purchaser questionnaires.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported TCCSS depends upon such factors as (1) relative prices, (2) quality (e.g., flatness, edge-to-edge gauge control, drawing quality, delivery and line performance, runability, and visual defects), and (3) conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that, within a one-year period, there is a moderate degree of substitutability between domestic and Japanese TCCSS.

Purchasers report changing sourcing over the last 3 years for several reasons. Some have increased purchases from Japan due to inadequate quality supply from ***, lack of alternative East Coast suppliers willing to ship to the West Coast (***), price, and availability of mill production. One has increased purchases from *** due to a need for two-piece metal can steel, excellent quality product, and favorable interest rates. Orders from *** increased due to supplier qualification and availability in general, and of a lightweight, single-reduced product not available domestically. Other purchasers have decreased consumption of TCCSS from the *** due to availability. Another purchaser reported fluctuations in its *** orders due to price volatility.

Factors Affecting Purchasing Decisions

Purchasers range significantly by volume and type of TCCSS purchase. Tables II-1 and II-2 show a list of all purchasers that provided usable data, and corresponding quantities, values, and average unit-values of TCCSS.

Questionnaire respondents reported that TCCSS produced in the United States, Japan, and in nonsubject countries are generally interchangeable in most uses. With the exception of some specialty orders for which specifications cannot be met by U.S. producers, the products are relatively close substitutes regarding physical characteristics.

TCCSS customers report that the supplier reliability is the most important factor in choosing between suppliers. Due to contractual obligations with their own customers, TCCSS purchasers expressed sensitivity toward late shipments of TCCSS, which result in late delivery of their final products to their customers. Some domestic producers report shorter lead times, lower transportation costs, and some differences in specifications. Importers report that some customers rely on Japanese specialties or niche products, despite the longer lead times. Other importers report higher TCCSS quality in Japanese product.

At the hearing, purchasers testified to the importance of on-time deliveries. Yurko of U.S. Can and Owen of Silgan reiterated the uncertainty associated with foreign mills. Owen of Silgan reported that, regardless of need, “the Japanese have no chance of getting it to you any faster” and that “it is impossible to get a 3-week lead from a Japanese company, period.”¹⁴ Rourke of BWAY stated that in his mind, the uncertainty is “part of what justifies the delta” or difference in prices between domestic and foreign steel. Owen of Silgan also reported that although Weirton has had on-time delivery problems, at their worst, Weirton would still come out ahead on flexibility because they can beat the Japanese on lead time.¹⁵

¹⁴ TR, p. 234 (Owen, Silgan).

¹⁵ TR, p. 233 (Rourke, BWAY).

Table II-1

U.S. purchasers' tin-plate quantities, values, and unit values, 1997-99

* * * * *

Table II-2

U.S. purchasers' chromium-coated steel sheet quantities, values, and unit-values, 1997-99

* * * * *

Specification of desired delivery date was important to 15 of the 17 responding purchasers. Furthermore, 14 of the 17 responding purchasers report experiencing delays from suppliers. No purchaser, however, claimed that the delays had caused the shutdown of any of their production facilities.

Fifteen of 17 purchasers reported that they are always aware of whether the TCCSS purchased is domestically produced, and can identify the manufacturer. The remaining 2 purchasers were usually aware of the country of origin and the manufacturer.¹⁶

Twelve of the 14 responding purchasers report no change in purchasing patterns over the last 3 years. Of the 2 purchasers reporting changes, 1 reported that ***, while the other believed that there were changes due to a ***.¹⁷ Most importers reported no change in product mix, although a few importers reported thinner cans and a shift from 3-piece to 2-piece cans. Producers reported a consolidation of customers.

Before making a purchase, TCCSS purchasers typically contact between 1 and 11 suppliers, with the median being 5.¹⁸ Ten of the 16 responding purchasers reported that they rarely or infrequently change suppliers. Two purchasers responded that they never change suppliers. The 4 remaining purchasers changed once or twice yearly. Purchasers reported that they typically change only due to unsatisfactory quality or rate of on-time delivery. One purchaser stated that it had not changed suppliers in over 30 years. Only 5 of the 11 reporting purchasers were aware of any new supplier entry over the past 3 years.¹⁹

Reporting purchaser data indicate that there are a variety of factors that influence purchasing decisions for TCCSS. Purchasers were asked to list the top three factors that they consider when choosing a TCCSS supplier (table II-3). As indicated in the table, quality was most frequently reported as the critical consideration in their purchasing decisions. Purchasers were asked how often their firm's TCCSS purchasing decisions are mainly based on price; 11 purchasers reported sometimes, 4 purchasers reported usually, and 1 reported never. Testimony from purchasers supported this outcome.

Sixteen of the 18 responding purchasers stated that certification is required; 12 of these required certification of 100 percent of their 1999 purchasers.²⁰ When qualifying a purchaser, factors considered include ability to produce specialty items, credit, on-time delivery, dependability, freight costs, global strategy, lead time, packaging, product performance, quality, reliability, runability, volume expectations, and willingness to address quality concerns/service. Qualification times ranged from 4 months to 2

¹⁶ The remaining purchaser reported that it was never aware of the country of origin but was usually aware of the product manufacturer.

¹⁷ *** purchaser questionnaire.

¹⁸ When purchasers stated a range, the midpoint was used for this calculation.

¹⁹ New suppliers listed include BHP (Australia), CSN (Brazil), Dongbu and Dongyang (Korea), Mitsui (Japan), Trade Arbed (an importer), Ton Yi (Taiwan), and Huachipato (Chile).

²⁰ One purchaser reported no percentage. The remaining 3 purchasers reported 85, 5, and 0 percent.

years. Nine out of 18 responding purchasers report that some firms failed to qualify in the past 3 years.²¹ Reasons that firms did not qualify included quality problems, poor delivery and communications, lack of on-time delivery, product did not meet specs, inconsistent flatness, poor fabricability, insufficiently bright, and inability to supply proper double-reduced elongation.

Purchasers were asked to indicate the importance of 14 factors in their purchasing decisions for TCCSS (table II-4). The most important factors cited were product quality, product consistency, and reliability of supply, all of which were rated as very important by all 14 of the responding purchasers.

Table II-3 TCCSS: Ranking of factors used in purchasing decisions, as reported by U.S. purchasers				
Factor	Number one	Number two	Number three	Other factors
	<i>Number of firms responding</i>			
Quality	11	2	1	0
Price	0	3	8	0
Current availability	0	3	0	0
Service/technical support	0	4	1	2
Product range	1	0	1	1
Contract/relationship	1	0	0	1
Delivery reliability/lead time	0	1	1	2
Shipping cost	0	1	0	1
Supplier integrity/past experience	0	0	1	1
Other ¹	1	0	0	3

¹ Other factors include runability for the first factor and for other factors, ability to offer consignment programs, extended invoice payment terms, flexibility in making order changes, and meeting existing specs.

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

²¹ Those failing to qualify include ***.

Table II-4 TCCSS: Ranking of factor importance, as reported by U.S. purchasers			
Factor	Very important	Somewhat important	Not important
	<i>Number of purchasers responding</i>		
Availability	11	2	-
Delivery terms	4	9	-
Delivery time	9	4	-
Discounts offered	7	5	1
Lowest price	7	6	-
Minimum qty requirements	3	4	6
Packaging	4	8	1
Product consistency	12	1	-
Product quality	13	-	-
Product range	6	7	-
Reliability of supply	10	3	-
Technical support/service	8	3	2
Transportation network	4	8	1
U.S. transportation costs	3	7	2
Other ¹	2	-	-

¹ Other factors include lead times, on time promise performance, claim resolution, flexibility, and administrative capacity/accuracy, all reported as very important. Some purchasers reported more than one other factor.

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

Comparisons of Domestic Products and Japanese Imports

Market shares for Japanese TCCSS imports increased from *** percent of the domestic market in 1997 to *** percent in 1999. Comparing first quarter share figures from 1999 and 2000 shows that Japanese market share has increased further from *** percent in 1999 to *** percent in 2000.

Nine of the 16 reporting purchasers noted that Japanese and domestic TCCSS could not be used in the same applications. Reasons given include that (1) the U.S. product was ***, (2) ***, and (3) the products each country produced differed significantly. The remaining 7 purchasers reported that Japanese and domestic TCCSS are used in the same applications. In contrast, all producers reported that U.S. and Japanese TCCSS are used interchangeably. Importers reported a number of differences including that

Japan produces (1) more flatness, (2) quality surface, (3) very thin products, or (4) specialty niche products. Thirteen purchasers compared U.S.- and Japanese-produced TCCSS by 14 factors (table II-5).

Lead times from U.S. producers varied between 6 and 12 weeks, with most producers reporting delivery within 6 to 8 weeks. For imports, lead times ranged from 2.5 months to 7 months, with 6 of the 11 importers reporting lead times in the 3 to 4.5 month range. Both producers and importers report that end users give a desired delivery date at the time of purchase.

Table II-5**TCCSS: Comparison of U.S. product with product from Japan, as reported by U.S. purchasers**

Factor	Superior	Comparable	Inferior
	<i>Number of firms responding</i>		
Availability	5	2	1
Delivery terms	2	3	3
Delivery time	7	-	-
Discounts offered	2	2	4
Lowest price	1	2	4
Minimum quantity requirements	3	5	-
Packaging	-	4	4
Product consistency	-	2	6
Product quality	-	1	7
Product range	1	4	3
Reliability of supply	3	4	1
Technical support/service	3	4	1
Transportation network	3	4	1
U.S. transportation costs	2	6	-
Other ¹	1	-	1

¹ Other factors include up to 48-inch wide metal, U.S. West Coast supplied by Japan, and U.S. inferior flexibility vs. Japan.

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

Comparisons of Domestic TCCSS and Japanese Imports to Nonsubject Imports

Market shares of nonsubject imports have increased since 1997. Nonsubject imports made up *** percent of the market in 1997 and grew to *** percent in 1999. First quarter figures of 1999 and 2000 further confirm that this trend is continuing: market shares grew slightly from *** percent in 1999 to *** percent in 2000.²²

Eight purchasers compared U.S.-produced TCCSS with nonsubject imports by the 14 factors; three compared Japanese and nonsubject imports by these factors (tables II-6 and II-7). Most domestic producers and importers report that nonsubject and U.S. products are essentially the same. Importers report that their product has different quality and some different specifications.

²² Figures are based on table C-1 summary data, U.S. consumption quantity. When measured by U.S. consumption value, the pattern is reinforced.

**Table II-6
TCCSS: Comparison of U.S. product with product from nonsubject countries, as reported by U.S. purchasers**

Factor	***			***			***			***		
	S	C	I	S	C	I	S	C	I	S	C	I
	<i>Number of firms responding</i>											
Availability	5	-	-	-	2	2	3	1	-	2	-	-
Delivery terms	3	2	-	-	3	1	1	3	-	2	-	-
Delivery time	5	-	-	4	-	-	4	-	-	2	-	-
Discounts offered	-	1	4	1	2	1	-	2	2	-	-	2
Lowest price	-	1	3	1	2	1	-	-	4	-	-	2
Minimum quantity requirements	4	1	-	2	2	-	2	2	-	2	-	-
Packaging	-	2	3	-	2	2	1	1	2	1	1	-
Product consistency	-	3	2	-	-	4	2	2	-	1	1	-
Product quality	-	3	2	-	-	4	3	1	-	2	-	-
Product range	1	1	3	-	1	3	3	1	-	2	-	-
Reliability of supply	3	1	1	-	4	-	3	1	-	2	-	-
Technical support/service	2	2	1	-	2	2	4	-	-	2	-	-
Transportation network	2	2	1	1	3	-	3	1	-	2	-	-
U.S. transportation costs	2	3	-	1	3	-	-	4	-	1	1	-

Factor	***			***			***			***			***		
	S	C	I	S	C	I	S	C	I	S	C	I	S	C	I
	<i>Number of firms responding</i>														
Availability	1	-	-	1	-	-	3	-	-	2	-	1	-	2	1
Delivery terms	1	-	-	1	-	-	2	1	-	2	1	-	1	2	-
Delivery time	1	-	-	1	-	-	3	-	-	3	-	-	-	3	-
Discounts offered	-	-	1	-	-	1	-	-	3	-	2	1	1	1	1
Lowest price	-	-	1	-	-	1	-	-	3	-	2	-	1	1	-
Minimum quantity requirements	-	1	-	1	-	-	2	1	-	-	3	-	-	3	-
Packaging	-	-	1	-	1	-	1	2	-	-	1	2	-	3	-
Product consistency	-	1	-	1	-	-	3	-	-	1	-	2	-	1	2
Product quality	-	1	-	1	-	-	2	1	-	1	-	2	-	-	3
Product range	1	-	-	1	-	-	3	-	-	-	2	1	-	1	2
Reliability of supply	1	-	-	1	-	-	3	-	-	3	-	-	-	3	-
Technical support/service	1	-	-	1	-	-	3	-	-	1	2	-	-	3	-
Transportation network	1	-	-	1	-	-	3	-	-	1	2	-	1	2	-
U.S. transportation costs	-	1	-	-	1	-	1	2	-	-	3	-	1	2	-
Other ¹	1	-	-	-	-	-	-	-	-	-	-	1	-	-	-

¹Other factors includes up to 48 inches wide metal vs *** U.S. inferior; vs *** flexibility, U.S. superior.

Note. S = U.S. superior, C = U.S. and other country comparable, I = U.S. inferior.

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

**Table II-7
TCCSS: Comparison of Japanese product with product from other countries, as reported by U.S. purchasers**

Factor	***			***			***			***		
	S	C	I	S	C	I	S	C	I	S	C	I
	<i>Number of firms responding</i>											
Availability	1	2	-	-	1	1	2	-	-	2	-	-
Delivery terms	-	2	1	-	2	-	-	2	-	1	1	-
Delivery time	-	2	1	-	1	1	1	1	-	1	1	-
Discounts offered	-	2	1	-	2	-	-	1	1	-	-	2
Lowest price	-	1	2	-	2	-	-	1	1	-	-	2
Minimum quantity requirements	-	2	1	-	1	1	-	2	-	1	1	-
Packaging	1	1	1	-	2	-	-	2	-	2	-	-
Product consistency	3	-	-	-	2	-	1	1	-	2	-	-
Product quality	3	-	-	1	1	-	2	-	-	2	-	-
Product range	3	-	-	-	1	1	1	1	-	2	-	-
Reliability of supply	2	1	-	-	2	-	1	1	-	2	-	-
Technical support/service	1	2	-	-	1	1	-	1	1	1	1	-
Transportation network	-	3	-	-	1	1	-	1	1	1	1	-
U.S. transportation costs	-	3	-	-	2	-	-	1	1	-	2	-

Note. S = Japan superior, C = Japan and other country comparable, I = Japan inferior.

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

ELASTICITY ESTIMATES

This section discusses the elasticity estimates that are used in the COMPAS analysis.

U.S. Supply Elasticity

The domestic supply elasticity for TCCSS measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of TCCSS. The elasticity of domestic supply depends on several factors including the (1) level of excess capacity, (2) ease with which producers can alter capacity, (3) producers' ability to shift to production of other products, (4) existence of inventories, and (5) availability of alternate markets for U.S.-produced TCCSS. Earlier analysis of these factors indicates that the U.S. industry is likely to be able to somewhat increase shipments to the U.S. market; an estimate in the range of 3 to 5 is suggested.

Japanese Supply Elasticity

The Japanese supply elasticity for TCCSS measures the sensitivity of the quantity supplied by producers in Japan to changes in the TCCSS price imported from Japan. The elasticity of Japanese supply depends on the same factors as the domestic supply elasticity. Analysis of these factors earlier indicates that the Japanese industry is likely to be able to increase or decrease shipments to the U.S. market; an estimate in the range of 4 to 7 is suggested.

U.S. Demand Elasticity

The U.S. demand elasticity for TCCSS measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of TCCSS. Further, it is a derived demand, depending on the demand for the product to be canned. The elasticity estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of the TCCSS in the production of any downstream products. Based on the available information, the aggregate demand for TCCSS is likely to be relatively inelastic; further, purchasers testified at the hearing that their demand for TCCSS does not change very much.²³ Thus, a range of -0.25 to -0.75 is suggested. Respondents believe that the lower end of the staff estimate should be used.²⁴

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.²⁵ Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (availability, sales terms/discounts/promotions, etc.). Staff initially estimated the elasticity of substitution between U.S.-produced and imported TCCSS to be moderate, in the range of 3 to 5.

Respondents, however, gave several reasons for the elasticity of substitution to be significantly lower, in the range of 1 to 2.²⁶ These reasons include: (1) difference in product specification distribution, (2) non-price factors to purchasers, (3) different timing of domestic and foreign price negotiation, (4) competition-limiting regional factors, (5) Weirton's "captive" sales at its leased facilities, and (6) comparison to cold-rolled steel estimate. However, staff notes that while factors other than price and product specifications are critical to purchasers, TCCSS prices appear to have exhibited increased sensitivity to competition, most notably in 1999. For that reason, staff takes respondent's concerns under advisement, and also considers the range for substitution elasticity from 1 to 5.

MODEL RESULTS

This analysis uses a nonlinear partial equilibrium model that assumes that domestic and imported products are less than perfect substitutes. Such models, also known as Arlington models, are relatively standard in applied trade policy analysis and are used for trade policy change analysis in both partial and general equilibrium. Based on earlier discussion, staff has selected a range of estimates that represent price-supply, price-demand, and product-substitution relationships (i.e., elasticities of supply, demand, and substitution) in the U.S. TCCSS market. The COMPAS model uses these estimates along with data on market shares and Commerce's determination of the dumping margin.

The analysis uses the most recent full one-year period, 1999, as the base year. Finally, the model does not assume that all of the dumping margin will be passed forward to U.S. prices of imports from Japan. The model is static; in other words, the model stimulates zero growth, "low growth," and "high growth" scenarios based on staff estimates and dumping margins provided by Commerce. The results are below.

²³ TR, p. 109 (Shagrin, petitioner counsel) and p. 173 (Yurko, U.S. Can).

²⁴ Respondents' prehearing brief, exhibit 17, p. 3

²⁵ The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

²⁶ Respondents' prehearing brief, exhibit 17, p. 3.

COMPAS ver. 1.4 (DUMPING) -- THE EFFECTS OF LTV PRICING OF IMPORTS

* * * * *

COMPAS ver. 1.4 (DUMPING) -- THE EFFECTS OF LTV PRICING OF IMPORTS

* * * * *

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the margin of dumping was presented earlier in this report and information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V. Information on the other factors specified is presented in this section and/or Part VI and (except as noted) is based on the questionnaire responses of 7 firms that accounted for all known U.S. production of TCCSS during 1999.

U.S. PRODUCERS

The Commission mailed questionnaires to the 7 firms believed to produce TCCSS and all 7 firms provided the Commission with data on their TCCSS operations. Each U.S. producer, its position on the petition, share of reported 1999 production, location, and parent company are provided in table III-1.

Table III-1
TCCSS: U.S. producers, positions on the petition, shares of reported 1999 production, production locations, and parent companies

Firm	Position on petition	Share of 1999 production	Production location	Parent company and country
Weirton (petitioner)	Support	***	Weirton, WV	Weirton (U.S.)
Bethlehem	***	***	Sparrows Point, MD	Bethlehem (U.S.)
LTV	***	***	Aliquippa, PA; East Chicago, IN	LTV (U.S.)
National	***	***	Portage, IN	NKK (Japan)
Ohio Coatings	***	***	Yorkville, OH	Wheeling-Pittsburgh Dongyang (U.S./Korea) ¹
USS Posco	***	***	Pittsburg, CA	U.S. Steel (U.S.) Pohang (Korea) ²
U.S. Steel	***	***	Gary, IN; Fairless Hills, PA	U.S. Steel (U.S.)

¹ Ohio Coatings is a 50-50 joint venture between Wheeling-Pittsburgh and Dongyang of Korea. Nippon Steel USA also owns 11.1 percent of the preferred (non-voting) stock in the joint venture.

² USS Posco is a 50-50 joint venture between U.S. Steel and Pohang of Korea.

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

As shown in table III-1, none of the firms possesses a dominating market share. However, U.S. producers are geographically spaced and tend to concentrate on certain regions of the United States to minimize freight cost¹ and shipping times, with some territorial overlap with other producers.² For example, ***.

Japanese producer NKK is the majority shareholder of National, with the remaining equity position owned by its U.S. importer, NKK USA. According to a news item published by Reuters News Service in October 1998, NKK has supplied technical assistance, facilities development, and financial support to National but, because of a recent deterioration in NKK's financial condition (reportedly due to turmoil in its domestic market), further financial support is doubtful and NKK may even seek financial support from National. ***. USS Posco is a 50-50 joint venture between U.S. Steel and Pohang of Korea.³ Ohio Coatings is a 50-50 joint venture between Wheeling-Pittsburgh and Dongyang of Korea. Nippon Steel USA also holds an 11.1 percent preferred stock interest (non-voting) in the venture.

*** U.S. producers, ***, lease warehousing and/or production space near their steel mills to purchasers. ****⁴ ***⁵ ***.⁶

U.S. PRODUCTION, CAPACITY, CAPACITY UTILIZATION, SHIPMENTS, INVENTORIES, AND EMPLOYMENT

As shown in table III-2, capacity remained relatively constant from 1997 to 1998, but then decreased 5.4 percent in 1999. Comparing the interim periods, capacity decreased 9.4 percent from first quarter 1999 to first quarter 2000. *** firms increased or decreased their capacity during the period reviewed. ***.

U.S. producers stated that capacity constraints occurred as a result of bottlenecks in the upstream production line (i.e., blast furnace, caster operations, hot-rolled capacity, or continuous annealing line) and various tin mill operations (i.e., coil inspection and final side trimming), as well as the speed of the tin- and chromium-coating production lines themselves.⁷

¹ "Freight equalization" is the term used to describe the producers' willingness to match a purchasers' lowest obtainable freight cost, generally from the nearest steel mill. This industry custom has the potential result of shifting large portions of freight costs onto producers. Most producers, however, indicate that it is their policy to limit the extension of freight equalization privileges to geographically removed purchasers, hence creating the geographical zones of service.

² U.S. producers *** stated that they are capable of servicing purchasers throughout the United States. ***, however, reported that it does place a cap on its ability to equalize freight costs to distant purchasers. *** reported that because of freight cost concerns, it attempts to maximize shipments to purchasers ***. U.S. producers were asked to report the share of their U.S. shipments that were sent to the West Coast (west of the Rocky Mountains). ***.

U.S. producers were also requested to report any "on-time" delivery or other problems associated with a number of railroad mergers that occurred during the period examined. Of the responding U.S. producers, ***.

³ U.S. Steel was also involved in a 50-50 joint venture with VSZ of Slovakia. On April 26, 2000, the U.S. Steel Board approved plans to purchase all steel related assets of VSZ in Slovakia.

⁴ ***.

⁵ ***.

⁶ ***.

⁷ Respondents requested that the Commission inquire whether the diversion of cold-rolled steel to more profitable products, such as galvanized or corrosion-resistant steel, constrained the producer's capacity to produce (continued...)

Production decreased by 8.1 percent from 1997 to 1998, but then increased marginally in 1999.

Quantity and value of total U.S. shipments decreased from 1997 to 1998 and again in 1999.⁸ With regard to quantity, U.S. shipments decreased by 7.6 percent from 1997 to 1998 and by 1.7 percent in 1999. With regard to value, U.S. shipments decreased by 8.6 percent from 1997 to 1998 and by 5.3 percent in 1999. During the interim periods, U.S. shipments decreased 3.6 percent in quantity and 3.5 percent in value.

Export shipments by U.S. producers, on the other hand, increased in both quantity and value from 1997 to 1998 and again in 1999. With regard to quantity, export shipments increased by 4.6 percent from 1997 to 1998 and by 26.9 percent in 1999. With regard to value, export shipments increased by 1.4 percent from 1997 to 1998 and by 19.5 percent in 1999. During the interim periods, export shipments increased 42.2 percent in quantity and 40.7 percent in value. Export markets for U.S. producers included Canada, Germany, Mexico, Taiwan, and the United Kingdom.

U.S. producers' end-of-period inventories remained relatively constant during the period examined, ranging from their high in interim 1999 of 368,836 short tons to their low in calendar year 1999 of 346,375 short tons. Ratios of inventories to total shipments ranged from 9.6 percent in 1997 to 10.8 in interim 1999.

The progression of the production line allows producers to share their downstream TCCSS rolling mills and employment with other upstream cold-rolled and hot-rolled steel products.⁹ Employment data depicted in table III-2 shows a steady decline in PRWs and hours worked throughout the period examined. Hourly wages and productivity, on the other hand, have shown small annual increases throughout the period, thereby decreasing labor unit costs per short ton (except in interim 1999, which shows an hourly wage decline).

⁷ (...continued)
tin mill products. ***.

⁸ ***.

⁹ U.S. producers listed various upstream products as well as alternative products produced on the tin mill coating lines as being produced on the same machinery with the same employees. Examples of upstream products included hot-rolled, cold-rolled, and black plate. Alternative products included corrosion-resistant, coated, galvanized, and electro-zinc coated sheet.

Table III-2

TCCSS: U.S. production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators, 1997-99, January-March 1999, and January-March 2000

Item	Calendar year			January-March	
	1997	1998	1999	1999	2000
Capacity (<i>short tons</i>)	4,855,145	4,869,145	4,607,145	1,148,436	1,040,444
Production (<i>short tons</i>)	3,728,441	3,425,572	3,433,592	854,816	849,362
Capacity utilization (<i>percent</i>)	76.8	70.4	74.5	74.4	81.6
U.S. shipments:					
Quantity (<i>short tons</i>)	3,554,766	3,283,424	3,227,134	805,995	776,793
Value (<i>1,000 dollars</i>)	2,192,160	2,003,321	1,898,063	476,447	459,860
Unit value (<i>per short ton</i>)	\$616.68	\$610.13	\$588.16	\$591.13	\$592.00
Exports:					
Quantity (<i>short tons</i>)	186,510	194,999	247,485	45,372	64,498
Value (<i>1,000 dollars</i>)	115,979	117,585	140,563	27,247	38,339
Unit value (<i>per short ton</i>)	\$621.84	\$603.00	\$567.97	\$600.52	\$594.42
Total shipments:					
Quantity (<i>short tons</i>)	3,741,276	3,478,423	3,474,619	851,367	841,291
Value (<i>1,000 dollars</i>)	2,308,139	2,120,906	2,038,626	503,694	498,199
Inventories (<i>short tons</i>)	360,768	354,047	346,375	368,836	356,343
Ratio of inventories to total shipments (<i>percent</i>)	9.6	10.2	10.0	10.8	10.6
Production and related workers (PRWs)	6,922	6,224	6,004	5,860	5,677
Hours worked by PRWs (<i>1,000 hours</i>)	15,287	13,654	13,297	3,235	3,152
Productivity (<i>short tons produced per 1,000 hours</i>)	243.9	250.9	258.2	264.2	269.5
Wages paid to PRWs (<i>1,000 dollars</i>)	380,470	346,345	344,320	77,628	81,988
Hourly wages	\$24.89	\$25.37	\$25.89	\$24.00	\$26.01
Unit labor costs (<i>per short ton</i>)	\$102.05	\$101.11	\$100.28	\$90.81	\$96.53
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. PRODUCERS' SHIPMENTS

Table III-3 sets forth U.S. producers' shipments, by types, during the period for which data were collected. Unlike recent steel cases at the Commission, which concerned upstream steel products such as hot-rolled and cold-rolled steel, TCCSS is a downstream product almost exclusively sold directly to end users. It represents one of the most value-added steel products produced by steel manufacturers. Thus, table III-3 depicts a ***.

Table III-3

TCCSS: U.S. producers' shipments, by types, 1997-99, January-March 1999, and January-March 2000

Item	Calendar year			January-March	
	1997	1998	1999	1999	2000
Quantity (short tons)					
Open-market U.S. shipments	***	***	***	***	***
Captive U.S. shipments	***	***	***	***	***
Total U.S. shipments	3,554,766	3,283,424	3,227,134	805,995	776,793
Export shipments	186,510	194,999	247,485	45,372	64,498
Total shipments	3,741,276	3,478,423	3,474,619	851,367	841,291
Value (1,000 dollars)					
Open-market U.S. shipments	***	***	***	***	***
Captive U.S. shipments	***	***	***	***	***
Total U.S. shipments	2,192,160	2,003,321	1,898,063	476,447	459,860
Export shipments	115,979	117,585	140,563	27,247	38,339
Total shipments	2,308,139	2,120,906	2,038,626	503,694	498,199
Unit value (per short ton)					
Open-market U.S. shipments	\$***	\$***	\$***	\$***	\$***
Captive U.S. shipments	***	***	***	***	***
Total U.S. shipments	616.68	610.13	588.16	591.13	592.00
Export shipments	621.84	603.00	567.97	600.52	594.42
Total shipments	616.94	609.73	586.72	591.63	592.18
Note.—Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires.					

PART IV: U.S. IMPORTS, APPARENT CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

The Commission sent questionnaires to 28 firms believed to have imported TCCSS between January 1997 and March 2000, and received usable data from 18 of the firms representing virtually 100 percent of imports from Japan and approximately 51.4 percent of imports from nonsubject countries. With regard to imports from nonsubject countries, data from Commerce has been used after subtraction of reported imports of product specifically excluded from the scope of this investigation (see table I-1).¹ Also, ***'s reported imports into an FTZ have been added to the nonsubject import data.²

Japanese importers reported the largest quantity of imports of TCCSS during all periods of the investigation. Virtually all of Japanese exports are imported by 11 Japanese-owned firms: Mitsui USA, Nippon Steel USA, Marubeni USA, Kanematsu USA, Itochu, Mitsubishi USA, Nichimen USA, Nissho Iwai USA, Kawasho USA, Tomen USA, and Sumitomo USA. The identity of the importers, their source of imports, shares of reported 1999 subject and nonsubject imports (by quantity), location of U.S. offices, and parent companies are provided in table IV-1.

¹ The identities of the 28 firms were submitted by the parties or identified from the U.S. Customs Service Net Import File. ***.

² *** imported TCCSS from countries other than Japan into an FTZ during the period examined. Its imports into the FTZ include ***.

Table IV-1

TCCSS: U.S. importers, source of imports, shares of reported 1999 subject and nonsubject imports, by quantity, U.S. headquarters locations, and parent companies

Firm	Source of imports	Share of 1999 subject imports	Share of 1999 nonsubject imports	U.S. office location(s)	Parent company and country
Dofasco	***	***	***	Hamilton, ON	Dofasco (Canada)
Hoogovens	***	***	***	Scarsdale, NY	Corus (Netherlands)
Itochu	***	***	***	Bannockburn, IL	Itochu Corp. (Japan)
Kanematsu USA	***	***	***	New York, NY Houston, TX	Kanematsu Corp. (Japan)
Kawasho USA	***	***	***	Long Beach, CA	Kawasho (Japan)
Marubeni USA	***	***	***	New York, NY	Marubeni Corp. (Japan)
Mitsubishi USA	***	***	***	Rosemont, IL	Mitsubishi (Japan)
Mitsui USA	***	***	***	New York, NY Atlanta, GA Chicago, IL Los Angeles, CA	Mitsui (Japan)
Nichimen USA	***	***	***	New York, NY Los Angeles, CA Houston, TX	Nichimen Corp. (Japan)
Nippon Steel USA	***	***	***	Los Angeles, CA	Nippon Steel (Japan)
Nissho Iwai USA	***	***	***	Sante Fe Springs, CA Atlanta, GA Los Angeles, CA	Nissho Iwai (Japan)
Okaya USA	***	***	***	Fort Lee, NJ	Okaya (Japan)
Randall	***	(1)	***	Elk Grove Village, IL Salisbury, NC	Randall (U.S.)
Sonoco	***	***	***	Hartsville, SC	Sonoco (U.S.)
Sumitomo USA	***	(2)	***	Chicago, IL	Sumitomo Corp. (Japan)
Titan	***	***	***	Baltimore, MD Romeoville, IL New York, NY	Titan Industrial (U.S.)
Tomen USA	***	***	***	Houston, TX Chicago, IL	Tomen Corp. (Japan)
Toyota	***	***	***	New York, NY	Toyota (Japan)

1 ***
2 ***

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

U.S. IMPORTS

Imports from Japan increased by 35.3 percent from 1997 to 1998, by 37.3 percent in 1999, and by 8.1 percent from January-March 1999 to January-March 2000. Although at a lesser rate, imports from nonsubject countries show the same increasing trend.

Table IV-2

TCCSS: U.S. imports, by sources, 1997-99, January-March 1999, and January-March 2000

Source	Calendar year			January-March	
	1997	1998	1999	1999	2000
Quantity (short tons)					
Japan	181,287	245,872	336,961	91,426	98,854
Other sources ¹	***	***	***	***	***
Total	***	***	***	***	***
Value (1,000 dollars)²					
Japan	115,607	150,760	195,839	53,719	56,433
Other sources ¹	***	***	***	***	***
Total	***	***	***	***	***
Unit value (per short ton)					
Japan	\$637.70	\$613.16	\$581.19	\$587.57	\$570.87
Other sources ¹	***	***	***	***	***
Average	***	***	***	***	***
Share of quantity (percent)					
Japan	40.3	47.2	48.0	53.9	52.0
Other sources ¹	***	***	***	***	***
Total	***	***	***	***	***
Share of value (percent)					
Japan	41.1	46.9	48.0	54.0	51.2
Other sources ¹	***	***	***	***	***
Total	***	***	***	***	***
<p>¹ The import data for nonsubject countries include all imports under HTS subheadings 7210.11.00, 7210.12.00, 7210.50.00, and 7212.10.00 modified to reflect the importation of product specifically excluded from this investigation reported in questionnaire responses. Imports of the subject product under other HTS subheadings subject to this investigation are believed to be minimal or non-existent. Data are further modified to reflect the imports of *** into an FTZ.</p> <p>² Landed, duty-paid.</p> <p>Note.—Because of rounding, figures may not add to the totals shown.</p> <p>Source: Subject import data compiled from data submitted in response to Commission questionnaires. Nonsubject import data compiled from official Commerce statistics modified to reflect the importation of product specifically excluded from this investigation..</p>					

APPARENT U.S. CONSUMPTION

Total U.S. consumption of TCCSS remained relatively stable during the period examined. Data regarding U.S. consumption are presented in table IV-3.

Table IV-3

TCCSS: U.S. producers' U.S. shipments, by types, U.S. shipments of imports, by sources, and open-market and total U.S. consumption, 1997-99, January-March 1999, and January-March 2000

Item	Calendar year			January-March	
	1997	1998	1999	1999	2000
Quantity (short tons)					
U.S. producers' open-market U.S. shipments	***	***	***	***	***
U.S. producers' captive U.S. shipments	***	***	***	***	***
U.S. producers' total U.S. shipments	3,554,766	3,283,424	3,227,134	805,995	776,793
U.S. shipments of imports from-- Japan	182,157	242,081	329,645	84,737	96,783
Nonsubject countries ¹	***	***	***	***	***
All countries	***	***	***	***	***
Open-market U.S. consumption	***	***	***	***	***
Total U.S. consumption	***	***	***	***	***
Value (1,000 dollars)					
U.S. producers' open-market U.S. shipments	***	***	***	***	***
U.S. producers' captive U.S. shipments	***	***	***	***	***
U.S. producers' total U.S. shipments	2,192,160	2,003,321	1,898,063	476,447	459,860
U.S. shipments of imports ² from-- Japan	120,997	150,760	195,839	53,719	56,433
Nonsubject countries ¹	***	***	***	***	***
All countries	***	***	***	***	***
Open-market U.S. consumption	***	***	***	***	***
Total U.S. consumption	***	***	***	***	***
¹ Shipments of imports from nonsubject countries are assumed to be equal to imports from nonsubject countries and include reported imports of *** into an FTZ. ² F.o.b. U.S. port of entry.					
Note.--Because of rounding, figures may not add to the totals shown.					
Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. MARKET SHARES

U.S. producers experienced eroding market share as U.S. shipments of both Japanese and nonsubject country imports increased during the entire period examined. Data regarding market shares are presented in table IV-4.

Table IV-4

TCCSS: U.S. consumption and market shares, 1997-99, January-March 1999, and January-March 2000

* * * * *

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

U.S. producers reported that the costs of raw materials have been relatively stable between 1997 and 1999. The costs of raw materials are discussed in more detail in Part VI.

Transportation Costs to the U.S. Market

Based on 1999 official statistics, transportation charges from Japan to the U.S. market are estimated to be 11.3 percent of customs value.

U.S. Inland Transportation Costs

Six U.S. producers reported that U.S. inland transportation costs accounted for from 1 to 10 percent of the total delivered price of TCCSS, with 5 of these reporting costs between 1 and 4 percent. Thirteen importers reported that U.S. transportation costs accounted for between 1 and 35 percent of total delivered costs, with 8 of these reporting that it fell between 1 and 4 percent.¹ Both producers and importers report that the producer usually arranges transportation.

Tariff Rates

The normal trade relations tariff rates for TCCSS in 1999 ranged from 1.4 percent ad valorem to 2.6 percent ad valorem.²

Exchange Rates

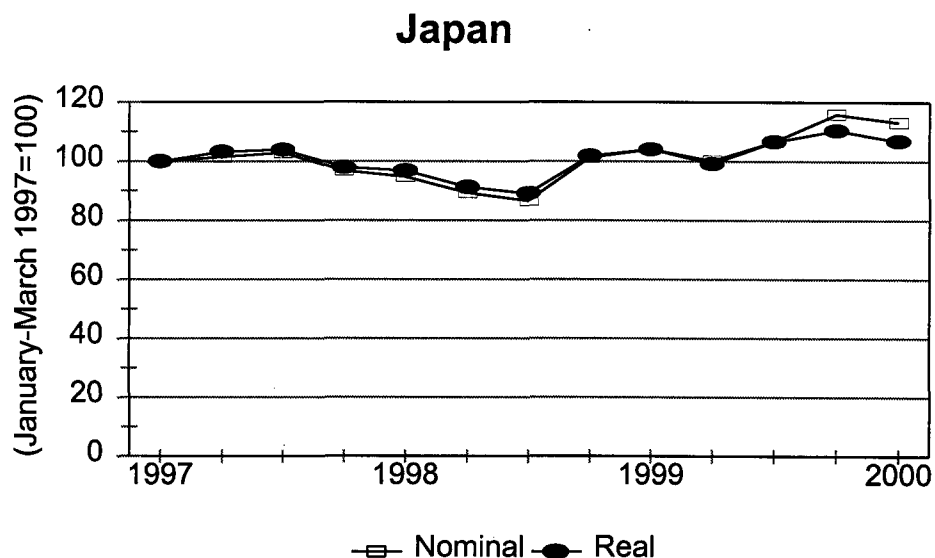
Quarterly rates reported by the International Monetary Fund for Japan during the period January 1997-March 2000 are shown in figure V-1.

¹ Another importer reported that transportation was 98 percent of total costs. When comparing average rates, the average response for producers was 2.8 percent, whereas the average response for importers was 14 percent; however, the median rate for importers was 3 percent.

² TCCSS is covered by HTS subheadings 7210.11.00, 7210.12.00, 7210.50.00, 7212.10.00, 7212.50.00, 7225.99.00, and 7226.99.00.

Figure V-1

Exchange rates: Indexes of the nominal and real exchange rates of the Japanese yen relative to the U.S. dollar, by quarter, January 1997-March 2000



Source: International Monetary Fund, *International Financial Statistics*, March 2000.

PRICING PRACTICES

TCCSS is sold by both base boxes and short tons. A base box is a very precise way of measuring a unit of TCCSS and is a unit of area equivalent to 31,360 square inches (217.78) square feet.³ Base boxes are sold by a basis weight such as 70 pounds, 85 pounds, or 60 pounds. Basis weight requirements vary dramatically by usage.

Converting base boxes to short tons is imprecise because base boxes are units of square inches, while short tons are units of weight. Therefore, when prices are quoted in short tons, they should be evaluated as estimates.⁴ Prices of TCCSS differ by the thickness of the tin- or the chromium-plating. If the purchaser requires the base weight to be relatively high, 105 pounds for example, the steel is typically stronger and thicker. Specifications are further identified by size, such as 603 end. The size 603 end means it is used for the bottom or end of a can, and measures 6 and 3/16 inches in diameter, a size used to produce a large institutional can. Another application of TCCSS at the 70 pound base weight is making aerosol cans, which are relatively light. The size 202 body means that the can end

³ The *base box* is equal to 14 inches times 20 inches times a package (14" x 20" x 112 sheets). Thus a base box measurement is equal to 31,360 square inches. To determine the *package price* applicable to various sizes, multiply the *price per base box* by the established ratio of base boxes per package.

⁴ For example, when converting a ton to base box weight, one must first know what the basis weight is for the unit in order to convert. A ton (2,000 pounds) at a 100 pound basis weight will give (2,000 lbs./100 lbs.) 20 base boxes. This same ton will give more base boxes if the basis weight is 75 pounds: (2,000 lbs./75 lbs.) 26.6 base boxes.

measures 2 and 2/16 inches in diameter. This size is used to produce a shaving cream can bottom or cooking spray can end.⁵ Prices vary significantly by weight, size, thickness of tin- or chromium-coating, and whether the steel sheet is single- or double-rolled (SR or DR) thickness.

In 1999, U.S.-produced and Japanese-imported TCCSS were, for the most part, sold directly to end users. Sixteen of the 18 reporting purchasers were end users, and 2 were distributors. ***.

Six U.S. producers reported selling on an f.o.b. basis; 1 reported selling mainly f.o.b. but also sometimes sold on a delivered basis. Nine of the 12 responding importers reported selling on a delivered basis. Of the remaining 3, 1 reported selling on both a c.i.f. basis and an EDDP basis,⁶ 1 reported selling on both a delivered basis and an EDDP basis, and 1 sold on an f.o.b. basis.

Price Leadership

Nine of the 13 responding purchasers reported that *** consistently shows price leadership. Three of the 13 identified *** as the price leader for East of the Rockies. Two others reported *** as the price leader for West of the Rockies, and 1 purchaser reported *** as price leaders; in addition, 1 purchaser identified *** as an overall price leader.⁷

*** demonstrated its price leadership through announcing price increases first in the industry each fall; as a result, other mills adjust to meet the leader's announced price. Typically, prices are announced yearly, except for 1999 when there were no announced price increases. Although each producer prints its own price list, the firm-specific price lists are virtually identical to the leader's price list. When price increases are announced, the increase is executed across the board for all specifications and add-ons.⁸ Most U.S. producers use a publicly available price list, and large discounts are typically given from these prices.⁹ More information on discount types is discussed in the next section.

Contracts

Typically, firms negotiate contracts or "purchasing agreements" for TCCSS annually.¹⁰ Price and volume discussions generally start in October each year for the following calendar year. Some purchasers report having agreements without formal binding contracts. Prices for contracts are most often negotiated for multiple specifications (9 of 13 purchasers), although 3 purchasers claimed that negotiations were done strictly on an individual specification basis. One purchaser stated that although multiple specification contracts were the norm, spot purchases were negotiated separately. Ten of 14 reporting purchasers stated that they received discounts off the price list. Importer contracts are typically either for separate or multiple specifications; the specification mix usually does not vary by customer. Both producers and importers negotiate contracts in the fall or fourth quarter of the year.

⁵ Phone interview with ***, June 1, 2000.

⁶ EDDP stands for Ex-Dock Duty Paid, which means that the importer pays import duties and dock charges. The only difference between EDDP and delivered is that customers pay for transportation from dock to site with EDDP.

⁷ Numbers sum to more than 13 since purchasers sometimes identified more than one producer as the price leader.

⁸ For example, if a 2 percent price increase is announced by U.S. Steel, its price list will reflect a 2 percent across the board increase in the base specification (70 lb. for tin-plate and 55 lb. for chromium-coated steel sheet) and all add-ons such as tin- or chromium-coating.

⁹ Information drawn from 14 purchaser questionnaires and phone conversations with ***. Ten purchasers reported using a price list and 4 *** stated that there were no price lists.

¹⁰ One purchaser, however, claimed to have contracts that last 5 years.

Leasing Agreements

*** noted that it is important to distinguish between the lease agreement with purchasing contracts that it has at its *** and regular sales contracts for all other purchasers. These leases¹¹ cover *** purchasers with supply contracts that are tied to lease agreements for their processing facilities located on ***. Under the lease agreement, ***, ***.¹² *** lessees do not comply with this percentage, and buy more than *** percent from other sources.¹³ *** further stated that it has never sued purchasers for breach of contract when purchasers located on *** buy significantly more than *** percent from either other domestic or foreign sources.¹⁴ In addition, one purchaser (***) owns a processing facility right next to the *** facility, which gives it transportation and other benefits of being close to its distributor without the constraints associated with being a lessee.

*** other producer makes similar leasing agreements available to a limited number of their customers. Specifically, ***, *** makes these agreements available to ***.¹⁵

Contract Negotiations

Contract negotiations for domestic supply are typically done separately from foreign supply. One purchaser explained that negotiations are done domestically first; when those volumes and contracts are awarded, domestic purchasers then begin negotiations with foreign suppliers.¹⁶ ***,¹⁷ ***.¹⁸

Some purchasers noted there has been a distinct consolidation of purchasers in the tin market over the past several years. Petitioner's prehearing brief reported that during the period examined, quantities consumed by the top 6 producers¹⁹ ***. It was shown by the petitioners that the change in purchasing power is much more dramatic if one considers changes since 1990, when consumption by the top 6 purchasers increased from ***.²⁰

The consolidation has directly impacted negotiations of contracts in several ways. First, a domestic producer reported that the industry consolidation has hurt their negotiation power. For example, since there are now a number of *purchasing alliances*, the number of TCCSS purchasers that individually bid with each producer has fallen.²¹ For example, over the last 3 years, BWAY has been part of a purchasing alliance with Ball, Phoenix, Sonoco (through Oct. 1999), and White Cap. This arrangement, reported Rourke, increased their bargaining power - with both domestic and foreign firms - to a "company more than twice its size."²² Second, now that several purchasers are part of buying

¹¹ Lessees on the *** facility include ***.

¹² From rental contracts with firms at the *** facility.

¹³ Phone interview with *** officials, June 8, 2000. ***

¹⁴ Interview with ***, May 19, 2000.

¹⁵ ***'s producer questionnaire.

¹⁶ ***'s purchaser questionnaire.

¹⁷ Respondent's posthearing brief, vol. IV, Customer A, tab 15.

¹⁸ Respondent's posthearing, vol. III, Trading Company A ***.

¹⁹ The top 6 include ***.

²⁰ Petitioner's prehearing brief, exhibit 10, table 2.

²¹ Interview with ***, May 19, 2000.

²² TR, p. 191 (Rourke, BWAY).

alliances, the group as a whole has greater leverage to negotiate more competitive prices.²³ Although initially these purchasing alliances were thought to include negotiations solely with domestic producers, Seanor of Ball testified that the purchasing alliance does indeed negotiate with one foreign mill.²⁴

As a result of the consolidations, smaller purchasers have indirect access to discounts that once were reserved for the larger purchasers. One purchaser, ***, noted that the price growth rate has fallen. Prices increased 5 percent in 1994, increased 2.75 percent in 1997, then increased 3.75 percent in 2000.²⁵ ***

Other Contract Issues

Industry purchasing contracts are reported as not being seen as binding, but rather are used for production planning.²⁶ *** reported that over the past 5 years, about 50 percent of its sales contracts have not been filled, either through volume or other irregularities. If a purchaser does not meet its volume commitments to *** - the most common way for the contract to be violated - *** does not retaliate. However, *** reported that in 1999, almost 90 percent its contracts were not filled. This increase in unfulfilled contracts, *** argues, is a result of the increased imports from Japan, and one of the reasons it believes that there was dumping.²⁷

Purchasers, domestic producers, and importers all agree that purchasers changing their volume during a contract is common. Most often, the change in volume involves adjusting a purchaser's requested delivery downward.

Discounts

Domestic producers offer four main types of discounts: (1) volume discount from list or competitive allowances; (2) cash discount; (3) ship-when-ready discount from net, after competitive allowances;²⁸ and (4) rebate to headquarters. Not all suppliers offer all discounts, although most offer volume discounts from the published list price. Nine of 12 responding purchasers reported receiving some discounts; 3 smaller purchasers claimed that they receive no discounts. One purchaser explained that ***. Many importers reported that they offer no discounts.

Mid-Year Price Changes

Seven of 14 reporting purchasers state that they have, in some circumstances, changed prices during the contract period; the remaining 7 reported that prices never changed after negotiations. One purchaser, ***²⁹ ***. Another case occurred in ***.³⁰ In general, producers are split on whether prices change over the contract period. Most importers reported that prices do not change over the contract period.

²³ Firms that participate in buying alliances include *** as participants and ***, who negotiate.

²⁴ That foreign mill was not identified. TR, p. 241 (Seanor, Ball).

²⁵ ***'s purchaser questionnaire.

²⁶ Interview with ***, May 19, 2000.

²⁷ Phone interview with ***, June 8, 2000.

²⁸ Ship-when-ready discount of 3 percent: purchaser must take delivery within 14 days of production.

²⁹ This means that when the coil is cut into sheets, 100 percent of these sheets must be acceptable. Any unacceptable sheets would result in *** being reimbursed by the supplier for that entire amount of steel.

³⁰ ***'s questionnaire.

PRICE DATA

The Commission requested that the U.S. purchasers provide contract data including initial and final price quotes and volume for their purchases of TCCSS during 1997 to 2000. Of the 19 purchasers that filled out the questionnaire, no purchaser was able to provide all the data requested; however, *** purchasing facilities provided some usable pricing data. Pricing data reported by purchasers accounted for approximately 76 percent of U.S. producers' shipments of TCCSS and approximately 75 percent of U.S. shipments of subject imports from Japan in 1999. Purchasers reported data in very different ways; some reported actual prices per base box, while others reported only the final discount level from the reference price list.³¹ Also, some provided bid and final price as requested while others reported only a single final price.

The data reported by the 13 firms (***) are in tables V-1 to V-13. Larger firms with data include ***. Smaller firms with data include ***.³²

Table V-1
TCCSS: *'s purchasing history, 1997-99**

* * * * *

Table V-2
TCCSS: *'s purchasing history, 1998-2000**

* * * * *

Table V-3
TCCSS: *'s purchasing history, 1997-2000**

* * * * *

Table V-4a
TCCSS: *'s purchasing history, 1997-2000**

* * * * *

³¹ Every effort was made to convert pricing data into bids per short ton from bids per base boxes and bids per metric tons. To accomplish this, sometimes staff used an average base weight, after speaking with purchaser to get an understanding of what base weight is typical for their specification mix.

³² The *** firms that did not submit usable or any contract data include ***.

Table V-4b
TCCSS: *'s purchasing history, 1997-2000**

* * * * *

Table V-4c
TCCSS: *'s purchasing history, 1997-2000**

* * * * *

Table V-5
TCCSS: *'s purchasing history, 1997-2000**

* * * * *

Table V-6
TCCSS: *'s purchasing history, 1997-2000**

* * * * *

Table V-7
TCCSS: *'s purchasing history, 1999-2000**

* * * * *

Table V-8
TCCSS: *'s purchasing history, 1997-2000**

* * * * *

Table V-9
TCCSS: *'s purchasing history, 1997-2000**

* * * * *

Table V-10

TCCSS: *'s purchasing history, 1997-2000**

* * * * *

Table V-11

TCCSS: *'s purchasing history, 1997-2000**

* * * * *

Table V-12

TCCSS: *'s purchasing history, 1997-2000**

* * * * *

Table V-13

TCCSS: *'s purchasing history, 1997-2000**

* * * * *

PRICE COMPARISONS

The following tabulation shows a summary of the number of cases in which the Japanese product's final bid price was (1) below all final bids by the U.S. producers, (2) within the range of U.S. final bids, and (3) above all U.S. final bids.

Year	Number of Japanese final bids:			Number of bids where there was:	
	Below all U.S. prices	Within the range of all U.S. prices	Above all U.S. prices	No comparable U.S. final bid	Initial Japanese bid but no comparable Japanese final bid
1997	4	6	3	3	1
1998	7	7	2	3	2
1999	21	4	0	2	3
2000	13	4	1	1	4
<i>Total</i>	45	21	6	9	10

LOST SALES AND LOST REVENUES

The Commission requested U.S. producers of TCCSS to report any instances of lost sales or revenues they experienced due to competition from imports of TCCSS from Japan since 1997. Of all responding U.S. producers, *** reported *** had to either reduce prices, roll back announced price increases, or lost sales to Japan. *** domestic producers reported both reduced prices and roll back on announced price increases, but ***.³³

The 5 lost sales allegations totaled *** and involved *** tons of TCCSS and the 5 lost revenues allegations totaled *** and involved *** tons of TCCSS. The allegations are show in tables V-14 and V-15. The Commission contacted 10 purchasers; a summary of the information obtained follows.

Lost Sales

* * * * * * *

Lost Revenues

* * * * * * *

Table V-14
TCCSS: *'s lost sales allegations**

* * * * * * *

Table V-15
TCCSS: *'s lost revenue allegations**

* * * * * * *

³³ *** noted that “without referencing specific instances, our belief is that we were asked to reduce our price in relation to the increase in import activity over the last several years. This increase came at a time when there was sufficient capacity to meet the general demands of the U.S. market place.” ***’s producer questionnaire. *** stated that it does not have sufficient data to substantiate any lost sales. However, it believes it may have lost sales to the following customers: ***, *** - their largest customers. ***’s producer questionnaire.

PART VI: FINANCIAL CONDITION OF THE U.S. INDUSTRY

BACKGROUND

Seven U.S. producers provided financial information regarding their operations on TCCSS.¹ These data represent all known U.S. production of TCCSS during the period examined. With respect to new entrants, Ohio Coatings began commercial production of TCCSS in 1997 and represented approximately *** of cumulative sales volume during the period examined.

OPERATIONS ON TCCSS

Income-and-loss data for the U.S. producers on their TCCSS operations are presented in table VI-1. Data on a per-short-ton basis are shown in table VI-2.

The period between 1997 and 1999 was characterized by decreasing total sales volume accompanied by reduced average unit sales values. Declines in overall sales revenue reflected these trends and resulted in lower gross profit between 1997 and 1998 (down 45.6 percent) and then a gross loss of \$26.5 million in 1999. In the first quarter of 2000, a modest rebound in average unit sales value (as compared to full-year 1999), in conjunction with a decline in average unit COGS, resulted in positive overall gross profit of \$12 million.

Despite the return to a gross profit in the first quarter of 2000, U.S. producers of TCCSS collectively failed to generate positive operating income during the entire period examined. SG&A expenses were only modestly higher in 1999 as compared to 1997. While the small increase in SG&A expenses contributed to the poor operating results, the deterioration of already weak gross margins between 1997 and 1999 was the chief reason for the producers' inability to generate positive operating income. While still negative, first quarter 2000 operating loss margins represent an improvement compared to full-year 1999 and interim 1999. The first quarter 2000 operating loss margin, however, was still greater than the 1997 operating loss margin reported at the beginning of the period.

Positive (albeit declining) estimated cash flows from operations were generated in both 1997 and 1998. Negative results of the first quarter 1999, as compared with the year as a whole, suggest that the amount of cash being absorbed by operations gained momentum as the year progressed. For full-year 1999, the industry was unable to generate positive cash flows and instead absorbed an estimated \$46.4 million. With a significantly reduced net loss in the first quarter of 2000, as compared with the first quarter 1999, the industry again reported positive estimated cash flows from operations at the end of the period examined.

The average unit cost of the primary raw material input for TCCSS increased by approximately 3.0 percent between 1997 and 1999. For the first quarter of 2000 the average unit raw material cost was virtually unchanged from the full-year 1999 average, with an increase of only 0.2 percent.² Despite the increase in unit raw material cost between 1997 and 1999, overall unit COGS remained approximately the same due to lower unit direct labor costs and stable factory overhead. A continued decrease in unit direct labor and factory overhead costs, in conjunction with stable unit raw material costs, resulted in a

¹ All of the U.S. producers provided financial information based on fiscal years ending December 31.

² With respect to Ohio Coatings, that company is a "coater" and does not produce its own steel. June 7, 2000 phone interview with Kris McGee, President & CEO, Ohio Coatings. In contrast, the other U.S. producers make the steel used to produce TCCSS. *New Steel* article: retrieved on May 26, 2000 at <http://www.newsteel.com/features/ns9706f2.htm>. ***.

**Table VI-1
TCCSS: Results of operations of U.S. producers, fiscal years 1997-99, January-March 1999, and January-March 2000**

Item	Fiscal year			January-March	
	1997	1998	1999	1999	2000
	Quantity (short tons)				
Trade sales	3,671,526	3,337,942	3,269,424	813,002	776,291
Company transfers	71,303	138,106	202,630	36,239	61,893
Total sales	3,742,829	3,476,048	3,472,054	849,241	838,184
	Value (\$1,000)				
Trade sales	2,266,239	2,036,606	1,915,526	480,494	458,399
Company transfers	42,247	84,320	119,441	21,311	37,567
Total sales	2,308,486	2,120,926	2,034,967	501,805	495,966
COGS	2,224,570	2,075,245	2,061,471	505,980	483,880
Gross profit	83,916	45,681	(26,504)	(4,175)	12,086
SG&A expenses	104,893	109,806	105,980	27,773	21,726
Operating income or (loss)	(20,977)	(64,125)	(132,484)	(31,948)	(9,640)
Interest expense	31,975	27,200	31,898	7,783	6,609
Other expense	3,118	3,557	3,467	903	783
Other income items	10,983	9,560	3,310	2,377	1,785
Net income or (loss)	(45,087)	(85,322)	(164,539)	(38,257)	(15,247)
Depreciation/amortization	99,210	118,468	118,107	29,088	29,641
Cash flow	54,123	33,146	(46,432)	(9,169)	14,394
	Ratio to net sales (percent)				
COGS	96.4	97.8	101.3	100.8	97.6
Gross profit	3.6	2.2	(1.3)	(0.8)	2.4
SG&A expenses	4.5	5.2	5.2	5.5	4.4
Operating income or (loss)	(0.9)	(3.0)	(6.5)	(6.4)	(1.9)
Net income or (loss)	(2.0)	(4.0)	(8.1)	(7.6)	(3.1)
	Number of firms reporting				
Operating losses	4	4	6	7	3
Data	7	7	7	7	7

Note. The company transfers were accounted for entirely by ***.

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

Table VI-2
TCCSS: Results of operations (per short ton) of U.S. producers, fiscal years 1997-99, January-March 1999, and January-March 2000

Item	Fiscal year			January-March	
	1997	1998	1999	1999	2000
Net sales	\$617	\$610	\$586	\$591	\$592
COGS					
Raw materials	216	221	222	217	223
Direct labor	107	106	102	99	97
Other factory	271	270	270	279	258
Total COGS	594	597	594	596	577
Gross profit	22	13	(8)	(5)	14
SG&A expenses	28	32	31	33	26
Operating income or (loss)	(6)	(18)	(38)	(38)	(12)

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

2.8 percent reduction in average unit COGS for the first quarter of 2000. During the period examined, average unit COGS moved within a relatively narrow range of approximately \$20 per short ton.

Selected financial data, by firms, are presented in table VI-3. With the exception of the first quarter of 1999 (when all producers reported negative operating results), various U.S. producers reported positive operating results between 1997 and the first quarter of 2000.³ ***. In full-year 1999, the number of companies reporting an operating profit narrowed to ***. In contrast, in the first quarter of 2000 the majority of U.S. producers reported an operating profit. Despite this fact, the large operating loss of ***, and to a lesser extent the operating losses of ***, resulted in a continued operating loss for the U.S. producers as a whole.^{4 5 6}

Table VI-3
TCCSS: Results of operations of U.S. producers, by firms, fiscal years 1997-99, January-March 1999, and January-March 2000

* * * * *

As indicated in table VI-3, *** reported the highest average unit sales values for 1997 and 1998. For the remainder of the period, *** reported the highest average unit sales values. During most of the period, the lowest average unit sales value was reported by ***. In addition to reporting the highest average unit sales values, *** also generally reported the lowest average unit COGS, while ***, with the

³ ***.

⁴ ***.

⁵ ***.

⁶ ***.

lowest average unit sales value, generally reported the highest average unit COGS.⁷ Not surprisingly, during the period examined *** reported the highest cumulative operating results, while *** reported the largest cumulative operating loss.

The majority of producers reported somewhat higher unit COGS between 1997 and 1999. These increases appear to be more significant in conjunction with the reduction in average unit sales values. For example, between 1997 and 1998 *** unit sales value declined by approximately the same percentage as the increase in its unit COGS. In contrast, *** reported reductions in unit COGS which somewhat offset declining unit sales values. *** reported relatively small reductions in unit sales values and limited increases in unit COGS. For the full-year periods examined and interim 2000, *** reported positive gross income. With the exception of 1997, *** also reported positive gross income for the full-year periods and interim 2000.⁸

A variance analysis for the seven U.S. producers of TCCSS is presented in table VI-4 and is derived from information reported in table VI-1. The variance analysis provides an assessment of changes in profitability as related to changes in pricing, cost, and volume. The analysis is most effective when the product involved is homogeneous and product mix does not vary.⁹

Between 1997 and 1999 negative operating results worsened significantly. The 1997 operating loss of approximately \$21 million increased to an operating loss of approximately \$132 million in 1999. Table VI-4 shows that the most significant factor causing this increased operating loss was an unfavorable price variance. While an unfavorable net cost/expense variance also contributed to the increased operating loss between 1997 and 1999, this represented a much smaller influence. In contrast, the relative improvement in operating results between the first quarter of 2000 and the first quarter of 1999 was almost exclusively the result of lower costs, as opposed to a change in price.

⁷ ***.

⁸ ***.

⁹ Export shipments and company transfers were minor and averaged approximately 6.0 percent and *** percent of total shipments and sales, respectively, during the period examined.

Table VI-4
TCCSS: Variance analysis of U.S. producers' operations, fiscal years 1997-99, January-March 1999, and January-March 2000

Item	Fiscal year			January--March
	1997-99	1997-98	1998-99	1999-2000
Trade sales:	Value (\$1,000)			
Price variance	(102,517)	(23,729)	(79,275)	(398)
Volume variance	(248,196)	(205,904)	(41,805)	(21,697)
Trade sales variance	(350,713)	(229,633)	(121,080)	(22,095)
Company transfers:				
Price variance	(617)	2,492	(4,274)	1,170
Volume variance	77,811	39,581	39,395	15,086
Transfer variance	77,194	42,073	35,121	16,256
Net sales:				
Price variance	(106,512)	(23,016)	(83,522)	694
Volume variance	(167,007)	(164,544)	(2,437)	(6,533)
Net sales variance	(273,519)	(187,560)	(85,959)	(5,839)
COGS:				
Cost variance	2,162	(9,238)	11,390	15,512
Volume variance	160,937	158,563	2,384	6,588
Total cost variance	163,099	149,325	13,774	22,100
Gross profit variance	(110,420)	(38,235)	(72,185)	16,261
SG&A expenses:				
Expense variance	(8,675)	(12,390)	3,700	5,685
Volume variance	7,588	7,477	126	362
Total SG&A variance	(1,087)	(4,913)	3,826	6,047
Operating income variance	(111,507)	(43,148)	(68,359)	22,308
Summarized as:				
Price variance	(106,512)	(23,016)	(83,522)	694
Net cost/expense variance	(6,513)	(21,627)	15,089	21,198
Net volume variance	1,518	1,495	74	416

Note. Unfavorable variances are shown in parentheses; all others are favorable.

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

INVESTMENT IN PRODUCTIVE FACILITIES, CAPITAL EXPENDITURES, AND R&D EXPENSES

The responding firms' data on capital expenditures, R&D expenses, and the value of their property, plant, and equipment are shown in table VI-5. R&D expenses were not incurred by two firms, ***. ***.¹⁰

Table VI-5
TCCSS: Value of assets, capital expenditures, and R&D expenses of U.S. producers, fiscal years 1997-99, January-March 1999, and January-March 2000

* * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual or potential negative effects of imports of TCCSS from Japan on their firms' 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). Their responses are shown in appendix D.

¹⁰ According to an article in *New Steel*, Ohio Coatings was the first new tin-plating line constructed in 30 years. The article noted that over time U.S. producers have also upgraded existing tinning lines. *New Steel* article: retrieved on May 26, 2000 at <http://www.newsteel.com/features/ns9706f2.htm>.

PART VII: THREAT CONSIDERATIONS

The Commission analyzes a number of factors in making threat determinations (see 19 U.S.C. § 1677(7)(F)(i)). Information on the nature of the sales at LTFV was presented earlier in this report; information on the volume and pricing of imports of the subject merchandise is presented in Parts IV and V; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in Part VI. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows.

THE INDUSTRY IN JAPAN

The petition listed four firms believed to produce TCCSS in Japan.¹ The Commission requested information and data from counsel representing each of the four Japanese producers and exporters. Counsel on behalf of the Japanese respondents provided complete data for all four foreign producers, believed to account for approximately 100 percent of the Japanese production of TCCSS. Thus, the data compiled in tables VII-1 and VII-2 represent data submitted by Nippon Steel, Kawasaki, NKK, and Toyo Kohan. Table VII-1 depicts each foreign producer and its share of Japanese TCCSS production in 1999, share of 1999 TCCSS sales as a percentage of total sales, and share of 1999 export shipments to the United States as a percentage of total export shipments.

Table VII-1

TCCSS: Japanese production shares, TCCSS sales as share of total sales, and share of export shipments to the United States, by producer, 1999

* * * * *

Table VII-2 represents the aggregate Japanese industry data.² Japanese capacity utilization rates range from 85.4 percent in 1998 to 91.0 percent in interim 2000. Japanese producers project the addition of 13,000 short tons of capacity and project capacity utilization in 2001 to be 91.5 percent. In 1999, Japanese capacity was approximately 68 percent that of capacity in the United States. Home market shipments make up the majority of the Japanese producers' shipments throughout the period examined, albeit at a declining share. The decline in home market shipments was replaced with export shipments to the United States as export shipments to other nations remained relatively constant. Other export markets included China, Hong Kong, Malaysia, Mexico, the Phillippines, Saudi Arabia, Singapore, Southeast Asia, Taiwan, and the United Kingdom. Inventories in Japan remained relatively constant, ranging from 8.0 percent to 9.6 percent of total shipments. All Japanese producers stated that they hold *** inventories in the United States.³

On April 30, 1999, Indonesia imposed an antidumping duty of 68 percent on Japanese tin-plate products. ***.

¹ *Petition*, October 28, 1999, exhibit 3.

² Respondents' counsel have informed the Commission that the aggregate foreign industry data submitted by their clients incorrectly included products specifically excluded from the scope of this investigation by Commerce in its preliminary determination. Thus, capacity, production, inventory, home market shipments, and exports to all other countries include these excluded products. Shipments to the United States, however, have been adjusted and, therefore, do not include these excluded products. See respondents' post hearing submission, volume II, answers to questions, pp. 65-70.

³ This does not, however, include U.S. inventories held by Japanese importer trading companies.

Table VII-2

TCCSS: Japanese production capacity, production, shipments, and inventories, 1997-99, January-March 1999, January-March 2000, and projected 2000-01¹

Item	Actual experience					Projections	
	1997	1998	1999	January-March		2000	2001
				1999	2000		
Quantity (short tons)							
Capacity ²	3,391,764	3,395,252	3,244,873	803,596	802,124	3,225,439	3,238,439
Production	3,016,976	2,897,997	2,870,629	719,107	730,092	2,874,051	2,962,521
End of period inventories	288,398	284,886	234,627	242,717	247,332	237,627	237,627
Shipments:							
Internal consumption	0	***	0	0	0	0	0
Home market	1,906,590	***	1,653,398	425,567	424,131	1,711,532	1,730,532
Exports to--							
The United States ³	176,297	247,401	331,161	87,557	46,246	153,848	267,654
All other markets	881,317	865,667	884,684	237,258	231,361	1,005,671	964,335
Total exports	1,057,614	1,113,068	1,215,845	324,815	277,607	1,159,519	1,231,989
Total shipments	2,964,204	2,854,882	2,869,243	750,382	701,738	2,871,051	2,962,521
Ratios and shares (percent)							
Capacity utilization	89.0	85.4	88.5	89.5	91.0	89.1	91.5
Inventories to production	9.6	9.8	8.2	8.4	8.5	8.3	8.0
Inventories to total shipments	9.7	10.0	8.2	8.1	8.8	8.3	8.0
Share of total quantity of shipments:							
Internal consumption	0	***	0	0	0	0	0
Home market	63.4	***	57.6	56.7	60.4	59.6	58.4
Exports to--							
The United States	5.9	8.7	11.5	11.7	6.6	5.4	9.0
All other markets	29.7	30.3	30.8	31.6	33.0	35.0	32.6
All export markets	35.7	39.0	42.4	43.3	3 9.6	40.4	41.6
¹ See text fn 2. ² ***. ³ Note that 1997-99 data for exports to the United States provided by the Japanese producers are approximately 1.2 percent lower than the importer questionnaire response data presented in tables IV-1 and IV-2. With regard to January-March 2000, data for exports to the United States provided by the Japanese producers are approximately 53.2 percent lower than those reported by the importers. Respondents reported that this large discrepancy in interim 2000 is due to a 30-45 day "lag time" that resulted from shipping product from Japan to a U.S. port. Respondents state that consequently much of the discrepancy in interim 2000 could be the result of shipments made by the Japanese producers in November and December of 1999 not reaching importers until interim 2000. See respondents' post hearing submission, volume II, answers to questions, pp. 65-70.							
Note.--Because of rounding, figures may not add to the totals shown.							
Source: Compiled from data submitted in response to Commission questionnaires.							

U.S. IMPORTERS' INVENTORIES

Data on U.S. importers' inventories are presented in table VII-3. Many U.S. importers reported that they maintain no inventories of TCCSS in the United States but instead order from their foreign suppliers on behalf of their U.S. customers. A number of importers indicated that they did warehouse TCCSS in the United States at various locations.⁴

Table VII-3

TCCSS: End-of-period inventories of U.S. importers, by sources, 1997-99, January-March 1999, and January-March 2000

Source	Calendar year			January-March	
	1997	1998	1999	1999	2000
Quantity (short tons)					
Japan	634	4,425	11,741	11,114	13,812
Other sources ¹	12,764	9,259	11,859	11,289	11,026
Total	13,398	13,684	23,600	22,403	24,838
Ratio to imports (percent)					
Japan	0.3	1.8	3.5	3.0	3.5
Other sources	***	***	***	***	***
Total	***	***	***	***	***
Ratio to U.S. shipments (percent)					
Japan	0.3	1.8	3.6	3.3	3.6
Other sources	***	***	***	***	***
Total	***	***	***	***	***
¹ ***.					
Source: Compiled from data submitted in response to Commission questionnaires.					

U.S. IMPORTERS' CURRENT ORDERS

U.S. importers were asked to report actual imports or the anticipation of imports from Japan after March 31, 2000. Of the 18 responding importers, four firms, ***, stated that such imports had occurred. Actual and anticipated imports since March 31, 2000 total approximately 3,972 short tons.

⁴ ***.

APPENDIX A
FEDERAL REGISTER NOTICES

**INTERNATIONAL TRADE
COMMISSION**

[Investigation No. 731-TA-860 (Final)]

**Tin-and Chromium-Coated Steel Sheet
From Japan**

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731-TA-860 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Japan of tin-and chromium-coated steel sheet, provided for in subheadings 7210.11.00, 7210.12.00, 7210.50.00, 7212.10.00, 7212.50.00, 7225.99.00, and 7226.99.00 of the Harmonized Tariff Schedule of the United States.¹

For further information concerning the conduct of this phase of the 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 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: April 12, 2000.

FOR FURTHER INFORMATION CONTACT: Christopher J. Cassise (202-708-5408), 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.

¹ For purposes of this investigation, Commerce has defined the subject merchandise as "tin mill flat-rolled products that are coated or plated with tin, chromium or chromium oxides. Flat-rolled steel products coated with tin are known as tin plate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed or further processed, [sic] and scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single- or double-reduced), and whether or not coated with a plastic material. All products that meet the written physical description are within the scope of this investigation unless specifically excluded."

General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of tin-and chromium-coated steel sheet from Japan are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on October 28, 1999 by Weirton Steel Corp., Weirton, WV.

Participation in the Investigation and Public Service list

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this 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, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

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

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on June 16, 2000, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on June 29, 2000, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 23, 2000. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 26, 2000, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 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 who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is June 23, 2000. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 7, 2000; witness testimony must be filed no later than three days before the hearing. 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 subject of the investigation on or before July 7, 2000. On July 25, 2000, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 27, 2000, but such final comments must not contain new factual information and

must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 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 either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: April 17, 2000.

Donna R. Koehnke,
Secretary.

[FR Doc. 00-10075 Filed 4-21-00; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF COMMERCE**International Trade Administration****[A-588-854]****Notice of Final Determination of Sales at Less Than Fair Value: Certain Tin Mill Products From Japan****AGENCY:** Import Administration, International Trade Administration, Department of Commerce.**EFFECTIVE DATE:** June 26, 2000.**FOR FURTHER INFORMATION CONTACT:** Samantha Denenberg or Linda Ludwig, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington DC 20230; telephone 202-482-1386 and 202-482-3833, respectively.**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department regulations are to the regulations at 19 CFR Part 351 (April 1999).

Final Determination

We determine that Certain Tin Mill Products ("TMP") from Japan are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in Section 735 of the Act. The estimated margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On April 12, 2000, we published in the Federal Register the preliminary determination in this investigation. See

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Tin Mill Products from Japan, 65 FR 19737 (April 12, 2000) ("Preliminary Determination"). No interested parties have filed case briefs or rebuttal briefs on the Preliminary Determination and no request for a hearing has been received by the Department. On May 16, 2000, and June 7, 2000, petitioners submitted an additional scope exclusion request. On June 12, 2000, and June 14, 2000, petitioners submitted further modification of the June 7, 2000 scope exclusion request. See Scope Amendment Memorandum from Richard Weible to Joseph A. Spetrini, June 19, 2000.

Scope of Investigation

The scope of this investigation includes tin mill flat-rolled products that are coated or plated with tin, chromium or chromium oxides. Flat-rolled steel products coated with tin are known as tin plate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed or further processed, such as scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single- or double-reduced), and whether or not coated with a plastic material.

All products that meet the written physical description are within the scope of this investigation unless specifically excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this investigation:

- Single reduced electrolytically chromium coated steel with a thickness 0.238 mm (85 pound base box) (+/- 10%) or 0.251 mm (90 pound base box) (+/- 10%) or 0.255 mm (+/- 10%) with 770 mm (minimum width) (-0/+1.588 mm) by 900 mm (maximum length if sheared) sheet size or 30.6875 inches (minimum width) (-0/+1/16 inch) and 35.4 inches (maximum length if sheared) sheet size; with type MR or higher (per ASTM) A623 steel chemistry; batch annealed at T2½ anneal temper, with a yield strength of 31 to 42 kpsi (214 to 290 Mpa); with a tensile strength of 43 to 58 kpsi (296 to 400 Mpa); with a chrome coating restricted to 32 to 150 mg/m² with a chrome oxide coating restricted to 6 to 25 mg/m² with a modified 7B ground roll finish or blasted roll finish; with roughness average (Ra) 0.10 to 0.35

micrometers, measured with a stylus instrument with a stylus radius of 2 to 5 microns, a trace length of 5.6 mm, and a cut-off of 0.8 mm, and the measurement traces shall be made perpendicular to the rolling direction; with an oil level of 0.17 to 0.37 grams/base box as type BSO, or 2.5 to 5.5 mg/m² as type DOS, or 3.5 to 6.5 mg/m² as type ATBC; with electrical conductivity of static probe voltage drop of 0.46 volts drop maximum, and with electrical conductivity degradation to 0.70 volts drop maximum after stoving (heating to 400 degrees F for 100 minutes followed by a cool to room temperature).

- Single reduced electrolytically chromium-or tin-coated steel in the gauges of 0.0040 inch nominal, 0.0045 inch nominal, 0.0050 inch nominal, 0.0061 inch nominal (55 pound base box weight), 0.0066 inch nominal (60 pound base box weight), and 0.0072 inch nominal (65 pound base box weight), regardless of width, temper, finish, coating or other properties.

- Single reduced electrolytically chromium coated steel in the gauge of 0.024 inch, with widths of 27.0 inches or 31.5 inches, and with T-1 temper properties.

- Single reduced electrolytically chromium coated steel, with a chemical composition of 0.005% max carbon, 0.030% max silicon, 0.25% max manganese, 0.025% max phosphorous, 0.025% max sulfur, 0.070% max aluminum, and the balance iron, with a metallic chromium layer of 70-130 mg/m², with a chromium oxide layer of 5-30 mg/m², with a tensile strength of 260-440 N/mm²; with an elongation of 28-48%, with a hardness (HR-30T) of 40-58, with a surface roughness of 0.5-1.5 microns Ra, with magnetic properties of Bm (KG) 10.0 minimum, Br (KG) 8.0 minimum, Hc (Oe) 2.5-3.8, and μ 1400 minimum, as measured with a Riken Denshi DC magnetic characteristic measuring machine, Model BHU-60.

- Bright finish tin-coated sheet with a thickness equal to or exceeding 0.0299 inch, coated to thickness of ¾ pound (0.000045 inch) and 1 pound (0.00006 inch).

- Electrolytically chromium coated steel having ultra flat shape defined as oil can maximum depth of 5/64 inch (2.0 mm) and edge wave maximum of 5/64 inch (2.0 mm) and no wave to penetrate more than 2.0 inches (51.0 mm) from the strip edge and coilset or curling requirements of average maximum of 5/64 inch (2.0 mm) (based on six readings, three across each cut edge of a 24 inches (61 cm) long sample with no single reading exceeding 5/32 inch (3.2 mm) and no more than two readings at

5/32 inch (3.2 mm)) and (for 85 pound base box item only: crossbuckle maximums of 0.001 inch (0.0025 mm) average having no reading above 0.005 inch (0.127 mm)), with a camber maximum of 1/4 inch (6.3 mm) per 20 feet (6.1 meters), capable of being bent 120 degrees on a 0.002 inch radius without cracking, with a chromium coating weight of metallic chromium at 100 mg/square meter and chromium oxide of 10 mg/square meter, with a chemistry of 0.13% maximum carbon, 0.60% maximum manganese, 0.15% maximum silicon, 0.20% maximum copper, 0.04% maximum phosphorous, 0.05% maximum sulfur, and 0.20% maximum aluminum, with a surface finish of Stone Finish 7C, with a DOS-A oil at an aim level of 2 mg/square meter, with not more than 15 inclusions/foreign matter in 15 feet (4.6 meters) (with inclusions not to exceed 1/32 inch (0.8 mm) in width and 3/64 inch (1.2 mm) in length), with thickness/temper combinations of either 60 pound base box (0.0066 inch) double reduced CADR8 temper in widths of 25.00 inches, 27.00 inches, 27.50 inches, 28.00 inches, 28.25 inches, 28.50 inches, 29.50 inches, 29.75 inches, 30.25 inches, 31.00 inches, 32.75 inches, 33.75 inches, 35.75 inches, 36.25 inches, 39.00 inches, or 43.00 inches, or 85 pound base box (0.0094 inch) single reduced CAT4 temper in widths of 25.00 inches, 27.00 inches, 28.00 inches, 30.00 inches, 33.00 inches, 33.75 inches, 35.75 inches, 36.25 inches, or 43.00 inches, with width tolerance of -0/+3/8 inch, with a thickness tolerance of -/+0.0005 inch, with a maximum coil weight of 20,000 pounds (9071.0 kg), with a minimum coil weight of 18,000 pounds (8164.8 kg) with a coil inside diameter of 16 inches (40.64 cm) with a steel core, with a coil maximum outside diameter of 59.5 inches (151.13 cm), with a maximum of one weld (identified with a paper flag) per coil, with a surface free of scratches, holes, and rust.

- Electrolytically tin coated steel having differential coating with 1.00 pound/base box equivalent on the heavy side, with varied coating equivalents in the lighter side (detailed below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 0.7 mg/square foot of chromium applied as a cathodic dichromate treatment, with coil form having restricted oil film weights of 0.3-0.4 grams/base box of type DOS-A oil, coil inside diameter ranging from 15.5 to 17 inches, coil outside diameter of a maximum 64 inches, with a maximum coil weight of

25,000 pounds, and with temper/coating/dimension combinations of: (1) CAT 4 temper, 1.00/.050 pound/base box coating, 70 pound/base box (0.0077 inch) thickness, and 33.1875 inch ordered width; or (2) CAT5 temper, 1.00/0.50 pound/base box coating, 75 pound/base box (0.0082 inch) thickness, and 34.9375 inch or 34.1875 inch ordered width; or (3) CAT5 temper, 1.00/0.50 pound/base box coating, 107 pound/base box (0.0118 inch) thickness, and 30.5625 inch or 35.5625 inch ordered width; or (4) CADR8 temper, 1.00/0.50 pound/base box coating, 85 pound/base box (0.0093 inch) thickness, and 35.5625 inch ordered width; or (5) CADR8 temper, 1.00/0.25 pound/base box coating, 60 pound/base box (0.0066 inch) thickness, and 35.9375 inch ordered width; or (6) CADR8 temper, 1.00/0.25 pound/base box coating, 70 pound/base box (0.0077 inch) thickness, and 32.9375 inch, 33.125 inch, or 35.1875 inch ordered width.

- Electrolytically tin coated steel having differential coating with 1.00 pound/base box equivalent on the heavy side, with varied coating equivalents on the lighter side (detailed below), with a continuous cast steel chemistry of type MR, with a surface finish of type 7B or 7C, with a surface passivation of 0.5 mg/square foot of chromium applied as a cathodic dichromate treatment, with ultra flat scroll cut sheet form, with CAT 5 temper with 1.00/0.10 pound/base box coating, with a lithograph logo printed in a uniform pattern on the 0.10 pound coating side with a clear protective coat, with both sides waxed to a level of 15-20 mg/216 sq. in., with ordered dimension combinations of (1) 75 pound/base box (0.0082 inch) thickness and 34.9375 inch x 31.748 inch scroll cut dimensions; or (2) 75 pound/base box (0.0082 inch) thickness and 34.1875 inch x 29.076 inch scroll cut dimensions; or (3) 107 pound/base box (0.0118 inch) thickness and 30.5625 inch x 34.125 inch scroll cut dimension.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS"), under HTSUS subheadings 7210.11.0000, 7210.12.0000, 7210.50.0000, 7212.10.0000, and 7212.50.0000 if of non-alloy steel and under HTSUS subheadings 7225.99.0090, and 7226.99.0000 if of alloy steel. Although the subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation ("POI") is October 1, 1998 through September 30, 1999.

Facts Available

In the Preliminary Determination, the Department based the dumping margins for respondents Nippon Steel Corporation ("NSC"), Kawasaki Steel Corporation ("Kawasaki"), NKK Corporation ("NKK"), and Toyo Kohan ("Toyo") on facts otherwise available under Section 776(a)(2)(A) of the Act because these respondents failed to participate in the investigation and failed to provide information requested by the Department needed to calculate a dumping margin as detailed in the Preliminary Determination. The Department based the dumping margins for respondents NSC and Toyo on facts otherwise available under Section 776(a)(2)(B) of the Act because the respondents failed to provide the information requested by the Department in the form or manner requested as detailed in the Preliminary Determination. The Department based the dumping margins for respondents NKK and Kawasaki on facts otherwise available under Section 776(a)(2)(A) of the Act because these respondents only provided information responding to Section A of the Department's antidumping questionnaire and failed to provide any other information requested by the Department needed to calculate a dumping margin as detailed in the Preliminary Determination.

In selecting from among the facts otherwise available, section 776(b) of the Act provides that adverse inferences may be used when a party fails to cooperate by not acting to the best of its ability to comply with the Department's requests for information. As detailed in the Preliminary Determination, the Department has determined that the use of adverse inferences is warranted for all respondents because all respondents have failed to cooperate to the best of their abilities in this investigation.

Further, section 776(b) of the Act states that an adverse inference may include reliance on information derived from the petition or any other information placed on the record. See also "Statement of Administrative Action" ("SAA") accompanying the URAA, H.R. Rep. No. 103-316, 829-831 (1994). Pursuant to Section 776(b) of the Act, the Department applied the highest margin calculated from the information placed on the record by petitioners on October 28, 1999 and November 8, 1999. We continue to find this margin corroborated, pursuant to section 776(c)

of the Act, for the reasons discussed in the Preliminary Determination. No interested parties have objected to the use of adverse facts available for the mandatory respondents in this investigation, nor to the Department's choice of facts available. Furthermore, the Department has received no request for a hearing in this investigation. Accordingly, for its final determination, the Department is continuing the use of the highest margin alleged by petitioners for all non-responding mandatory respondents in this investigation.

The All-Others Rate

No interested parties have filed case briefs or rebuttal briefs on this issue. Accordingly, the Department is continuing to base the "all-others" rate on the simple average of margins submitted to the record by petitioners on October 28, 1999 and November 8, 1999, which is 32.52 percent, as discussed in the Preliminary Determination.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service ("Customs") to continue to suspend liquidation of all entries of subject merchandise from Japan that are entered, or withdrawn from warehouse, for consumption on or after April 12, 2000, the date of publication of the Preliminary Determination in the Federal Register.

We will instruct Customs to require a cash deposit or posting of a bond for each entry equal to the margins shown below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin (percentage)
Kawasaki Steel Corporation	95.29
Nippon Steel Corporation	95.29
NKK Corporation	95.29
Toyo Kohan	95.29
All Others	32.52

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that

material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 19, 2000.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00-16108 Filed 6-23-00; 8:45 am]

BILLING CODE 3510-DS-P

APPENDIX B
HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Tin- and Chromium-Coated Steel Sheet from Japan
Inv. No.: 731-TA-860 (Final)
Date and Time: June 29, 2000 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room, 500 E Street, SW, Washington, DC.

Congressional appearances:

The Honorable Robert C. Byrd, U.S. Senator, State of West Virginia

The Honorable John D. Rockefeller IV, U.S. Senator, State of West Virginia

The Honorable Mike DeWine, U.S. Senator, State of Ohio

The Honorable Alan B. Mollohan, U.S. Congressman, 1st District, State of West Virginia

The Honorable Peter J. Visclosky, U.S. Congressman, 1st District, State of Indiana

The Honorable Robert W. Ney, U.S. Congressman, 18th District, State of Ohio

The Honorable Frank Mascara, U.S. Congressman, 20th District, State of Pennsylvania

OPENING REMARKS

Petitioners (**Roger B. Schagrin**, Schagrin Associates)

Respondents (**William H. Barringer**, Willkie Farr & Gallagher)

**In Support of the Imposition
of Antidumping Duties:**

PANEL 1

Schagrin Associates
Washington, D.C.
on behalf of

Petitioner Companies

Richard K. Riederer, CEO, Weirton Steel Corporation

John H. Walker, President and COO, Weirton Steel Corporation

Michael J. Scott, Vice President, Sales and Marketing, Weirton Steel Corporation

David G. Hudok, Director, Customer Assurance and Technical Services,
Weirton Steel Corporation

William L. Johnston, Area Manager - Tin Mill, Weirton Steel Corporation

Mark Glyptis, President, Independent Steelworkers Union

George Becker, President, United Steelworkers of America, AFL-CIO

Carl Frankel, General Counsel, United Steelworkers of America, AFL-CIO

Robert Scott, International Economist, Economic Policy Institute

Robert Blecker, Professor of Economics, American University

Roger B. Schagrin)
Brian McGill)—OF COUNSEL
Roger Banks)

NON-PARTY PARTICIPANTS

PANEL 2

Ball Corporation
Ball Metal Food Container Corporation

Marcus Seanor, Director, Steel Purchasing, Ball Corporation

Robert McClelland—OF COUNSEL

PANEL 2-Cont'd

BWAY Corporation

Patrick J. Rourke, Vice President, Purchasing and Logistics

United States Can Company

Thomas J. Yurco, Vice President, Materials Management and Logistics

Silgan Containers Corporation

Robert L. Owen, Director - Procurement

**In Opposition to the Imposition of
Antidumping Duties:**

PANEL 3

Willkie Farr & Gallagher
Washington, D.C.
on behalf of

Japanese Respondents

Niels Peak, Senior Vice President, Nippon Steel America, Incorporated

Peter Maguire, Manager, Metal Department, Marubeni America Corporation

Thomas J. Prusa, Professor, Rutgers University

Daniel W. Klett, Principal, Capital Trade, Incorporated

James P. Durling)
)-OF COUNSEL
Daniel L. Porter)

CLOSING REMARKS

Petitioners (**Roger B. Schagrin**, Schagrin Associates)
Respondents (**James P. Durling**, Willkie Farr & Gallagher)

APPENDIX C
SUMMARY DATA

Table C-1 TCCSS: Summary data concerning the U.S. market, 1997-99, January-March 1999, and January-March 2000

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

Item	Reported data					Period changes			
	1997	1998	1999	January-March		1997-99	1997-98	1998-99	Jan.-Mar. 1999-00
				1999	2000				
U.S. consumption quantity:									
Amount						-2.1	-5.1	3.2	-0.4
Producers' share (1)						-6.5	-2.3	-4.1	-2.7
Importers' share (1):		*	*	*	*				
Japan		*	*	*	*	3.9	1.8	2.0	1.3
Other sources		*	*	*	*	2.6	0.5	2.1	1.4
Total imports						6.5	2.3	4.1	2.7
U.S. consumption value:									
Amount						-7.0	-6.1	-1.0	-0.5
Producers' share (1)						-6.1	-2.4	-3.7	-2.5
Importers' share (1):									
Japan						3.6	1.8	1.9	1.1
Other sources						2.5	0.7	1.8	1.4
Total imports						6.1	2.4	3.7	2.5
U.S. shipments of imports from:									
Japan:									
Quantity	182,157	242,081	329,645	84,737	96,783	81.0	32.9	36.2	14.2
Value	120,997	154,488	196,185	51,165	57,153	62.1	27.7	27.0	11.7
Unit value	\$664.25	\$638.25	\$595.14	\$603.81	\$590.53	-10.4	-3.9	-6.8	-2.2
Ending inventory quantity	634	4,425	11,741	11,114	13,812	1751.9	597.9	165.3	24.3
Other sources:									
Quantity						35.7	2.3	32.7	16.7
Value						27.8	3.2	23.8	17.2
Unit value		*	*	*	*	-5.9	0.8	-6.7	0.4
Ending inventory quantity		*	*	*	*	-7.1	-27.5	28.1	-2.3
All sources:									
Quantity		*	*	*	*	54.0	14.7	34.3	15.4
Value		*	*	*	*	42.3	13.5	25.3	14.3
Unit value		*	*	*	*	-7.6	-1.0	-6.7	-1.0
Ending inventory quantity		*	*	*	*	76.1	2.1	72.5	10.9
U.S. producers':									
Average capacity quantity	4,855,145	4,869,145	4,807,145	1,148,436	1,040,444	-5.1	0.3	-5.4	-9.4
Production quantity	3,728,441	3,425,572	3,433,592	854,816	849,362	-7.9	-8.1	0.2	-0.6
Capacity utilization (1)	76.8	70.4	74.5	74.4	81.6	-2.3	-6.4	4.2	7.2
U.S. shipments:									
Quantity	3,554,766	3,283,424	3,227,134	805,995	776,793	-9.2	-7.6	-1.7	-3.6
Value	2,192,160	2,003,321	1,898,063	476,447	459,860	-13.4	-8.6	-5.3	-3.5
Unit value	\$616.68	\$610.13	\$588.16	\$591.13	\$592.00	-4.6	-1.1	-3.6	0.1
Export shipments:									
Quantity	186,510	194,999	247,485	45,372	64,498	32.7	4.6	26.9	42.2
Value	115,979	117,585	140,563	27,247	38,339	21.2	1.4	19.5	40.7
Unit value	\$621.84	\$603.00	\$567.97	\$600.52	\$594.42	-8.7	-3.0	-5.8	-1.0
Ending inventory quantity	360,768	354,047	346,375	368,836	356,343	-4.0	-1.9	-2.2	-3.4
Inventories/total shipments (1)	9.6	10.2	10.0	10.8	10.6	0.3	0.5	-0.2	-0.2
Production workers	6,922	6,224	6,004	5,860	5,677	-13.3	-10.1	-3.5	-3.1
Hours worked (1,000s)	15,287	13,654	13,297	3,235	3,152	-13.0	-10.7	-2.6	-2.6
Wages paid (\$1,000s)	380,470	346,345	344,320	77,628	81,988	-9.5	-9.0	-0.6	5.6
Hourly wages	\$24.89	\$25.37	\$25.89	\$24.00	\$26.01	4.0	1.9	2.1	8.4
Productivity (tons per 1,000 hours)	243.9	250.9	258.2	264.2	269.5	5.9	2.9	2.9	2.0
Unit labor costs	\$102.05	\$101.11	\$100.28	\$90.81	\$96.53	-1.7	-0.9	-0.8	6.3
Net sales:									
Quantity	3,742,829	3,476,048	3,472,054	849,241	838,184	-7.2	-7.1	-0.1	-1.3
Value	2,308,486	2,120,926	2,034,967	501,805	495,966	-11.8	-8.1	-4.1	-1.2
Unit value	\$616.78	\$610.15	\$588.10	\$590.89	\$591.71	-5.0	-1.1	-3.9	0.1
Cost of goods sold (COGS)	2,224,570	2,075,245	2,061,471	505,980	483,880	-7.3	-6.7	-0.7	-4.4
Gross profit or (loss)	83,916	45,681	(26,504)	(4,175)	12,086	-131.6	-45.6	-158.0	-389.5
SG&A expenses	104,893	109,806	105,980	27,773	21,726	1.0	4.7	-3.5	-21.8
Operating income or (loss)	(20,977)	(64,125)	(132,484)	(31,948)	(9,640)	-531.6	-205.7	-106.6	-69.8
Capital expenditures	91,501	71,747	105,066	24,089	14,579	14.8	-21.6	46.4	-39.5
Unit COGS	\$594.36	\$597.01	\$593.73	\$595.80	\$577.30	-0.1	0.4	-0.5	-3.1
Unit SG&A expenses	\$28.03	\$31.59	\$30.52	\$32.70	\$25.92	8.9	12.7	-3.4	-20.7
Unit operating income or (loss)	(\$5.60)	(\$18.45)	(\$38.16)	(\$37.62)	(\$11.50)	580.8	229.2	106.8	-69.4
COGS/sales (1)	96.4	97.8	101.3	100.8	97.6	4.9	1.5	3.5	-3.3
Operating income or (loss)/ sales (1)	(0.9)	(3.0)	(6.5)	(6.4)	(1.9)	-5.6	-2.1	-3.5	4.4

(1) "Reported data" are in percent and "period changes" are in percentage points.

Note.—Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding, figures may not add to the totals shown. Unit values and shares are calculated from the unrounded figures.

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

APPENDIX D

**EFFECTS OF IMPORTS ON U.S. PRODUCERS' EXISTING DEVELOPMENT
AND PRODUCTION EFFORTS, GROWTH, INVESTMENT, AND ABILITY TO
RAISE CAPITAL**

1. U.S. producers were asked whether, since January 1, 1997, their firm experienced any actual negative effects on its return on investment or its growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of tin- and chromium-coated steel sheet from Japan (question III-8). Their responses were as follows:

Bethlehem

* * * * *

LTV

* * * * *

National

* * * * *

Ohio Coatings

* * * * *

USS Posco

* * * * *

U.S. Steel

* * * * *

Weirton

* * * * *

2. U.S. producers were asked whether they anticipated any negative impact of imports of tin- and chromium-coated steel sheet from Japan (question III-9). Their responses were as follows:

Bethlehem

* * * * *

LTV

* * * * *

National

* * * * *

Ohio Coatings

* * * * *

USS Posco

* * * * *

U.S. Steel

* * * * *

Weirton

* * * * *