

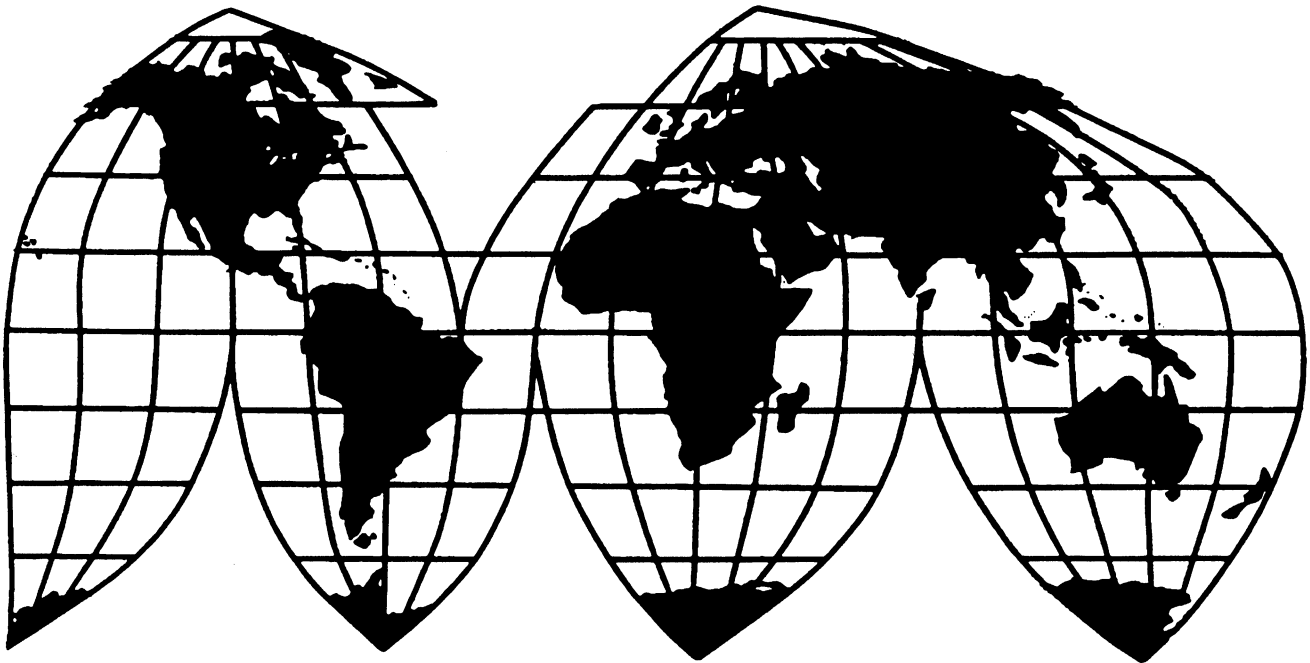
Certain Folding Metal Tables and Chairs From China

Investigation No. 731-TA-932 (Final)

Publication 3515

June 2002

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-932 (Final)

CERTAIN FOLDING METAL TABLES AND CHAIRS FROM CHINA

DETERMINATIONS

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission determines, 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 China of certain folding metal chairs, provided for in subheadings 9401.71.00 and 9401.79.00 of the Harmonized Tariff Schedule of the United States (HTS), that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission further determines that an industry in the United States is materially injured by reason of imports from China of certain folding metal tables, provided for in HTS subheading 9403.20.00, that have been found by Commerce to be sold in the United States at LTFV. The Commission further determines that critical circumstances do not exist with regard to imports of certain folding metal tables and chairs from China that are subject to Commerce's affirmative critical circumstances finding.²

BACKGROUND

The Commission instituted this investigation effective April 27, 2001, following receipt of a petition filed with the Commission and Commerce by Meco Corp., Greeneville, TN. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of certain folding metal tables and chairs from China 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 final phase 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 January 8, 2002 (67 FR 916). The hearing was held in Washington, DC, on April 23, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

² Commissioner Lynn M. Bragg found that critical circumstances exist with regard to imports of certain folding metal tables and chairs from China that are subject to Commerce's affirmative critical circumstances finding.

VIEWS OF THE COMMISSION

Based on the record in this investigation, we determine that an industry in the United States producing certain folding metal chairs is materially injured by reason of imports of certain folding metal chairs from China that the U.S. Department of Commerce (“Commerce”) has determined are sold in the United States at less than fair value (“LTFV”), and that an industry in the United States producing certain folding metal tables is materially injured by reason of imports of certain folding metal tables from China that Commerce has determined are sold in the United States at LTFV. We also determine that critical circumstances do not exist with respect to subject imports of certain folding metal tables and chairs from China that are subject to Commerce’s affirmative critical circumstances findings.¹

I. DOMESTIC LIKE PRODUCT AND INDUSTRY

A. In General

In determining 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.”² Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Act”), defines the relevant domestic 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.”³ 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”⁴

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.⁵ No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.⁶ The Commission looks for clear dividing lines among possible like products and disregards minor variations.⁷

¹ Commissioner Lynn M. Bragg dissenting. See *infra*, nn. 129 & 170.

² 19 U.S.C. § 1677(4)(A).

³ 19 U.S.C. § 1677(4)(A).

⁴ 19 U.S.C. § 1677(10).

⁵ See, e.g., *NEC Corp. v. Department of Commerce*, 36 F. Supp.2d 380, 383 (Ct. Int’l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Torrington Co. v. United States*, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes and production employees; and, where appropriate, (6) price. See *Nippon Steel*, 19 CIT at 455 n.4; *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

⁶ See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

⁷ *Nippon Steel*, 19 CIT at 455; *Torrington*, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (1979) (Congress has indicated that the like product standard should not be interpreted in “such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not ‘like’ each other, nor should the definition of ‘like product’ be interpreted in such a fashion as to prevent

(continued...)

Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise that has been found to be subsidized or sold at LTFV, the Commission determines what domestic product is like the imported articles Commerce has identified.⁸

B. Product Description

Commerce's final determinations defined the imported merchandise within the scope of these investigations as follows:

assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal ("folding metal tables"). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal tables are the following:

Lawn furniture;

Trays commonly referred to as "TV trays";

Side tables;

Child-sized tables;

Portable counter sets consisting of rectangular tables 36" high and matching stools; and Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28" to 36" wide by 48" to 96" long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another and not as a set.

2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal ("folding metal chairs"). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal chairs are the following:

⁷ (...continued)

consideration of an industry adversely affected by the imports under consideration.")

⁸ Hosiden Corp. v. Advanced Display Mfrs., 85 F.3d 1561, 1568 (Fed. Cir. 1996) (Commission may find single like product corresponding to several different classes or kinds defined by Commerce); Torrington, 747 F. Supp. at 748-752 (affirming Commission determination of six like products in investigations where Commerce found five classes or kinds).

Folding metal chairs with a wooden back or seat, or both;
Lawn furniture;
Stools;
Chairs with arms; and
Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401710010, 9401710030, 9401790045, 9401790050, 9403200010, and 9403200030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.⁹

C. Domestic Like Product Issues

In the preliminary phase of this investigation, the Commission found two domestic like products corresponding to Commerce's scope: certain folding metal chairs, encompassing both "residential" and "commercial" folding chairs, and certain folding metal tables, including only residential folding metal tables.¹⁰ Folding metal tables are commonly known as card tables. Folding metal tables and chairs generally are considered occasional-use furniture, and collapse for efficient storage.¹¹ The Commission considered and rejected separating residential and commercial folding metal chairs into different like products. The Commission also considered and rejected the argument of Respondent Dorel Juvenile Group, Inc. ("Dorel")¹² to expand the like product to include other rigid-frame casual furniture.¹³

In the final phase of this investigation, Petitioner Meco Corporation ("Meco") has accepted the Commission's preliminary like product findings of two separate like products: certain folding metal tables and certain folding metal chairs.¹⁴ Dorel continues to argue that the domestic like product(s) should be expanded beyond the scope to include banquet tables¹⁵ and "other rigid-frame casual tables," and "other rigid-frame casual chairs," either as one or two like products.¹⁶ National Public Seating

⁹ Notice of Final Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs from the People's Republic of China, 67 Fed. Reg. 20090, 20090-20091 (Apr. 24, 2002).

¹⁰ Certain Folding Metal Tables and Chairs from China, Inv. No. 731-TA-932 (Preliminary), USITC Pub. No. 3431 (June 2001) ("USITC Pub. 3431") at 5-6, 9.

¹¹ Confidential Report ("CR") at I-3 and Public Report ("PR") at I-3.

¹² Dorel was formerly known as Cosco, Inc., which is how it was referred to throughout the preliminary phase of this investigation. See Dorel APO Amendment dated February 21, 2002 and Dorel Postconference Brief dated April 17, 2002. Cosco Home and Office Products, Inc. is a division of Dorel. Transcript of Commission Hearing (April 23, 2002) ("Tr.") at 107 (Testimony of Cosco Home and Office Products, Inc. Vice President Joy Broadhurst).

¹³ USITC Pub. 3431 at 7-9. In the final phase of this investigation, the Commission collected additional information regarding commercial tables ("banquet tables"). CR at I-8-12, PR at I-2-8; CR/PR at Tables C-3 & C-4. No imports of banquet tables were reported. CR at I-8, n.19; PR at I-6, n.19. Chairman Koplan, Vice Chairman Okun and Commissioner Miller indicated in the preliminary phase of this investigation, that they intended to seek additional data in order to consider whether the domestic like product for tables should be defined more broadly to include banquet tables in any final phase of this investigation. USITC Pub. 3431 at 8, n.41.

¹⁴ Meco's Prehearing Brief at 3-4.

¹⁵ Dorel argues that there is no bright line between folding metal tables and banquet tables. Dorel Prehearing Brief at 14.

¹⁶ Dorel Posthearing Brief at 1-2. Dorel Comments on Questionnaires at 2. Dorel is ***. CR at IV-3; PR at IV-

(continued...)

Corporation ("NPSC"), an importer of subject chair merchandise, argues that the like product for chairs should be expanded to include "stacking chairs and other chairs that directly compete with folding metal chairs."¹⁷ As in the preliminary phase of this investigation, we continue to find that certain folding metal tables and certain folding metal chairs are separate domestic like products.

The Commission looks for a clear dividing line between possible like products, including when it considers expanding the domestic like product beyond the articles specified in the scope.¹⁸ After examining our traditional like product factors and considering the arguments of the parties, we find that the record reflects a clear dividing line between certain folding metal tables and banquet tables, and that an expansion of the domestic like product(s) to include "other rigid-frame casual tables and chairs" is not warranted.

1. Banquet Tables

Physical characteristics and end uses: Banquet tables are generally larger and stronger than folding metal tables.^{19 20} Banquet tables have two legs that fold together while folding metal tables have

¹⁶ (...continued)

2.

¹⁷ NPSC Prehearing Brief at 3.

¹⁸ Minivans from Japan, Inv. No. 731-TA-522 (Final), USITC Pub. 2529 (July 1992) at 6 ("there is no clearer dividing line if the like product were defined to include minivans plus any other category of vehicles. If we broadened the like product to include, for example, station wagons, it is not clear that a rational basis would exist for excluding passenger automobiles from the like product"), aff'd, General Motors Corp. v. United States, 17 CIT 697, 827 F. Supp. 774 (1993).

¹⁹ Both Meco and Dorel compared folding metal tables to banquet tables. In both comparisons, banquet tables were longer than folding metal tables, except that Dorel argued that there was an overlap at 48". Dorel stated that the lengths for folding metal tables were 34", 37", 38", and 48", while the lengths for banquet tables were 48", 54", 60", 72", and 96". Dorel Posthearing Brief, Exhibit 12 at 9. Meco stated that folding metal tables were 34" or 38", while banquet tables were 72" or 60". Meco Prehearing Brief at 9. Thus, the parties agree that banquet tables are generally longer than folding metal tables. Dorel also states that banquet tables have a thicker hardboard than folding metal tables, and Meco agrees. Dorel Posthearing Brief, Exhibit 12 at 9; Meco Prehearing Brief at 9. Although Dorel maintains that they overlap in weight, both parties are in agreement that only folding metal tables are under twenty-three pounds and only banquet tables are over thirty pounds. Dorel Posthearing Brief, Exhibit 12 at 10; Meco Prehearing Brief at 9. Both parties also agree that banquet tables have a maximum load capacity that significantly exceeds the maximum load capacity for folding metal tables with no overlap. Meco Prehearing Brief at 9 (maximum load limit for banquet tables: 200-300 pounds, folding metal tables: 100 pounds). Dorel Posthearing Brief, Exhibit 12 at 10 (banquet tables: 400 pounds; folding metal tables 150 pounds). The gauge of steel tubing for the two types of tables overlap, but banquet tables have somewhat thicker steel tubing. Meco Prehearing Brief at 9 (banquet tables: 1"-1 1/4" gauge of steel tubing ; folding metal tables, 7/8" - 1" gauge of steel tubing). Dorel Posthearing Brief, Exhibit 12 at 10 (banquet tables: 1" - 1 1/4" diameter of steel tubing; folding metal tables: 7/8" - 1 1/4" diameter of steel tubing).

²⁰ It appears that the domestic producer Lifetime Products ("Lifetime") makes at least one 37 inch square folding metal table, although we have limited information on its products. Meco Posthearing Brief Exhibit 1. CR/PR at III-1, n.1. The parties differ on the respective weight of Lifetime tables versus most banquet and folding metal tables. Dorel argues that the Lifetime tables are "very lightweight." Tr. at 118 (Testimony of Joy Broadhurst). Meco argues that Lifetime tables "weigh considerably more than card tables." Meco Posthearing Brief at 2. Lifetime's tables are apparently more expensive than most folding metal tables. Meco Posthearing Brief at 2. Tr. at 118.

independently folding legs.²¹ The greater size and strength of banquet tables allow banquet tables to support a heavier maximum load limit than folding metal tables. These differences are significant even though there may be banquet tables similar in shape and size to folding metal tables.²² Responding domestic producers reported differences in end uses and physical differences for banquet tables as compared with folding metal tables in their questionnaire responses. Responding importers were divided on the issue.²³

Interchangeability: The four responding U.S. producers of folding metal tables or banquet tables viewed interchangeability between folding metal tables and banquet tables as very limited or non-existent.²⁴ Of the four importers, two stated that folding metal tables and banquet tables were interchangeable, one did not find the products interchangeable, and one stated that folding metal tables and banquet tables would be substituted infrequently.²⁵ Meco argues that banquet tables are intended for heavy-duty uses, such as banquet dining, storage or displays of boxes or equipment, holding sewing machines and computers, or for examining luggage at airport security.²⁶ Dorel agrees that folding metal tables are not used as airport screening tables, but maintains that the tables have overlapping end-uses.²⁷

Although there may be some limited overlap in uses, such as for informal dining, folding metal tables and banquet tables are not generally interchangeable. Folding metal tables are intended for light use, whereas banquet tables are intended to be used for heavy weight loads. The interchangeability that does exist is greatest with respect to the smallest and lightest banquet tables, but the majority of banquet tables are larger and less interchangeable with folding metal tables.²⁸

²¹ Meco Prehearing Brief at 9. Dorel Posthearing Brief, Exhibit 12 at 10. Meco states that only banquet tables have structural supports while Dorel argues that both types of tables have structural supports. Meco Prehearing Brief at 9. Dorel Posthearing Brief Exhibit 12 at 10. In Exhibit Z to Dorel's Posthearing Brief, some folding metal tables do have some small structural supports attached just below the top of the table. However, the same exhibit demonstrates that banquet tables have much bigger structural supports attached to the paired leg structure, and sometimes an additional structural support near the bottom of the paired legs. Record evidence reflects that these structural supports lend strength to the banquet tables.

²² Certain banquet tables made by Lifetime are similar in size to some folding metal tables but support a much heavier load than is customary for folding metal tables. According to its website, some Lifetime tables are tested for up to 2,500 pounds, and one Lifetime table is tested for 1,200 pounds, as compared to testing up to 300 pounds for Dorel's folding metal tables. Meco Posthearing Brief at 2, Exhibit 1, Tr. at 119 (Testimony of Joy Broadhurst), Tr. at 209 (Testimony of Warren Connelly).

²³ CR at I-9, PR at I-6. There were no reported imports of banquet tables. It is unclear whether importers were comparing imported or domestic folding metal tables to domestic banquet tables, but the imported folding metal tables are "virtually identical to those made in the United States." CR at I-5; PR at I-4. Dorel does not dispute this assessment by staff with respect to merchandise sold through mass merchandiser channels, which was the *** channel of distribution for domestically produced folding metal tables, ***. Dorel Prehearing Brief at 10. CR/PR at Table I-1.

²⁴ CR at I-8, I-10; PR at I-7.

²⁵ CR at I-10; PR at I-7.

²⁶ Meco Prehearing Brief at 9-10 & Exhibit 7.

²⁷ Dorel Posthearing Brief, Exhibit N.

²⁸ The usual length of banquet tables is 5' (60"), 6' (72") or 8' (96"). Meco Prehearing Brief at 9 & Exhibit 5. However, there are also 48" banquet tables. Id. at Exhibit 5. Some Lifetime tables are smaller and apparently lighter than other banquet tables, but they are more expensive than folding metal tables, and support heavier maximum weight loads than folding metal tables. Meco Posthearing Brief at 2 & Exhibit 1. Tr. at 118, 209.

Channels of distribution: Although it is mixed, record evidence indicates more differences than similarities in the channels of distribution between certain folding metal tables and banquet tables. Domestically produced folding metal tables have ***, reflecting Meco's loss of *** as a customer.²⁹ *** of the sales of banquet tables are *** and ***.^{30 31}

Manufacturing facilities, production processes, and employees: The record reflects some commonality in the employees and/or equipment used to make certain folding metal tables and banquet tables. Three of the four domestic producers stated that there was some commonality in production processes and employees, but that some separate equipment is used to make banquet tables.³² One importer cited similarities in manufacturing facilities, production processes and employees, and one importer cited differences, stating that the "manufacturing facilities are somewhat different, as the heavy particle board cutting and molding work is unique to banquet tables. Welding is not needed on card tables."³³

Moreover, the record shows that equipment and/or employees used to produce certain folding metal tables also can be used to produce certain folding metal chairs and other products, such as stacking chairs, barbecue grills and other chairs.³⁴ Such broad adaptability of the equipment and employees involved renders the commonality that does exist between the production processes for folding metal tables and banquet tables less significant to the like product analysis.

Customer and producer perceptions: All four U.S. producers perceived folding metal tables and banquet tables as different and believed their customers also shared their view. The two U.S. producers who explained why their customers viewed them as different based it on the strength of banquet tables -- their durability and "heavy-duty" uses.³⁵ Meco produces both types of tables and reports that "hardly anyone would buy a banquet table when a card table would do and vice versa," because banquet tables are heavy, bulky and expensive compared to folding metal tables.³⁶ Two importers argued that they were perceived as different and two argued that they were perceived as similar.³⁷ On balance, producer and customer perceptions do not support including banquet tables in the domestic like product.

²⁹ CR at Table I-1, I-5-6. Table I-1 reflects *** sales in the "other customers" category for certain folding metal tables, and *** sales to distributors/wholesalers.

³⁰ The customer base for office superstores and other mass merchandisers appears to overlap. Meco states that office superstores sell to individuals as well as to businesses. Meco Prehearing Brief at 7. The Target representative testified at the hearing that most of its customers were residential customers, but that some were small businesses. He testified that even though the office superstores were not as direct a competitor as K-Mart, he had to be sensitive to the assortment of furniture that they were carrying to "ensure that I can present a good value to my guests, as well." Tr. at 122, 143.

³¹ The *** segments for banquet tables are ***. CR at I-11; PR at I-7.

³² CR at I-9-10; PR at I-6-7.

³³ CR at I-10; PR at I-7. Although it is unclear whether the importers are describing production processes in the United States or in China, the record does not reflect significant differences in production processes in the two countries. Meco representatives have stated that the production processes for certain folding metal tables (and chairs) in the United States and in China are essentially the same, although the U.S. facilities are slightly more automated. CR at I-5, PR at I-4.

³⁴ CR at II-3, PR at II-2.

³⁵ CR at I-10-11; PR at I-6-7. *** stated that banquet tables would be seen as "commercial" and "heavy-duty." *** stated that the "differences are sufficiently significant that a clear distinction has developed between the two products." *** stated that "our customers view card tables as too cheap and not durable enough." Id.

³⁶ Tr. at 19 (Testimony of Allan Reitzer, Meco President).

³⁷ CR at I-11; PR at I-7.

Price: The record reflects significant differences in prices of banquet tables and folding metal tables. U.S. producers and importers both reported that banquet tables command much higher prices than folding metal tables. One importer described the range of folding metal table prices as \$30-\$40 and the range of banquet tables as \$40-\$100. *** cited a range of \$45-\$100 for banquet tables, compared with a range of \$20-\$35 for folding metal tables. *** stated that banquet tables were four to twenty times more expensive than folding metal tables. Although *** argued that some banquet tables were in the same price range as folding metal tables, record evidence generally shows a significant price difference for the two types of tables.³⁸

In sum, due to the significant differences between banquet tables and folding metal tables, we do not include banquet tables in our definition of the domestic like product for folding metal tables.

2. Other Rigid-Frame Casual Chairs or Tables

Dorel defines “other rigid-frame casual chairs and tables” as follows:

other rigid-frame casual chairs and tables that are constructed primarily of metal, wood, plastic, or other fibrous material. These are chairs and tables designed for occasional indoor use, including stacking chairs and folding stools. Excluded from this definition are director’s chairs; camp chairs; child-sized chairs; portable countertops; TV trays; side tables; child-sized tables; aluminum and wrought iron porch, lawn and outdoor furniture; non-stacking wooden and/or metal chairs and stools for restaurants, cafeterias, bars and bowling centers; non-folding tubular dining and breakfast tables and chairs; and non-folding wood office seating.³⁹

Dorel’s proposed definition of the domestic like product to include this broader range of products is vague.⁴⁰ While Dorel gives examples of certain types of furniture that should be included in or excluded from the domestic like product, it does not define a “casual” table or chair. Furthermore, Dorel provides no rationale for finding a “clear dividing line” between certain products, by including some products in the domestic like product definitions for tables and chairs, but excluding others.⁴¹

Physical characteristics and end uses: Chairs and tables made of wood differ physically from folding metal chairs. Stacking chairs and folding stools differ physically from each other and from folding metal chairs. Stationary wooden tables differ physically from folding metal tables.⁴²

³⁸ CR at I-12; PR at I-8.

³⁹ Dorel Posthearing Brief at 1; Dorel Comments on Questionnaires at 2.

⁴⁰ NPSC’s proposed definition (which refers to “other chairs that compete with folding metal chairs”) is even more vague.

⁴¹ Director’s chairs, which could be viewed as occasional, “casual” use items, are not included in Dorel’s domestic like product for chairs, but stacking chairs are included; however, Dorel provides no basis for this distinction. Non-folding tubular dining and breakfast tables are not included, but wooden non-folding dining tables, which can cost well over \$100.00, are included (assuming they fall within Dorel’s undefined characterization of “casual.”) See Meco Prehearing Brief, Exhibit 11. Dorel also would exclude wooden and/or metal chairs and stools “for restaurants, cafeterias, bars and bowling centers” in its domestic like product for chairs, which is an exclusion based solely on end use; its proposed definition is silent on whether identical chairs and stools would be included if purchased by consumers.

⁴² In its prehearing brief, Meco provides examples of chairs and tables within Dorel’s proposed domestic like

(continued...)

There are differences in end-uses for these products. Counter stools have raised seats and generally are used in conjunction with a counter, while folding metal chairs often are used without a table. Wooden chairs or tables may be for more formal uses than folding metal chairs and tables.⁴³

Interchangeability: There is some interchangeability between folding metal tables and chairs and some of the products contained within Dorel's proposed domestic like product definition. Stacking chairs may be used instead of folding metal chairs in some instances, but they store differently, using different equipment.⁴⁴ Questionnaire respondents listed substitutes for folding metal tables and chairs, but opinions on this issue differed widely. Approximately forty percent of the responding purchasers said that there were no substitutes for folding metal tables and chairs.⁴⁵ Moreover, purchasers that did state there were substitutes for folding metal tables and chairs, often listed different substitutes. The substitutes reported included a variety of products with significant differences in physical characteristics: stacking chairs, folding tables and chairs made of wood or plastic, and non-folding tables and chairs.^{46 47}

Channels of distribution: Channels of distribution for some of these products may also overlap. Storehouse, Ikea, Crate and Barrel, and Target all sell rigid frame tables and chairs, but the record does not reflect that the mass merchandisers such as Target carry the high-end rigid frame chairs and stools sold by Storehouse and Crate and Barrel, or the high-end rigid-frame tables sold by Ikea and Crate and Barrel. At the hearing, the Target representative testified that Target served value-conscious customers, and that its furniture could cost less than \$20.00, while some of the rigid-frame furniture sold at Storehouse, Crate and Barrel, Ikea, and other retailers may be well in excess of \$100.00.⁴⁸

Manufacturing facilities, production processes, and employees: Different processes are used to produce metal, wood, plastic, or other fibrous components of furniture.⁴⁹ NPSC and Dorel both have recognized that there are differences in production processes for products produced from different constituent materials.⁵⁰

Customer and producer perceptions: As for customer and producer perceptions, NPSC's president stated that in the institutional market, customers perceive stacking chairs and folding metal

⁴² (...continued)

product pictured on various websites. Meco Prehearing Brief, Compare a wooden Stakmore folding chair (Exhibit 10) to a folding metal chair (Exhibit 1). Compare stools (Exhibit 10) to stacking chairs and folding metal chairs (Exhibit 3). Stools have no back like folding metal chairs or stacking chairs. Stacking chairs do not fold flat for storage. Compare Exhibits 11 (wooden tables) and Exhibit 1 (folding metal table).

⁴³ Meco Prehearing Brief, Compare Exhibit 1 & 10 (counter stools) to Petition, Exhibit 3 (showing folding metal chairs lined up to provide seating for an event without tables). Compare rigid-frame wooden tables and chairs (Exhibits 10 & 11) to folding metal tables and chairs (Exhibit 1).

⁴⁴ Tr. at 84-85.

⁴⁵ CR at II-11; PR at II-7 (10 out of 23 firms).

⁴⁶ CR at II-4; PR at II-2. *** listed stacking chairs, wooden folding chairs, "ready to assemble" chairs and resin chairs as substitutes. *** listed wooden chairs, plastic resin chairs, and stacking chairs as substitutes. *** listed varying products made of other materials as substitutes. Id.

⁴⁷ *** states that its imported commercial quality folding metal chairs from China are interchangeable only with commercial quality folding metal chairs produced in the United States, and that its imported residential quality folding metal chairs are interchangeable only with residential quality folding metal chairs produced in the United States. CR at II-7, n 7. This limited interchangeability does not support Dorel's and NPSC's expanded like product definitions.

⁴⁸ Tr. at 120-124. Meco Prehearing Brief, Exhibits 10 & 11.

⁴⁹ Dorel (Cosco) Postconference Brief at 15.

⁵⁰ NPSC Comments on Draft Questionnaires at 2. Dorel Comments on Draft Questionnaires at 3-4.

chairs as different.⁵¹ Meco and Krueger view folding metal tables and chairs as distinct from stacking chairs and other rigid frame seating and tables.⁵² As noted, forty percent of the purchasers responding to the questionnaires stated that there were no substitutes for folding metal tables and chairs,⁵³ and purchasers that did state that there were substitutes often listed different substitutes.⁵⁴

Price: The majority of questionnaire respondents did not believe there were substitutes for folding metal tables and chairs that competed on the basis of price. Although some price competitive substitutes were listed, they cover a wide variety of seating and tables, most of which have significantly different physical characteristics from folding metal tables and chairs in terms of constituent materials.⁵⁵ The record reflects a wide range in prices for rigid frame seating and table products.⁵⁶

In sum, Dorel's proposed domestic like product(s) would include a broad array of products with a broad range of physical characteristics, prices, uses, production processes and channels of distribution, with no apparent rationale for why certain products are inside the definition, and other products are not. For all of the reasons set forth above, we again find two domestic like products corresponding to Commerce's scope: certain folding metal chairs and certain folding metal tables.

D. Domestic Industry and Related Parties

Section 771(4) of 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 the major proportion of that product."⁵⁷ In defining the domestic industry, the Commission's general practice has been to include in the industry all of the domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.⁵⁸ Based on our domestic like product determinations, we find two domestic industries consisting of all domestic producers of folding metal chairs, and all domestic producers of folding metal tables.

We must further determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 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.⁵⁹ Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each case.⁶⁰

⁵¹ Tr. at 183-184.

⁵² Tr. at 84-85. Meco Prehearing Brief at 14-18 & Exhibits 10 and 11.

⁵³ CR at II-11; PR at II-7 (10 out of 23 firms).

⁵⁴ CR at II-4; PR at II-2.

⁵⁵ CR at II-4; PR at II-2.

⁵⁶ Meco Prehearing Brief, Exhibits 10 & 11. Stacking chairs are generally much more expensive than folding chairs, although prices for stacking chairs can overlap with those of folding chairs, depending on the quality of the chairs. Tr. at 83-84 (Testimony of Warren Connelly, Counsel for Meco and Randy Tess, Krueger Product Manager). Tr. at 116, 139 (Testimony of Joy Broadhurst, and Barry Stauber, President of NPSC).

⁵⁷ 19 U.S.C. § 1677(4)(A).

⁵⁸ See United States Steel Group v. United States, 873 F. Supp. 673, 681-84 (Ct. Int'l Trade 1994), aff'd, 96 F.3d 1352 (Fed. Cir. 1996).

⁵⁹ 19 U.S.C. § 1677(4)(B).

⁶⁰ Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), 111 aff'd without opinion,

(continued...)

The only issue with respect to domestic industry is whether ***, which produces folding metal chairs,⁶¹ should be excluded from the domestic industry producing folding metal chairs as a related party.^{62 63}

***, an importer of subject folding metal chairs, is a sister company to ***. They are both ***-percent owned by ***. Therefore, under the statute, *** is a related party because a third-party directly controls both *** and an importer of subject merchandise.⁶⁴ Moreover, *** accounted for *** percent of *** sales of imports in 2001. This relationship also constitutes a separate basis for *** to be deemed a related party.⁶⁵

We consequently examine whether “appropriate circumstances” exist to exclude *** from the domestic industry producing certain folding metal chairs. *** accounts for *** percent of domestic production of certain folding metal chairs,⁶⁶ and *** the petition.⁶⁷ *** U.S. production of chairs decreased from *** in 1999 to *** in 2001, while *** began its importing operations with *** chairs from China in 2001.⁶⁸ ***⁶⁹ ***’s operating income margin (ratio of operating income to net sales) *** in 2001, which ***.⁷⁰

⁶⁰ (...continued)

904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int’l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties 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 producers 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, 1168 (Ct. Int’l Trade 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 interests of the related producers lie in domestic production or in importation. *See, e.g.*, Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997) at 14 n.81.

⁶¹ CR at III-2; PR at III-1.

⁶² Dorel produced both folding metal tables and folding metal chairs in 1998, but then ceased domestic production. In the preliminary phase of the investigation, the Commission excluded Dorel from both domestic industries because it had ceased production and had become *** importer of both subject chair merchandise and subject table merchandise. Commission Confidential Preliminary Determination at 13 & n.52; USITC Pub. 3431 at 10 & n.52. Dorel was not a domestic producer of folding metal tables or folding metal chairs during the period of investigation (1999 - 2001) for the final phase of this investigation. Therefore, no issue remains as to whether it should be excluded from the domestic industry.

⁶³ ***.

⁶⁴ 19 U.S.C. § 1677(4)(B)(i) & (ii)(III).

⁶⁵ CR at III-7; PR at III-5.

⁶⁶ CR at III-2; PR at III-1.

⁶⁷ CR at III-2; PR at III-1.

⁶⁸ CR at III-8; PR at III-5.

⁶⁹ CR at III-8, n.19; PR at III-5, n.19.

⁷⁰ CR/PR at Table VI-6.

*** does not appear to be shielded from injury that might be caused by the subject imports. *** has indicated that one of the reasons it is importing is so that it can ***.⁷¹ *** and ***. Moreover, as noted above, no party, including Mecco, advocated excluding *** from the domestic industry producing folding metal chairs. We conclude that appropriate circumstances do not exist for the exclusion of *** from the domestic industry producing folding metal chairs.

Accordingly, we define the domestic industry for folding metal chairs to include all producers of folding metal chairs in the United States, and the domestic industry for folding metal tables to include all producers of folding metal tables in the United States.

II. MATERIAL INJURY BY REASON OF SUBJECT IMPORTS OF CERTAIN FOLDING METAL CHAIRS AND CERTAIN FOLDING METAL TABLES

In the final phase of antidumping duty and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports under investigation.⁷² In making this determination, the Commission must consider the volume of imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.⁷³ The statute defines “material injury” as “harm which is not inconsequential, immaterial, or unimportant.”⁷⁴ 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.⁷⁵ 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.”⁷⁶

For the reasons discussed below, we determine that the domestic industry producing folding metal chairs is materially injured by reason of subject chair imports from China found to be sold at LTFV, and that the domestic industry producing folding metal tables is materially injured by reason of subject table imports from China found to be sold at LTFV.

⁷¹ CR at III-7-8; PR at III-4-5.

⁷² 19 U.S.C. §§ 1671d(b) and 1673d(b).

⁷³ 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).

⁷⁴ 19 U.S.C. § 1677(7)(A).

⁷⁵ 19 U.S.C. § 1677(7)(C)(iii).

⁷⁶ 19 U.S.C. § 1677(7)(C)(iii).

A. Folding Metal Chairs

1. Conditions of Competition⁷⁷

Several conditions of competition pertinent to the folding metal chairs industry are relevant to our analysis.⁷⁸

Apparent domestic consumption of folding metal chairs has been declining in recent years. Consumption fell by *** by quantity and *** by value over the period of investigation.⁷⁹

There are eight domestic producers of folding metal chairs: Meco, Virco, Krueger, McCourt, SCF, Mity-Lite, Lifetime, and HON.⁸⁰ These producers sell into several different channels of distribution that encompass both residential and commercial users. These include mass merchandisers/office superstores, other retailers, other customers and distributors/wholesalers. Mass merchandisers are retailers such as Target or K-Mart, whose strategies are to provide stores offering “no frills” service and low prices;⁸¹ the large office superstores include Staples, Office Max, and Office Depot.⁸² “Other retailers” refers to retailers besides the large “box” stores, such as department stores.⁸³ Folding metal chairs also are sold to other customers, including sales to schools, government institutions and commercial institutions, and through distributors/wholesalers.⁸⁴ While there is significant overlap among domestic folding metal chairs and subject chair imports in these channels of distribution,⁸⁵ subject chair imports are concentrated in the mass merchandiser market.^{86 87}

⁷⁷ Meco filed the petition on April 27, 2001. Import data in this investigation are based solely on importer questionnaire data because official import statistics for certain folding metal chairs include nonsubject products. CR at IV-1 & Table IV-1, n.1. In calendar year 2000, subject imports of folding metal chairs from China accounted for *** of total imports of folding metal chairs. Imports of folding metal chairs from China are therefore not negligible. See 19 U.S.C. § 1677(24).

⁷⁸ 19 U.S.C. § 1677(7)(C)(iii).

⁷⁹ CR/PR at Table C-2.

⁸⁰ CR at III-1, n.1 & III-2; PR at III-1, n.1 & III-2.

⁸¹ Dorel Prehearing Brief at 5-6.

⁸² Meco Posthearing Brief at 13.

⁸³ Tr. at 21 (Testimony of Meco President Allan Reitzer).

⁸⁴ Tr. at 36-37 (Testimony of Randy Tess; Krueger sells folding metal chairs through catalogue sales, and to schools, businesses, and institutions, including governmental entities). Approximately *** of subject imports is sold to other customers. CR/PR at Table I-1.

⁸⁵ In 2001, *** of domestic folding metal chairs were sold to other retailers, *** were sold to “other customers,” *** were sold to mass merchandisers/office superstores, and *** were sold to distributors/wholesalers. In the same year, *** of imported product was sold to mass merchandisers/office superstores, *** were sold to “other customers,” *** were sold to distributors/wholesalers, and *** were sold to other retailers. Domestic product and imported product *** in the mass merchandiser and “other customers” channels of distribution, although *** of the domestic product is sold to other retailers and distributors/wholesalers. CR/PR at Table I-1. The share of domestic folding chairs sold to mass merchandisers was down from *** in 2000 to *** in 2001, due in large part to Meco’s loss of the Target account in 2001. Meco Prehearing Brief at 27. CR at I-7 & n.14, PR at I-5 & n.14.

⁸⁶ CR at I-7; PR at I-5.

⁸⁷ Meco and Dorel agree that they compete against each other in the mass merchandiser segment of the certain folding metal chair industry. CR at I-7; PR at I-5. They differ in their perception of the competition between the imported and domestic products. Dorel argues that subject imports and the domestic products sold by domestic

(continued...)

Both residential consumers and small businesses purchase folding metal chairs from both mass merchandisers and office superstores,⁸⁸ and there is no clear industry standard distinguishing residential and commercial chairs.⁸⁹ ***⁹⁰

Both quality and price are important in this industry,⁹¹ and over the period of investigation, the quality of the subject imports has reportedly improved.⁹² As a result, subject imports and domestic folding metal chairs are highly interchangeable.⁹³ While various types of chairs, including stacking chairs, and wooden and plastic chairs could be used for folding metal chairs in some applications, the majority of questionnaire respondents stated that there were no substitutes that competed closely with folding metal chairs on the basis of price.⁹⁴

Nonsubject imports of folding metal chairs (including nonsubject imports from China) have decreased irregularly over the period of investigation. Measured in quantity, nonsubject imports of

⁸⁷ (...continued)

producers other than Mecco do not compete against each other in the folding metal chair industry. Dorel argues that the other domestic producers focus on sales to the commercial/institutional or governmental market, and not the residential market, which is where Mecco's products and subject imports compete. Dorel Prehearing Brief at 3-5, 9. Mecco disagrees, maintaining that there is significant competition between the imported product and the domestic producers that focus on the commercial segment of the market. Tr. at 8 (Testimony of Warren Connelly, Counsel for Mecco).

⁸⁸ Costco caters to both residential and small office users of folding metal tables and chairs, and it is now Mecco's ***. Mecco's Prehearing Brief at 37. Mecco states that office superstores sell to individuals as well as to businesses. Mecco Prehearing Brief at 7. Tr. at 122, 143.

⁸⁹ Although having a single brace is considered an indication of a "residential" chair, and more than one brace an indication of a "commercial" chair, both Mecco's single-brace and double-brace chairs have been sold as "commercial" chairs. Mecco's Prehearing Brief at 7-8. Mecco tests its single-brace chair against standards developed for chairs sold to government customers. Id. at 5. Krueger, who markets primarily to commercial accounts, has used one cross-brace on its chairs. Id. at 6. No residential grade standards exist. Id. at 7.

⁹⁰ Mecco Posthearing Brief at 13. *** Importer Questionnaire Response at 28; *** Domestic Producer Questionnaire at 26; *** Domestic Producer Questionnaire, Attachment B; *** Producer Questionnaire at 35; *** Importer Questionnaire at 7; *** Importer Questionnaire at 6-7. CR at IV-3; PR at IV-2. A Dorel representative testified that they quote all the office superstores "because we consider them mass marketers." Tr. at 156 (Joy Broadhurst).

We note that *** primarily imports nonsubject merchandise from China, and only imports a small amount of subject merchandise. CR at IV-3; PR at IV-2. However, *** supplied metal folding chairs to *** valued at *** in 1999. CR at V-15-16 & n.10; PR at V-6 & n. 10.

Importer NPSC and domestic producers SCF, Krueger and Virco compete directly. Tr. at 139, 150 (Testimony of Barry Stauber). Dorel and Mecco also compete directly. Tr. at 11 (Testimony of Peter Winik, Counsel for Dorel).

⁹¹ CR at II-6; PR at II-3.

⁹² CR at II-6; PR at II-3. ***. Affidavit of Senior Buyer Megan Tucci, Target Stores, dated May 6, 2002. Tr. at 27 (Testimony of Bill Neal).

⁹³ CR at II-7; PR at II-4.

⁹⁴ CR at II-4. Dorel Posthearing Brief at 6; NPSC Posthearing Brief at 3-5. Stacking chairs are generally much more expensive than folding chairs, although there is an overlap in price, depending on the quality of the chair. Tr. at 83-84 (Testimony of Warren Connelly, and Randy Tess). Tr. at 115-116, 139 (Testimony of Joy Broadhurst, and Barry Stauber, President of NPSC).

folding metal chairs increased from *** of U.S. apparent consumption in 1999 to *** in 2000, and then decreased to *** in 2001.⁹⁵

2. Volume of the Subject Chair 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.”⁹⁶

The volume of imports of certain folding metal chairs from China increased during the period of investigation.⁹⁷ The volume of subject chair imports increased from *** in both 1999 and 2000, to *** in 2001.⁹⁸ The share of apparent U.S. consumption held by subject chair imports increased from *** in 1999 to *** in 2001, while domestic producer market share dropped from *** in 1999 to *** in 2001.⁹⁹ In comparison, nonsubject imports were a more minor factor in the market, and decreased in both volume and market share over the period of investigation.¹⁰⁰ Therefore, subject Chinese chair imports predominantly replaced U.S. production, but also replaced nonsubject imports.

We find the large volume of subject imports, and the increase in that volume over the period of investigation, both in absolute terms and relative to consumption in the United States, to be significant.

3. Price Effects of the Subject Chair Imports

Section 771(7)(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.¹⁰¹

Price competition in this industry is intense,¹⁰² and occurs frequently through annual contract negotiations.¹⁰³ Domestic folding metal chairs and imported subject chairs are highly interchangeable.¹⁰⁴ Importers and domestic producers tend to focus on either the residential or commercial market for folding metal chairs, suggesting some market segmentation; however, as noted above, the lines between

⁹⁵ CR/PR at Table IV-6.

⁹⁶ 19 U.S.C. § 1677(7)(C)(i).

⁹⁷ CR/PR at Tables IV-2 and C-2.

⁹⁸ CR/PR at Table IV-2.

⁹⁹ CR/PR at Table IV-6.

¹⁰⁰ CR/PR at Tables IV-6 & IV-2. Nonsubject imports, including Chinese nonsubject imports decreased from *** of U.S. apparent consumption in 1999 to *** in 2001.

¹⁰¹ 19 U.S.C. § 1677(7)(C)(ii).

¹⁰² Tr. at 7 (Testimony of Warren Connelly). *** CR at V-25; PR at V-8.

¹⁰³ CR at V-2-3; PR at V-1-2. Tr. at 26-27 (Testimony of Bill Neal). Meco Posthearing Brief, Tabs K & P.

¹⁰⁴ CR at II-7, II-11-12; PR at II-4, II-7.

these markets are blurred. Among products of comparable quality, price is the most important factor in purchasing decisions.¹⁰⁵

The Commission collected pricing data for two chair products. Subject imported chairs undersold the domestic product in 23 out of 24 quarterly price comparisons, by margins ranging from 13.4 percent to 41.0 percent. The margins of underselling also increased over the period of investigation. For both Product 1 (all-metal folding chair) and Product 2 (double-cushion folding metal chair), the margins of underselling were higher in each quarter of 2001 than they were in the same quarters in 1999.¹⁰⁶ We find that there has been significant price underselling by subject chair imports as compared to the price of the domestic folding metal chairs.

The significance of the underselling can be seen in Mecos loss of Target's business to Dorel in 2001. Target had been Mecos *******,¹⁰⁷ accounting for ******* of total domestic industry sales of folding metal chairs measured by quantity in 2000.¹⁰⁸ Target acknowledged switching from Mecos to Dorel in 2001, and that Dorel's bid was ******* than Mecos's.¹⁰⁹ This shift occurred after *******.¹¹⁰ *******.¹¹¹ While other factors may have played a role in Target's decision to switch suppliers, we conclude that price was an important factor.¹¹² Several instances of confirmed lost sales or revenues also underscore the significance of the underselling.¹¹³

The record is mixed regarding price depression by subject imports. While Mecos, the ******* domestic producer, dropped its prices for specific high volume accounts or for specific products due to price pressure from Dorel's subject imports,¹¹⁴ pricing data show that overall U.S. prices have increased over the period of investigation for both Products 1 and 2.¹¹⁵

¹⁰⁵ CR at II-7; PR at II-4.

¹⁰⁶ CR/PR at Tables V-1-V-2.

¹⁰⁷ CR at III-7; PR at III-4.

¹⁰⁸ Calculated from ******* Questionnaire Response, ******* at 7. CR/PR at Table C-2.

¹⁰⁹ Affidavit of Megan Tucci at 2, (May 6, 2002).

¹¹⁰ Dorel Posthearing Brief, Exhibit 12 at 16-18 & Tabs S, T & W.

¹¹¹ Tr. at 175 (Testimony of Steve Smith). See also Affidavit of Megan Tucci at 1 (May 6, 2002).

¹¹² Target offered various non-price reasons for its purchase decision. We note that the stated reasons changed over the course of the investigation. Compare Confidential Prehearing Staff Report at V-21 with Tr. at 153-154, 163, 194 (Testimony of Steve Smith) with Affidavit of Megan Tucci at 1-2, May 6, 2002. In any event, the Target representative at the hearing indicated that price is always a consideration to Target. Tr. at 194-195 (Testimony of Steve Smith). Although Target alleged quality and production problems with Mecos's products, the Target representative at the hearing confirmed that Target awarded the 2001 contract a month before Mecos's alleged production problems arose, and that the quality of Mecos's and Dorel's products was comparable. Tr. at 125, 166-167, 194.

¹¹³ Lost sales to ******* were confirmed, and lost sales to ******* were partially confirmed. Lost revenues to ******* were confirmed. CR at V-18-22, 25.

¹¹⁴ Mecos's Final Comments at 4-8, and record sources cited therein. CR at V-18-19; PR at V-7. Mecos argues that this reflects that importers have captured the higher-volume but lower-priced sales to mass merchandisers. It argues that the weighted average prices for domestic producers' sales have come increasingly from their smaller accounts, which pay somewhat higher average unit prices and are typically sales of higher end merchandise than are the sales to the mass merchandisers. Mecos Prehearing Brief at 32-33. Mecos Posthearing Brief at 14-15. Mecos argues that under these circumstances the injury to the domestic industry is primarily seen through declining sales volumes, which has occurred in this industry. Mecos Posthearing Brief at 14. CR/PR at Table C-2.

¹¹⁵ CR/PR at Tables V-1 & V-2.

The record contains evidence of price suppression.¹¹⁶ While U.S. prices increased over the period of investigation for both Products 1 and 2, and the unit values of the domestic industry's sales increased by 7.5 percent from 1999 to 2001,¹¹⁷ industry sales revenue did not keep pace with increased costs. Unit COGS increased by \$1.15 per chair from 1999 to 2001,¹¹⁸ and COGS as a ratio of net sales also rose by 3.7 percentage points over the period of investigation. Thus, although unit COGS increased, domestic producers were unable to increase price levels sufficiently to cover rising costs in the face of market competition with lower priced subject imports. This price-cost squeeze can be explained in large part by the loss of sales volume attributable to subject imports.

Based on the discussion above, we find significant underselling by the subject imports and evidence of price suppression.¹¹⁹

4. Impact of the Subject Chair Imports on the Domestic Industry

In examining the impact of the subject imports on the domestic industry, we consider all relevant economic factors that bear on the state of the industry in the United States.¹²⁰ 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 affected industry."^{121 122 123}

¹¹⁶ Commissioner Bragg finds significant price suppression by reason of subject imports in this investigation. The record indicates that although unit COGS increased, domestic producers were unable to increase price levels sufficiently to cover rising costs in the face of market competition with lower priced subject imports. Specifically, as the domestic industry's unit COGS increased 12.5 percent from 1999 to 2001, U.S. shipment unit values and net sales unit values increased only 7.7 percent and 7.5 percent, respectively, during the same period, evidencing a cost-price squeeze. This is corroborated by the increase in the ratio of COGS to net sales from 79.1 percent in 1999 to 81.0 percent in 2000 and to 82.8 percent in 2001. CR/PR at Tables VI-4 & C-2.

¹¹⁷ CR/PR at Table C-2.

¹¹⁸ CR/PR at Tables VI-4, VI-5 & C-2.

¹¹⁹ Commissioner Bragg finds significant price suppression by reason of subject imports in this investigation.

¹²⁰ 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.)

¹²¹ 19 U.S.C. § 1677(7)(C)(iii). See also SAA at 851, 885.

¹²² The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its amendments to its affirmative final antidumping determination, Commerce found a single class of merchandise, certain folding metal tables and chairs, and found the following dumping margins in its affirmative final determinations: Commerce found a zero dumping margin for Shin Crest Pte, Ltd; a 13.72 percent dumping margin for Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd., Dongguan Shichang Metals Factory Co., Ltd., and New-Tec Integration Co., Ltd; and a 70.71 percent dumping margin as the PRC-wide margin. Notice of Amended Final Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs From the People's Republic of China, 67 Fed. Reg. 34898, 34899 (May 16, 2002).

¹²³ Commissioner Bragg notes that she does not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. See Separate and
(continued...)

As detailed above, imports of the subject chair merchandise increased over the period of investigation and captured an increasing share of the U.S. market, significantly displacing market share held by the domestic industry. The record also reflects significant underselling by subject imports. The domestic industry's overall financial condition deteriorated and ended the period with a loss.¹²⁴

The quantity of the domestic chair industry's production fell during each year of the period of investigation, decreasing by 32.4 percent overall.¹²⁵ Capacity utilization levels also fell steadily throughout the period, as did the quantity of domestic shipments of folding metal chairs, which fell by 30.6 percent from 1999 to 2001. The value of domestic shipments was stable from 1999 to 2000 and then declined from 2000 to 2001. Employment indicators also declined over the period of investigation. From 1999 to 2001, the number of production workers fell by 6.6 percent, hours worked fell by 12.4 percent, and wages paid fell 8.2 percent, while wages paid per hour increased.¹²⁶

The financial performance of the domestic industry deteriorated over the period of investigation. Net sales fell by 26.9 percent measured in quantity and 21.4 percent measured in value. The chair industry's profit margin (operating income as a percentage of sales) decreased from a positive 3.1 percent in 1999 to a negative 0.2 percent in 2001.¹²⁷

For the foregoing reasons, we find that subject imports are having a significant adverse impact on the domestic industry.¹²⁸

¹²³ (...continued)

Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

¹²⁴ CR/PR at Tables VI-4 & C-2.

¹²⁵ CR/PR at Tables III-2 & C-2.

¹²⁶ CR/PR at Tables III-2 & C-2.

¹²⁷ CR/PR at Table VI-4. The industry's financial decline is even more severe if one considers additional data from Meco, the *** domestic producer of folding metal chairs, CR at III-2; PR at III-1, pertaining to the end of 2001 and the first three months of 2002. Table VI-4 includes Meco's data on a non-calendar fiscal year basis (July 1- June 30). Accordingly, Meco supplemented its financial data with data from three additional quarters of its 2002 fiscal year (July 1, 2001 to March 31, 2002). Its additional financial data reflect an operating income margin of *** and an *** for the period July 1, 2001 to March 31, 2002. Meco Posthearing Brief, Appendix, Tab H (operating income margin calculated from data).

¹²⁸ Evidence was introduced by Dorel of declines in commercial purchases due to the 2001 recession. Dorel Prehearing Brief at 26 & Exhibit 9. We acknowledge that the recession may have had an effect on apparent domestic consumption of folding metal chairs, which may have had an effect on domestic producers focusing on the commercial segment of the U.S. market. However, apparent domestic consumption fell by *** over the period of investigation. Any downturn in commercial spending in 2001 cannot explain the significant gains by subject imports in market share at the expense of the domestic industry during the period examined.

5. Critical Circumstances for Subject Chair Imports¹²⁹

In its final determination, Commerce made affirmative critical circumstances findings with respect to folding metal tables and chairs produced or exported by Chinese producers/exporters that did not have specific antidumping margins.¹³⁰ Because we have determined that the domestic folding metal chair industry is materially injured by reason of subject imports, we must further determine “whether the imports subject to the affirmative [Commerce critical circumstances] determination . . . are likely to undermine seriously the remedial effect of the antidumping duty order to be issued.”¹³¹ The SAA indicates that the Commission is to determine “whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order.”¹³²

The statute further provides that in making this determination the Commission shall consider, among other factors it considers relevant:

- (I) the timing and the volume of the imports,
- (II) a rapid increase in inventories of the imports, and
- (III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.¹³³

¹²⁹ Commissioner Bragg makes an affirmative critical circumstances determination, finding that the subject imports identified by Commerce in its affirmative critical circumstances determination are likely to undermine seriously the remedial effect of an order covering folding metal chairs.

First, with regard to the timing and volume of imports, the limited monthly import and foreign export data for chairs indicate that the increases in the volumes of imports that are subject to a critical circumstances analysis *** when comparing the six month period preceding the filing of the petition with the six month post-petition period. Specifically, subject chair imports considered in the critical circumstances analysis increased from *** chairs six months before the filing of the petition to *** chairs six months after the filing of the petition. See INV-Z-071. Furthermore, the subject imports considered in the critical circumstances analysis are equivalent to *** percent of U.S. chair production during all of 2001. See CR/PR Table C-2 & INV-Z-071.

Second, although the one responding importer reported that inventories of subject imports increased less than *** percent during the period May 2001 through October 2001, the record evidences a rapid increase in end of period inventories of subject imports held by U.S. importers over the period of investigation. Specifically, U.S. inventories of subject chairs increased by *** percent from 2000 to 2001. See, INV-Z-071; PR/CR at Table C-2.

Finally, the record indicates that with respect to the domestic folding metal chairs industry, the levels of production, capacity, capacity utilization, sales, and profitability declined by reason of the unfairly traded imports during 2001. *See infra* section III.A.4. The progressive deterioration in the performance of the domestic industry over the latter portion of the period of investigation indicates that the remedial effect of an antidumping duty order will be seriously undermined by reason of the increasing volume of unfairly traded imports identified by Commerce in its affirmative critical circumstances determination.

¹³⁰ Notice of Final Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs from the People’s Republic of China, 67 Fed. Reg. 20090, 20091-20092 (Apr. 24, 2002).

¹³¹ 19 U.S.C. § 1673d(b)(4)(A)(i).

¹³² SAA at 877.

¹³³ 19 U.S.C. § 1673d(b)(4)(A)(ii).

Consistent with Commission practice,¹³⁴ in considering the timing and volume of subject imports, we have considered import quantities prior to the filing of the petition with those subsequent to the filing of the petition using monthly statistics on the record regarding subject chair imports from Chinese producers or exporters that have not received specific margins.¹³⁵ The petition was filed on April 27, 2001. We have compared subject import volume of the reported subject imports covered by Commerce's critical circumstances determination for the six month period prior to and including April 2001 (November 2000 to April 2001), to the volume of those subject imports for the six month period following the filing of the petition (May 2001 to October 2001). The volume for the subject chair imports covered by Commerce's affirmative critical circumstances determinations was *** chairs for the six month period prior to the filing of the petition, and *** chairs for the six month period following the filing of the petition,¹³⁶ a substantial increase of ***. We do not find, however, that the level of subject imports covered by Commerce's critical circumstances determination is sufficiently large that it is likely to undermine seriously the remedial effect of the antidumping order. The volume of reported subject chair imports covered by Commerce's affirmative critical circumstances determination for the twelve-month period November 2000 to October 2001 is *** chairs, which is an amount equal to only *** of total subject chair imports in 2001, and only *** of apparent domestic consumption of folding metal chairs for 2001.¹³⁷ We have no pricing data specific to the subject imports covered by Commerce's affirmative critical circumstances determination, and the available information regarding inventories does not suggest a buildup of inventories during the post-petition period.¹³⁸

We determine that critical circumstances do not exist with respect to the subject chair imports covered by Commerce's affirmative critical circumstances determination because the absolute level of subject chair imports covered by Commerce's critical circumstances determination is not sufficiently large that it is likely to undermine seriously the remedial effect of the antidumping order.

B. Folding Metal Tables

1. Conditions of Competition¹³⁹

The conditions of competition for the domestic industry producing folding metal tables are generally similar to those for the domestic industry producing folding metal chairs.

Consumption of folding metal tables changed little over the investigation period. Apparent domestic consumption of folding metal tables increased by *** from 1999 to 2000, and decreased by ***

¹³⁴ See, e.g., Certain Ammonium Nitrate from Russia, Inv. No. 731-TA-856 (Final), USITC Pub. 3338, at 12-13 (Aug. 2000); Certain Preserved Mushrooms from China, India, and Indonesia, Invs. Nos. 731-TA-777 to 79 (Final), USITC Pub. 3159, at 24 (Feb. 1999).

¹³⁵ CR at IV-10-11 and Memorandum INV-Z-071 (May 20, 2002); PR at IV-3.

¹³⁶ CR at IV-11 and Memorandum INV-Z-071 (May 20, 2002); PR at IV-3.

¹³⁷ Calculated from CR/PR at Tables IV-2 & IV-6; CR at IV-11; Memorandum INV-Z-071; and PR at IV-3.

¹³⁸ Only one of the responding importers that provided critical circumstances data also maintained inventories, and that company reported that inventories increased less than *** percent during the period May 2001 through October 2001. Memorandum INV-Z-071.

¹³⁹ Mecos filed the petition on April 27, 2001. As with chairs, import data for folding metal tables are based solely on importer questionnaire data as the official import statistics for certain folding metal tables include nonsubject products. In calendar year 2000, subject imports of folding metal tables from China accounted for *** of total imports of folding metal tables. Imports of folding metal tables from China are therefore not negligible. CR/PR at Table IV-1. 19 U.S.C. § 1677(24).

from 2000 to 2001, ending *** higher in 2001 than in 1999. Measured in value, however, apparent domestic consumption increased by *** from 1999 to 2000, and then fell *** from 2000 to 2001, decreasing by *** over the period of investigation.¹⁴⁰

Meco is the *** domestic producer of folding metal tables.¹⁴¹ Meco is also the only domestic producer that offers folding metal tables and chairs in sets (e.g., four chairs and a table in matching vinyl). However, sets constitute a small part of Meco's folding metal table and chair business, and primarily serve as promotional products.¹⁴² Subject imports were more often imported in sets.¹⁴³

With respect to channels of distribution, during 2000, *** of the U.S.-produced folding metal tables went to mass merchandisers and *** went to other retailers, while in 2001, *** were sold to retail customers other than mass merchandisers/office superstores.¹⁴⁴ The majority of subject table imports, ***, went to mass merchandisers in 2001, with *** sold ***.¹⁴⁵

Both quality and price are important in this industry,¹⁴⁶ and over the period of investigation, the quality of the subject imports has improved.¹⁴⁷ As a result, subject imports and domestic folding metal tables are highly interchangeable.¹⁴⁸ While other products, such as wooden folding tables, could substitute for folding metal tables in some applications, the majority of questionnaire respondents stated that there were no substitutes that competed closely with folding metal tables on the basis of price.¹⁴⁹

Nonsubject imports of folding metal tables (including nonsubject imports from China) have decreased steadily over the period of investigation. Measured in quantity, nonsubject imports of folding metal tables accounted for *** of U.S. apparent consumption in 1999, falling to *** in 2000, and falling further to *** in 2001.¹⁵⁰

2. Volume of the Subject Table Imports

The volume of imports of certain folding metal tables from China increased during the period of investigation.¹⁵¹ The volume of subject table imports increased from *** in 1999 to *** in 2000, and to *** in 2001.¹⁵² The share of apparent U.S. consumption held by subject table imports increased from *** in 1999 to *** in 2001, while domestic producer market share dropped from *** in 1999 to *** in

¹⁴⁰ CR/PR at Table C-1.

¹⁴¹ CR at II-1, n.2; PR at II-1, n.2. We have limited information regarding Lifetime, which appears to be a second producer of folding metal tables. CR/PR at III-1, n.1. Meco Posthearing Brief, Exhibit 1.

¹⁴² Tr. at 48-49 (Testimony of Bill Neal). CR at III-6; PR at III-4. CR at V-2; PR at V-2.

¹⁴³ CR at IV-1, V-2; PR at IV-1, V-1.

¹⁴⁴ CR/PR at Table I-1. Meco attributes this decline in shipments to the mass merchandiser channel of distribution to the *** as a customer. CR at I-5-6; PR at I-4.

¹⁴⁵ CR/PR at Table I-1.

¹⁴⁶ CR at II-6; PR at II-3.

¹⁴⁷ CR at II-6; PR at II-3. Tr. at 27 (Testimony of Bill Neal).

¹⁴⁸ CR at II-7; PR at II-4.

¹⁴⁹ CR at II-4; PR at II-2. *** Questionnaire Response at IV-C-8-9; *** Questionnaire Response at III-4-5.

¹⁵⁰ CR/PR at Table IV-5.

¹⁵¹ CR/PR at Tables IV-1 & C-1.

¹⁵² CR/PR at Table IV-1.

2001.¹⁵³ Nonsubject imports' share of apparent domestic consumption decreased steadily over the period of investigation, from *** in 1999 to *** in 2001, while the share of subject imports increased.¹⁵⁴ Therefore, subject Chinese table imports predominantly replaced U.S. production, but also replaced non-subject imports.

We find the large volume of subject table imports, and the increase in that volume over the period of investigation, both in absolute terms and relative to consumption in the United States, to be significant.

3. Price Effects of the Subject Table Imports

As with folding metal chairs, price competition for tables is intense,¹⁵⁵ and frequently occurs through annual contract negotiations.¹⁵⁶ Domestic folding metal tables and imported subject tables are highly interchangeable.¹⁵⁷ The Commission collected pricing data for one table product. Subject imported tables undersold the domestic product in all 12 quarterly comparisons, by margins ranging from 6.9 percent to 22.8 percent. The margins of underselling were higher in each quarter of 2001 than they were in the corresponding quarters in 1999.¹⁵⁸ We find that there has been significant price underselling by subject table imports as compared to the price of the domestic folding metal tables.

U.S. prices fell over the period of investigation. Prices were lower ***.¹⁵⁹ In light of the interchangeability, significant underselling, and growth in market share of subject imports at the expense of the domestic folding metal table industry, we conclude that the subject imports depressed domestic prices to a significant degree.

This conclusion is further corroborated by record evidence of underbidding and sales and revenue lost by the domestic industry to subject imports. Target has acknowledged that ***.¹⁶⁰ Comparisons of price quotes for folding metal tables for the Target account indicate that ***. As discussed above with respect to folding metal chairs, while other factors may have played a role in Target's decision to switch from Meco to Dorel in 2001, we conclude that price was an important factor. Confirmed lost revenue and lost sales allegations, and bid data submitted by Meco and Dorel, confirm that Meco lowered prices in the face of import competition.¹⁶¹

We find that lower-priced subject imports have significantly depressed domestic prices, particularly given the large volumes of imports, their increasing market share, their significant underselling of the domestic like product, and their dominance in the domestic market.

¹⁵³ CR/PR at Table C-1.

¹⁵⁴ CR/PR at Table IV-5.

¹⁵⁵ Tr. at 7 (Testimony of Warren Connelly). *** CR at V-25; PR at V-9.

¹⁵⁶ CR at V-2-3; PR at V-1-2, Tr. at 26-27 (Testimony of Bill Neal). Meco Posthearing Brief, Tabs K & P.

¹⁵⁷ CR at II-7, II-11-12; PR at II-4, II-7.

¹⁵⁸ CR/PR at Table V-4.

¹⁵⁹ CR/PR at Table V-4.

¹⁶⁰ Affidavit of Megan Tucci at 2, dated May 6, 2002.

¹⁶¹ CR at V-18- 22, 25. Meco's Final Comments at 4-8 and record sources cited therein.

4. Impact of the Subject Table Imports on the Domestic Industry^{162 163}

As detailed above, imports of the subject table merchandise increased over the period of investigation and captured an increasing share of the U.S. market, significantly displacing market share held by the domestic industry. The record reflects significant underselling as well as evidence of significant price depression caused by subject imports. Furthermore, the condition of the domestic industry deteriorated over the period, particularly with regard to production and shipment volume over the period of investigation.¹⁶⁴

The quantity of the domestic table industry's production increased from 1999 to 2000 and fell *** in 2001, decreasing by *** over the period of investigation.¹⁶⁵ Capacity utilization followed a similar trend, and was at *** in 2001. The quantity of domestic shipments of folding metal tables also increased from 1999 to 2000 and then fell *** from 2000 to 2001, decreasing by *** from 1999 to 2001.¹⁶⁶ Employment indicators also declined *** over the period of investigation. From 1999 to 2001, the number of production workers fell by ***, hours worked fell by ***, and wages paid fell ***, while wages paid per hour increased.¹⁶⁷

The financial performance of the domestic industry deteriorated over the period of investigation. Net sales fell by *** measured in quantity and *** measured in value. Consistent with a drop in shipments, production and sales, operating income and unit operating income fell over the period of investigation.¹⁶⁸ The industry's operating margin declined from *** in 1999 to *** in 2001. Even this decline may severely underestimate the financial deterioration of the certain folding metal tables industry, because Meco, the sole reporting domestic producer of certain folding metal tables, reported its financial data based on a non-calendar fiscal year (July 1- June 30). Accordingly, the financial data reported for this industry in the staff report only covers the period of investigation up until June 30, 2001.

¹⁶² The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its amendments to its affirmative final antidumping determination, Commerce found a single class of merchandise, certain folding metal tables and chairs, and found the following dumping margins in its affirmative final determinations: Commerce found a zero dumping margin for Shin Crest Pte, Ltd; a 13.72 percent dumping margin for Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd., Dongguan Shichang Metals Factory Co., Ltd., and New-Tec Integration Co., Ltd; and a 70.71 percent dumping margin as the PRC-wide margin. Notice of Amended Final Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs From the People's Republic of China, 67 Fed. Reg. 34898, 34899 (May 16, 2002).

¹⁶³ Commissioner Bragg notes that she does not ordinarily consider the magnitude of the margin of dumping to be of particular significance in evaluating the effects of subject imports on domestic producers. See Separate and Dissenting Views of Commissioner Lynn M. Bragg in Bicycles from China, Inv. No. 731-TA-731 (Final), USITC Pub. 2968 (June 1996).

¹⁶⁴ CR/PR at Table III-1.

¹⁶⁵ CR/PR at Tables III-1 & C-1. Production, capacity utilization, U.S. shipments and most employment indicators increased from 1999 to 2000, and then fell *** from 2000 to 2001. Meco received ***. CR at III-6; PR at III-4. Meco Prehearing Brief at 26.

¹⁶⁶ CR/PR at Tables III-1 & C-1.

¹⁶⁷ CR/PR at Table C-1.

¹⁶⁸ CR/PR at Tables VI-1, VI-2 & C-1.

Meco supplemented its financial data with data from three additional quarters of its 2002 fiscal year (July 1, 2001 to March 31, 2002), and these data reflect an operating margin for that period of ***.¹⁶⁹

For the foregoing reasons, we find that subject table imports are having a significant adverse impact on the domestic industry producing folding metal tables.

5. Critical Circumstances for Subject Folding Metal Tables¹⁷⁰

Consistent with our critical circumstances analysis with respect to folding metal chairs, we have compared subject import volume of the reported subject table imports covered by Commerce's critical circumstances determination for the six month period prior to and including April 2001 (November 2000 to April 2001), to the volume of those subject imports for the six month period following the filing of the petition (May 2001 to October 2001). The volume for these imports was *** tables for the six month period prior to the filing of the petition, and *** tables for the six month period following the filing of the petition,¹⁷¹ a substantial increase of ***. We do not find, however, that the level of subject imports covered by Commerce's critical circumstances determination is sufficiently large that it is likely to undermine seriously the remedial effect of the antidumping order. The volume of reported subject table imports covered by Commerce's affirmative critical circumstances determination for the twelve-month period November 2000 to October 2001 is *** tables, which is an amount equal to only *** of total subject table imports in 2001, and only *** of apparent domestic consumption of folding metal tables for 2001.¹⁷² We have no pricing data specific to the subject table imports covered by Commerce's affirmative critical circumstances determination, and no specific information regarding inventories of the subject table imports covered by critical circumstances.¹⁷³

¹⁶⁹ Meco Posthearing Brief, Appendix, Tab H (operating income margin calculated from data).

¹⁷⁰ Commissioner Bragg makes an affirmative critical circumstances determination, finding that the subject imports identified by Commerce in its affirmative critical circumstances determination are likely to undermine seriously the remedial effect of an order covering folding metal tables.

First, with regard to the timing and volume of imports, the limited monthly import data for tables indicates that the increases in the volumes of imports that are subject to a critical circumstances analysis increased more than *** when comparing the six month period preceding the filing of the petition with the six month post-petition period. Specifically, subject table imports considered in the critical circumstances analysis increased from *** tables six months before the filing of the petition to *** tables six months after the filing of the petition. See INV-Z-071. Furthermore, the subject imports considered in the critical circumstances analysis are equivalent to *** percent of U.S. table production during all of 2001. See CR/PR Tables C-1 & INV-Z-071.

The record evidences a rapid increase in end of period inventories of subject imports held by U.S. importers over the period of investigation. Specifically, U.S. inventories of subject tables increased by approximately *** percent from 2000 to 2001. See, INV-Z-071; PR/CR at Table C-1.

Finally, the record indicates that with respect to the domestic folding metal tables industry, the levels of production, capacity, capacity utilization, sales, and profitability declined by reason of the unfairly traded imports during 2001. See *infra* section III.B.4. The progressive deterioration in the performance of the domestic industry over the latter portion of the period of investigation indicates that the remedial effect of an antidumping duty order will be seriously undermined by reason of the increasing volume of unfairly traded imports identified by Commerce in its affirmative critical circumstances determination.

¹⁷¹ CR at IV-11; Memorandum INV-Z-071 (May 20, 2002); PR at IV-3.

¹⁷² Calculated from CR/PR at Tables IV-1 & IV-5; CR at IV-11; Memorandum INV-Z-071 (May 20, 2002); and PR at IV-3.

¹⁷³ CR at IV-11; Memorandum INV-Z-071 (May 20, 2002); PR at IV-3.

We determine that critical circumstances do not exist with respect to the subject table imports covered by Commerce's affirmative critical circumstances determination because the absolute level of subject table imports covered by Commerce's critical circumstances determination is not sufficiently large that it is likely to undermine seriously the remedial effect of the antidumping order.

III. CONCLUSION

For the foregoing reasons, we determine that an industry in the United States producing certain folding metal chairs is materially injured by reason of imports of certain folding metal chairs from China that are being sold in the United States at LTFV, and that an industry in the United States producing certain folding metal tables is materially injured by reason of imports of certain folding metal tables from China that are being sold in the United States at LTFV. We also determine that critical circumstances do not exist with respect to subject imports of certain folding metal tables and chairs from China as to which Commerce made affirmative critical circumstances findings.¹⁷⁴

¹⁷⁴ Commissioner Bragg dissenting. See, infra, nn.129 & 170.

PART I: INTRODUCTION

BACKGROUND

This investigation results from a petition filed by Meco Corp., Greeneville, TN, on April 27, 2001, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value (LTFV) imports of certain folding metal tables and chairs¹ from China. Information relating to the background of the investigation is provided below.²

<i>Date</i>	<i>Action</i>
April 27, 2001	Petition filed with Commerce and the Commission; institution of Commission investigation (66 FR 22598, May 4, 2001)
May 17, 2001	Commerce's initiation of investigation (66 FR 28728, May 24, 2001)
December 3, 2001	Commerce's preliminary determination (66 FR 60185); scheduling of final phase of Commission investigation (67 FR 916, January 8, 2002)
April 24, 2002	Commerce's final determination ³ (67 FR 20090, April 24, 2002)
April 23, 2002	Commission's hearing ⁴
May 22, 2002	Commission's vote
May 31, 2002	Commission determination transmitted to Commerce

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix C, tables C-1 through C-4. Except as noted, U.S. industry data are based on questionnaire responses of six firms that accounted for more than *** percent of U.S. production of folding metal tables and chairs during 2001. U.S. imports are based on 15 responses to Commission questionnaires, accounting for *** percent of reported subject exports of folding metal tables from China and *** percent of reported subject exports of folding metal chairs from China.

¹ The folding metal tables and chairs that are subject to this investigation are identified in the section entitled "The Subject Product." Folding metal tables and chairs are provided for in subheadings 9401.71.00, 9401.79.00, and 9403.20.00 of the Harmonized Tariff Schedule of the United States (HTS) and have a normal trade relations tariff rate of "free" applicable to imports from China.

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

³ Commerce calculated amended final LTFV margins to be as follows: Shin Crest, 0.00 percent; Feili Furniture Development Co. and Feili (Fujian) Co. (the Feili Group), 13.72 percent; Dongguan Shichang Metals Factory Co. (Dongguan), 13.72 percent; New-Tec Integration Co. (New -Tec), 13.72 percent; and China-wide, 70.71 percent (67 FR 34898, May 16, 2002). Margins were calculated using Indian prices as a surrogate for Chinese prices, because China has non-market economy status. Factors of production were taken from the two respondents selected: Shin Crest and the Feili Group. Margins for the two firms providing data but not selected as respondents (Dongguan and New-Tec) were the weighted average of the two respondents' rates. Critical circumstances were found for those firms without individual margins. The basis for the critical circumstances finding was adverse inference. The period of investigation was October 1, 2000 through March 31, 2001.

⁴ Appendix B is a list of witnesses who appeared at the hearing.

THE SUBJECT PRODUCT

The imported products subject to this investigation are certain folding metal tables and chairs from China that have been defined by Commerce as:

{A}ssembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

(1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal (“folding metal tables”). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal tables are the following:

Lawn furniture;

Trays commonly referred to as “TV trays;”

Side tables;

Child-sized tables;

Portable counter sets consisting of rectangular tables 36" high and matching stools; and

Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28" to 36" wide by 48" to 96" long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal (“folding metal chairs”). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal chairs are the following:

Folding metal chairs with a wooden back or seat, or both;

Lawn furniture;

Stools;

Chairs with arms; and

Child-sized chairs.⁵

⁵ 66 FR 28728, May 24, 2001.

Physical Characteristics and Uses

The subject folding metal tables and chairs are most commonly known as card tables and chairs. They are generally considered to be occasional-use furniture⁶ and collapse for efficient storage. Certain folding metal tables and chairs are suitable for use in residential or commercial applications.

The legs of certain metal folding tables each fold flat independently of one another. Certain folding metal tables are commonly 34 inches square. However, round, rectangular, and any other shaped tables of comparable size are also included in this investigation. The principal components of certain folding metal tables are: (1) a hardboard top that is covered with vinyl or fabric; (2) a tubular metal table frame; (3) tubular legs; and (4) independent folding mechanisms which are each made up of a leg lock, leg brace, and corner bracket.

Certain folding metal chairs fold flat when the seat is lifted upward toward the backrest. The principal components of certain metal folding chairs are: (1) a U-shaped mainframe that also constitutes the front pair of legs⁷ (“front legs/mainframe”); (2) a backrest that is welded to the arched part of the U-shaped mainframe; (3) a pair of back legs that are held together with a brace; (4) leg links that hold the front and back legs together; and (5) a seat that is fixed on each side to both a front leg and a folding back leg. The seat and the back of certain metal folding chairs may or may not be upholstered. Another product variation is that the metal seat back may have a design cut into it.

Manufacturing Processes

The production of a subject metal folding table 34 inches square requires about 8 pounds of steel strip,⁸ which is used for the production of the table frame, panel-top clips, leg locks, leg braces, legs, and corner brackets. Other types of materials used in certain metal folding tables are the hard-panel table top, vinyl or fabric to cover the table top, and plastic for the leg caps.

The manufacturing process for certain metal folding tables involves several steps. The hard-panel table top and its cover material (usually vinyl or fabric) are cut and the cover material is affixed to the hard panel. The table frame and legs are made from steel strip that is slit and formed into tubes, the seams of which are closed using resistance welding. To form the table frame, a tube is bent to form a 34-inch square. The remaining metal parts (clips for panel top, leg locks, leg braces, and corner brackets) are stamped from steel strip and then trimmed or tumbled to provide a smooth finish. The leg locks, leg braces, and corner brackets are assembled into the independent folding leg mechanisms. The folding mechanisms, which house the table legs, are then welded into the corners of the table frame. The completely assembled metal portion of the table is then cleaned and painted before affixing the table top and the plastic leg caps.

⁶ Common uses include (1) school graduations, sporting contests, and concerts; (2) church bazaars and fund raisers; and (3) social events including bridge games and bingo. Although certain metal folding tables and chairs are generally stored for a period of time between uses, it is not unusual for these items to be used daily. Daily uses include as a computer stand and chair or display table, and as seats and tables for lunch rooms or common areas of commercial operations (e.g., production facilities, offices, and retail stores). Although not designed as permanent household furniture, it is not unusual for certain metal folding tables and chairs to be used as temporary dining room furniture.

⁷ There may or may not be a connecting brace between the front legs.

⁸ Carbon steel strip is the principal metal used in the production of certain metal folding tables and chairs; however, other metals such as aluminum, stainless steel, or galvanized steel are occasionally used.

The manufacture of a subject metal folding chair requires about 10 pounds of steel.⁹ The manufacturing process for certain metal folding chairs includes several steps. The front legs/mainframe, rear legs, and leg braces are made from steel strip that has been processed into tubes, as previously described for certain folding metal table production. The tube that will become the front legs/mainframe is then bent in a 180-degree U-shape to form the chair back and front legs. The seat pan, back pan, and leg links¹⁰ are stamped from steel strip. After stamping, the seat pan goes through a series of pressing operations that (1) bend the sides of the seat down, (2) fold the edges under, and (3) press out the holes for upholstery installation, if required. The back pan goes through similar pressing operations. Assembling certain folding metal chairs involves attaching the front legs and back legs together by riveting one end of the leg link to the front leg and the other end to the back leg. This is done on both sides of the chair. Also, the back legs are connected to each other by the leg brace to provide strength. The back pan is welded to the arch at the top of the front legs/mainframe. The seat pan is then riveted between the front and back legs. The assembled chair is painted and hat spacers¹¹ are attached. For upholstered chairs, the seat and back upholstery (consisting of backing material,¹² foam, and a fabric or vinyl covering that is stretched over the foam and stapled to the backing material) is attached to the seat and back pans after painting.

The imported subject certain folding metal tables and chairs are virtually identical to those made in the United States. The production processes involved in the manufacture of these products involve moderate levels of technology. Representatives of Mecos have stated that their U.S. production facilities are slightly more automated than the production facilities that they have seen in China, but that the production processes are essentially the same.

Channels of Distribution

Table I-1 shows the channels of distribution of folding metal tables and chairs shipped by domestic producers and importers of the Chinese subject product, in percentages. Mecos's shipments of folding metal tables to mass merchandisers declined from *** percent in 1999 to *** percent in 2001, reflecting the loss of *** as a customer.¹³ The percentage of imported tables sold to mass merchandisers does not show a correspondingly large increase because *** imports for its own use, which would be reflected as shipments to other customers (end users).

Table I-1
Certain folding metal tables and chairs: Channels of distribution, by sources, 1999-2001

* * * * *

⁹ The gauge/thickness of the steel used in certain folding metal chairs ranges from 0.022 to 0.084 inch. The thicknesses for certain folding metal chair components are listed from thinnest to thickest as follows: (1) backrest = 0.022 inch; (2) seat = 0.033 inch; (3) rear legs = 0.041 inch; (4) cross brace = 0.044 inch; and (5) leg link = 0.084 inch.

¹⁰ The leg links hold the front legs/mainframe and the back legs together and act as a hinge for folding.

¹¹ Hat spacers are the caps for the tops of the back legs where they rest against the front legs when the chair is unfolded. Their use reduces friction caused by the front and back legs rubbing against each other.

¹² The backing material for chair seats is generally a hardboard backing which is cut to the shape of the seat pan, whereas the backing material for chair backs is generally a plastic backing which is cut to the shape of the back pan.

¹³ Mecos is the only U.S. producer of subject tables.

Respondents have argued that Meco is the only U.S. producer concentrating on the mass merchandiser market (i.e., Target, K-Mart, Walmart, etc.) and that the other U.S. producers concentrate on the commercial and institutional markets.¹⁴ The significance is that the imported products are concentrated in the mass merchandiser market as well.¹⁵ Meco has conceded that point, as well as the fact that the other U.S. producers concentrate on the commercial end of the market, but argues that there is plenty of competition between itself and Dorel (the major importer and respondent in this investigation) in the mass merchandiser area, and also intense competition between Krueger and National Public Seating, an importer of commercial grade chairs, in the commercial and institutional markets.¹⁶

DOMESTIC LIKE PRODUCT ISSUES

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 preliminary phase of this investigation, the Commission determined that there were "two domestic like products corresponding to Commerce's scope; certain folding metal chairs, encompassing both residential and commercial folding chairs, and certain folding metal tables (referred to in this section as "card tables"), including only residential folding metal tables."¹⁷ The Commission examined four like product permutations: certain folding metal tables and chairs as one domestic like product; residential and commercial folding metal chairs as two domestic like products; certain folding metal tables and commercial folding metal tables (referred to in this section as "banquet tables") as one domestic like product; and certain folding metal tables and chairs and certain additional casual seating and table products as one domestic like product.

In making its preliminary determination, the Commission requested more information solely on the issue of whether banquet tables should be included in the same domestic like product as card tables.¹⁸ Six firms that produced banquet tables responded to Commission questionnaires: Dorel (production began in 2001), Krueger, McCourt, Meco, Mity Lite, and Virco. Their data are included in tables C-3

¹⁴ Dorel prehearing brief, pp. 4 and 8. It should be noted that *** reported only a small amount of shipments of chairs to the mass merchandisers/office superstores category and was unable to further classify its shipments (*** letter of April 25, 2002). *** reported that *** percent of its 2001 shipments of chairs were to the mass merchandiser/office superstore category; however, its shipments were *** to ***. *** reported that *** percent of its 2001 shipments of chairs were to mass merchandisers, down from *** percent in 1999 and *** percent in 2000. No other U.S. producer reported sales to mass merchandisers/office superstores. McCourt is mainly in the rental chair business. Meco's posthearing brief, exhibit 10. *** were requested to provide descriptions of what types of customers were in their sales to "other customers." The Commission has received no responses to those requests.

¹⁵ Most of the imported tables and chairs sold to "other customers" are to the end users of mass merchandisers. There were very few imports sold to distributors/wholesalers and to other retailers.

¹⁶ Hearing transcript, pp. 6, 11, 20-21, 36, 43-44, 63, and 105. There is confusion about where warehouse stores like Costco and Sam's Club would be classified—whether as mass merchandisers or wholesalers. Hearing transcript, pp. 91 and 143-144.

¹⁷ *Folding Metal Tables and Chairs from China*, Inv. No. 731-TA-932 (Preliminary), USITC Publication 3431, June 2001, p. 5.

¹⁸ *Folding Metal Tables and Chairs from China*, Inv. No. 731-TA-932 (Preliminary), USITC Publication 3431, June 2001, p. 8, fn. 41.

and C-4.¹⁹ In their comments on draft questionnaires in this final phase of the investigation, counsel for respondents argued that the domestic like products found by the Commission in the preliminary phase should be expanded to include both banquet tables and “other rigid-frame casual chairs and tables.”²⁰ Counsel for petitioner has agreed with the Commission’s preliminary determination on like product issues.²¹ The following summarizes information collected from Commission questionnaires in this final phase of the investigation on the issue of including banquet tables in the same domestic like product as card tables. Information is based on questionnaire responses of four U.S. producers²² of card tables and chairs and banquet tables, and four importers²³ of card tables.

Physical Characteristics and Uses

The four U.S. producers agreed that card tables and banquet tables were physically different and had different characteristics and uses. *** cited strength and durability differences. *** stated that banquet tables were longer and rectangular in shape, and made from heavier material. *** stated that each leg of a card table folds independently, while banquet tables have two legs folding together. It also mentioned the difference in shape and gauge of material. *** stated that banquet tables are more durable and more heavy-duty.

Two importers found physical differences and two found card tables and banquet tables to be similar. *** stated that banquet tables are substantially larger and have a much heavier construction. It also noted the difference in shape (square card tables vs. rectangular banquet tables). *** cited differences in strength and durability. *** argued that both tables are made of tubular steel and have legs that fold. It stated that both types of tables were sold in various shapes, and that both folded away for flat storage. It also cited similar uses. *** stated that there were no differences.

Common Manufacturing Facilities and Production Employees

Three of the four producers stated that there was some commonality in production processes and employees. *** stated that some of the employees and presses could be the same. *** stated that the production processes were similar and the same employees and equipment could generally be used for both types of tables, with the notation that some separate equipment is used to make banquet tables. *** stated that a limited amount of commonality might exist. *** pronounced this issue “unknown.”

One importer cited some differences, one importer cited similarities, and two importers either did not know (***) or stated that the issue had “no relevance to the decision” (***). *** stated that the “manufacturing facilities are somewhat different, as the heavy particle board cutting and molding work is

¹⁹ There were no reported imports of banquet tables during the period examined.

²⁰ Letters from Latham and Watkins, counsel for Dorel/Cosco (arguing for other casual rigid-frame tables and chairs), and Powell, Goldstein, Frazer and Murphy, counsel for National Public Seating Corp. (arguing for other casual rigid-frame chairs solely), December 20, 2001. The prehearing brief of National Public Seating argued for including stacking chairs and other chairs that compete with folding metal chairs in the same like product (p. 6).

²¹ Meco’s prehearing brief, p. 3.

²² Only *** were able to provide information on this issue.

²³ Only *** were able to provide information on this issue. *** provided information on commercial and residential folding metal chairs, which was not requested by the questionnaire. Likewise, *** provided information on the differences between imported and domestically produced folding metal chairs, which was also not requested by the questionnaire.

unique to banquet tables. Welding is not needed on card tables.” *** stated that both tables share common manufacturing and production processes using the same employees.

Interchangeability

The four U.S. producers viewed interchangeability as very limited or non-existent. *** stated that card and banquet tables would be substituted infrequently. *** stated that there is no interchangeability. *** stated that both products could be used for certain light-weight activities such as dining or game playing (where the inconvenience of the rectangular shape is not a problem). However, card tables are not suitable for activities requiring more substantial equipment like sewing machines or computers, and card tables are not suited for commercial or institutional use. *** stated that “generally, commercial customers do not use card tables.”

Of the four importers, two (***) stated that card and banquet tables were interchangeable, one (***) did not find the products interchangeable, and one (***) stated that card tables and banquet tables would be substituted infrequently.

Customer and Producer Perceptions

All four U.S. producers perceived the products as different and believed their customers also shared their view. *** stated that banquet tables would be seen as “commercial” and “heavy-duty.” *** stated that the “differences are sufficiently significant that a clear distinction has developed between the two products.” *** answered “card tables vs. banquet tables.”²⁴ *** stated that “our customers view card tables as too cheap and not durable enough.”

Two importers emphasized the differences and two emphasized the similarities in perceptions of card and banquet tables. *** stated that “a housewife would not purchase a banquet table for occasional home use. It takes two people to open and set up. It’s not conducive to card games or board games.” *** stated that banquet tables would be seen as “commercial” and “heavy-duty.” *** cited the similarities in customer and producer perceptions—they are regarded as portable, storable, casual, and supplemental table options. When marketed, they are displayed together on sales floors and appear in the same area of catalogues. *** stated that there was no difference in customer or producer perceptions.

Channels of Distribution

Table I-1 shown earlier illustrates the channels of distribution of card tables sold by Meco. The following tabulation illustrates the percentages of U.S. producers’ shipments of banquet tables shipped to the various customers during the investigation period.

²⁴ It is unclear what was meant by *** comment. Staff requested but did not receive a clarification.

Item	1999	2000	2001
Banquet tables: Distributors/wholesalers	***	***	***
Mass merchandisers/office superstores	***	***	***
Other retailers	***	***	***
Other customers	***	***	***
Total	100.0	100.0	100.0

Price

All four U.S. producers cited the much higher prices of banquet tables compared with prices for card tables. *** cited a range of \$45-\$100 for banquet tables, compared with a range of \$20-\$35 for card tables. *** stated that banquet tables were 4 to 20 times more expensive.

Two importers cited much higher prices for banquet tables, one cited some price similarities, and one (***) answered “lower to imports.”²⁵ *** described the range of card table prices as \$30-\$40, and the range of banquet table prices to be \$40-\$100. *** stated that banquet tables would have much higher prices. *** stated that some banquet tables were in the same price range as card tables. It stated “even when there’s some differences in product cost, the value orientation of banquet tables to card tables frequently provide the consumer with an attractive alternative, particularly when the products can be compared side by side.”

Average unit values for U.S. producers’ U.S. shipments of card tables (see table C-1) ranged from \$*** to \$*** during the period. Average unit values of U.S. shipments ranged from \$*** to \$*** for banquet tables (see table C-3).

²⁵ It is unclear what was meant by *** comment. Staff requested but did not receive a clarification.

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

U.S. MARKET SEGMENTS/CHANNELS OF DISTRIBUTION

In the U.S. market, domestic and imported certain folding metal tables and chairs are sold to a variety of customers.¹ During 2001, over *** percent of the U.S.-produced folding metal tables were sold to retail customers other than mass merchandisers/office superstores.² Of subject imports from China, about *** percent went to mass merchandisers/office superstores, about *** percent went to other retailers, and about *** percent went to other customers in that year. For folding metal chairs, about *** percent of U.S. shipments were to distributors/wholesalers, about *** percent were to mass merchandisers/office superstores, about *** percent were to other retailers, and about *** percent were to other customers in 2001. For subject imports from China, about *** percent of shipments of folding metal chairs were to distributors/wholesalers in 2001, about *** percent were to mass merchandisers/office superstores, about *** percent were to other retailers, and about *** percent were to other customers.

The lead times for delivery of certain folding metal tables and chairs are relatively short for both U.S. producers and importers. For producers they range from 5 to 30 days, and for importers that sell to mass merchandisers and distributors they range from 5 to 10 days.

U.S.-produced and imported products are sold throughout the United States. All five U.S. producers indicated that they sell in all 50 states. Similarly, *** also sell throughout the United States. However, sales by other importers were limited to specific states or regions. For example, *** sells its imports from China in its retail stores in *** states. Other importers' principal market areas are the Midwest, the Mid-Atlantic region, the Northeast, the Southeast, the East Coast, and the states of Pennsylvania, Ohio, and Florida.

U.S. producers and those importers that sell to distributors and retailers were asked to estimate the percentages of their sales that occur within various distances from their production or storage facilities or U.S. port of entry. For reporting producers, *** percent of all sales occur within a 100-mile radius, *** percent occur between 101 and 1,000 miles, and *** percent are at distances over 1,000 miles. For importers that sell to retailers and distributors, the reported shares of sales within a 100-mile radius ranged from *** percent; the shares for distances between 101 and 1,000 miles ranged from *** percent; and the shares for distances over 1,000 miles ranged from *** percent. Overall, for producers during 2001, a weighted-average of *** percent of U.S. shipments are within 100 miles, *** percent are for distances between 101 and 1,000 miles, and *** percent are for distances greater than 1,000 miles. For importers during 2001, a weighted-average of *** percent of shipments are for distances less than 100 miles, *** percent are for distances between 101 and 1,000 miles, and *** percent are for distances greater than 1,000 miles.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

The sensitivity of the domestic supply to changes in price depends on several factors including the level of excess capacity, the availability of alternate markets for U.S.-produced certain folding metal

¹ Among the importers, seven firms, ***.

² ***.

tables and chairs, inventory levels, and the producers' ability to shift to the manufacture of other products.

Because of significant excess capacity, available export markets, moderately high inventory levels, and some capability for producing other products in the facilities used for making certain folding metal tables and chairs, it is likely that U.S. producers could respond to changes in price with substantial changes in quantities supplied. Capacity utilization rates for folding metal tables and chairs were varied during 1999-2001. The capacity utilization rate for folding metal tables was *** percent in 1999, *** percent in 2000, and *** percent in 2001. For folding metal chairs, this rate ranged between 30.6 and 45.7 percent during those years. During 1999-2001, exports ranged from *** percent of total U.S. producer shipments of folding metal tables, and from 8 to 10 percent for folding metal chairs. The ratios of end-of-period inventories to total producer shipments ranged from *** percent for folding metal tables and from 7 to 9 percent for folding metal chairs. Some firms reported that they use the employees and/or equipment used to make certain folding metal tables and chairs in the production of other products. For example, *** produces stack chairs, *** produces nonsubject banquet tables, and *** produces other chairs that are not subject to this investigation. *** shifts its workers between the production of tables and chairs and the production of barbecue grills.

U.S. Demand

When asked how the overall U.S. demand for certain folding metal tables and chairs has changed since January 1998, the majority of questionnaire respondents stated that demand has declined or has remained largely unchanged. Of the five producers that responded, four said that demand has declined during this period, while a fifth said that it has been relatively constant or has increased slightly. Of the four importers that commented, two stated that demand has been constant, one stated that demand has declined, and one firm, ***, stated that demand has increased. *** said that the increase has been due to an expansion in the number of retail outlets offering these products and responsiveness on the part of producers to consumer and retailer needs for higher quality products sensitive to fashion trends. Overall demand, as measured by apparent consumption, was relatively stable during 1999-2001. For folding metal tables, consumption increased from *** million units in 1999 to *** million units in 2000, and then dropped back to *** million units in 2001. For folding metal chairs, apparent consumption decreased from *** million units in 1999 to *** million units in 2000, and then recovered slightly to *** million units in 2001.

Substitute Products

When asked if other products may be used as substitutes for certain folding metal tables and chairs, the majority of questionnaire respondents listed one or more items. Four of five producers and three of four importers that responded and 13 of 23 purchasers listed one or more items. The most frequently mentioned substitutes were stacking chairs or folding tables and chairs made of wood or plastic. Non-folding tables and chairs were also mentioned.

In addition to being asked whether substitutes exist, questionnaire respondents were asked whether the substitute products compete closely with certain folding metal tables and chairs on the basis of price. While the majority of respondents answered no, several firms answered yes. *** said that some stacking chairs, wooden folding chairs, "ready to assemble" chairs, and resin chairs sometimes compete at similar price points. *** stated that many products are in the same price range as the products subject to investigation, and compete closely with certain folding metal tables and chairs. The items listed by *** included solid wood-slat and plastic resin folding chairs, stacking chairs, chairs with a steel frame and canvas cover, and various types of folding metal tables including those that are vinyl-

upholstered and those with laminate tops. *** also said that stacking chairs are price competitive with its folding chairs. In addition, some purchasers, including ***, said that products made of other materials are price competitive with folding metal tables and chairs.

SUBSTITUTABILITY ISSUES

The degree of substitution between the domestic product and imports of certain folding metal tables and chairs depends upon such factors as relative prices, quality, reliability of supply, and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). The effects of these factors on the substitution between U.S.-produced and imported products is discussed below. Much of the information was obtained from purchaser questionnaires.³

Twenty-three purchasers submitted questionnaires to the Commission. These purchasers included eight mass merchandisers, eight distributors, a drug store chain, a catalogue retailer, a purchasing service for non-profits, a buying group, an institutional mail-order company, a membership warehouse club, and an end user. Fifteen purchasers bought both tables and chairs, in some cases in sets, and eight bought only chairs. The combined value of purchases of tables and chairs by firms able to provide estimates was about \$25 million in 1999, about \$34 million in 2000, and about \$33 million in 2001.⁴ The ratio of these purchases to the combined value of total U.S. consumption of tables and chairs was about *** percent in 1999, about *** percent in 2000, and about *** percent in 2001.⁵ Fourteen purchasers bought Chinese-produced products during 1999-2001. Overall, the combined value of purchases of Chinese imports reported by the purchasers was consistently greater each year during 1999-2001 than annual purchases of U.S.-produced products.⁶

Purchasers were asked whether the relative shares of their total purchases of certain folding metal tables and chairs from different sources (both domestic and foreign) had changed in the last three years, and if so, were asked to state the reason for any change that had occurred. While most purchasers reported no change, five firms stated that they had increased their purchases of subject Chinese-produced products relative to U.S.-produced products, while one firm discontinued its purchases of the Chinese-produced products completely, shifting entirely to a U.S. producer. ***.

Factors Affecting Purchasing Decisions

When purchasers were asked to list the three most important factors considered in choosing a supplier, quality and price were the leading considerations. Quality was ranked first more often than any other consideration. Of 21 responding purchasers, 13 considered quality to be most important, while price was ranked first by 2 purchasers (table II-1).

³ In the producer, importer, and purchaser questionnaires, firms were asked to differentiate between tables and chairs in their responses when appropriate. They were instructed that in cases where there is no difference in the response, this would be understood to mean that the answers applied to both tables and chairs.

⁴ Practically all of these purchases consisted of U.S.-produced products or imports from China. One firm reported purchases of about ***.

⁵ In some cases purchasers included data on their purchases of banquet or commercial tables. Efforts were made to exclude these data from the total purchase values.

⁶ Purchases of Chinese products probably include some nonsubject imports from China produced by Shin Crest.

Table II-1

Certain folding metal tables and chairs: Ranking of factors used in purchasing decisions as reported by U.S. purchasers

Factor	Number of firms reporting		
	Number one factor	Number two factor	Number three factor
Availability	0	1	4
Price	2	11	5
Quality	13	4	2
Other ¹	6	5	10

¹ Other factors include product range, design, attractiveness, prompt shipment, and reliability.

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

In addition to the rankings, purchasers were also asked whether the lowest price for certain folding metal tables and chairs would always, usually, sometimes, or never win a contract or sale when all specifications for the product have been met. Of the 21 purchasers that responded, three selected always, eight selected usually, five selected sometimes, and five selected never.

Comparisons of Domestic Products and Subject Imports

While the U.S.-produced and the subject imported certain folding metal tables and chairs from China are often sold to the same customers, various factors such as physical differences in the products and other considerations may limit competition in some cases. These factors are discussed below.

When asked whether the U.S.-produced certain folding metal tables and chairs are used interchangeably with imports of these products from China, the five producers and nine importers that responded answered yes.⁷ In addition to the question for producers and importers, purchasers were also asked whether U.S.-produced and imported certain folding metal tables and chairs from China are used in the same applications. All 14 purchasers that responded answered yes.⁸

While there was general agreement that the U.S.-produced and Chinese products can be used interchangeably, opinions varied on whether differences in product characteristics and/or sales conditions have a significant effect on sales. Three out of five producers said that these factors are not significant, and two other firms stated that the differences are important. *** said that some Chinese imports are poor in quality and made of less expensive material than the U.S.-made products. *** said that the construction quality of the Chinese chairs is poor, the product range of these imports is limited, and that delivery lead times are long.

Among importers, six out of nine firms said that product characteristics and/or sales conditions are not important factors in sales, while three firms said that they are important. *** stated that the

⁷ Among the producers that responded, one firm makes both tables and chairs, and the other four only make chairs. Among importers that responded, five import both tables and chairs, and three import only chairs. One importer, ***, qualified its answer by stating that its imported commercial quality folding metal chairs from China are only interchangeable with commercial quality folding metal chairs produced in the United States, and its imported residential quality folding metal chairs are only interchangeable with residential quality folding metal chairs produced in the United States.

⁸ Eleven of these purchasers bought both tables and chairs during 1999-2001, and three bought only chairs.

products that it imports from China are more durable than the U.S.-produced chairs and can be used for commercial purposes, while the U.S.-produced chairs are only suitable for residential use. *** argued that the U.S. producers can respond to customer orders more rapidly than importers and that this puts importers at a disadvantage, because they carry expanded inventories to meet customer demands. In addition to the problem of delivery lead time, *** also stated that it has other problems in importing from China, including difficult and delayed communications, quality control problems, logistical uncertainties, delays resulting in added costs in product development, and delays in the ability to correct product problems.

Purchasers were also asked to compare the U.S.-produced certain folding metal tables and chairs with subject imports from China in selected characteristics, noting whether the domestic product was superior, comparable, or inferior to the imports. The characteristics were availability, delivery terms, delivery time, discounts offered, minimum quantity requirements, packaging, product consistency, product quality, product range, reliability of supply, technical support/service, transportation, and price (table II-2). Sixteen purchasers provided responses in all or most of the categories. The responses show that the U.S. producers are viewed as superior by a plurality of purchasers in delivery time, and importers are viewed as superior in price by a majority of purchasers. For all other categories, a majority or plurality of purchasers ranked the U.S.-produced and imported products comparable.

Comparisons of Domestic Products and Nonsubject Imports

Several producers and importers compared U.S.-produced certain folding metal tables and chairs with imports from nonsubject sources in terms of interchangeability and differences in products and sales conditions. All four producers that compared the products, ***, said that they can be used interchangeably. However, *** said that it believes that very few tables and chairs are actually imported from nonsubject countries. All nine importers that compared the products said that they can be used interchangeably.⁹ When asked whether differences in products and sales conditions are significant factors affecting sales, four of five producers that responded answered no. *** said that the construction quality of nonsubject imported chairs is poor, the product range of these imports is limited, and delivery lead times are long. Six of seven importers that compared U.S.-produced products and nonsubject imports said that product differences and sales conditions are not important factors in sales.

Comparisons of Subject Imports and Nonsubject Imports

Several producers and importers also compared subject imports with nonsubject imports in terms of interchangeability and differences in products and sales conditions. All four producers and all nine importers that compared the products said that they can be used interchangeably. When asked whether differences in products and sales conditions are significant factors affecting sales, all four producers and eight of nine importers that responded answered no. *** said that the chairs that it imports from China are more durable than nonsubject imports.

⁹ One importer, ***, again qualified its answer by stating that commercial quality folding metal chairs are only interchangeable with other commercial quality folding chairs, and not with residential quality chairs.

Table II-2

Certain folding metal tables and chairs: Comparisons between U.S.-produced and imported products from China as reported by U.S. purchasers

Factor	Number of firms reporting		
	U.S. superior	Comparable	U.S. inferior
Availability	2	11	3
Delivery terms	4	10	2
Delivery time	8	5	3
Discounts offered	2	9	4
Lowest price ¹	0	4	12
Minimum quantity requirements	7	9	0
Packaging	3	10	2
Product consistency	4	9	2
Product quality	2	12	1
Product range	6	7	3
Reliability of supply	2	12	2
Technical support/service	3	10	2
Transportation network	4	10	0
U.S. transportation costs	1	12	2

¹ A rating of superior means that the price is generally lower. For example, if a firm reports "U.S. superior," this means that it rates the U.S. price generally lower than the China price.

Note.—Some firms did not make comparisons for certain categories including discounts offered, packaging, product consistency, product quality, technical support, transportation network, and U.S. transportation cost.

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

ELASTICITY ESTIMATES

U.S. Supply Elasticity¹⁰

The domestic supply elasticity for certain folding metal tables and chairs measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of these products. As noted earlier, this elasticity depends on several factors including the level of excess capacity, the availability of alternate markets for U.S.-produced products, inventory levels, and the producers' ability to shift to the manufacture of other products. The earlier analysis of these factors indicates that the U.S. industry is likely to be able to greatly increase or decrease shipments to the U.S. market; an estimate in the range of 5 to 10 is suggested.

¹⁰ A supply function is not defined in the case of a non-competitive market.

U.S. Demand Elasticity

The U.S. demand elasticity for certain folding metal tables and chairs measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of these products. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products. Because of the ready availability of substitute products including wooden and plastic folding tables and plastic chairs, it is likely that the aggregate demand for these products is moderately elastic. An estimate between -1.0 and -3.0 appears reasonable.

In its prehearing brief, Dorel argued that an elasticity range of -2.0 to -4.0 would be more appropriate due to the availability of price-competitive substitutes for metal tables and chairs.¹¹ However, opinions differ concerning the substitutability of these other products. Among purchasers, 10 of 23 firms stated that there are no substitutes for folding metal tables and chairs as noted earlier. Because of these widely differing opinions concerning substitutability by people familiar with the products, a mid-range estimate seems more reasonable than the higher estimate proposed by the respondent. The petitioner did not comment on this estimate.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported tables and chairs subject to investigation.¹² Product differentiation, in turn, depends upon such factors as quality (e.g., design, appearance, etc.) and conditions of sale (availability, delivery, etc.). Based on available information indicating that the domestic and imported products can be used interchangeably, the elasticity of substitution between U.S.-produced and imported products is likely to be in the range of 4 to 6.

¹¹ Dorel's prehearing brief, pp. 28-29.

¹² 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 product (or vice versa) when prices change.

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 (except as noted) and is based on the questionnaire responses of six firms that accounted for more than *** percent of U.S. production of certain folding metal chairs during 2001.¹ Meco² is the only confirmed U.S. producer of folding metal tables subject to this investigation.

Responding firms, with their plant locations and shares of reported 2001 U.S. production of certain folding metal chairs, and positions concerning the petition, are shown in the tabulation below:³

Firm	Position on petition	Plant location	Share of reported chair production	Produce metal tables/ chairs/both
Krueger	Support	Green Bay, WI	***	Chairs
McCourt	Support	Fort Smith, AR	***	Chairs
Meco	Support	Greeneville, TN	***	Both
Mity Lite	***	Orem, UT	***	Chairs
SCF Industries	***	Irondale, AL	***	Chairs
Virco	Support	Torrance, CA	***	Chairs

¹ The HON Co. (HON), which produced folding metal chairs only, did not respond to the Commission's questionnaire. Commerce estimated that ***. Import Administration's *AD Investigation Initiation Checklist*, pp. 13-14. Lifetime Products, Clearfield, UT, a producer of banquet tables, is a recent entrant into the folding metal chair industry. It also produces a 37-inch square folding metal table according to its web site, www.lifetime.com. At the Commission's hearing, an industry representative stated that Lifetime had "taken the U.S. industry by storm with banquet tables." Hearing transcript, p. 118. Lifetime did not reply to the Commission's questionnaire. ***.

² Meco manufactures and sells folding chairs, folding tables, step stools, and portable counters and stools under the Samsonite name. Petition, pp. 6-7 and exhibit 2. Meco also manufactures a line of heavy-duty banquet tables under the Meco name, according to information obtained online at <http://www.Meco.net/samsonite/samsonite.htm>.

³ Dorel Juvenile Group, formerly known as Cosco, Inc., is headquartered in Columbus, IN; it opposes the petition. It has a broad product line that includes juvenile products such as strollers, cribs, and car seats and a broad home and office line that includes step stools, tables, and chairs. It ceased production operations of folding metal tables and chairs in 1998 after producing approximately *** folding metal tables and *** folding metal chairs in the early months of that year. Conference transcript, pp. 65 and 90, and its producer questionnaire response from the preliminary phase of this investigation.

HON⁴ did not respond to the Commission’s questionnaire but is believed to produce about *** folding metal chairs per year (less than *** percent of reported U.S. production of certain folding metal chairs during 2001), and is not believed to produce the types of folding metal tables that are covered by this investigation. Meco is a wholly owned subsidiary of Unaka Co., Inc.⁵ SCF is a wholly owned subsidiary of Strategic Industries, Edison, NJ.⁶ The remaining four firms (Krueger,⁷ McCourt,⁸ Mity Lite,⁹ and Virco¹⁰) are independent companies. Table III-1 presents Meco’s data for certain folding metal tables during the period examined.¹¹ Table III-2 presents the six reporting U.S. producers’ data concerning certain folding metal chairs during the period.¹²

**Table III-1
 Certain folding metal tables: U.S. production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators, 1999-2001**

* * * * *

⁴ HON is the largest domestic manufacturer of middle-market office furniture. Headquartered in Muscatine, IA, HON offers office furniture in both wood and steel. A nationwide distribution network and manufacturing capabilities located throughout the United States reportedly provide efficient product delivery according to information obtained online at <http://www.hon.com/companyinfo>. Telephone conversations with *** revealed that *** were shared by subject and nonsubject products.

⁵ Established in 1950 in Greeneville, TN, Unaka is the holding company for diverse industries that produce products ranging from packaged foods to folding chairs.

⁶ According to information obtained online at <http://www.samsonitecommercial.com>, Samsonite Furniture was purchased by U.S. Industries, Inc. in 1996, and began operating as Samsonite Commercial Furniture (SCF Industries). Product offerings are commercial and contract grade folding chairs, stacking chairs, high-density stacking chairs, and folding tables for use in commercial and rental markets.

⁷ According to information obtained online at http://www.ki-inc.com/h_about/index.html, Krueger manufactures a comprehensive and diverse line of office, commercial, institutional, and educational furniture. Krueger markets its products through sales representatives and furniture dealers, architects, interior designers, and end users throughout the world. Its products include ergonomic seating, flexible furniture systems, wall systems, adjustable work surfaces, folding and stack chairs, auditorium and lecture hall seating, folding and fixed leg tables, filing and storage cabinets, and site furnishings.

⁸ According to information obtained online at <http://www.mccourtmg.com/about.html>, McCourt produces “stackable folding chairs, stackable stationary chairs, ABS light-weight folding tables, plywood folding tables with the SuperCorner option, . . . laminated folding tables . . . and storage systems are also available. Its newest product is the Commercialite blow-molded folding table.”

⁹ According to information obtained online at <http://www.mitylite.com>, Mity Lite is the “world’s leading designer, manufacturer, and marketer of a variety of lightweight, durable, folding-leg tables, stacking and folding chairs, and related products used in multi-purpose rooms of educational, recreational, hospitality, government, religious, and other public assembly facilities.” The firm was founded in 1987.

¹⁰ According to information obtained at <http://www.virco.com/pages/set7.htm>, Virco supplies “tables, chairs and storage equipment for offices, convention centers, auditoriums, places of worship, hotels and related settings.” It also states it is the largest manufacturer of educational furniture in the United States.

¹¹ Meco was the only confirmed domestic producer of certain folding metal tables during the period examined.

¹² Kreuger, McCourt, Meco, Mity Lite, SCF, and Virco were the domestic producers of certain folding metal chairs to respond to the Commission’s questionnaire and the data presented are of their operations. HON and Lifetime did not respond to the Commission’s questionnaire.

Table III-2

Certain folding metal chairs: U.S. production capacity, production, capacity utilization, shipments, end-of-period inventories, and employment-related indicators, 1999-2001

Item	Calendar year		
	1999	2000	2001
Capacity (1,000 units)	13,423	13,478	13,543
Production (1,000 units)	6,135	5,240	4,145
Capacity utilization (percent)	45.7	38.9	30.6
U.S. shipments: ¹			
Quantity (1,000 units)	5,650	5,439	3,921
Value (1,000 dollars)	66,133	66,201	49,406
Unit value (per unit)	\$11.70	\$12.17	\$12.60
Exports:			
Quantity (1,000 units)	469	523	443
Value (1,000 dollars)	4,963	5,603	4,649
Unit value (per unit)	\$10.58	\$10.70	\$10.48
Total shipments:			
Quantity (1,000 units)	6,119	5,963	4,365
Value (1,000 dollars)	71,096	71,803	54,055
Unit value (per unit)	\$11.62	\$12.04	\$12.38
Ending inventories (1,000 units)	519	462	282
Ratio of inventories to total shipments (percent)	8.5	7.7	6.5
Production and related workers (PRWs)	437	505	408
Hours worked by PRWs (1,000 hours)	932	993	816
Wages paid to PRWs (1,000 dollars)	9,624	10,091	8,840
Hourly wages	\$10.33	\$10.16	\$10.83
Productivity (units produced per hour)	6.6	5.3	5.1
Unit labor costs (per unit)	\$1.57	\$1.93	\$2.13
¹ Includes ***.			
Note.—Because of rounding, figures may not add to the totals shown.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Of the six responding producers, *** have experienced plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns because of strikes or equipment failure;

curtailment of production because of shortages of materials; or other changes in the character of their operations or organization relating to the production of certain folding metal tables and chairs since January 1, 1999. *** had a layoff of *** production workers in February 2001, which it reported was due to declining sales and the loss of ***, its largest customer, to Chinese import competition.¹³ *** opened its new chair facility with *** square feet in mid-2001. *** shifted some production to China. *** reported that it reduced the number of employees on its folding chair line from *** in 1998 to *** in 2001.

*** reported that it shared its tubing mill equipment (used in the making of chairs and banquet table legs) with other produced products. It also reported that its paint system constrains its production capabilities. *** reported that it runs one shift per week, 40 weeks per year, and would need to add an additional shift to increase its production. Lack of sales is its production constraint. *** production workers shift between its folding metal tables and chairs and barbeque grill lines depending on seasonal demands. Its large press lines constrain its production capabilities. *** does not produce any other products on the same equipment that it uses to make folding metal chairs. Its production constraint is a lack of sales orders. *** makes stacking chairs on the same equipment as folding metal chairs. Its equipment yield is a production constraint. *** produces other types of chairs on the production equipment for folding metal chairs. It has only two chair production lines, which is a production constraint.

Meco's data in table III-1 indicate a *** decline in capacity utilization, production, shipments, and employment for folding metal tables in 2001. Meco reported that this decline is attributable to the ***.¹⁴

Meco was the only firm in the industry reporting sales of tables and chairs in sets, because it is the only producer of tables. The following tabulation indicates the quantity of sets shipped by Meco during the period.

Item	1999	2000	2001
Tables	***	***	***
Chairs	***	***	***

Capacity utilization for chairs declined in 2000 and 2001 from an already low rate in 1999, as shown in table III-2. The low rate is attributable in part to ***. ***.¹⁵

*** experienced the steepest decline in production of chairs (***) during the period. *** production increased during the period, consistent with a start-up firm. *** production declined by *** percent from 1999 to 2001, while *** declined sharply by *** percent, *** declined by a similar *** percent, and *** declined by *** percent.

*** was the only firm reporting internal transfers, which were to ***, a wholly owned subsidiary, at non-market prices. *** also reported purchases (***) of folding metal chairs from ***. *** cited cost as the reason for purchasing imported products. Finally, *** was the sole U.S. producer to directly import folding metal chairs. It imported ***.

*** reported purchases of folding metal chairs (***) from ***, an importer of folding metal chairs from China, in 2001. *** is a sister company to ***; they are both ***-percent owned by ***.

¹³ Meco's questionnaire response and prehearing brief, p. 2.

¹⁴ Email from Warren Connelly, March 22, 2002.

¹⁵ ***.

*** accounted for *** percent of *** sales of imports in 2001. Their transactions are arms length. *** decision to source some material from China had many reasons, primarily the need to remain price competitive in certain product lines.¹⁶ ***.¹⁷ During this final phase of the investigation, counsel for petitioner has urged the Commission to ***.¹⁸ *** decreased its U.S. production of chairs from *** in 1999 to *** in 2001, while *** began its importing operations with *** chairs from China in 2001.¹⁹

*** reported export shipments to ***. While average unit values for U.S. shipments of folding metal chairs increased for the industry as a whole during the period, ***. ***.²⁰

Hourly wages for producers of folding metal chairs declined in 2000 and increased in 2001. ***.²¹

There was a range of individual company values for productivity for folding metal tables and chairs during the period. ***.²² ***.

There was also variation in unit labor costs among the different producers of folding metal tables and chairs. ***.

¹⁶ Email from ***, March 26, 2002.

¹⁷ ***.

¹⁸ Mecos's prehearing brief, p. 18.

¹⁹ ***.

²⁰ Email from *** on March 15, 2002.

²¹ Email from *** on March 14, 2002.

²² Email from *** on March 20, 2002.

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

U.S. IMPORTERS

In this final phase of the investigation the Commission sent importers' questionnaires to 69 firms. The Commission received usable data on imports of certain folding metal tables and chairs from 15 companies, accounting for approximately *** percent of subject imports of tables and *** percent of subject imports of chairs from China by known importers in 2001.¹ These figures are based on comparisons with reported foreign producer exports of subject tables and chairs from China (see tables VII-1 and VII-2).²

Many importers of the folding metal tables and chairs from China reported imports of tables and chairs in sets. The following tabulation, based on questionnaire data, indicates the quantity of sets imported by U.S. importers during the period.³

Item	1999	2000	2001
Tables	***	***	***
Chairs	***	***	***

Commerce made a final determination that imports from Shin Crest had a margin of dumping of zero percent. Accordingly, imports from China from Shin Crest are presented separately in this section as "nonsubject" imports. *** was by far the largest importer of folding metal tables and chairs from Shin Crest, accounting for *** percent of such reported imports of tables in 2001 and *** percent of such reported imports of chairs. ***, a U.S. producer of ***, also reported nonsubject imports from Poland during the period examined.⁴

The *** from China is Dorel U.S.A., Inc.,⁵ Columbus, OH, formerly known as Cosco, which in 2001 accounted for *** percent of reported imports of subject tables from China and *** percent of

¹ The HTS numbers for certain folding metal tables and chairs include many other nonsubject products. Questionnaires were sent to importers identified by foreign exporters and Customs, as well as those identified in the preliminary phase of this investigation. Because of the inclusion of nonsubject imports in Customs data, a low response rate for importers' questionnaires may not be meaningful. Fifteen firms reported that they did not import the subject merchandise, and 39 firms did not respond. Of the nonresponding firms, three supplied data during the preliminary phase of this investigation in response to Commission questionnaires: ***. These firms combined accounted for *** percent of reported tables imported from China in 2000 and *** percent of reported chairs imported from China.

² Foreign producer and exporter ***, a large exporter of chairs to the United States (**% percent of reported exports in 2001), reported selling to *** and ***, which did not respond to Commission questionnaires. Also, Central Park Products, Inc., an importer and party to this investigation, did not supply data in response to Commission questionnaires.

³ The tables and chairs included in this tabulation are also included in tables IV-1 and IV-2.

⁴ ***.

⁵ According to information obtained online at <http://www.dorel.com/main/main.html>, Dorel has "annual sales expected to be approximately \$1 billion (US \$) in the year 2001. Dorel is a vertically-integrated consumer products manufacturer and distributor with facilities and offices in North America, Europe and the Orient."

imports of subject chairs from China.⁶ The other major importer of subject merchandise from China was ***, accounting for *** percent of reported subject imports of tables from China in 2001, and *** percent of reported imports of subject chairs from China. Other notable importers of subject chairs from China in 2001 were *** (**% percent); *** (**% percent); and *** (**% percent).

The following tabulation, based on questionnaire data, identifies importers of folding metal tables and chairs from China and their shares of reported imports from China in 2001 (in percent). *** were additional importers that did not import from China during 2001, and are thus not included in the tabulation.

* * * * *

U.S. IMPORTS, CONSUMPTION, AND MARKET SHARES

Data in this section regarding the quantity and value of U.S. imports of certain folding metal tables and chairs are based on responses to Commission questionnaires. These data are shown in tables IV-1 and IV-2. U.S. shipments of domestic product, U.S. shipments of imports, and total U.S. consumption are shown in tables IV-3 and IV-4, and market penetration is shown in tables IV-5 and IV-6.

Table IV-1
Certain folding metal tables: U.S. imports, by sources, 1999-2001

* * * * *

Table IV-2
Certain folding metal chairs: U.S. imports, by sources, 1999-2001

* * * * *

Table IV-3
Certain folding metal tables: U.S. producers' U.S. shipments, U.S. shipments of imports, by sources, and apparent U.S. consumption, 1999-2001

* * * * *

Table IV-4
Certain folding metal chairs: U.S. producers' U.S. shipments, U.S. shipments of imports, by sources, and apparent U.S. consumption, 1999-2001

* * * * *

Table IV-5
Certain folding metal tables: U.S. consumption and market shares, 1999-2001

* * * * *

⁶ At the public conference, Joy Broadhurst discussed Cosco's imports from Mexico and China. Conference transcript, pp. 75 and 90-92. Cosco also imports wooden tables and chairs from Brazil. Conference transcript, p. 75.

Table IV-6
Certain folding metal chairs: U.S. consumption and market shares, 1999-2001

* * * * *

Nonsubject imports of folding metal tables and chairs from China declined both absolutely and as a share of total imports during the period. The trend was *** with respect to imports of tables. U.S. producers' shipments of folding metal tables declined *** as a percent of consumption over the period, as the share of subject imports from China rose steeply. The trends were similar but far less pronounced for folding metal chairs during the period.

CRITICAL CIRCUMSTANCES

In its final determination, the Commerce Department found that critical circumstances exist for exports of folding metal tables and chairs from China from firms other than Shin Crest, the Feili Group, Dongguan, and New-Tec.⁷ The Commission identified seven U.S. importers who may have imported the subject product from other exporters.⁸ These importers were requested to provide monthly data on imports from October 2000 through October 2001. Also, monthly export data were requested from responding foreign producers other than those receiving individual margins.⁹ *** provided foreign exports of chairs only (it does not export tables), which are shown in the following tabulation.¹⁰ *** reported that it had no exports during the months requested.¹¹ *** replied that they had no imports other than from the named exporters.¹² *** provided monthly imports of chairs, and *** provided monthly imports of tables.¹³ However, *** imports of chairs were all from ***, which provided export data. Also, *** percent of *** imports were from ***. Accordingly, foreign export data for folding metal chairs from *** are combined with *** percent of imported chairs from *** and all imports of chairs from *** in the following tabulation. As there were only two responding importers of tables and no foreign exporter responses, the tabulation reflects imports of tables. Only one of the responding importers that provided critical circumstances data also maintained inventories. That company reported that inventories increased less than *** percent during the period May 2001 through October 2001.¹⁴

* * * * *

⁷ The petitioner submitted its allegation of critical circumstances on March 22, 2002, well after Commerce's preliminary determination and the mailing of the Commission's questionnaires.

⁸ Those firms were ***.

⁹ Those firms were ***.

¹⁰ Fax from ***, May 1, 2002.

¹¹ Email from ***, May 8, 2002.

¹² Email from ***, April 30, 2002, and fax from ***, April 29, 2002.

¹³ Emails from ***, May 2, 2002; ***, May 7, 2002; ***, May 8, 2002; and ***, May 13, 2002.

¹⁴ Emails from ***, May 7 and 14, 2002.

PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

The main raw material used to produce certain metal folding metal tables and chairs is carbon steel, with hardboard, foam, fabric, and paint also ranking as important material inputs.¹ Raw material costs for producers averaged about *** percent of the total cost of goods for both folding metal tables and folding metal chairs during 2001.

U.S. Inland Transportation Costs

Transportation costs of certain folding metal tables and chairs for delivery within the United States vary from firm to firm. For the six U.S. producers who provided estimates, these costs accounted for between *** percent and *** percent of the total cost of certain folding metal tables and chairs. Most importers were not able to provide meaningful estimates of these inland shipping costs.² However, one firm, ***, reported that they amounted to *** percent of its delivered price.

Exchange Rates

The Chinese currency, the yuan, has consistently been pegged to the U.S. dollar since January 1, 1994. Therefore, the U.S. and Chinese currencies have been constant in relation to each other throughout 1999-2001.³

PRICING PRACTICES

Pricing Methods

In the U.S. market, certain folding metal tables and chairs are typically sold either individually or in sets (i.e., one table and four chairs). Most sales involve either folding metal chairs or folding metal tables, with sets making up a smaller share of overall sales of certain folding metal tables and chairs. Among U.S. producers, Meco reported that *** percent of its tables and *** percent of its chairs were sold in sets in 2001.⁴ Among importers of the subject Chinese products, three responding firms reported that some of their sales of folding metal tables and chairs were sold in sets during 2001. *** reported that *** percent of its tables and *** percent of its chairs were sold in sets in that year, and *** reported that *** percent of its tables and *** percent of its chairs were sold in sets to retail customers. Another importer, ***, reported that *** of its retail sales of both tables and chairs are in sets.

¹ Petition submitted on behalf of Meco, p. 8.

² For example, ***.

³ International Monetary Fund, *International Financial Statistics*, March 2002.

⁴ Meco is the only U.S. producer of folding metal tables, thus it is the only U.S. producer capable of selling sets.

Prices of certain folding metal tables and chairs are generally determined through negotiations between buyers and sellers.⁵ Price lists commonly published by both producers and importers often serve as a starting point for these negotiations. Five U.S. producers, ***, and two importers, *** and ***, all make use of list prices in the negotiation process. However, *** stated that its price lists are used mainly as a basis for arriving at the prices that it charges to its dealers. In the case of sales to large retail chains, prices are determined through annual contract negotiations. *** prices to public entities (e.g. nonprofit organizations) are determined primarily through competitive bidding. *** stated that its price is negotiated with both market conditions and costs having an impact. Another producer, ***, that offers products at the *** of the market, stated that it determines prices on the basis of many factors, including manufacturing costs and demand conditions.

All U.S. producers and those importers that sell to retailers and distributors provide discounts on sales of certain folding metal tables and chairs based on purchase volumes.^{6 7} *** provides discounts in ***. *** said that the 15-percent discount applies to *** percent of its sales volume. *** said that discounts off of its list prices range from *** to *** percent. Among importers, *** said that its discounts are normally negotiated with individual retailers. *** has a formal, detailed schedule of discounts based upon purchase volume.

Producers and those importers that sell to wholesalers and retailers quote prices in various ways. The *** U.S. producer, ***, quotes prices on an f.o.b. warehouse basis. Other producers reported that they also quote prices on an f.o.b. warehouse or plant basis, or on a delivered basis. The *** importer, ***, quotes prices of its imports from China on an f.o.b. basis from its distribution centers in *** and ***. Other importers reported quoting prices f.o.b. from points of shipment within the United States or on a delivered basis.

Certain folding metal tables and chairs are commonly sold on either a spot or contract basis by producers and the four importers that sell to distributors and retailers. Among the six responding producers, *** and *** sell entirely on a spot basis, *** sells entirely on a contract basis, and the other three firms sell on both a spot and contract basis. For ***, the *** U.S. producer, contract sales account for *** percent of its total. For the other two producers, contract sales make up between *** percent of total sales. In the case of importers, *** reported that *** percent of its sales are on a contract basis. Among the other three importers, one reported that *** percent of its sales are on a contract basis, and two sell entirely on a spot basis. While contract terms vary, most contracts are for periods of six months to a year, with prices and/or quantities fixed during the contract period. The contracts for these products do not have meet-or-release provisions, but in some cases they have standard quantity requirements of container-load shipments. One importer reported that its contracts charge an 8-percent premium for sub-minimum shipments.

PRICE DATA

The Commission asked U.S. producers and importers of certain folding metal tables and chairs to provide quarterly data for the total quantity and value of selected products that were shipped to

⁵ The importers referred to in the remainder of this section are only those that sell subject imports at the wholesale level, principally to distributors and mass merchandisers and other retailers in direct competition with domestic producers. The companies included here are ***.

⁶ In addition to providing quantity discounts based a variety of factors, *** also provides an additional 1-percent discount for accounts that are paid within 10 days. None of the other producers, nor any of the importers, offer a discount for early payment.

⁷ These discounts are reflected in the price data requested by the Commission.

unrelated customers in the U.S. market during 1999-2001. Purchasers were also asked to report quarterly prices paid for these products during the same period. The products for which pricing data were requested are as follows:

Product 1. - All-metal folding chair, regardless of the number of cross-braces.

Product 2. - Double cushion folding metal chair, regardless of the number of cross-braces. The padded cushions on the seat and back are covered in vinyl or fabric, and the seat pan may be entirely of metal or may have a metal frame.

Product 3. - Set of four double cushion folding metal chairs and one square folding metal table, regardless of the number of cross-braces on chairs. The padded cushions on the seat and back are covered in vinyl or fabric, and the seat pan may be entirely of metal or may have a metal frame. The tabletop is 32 to 36 inches square, is made of hardboard, and has a vinyl cover. The table legs mechanically fold independently of one another.

Product 4. - Square folding metal table. The tabletop is 32 to 36 inches square, is made of hardboard, and has a vinyl cover. The table legs mechanically fold independently of one another.

Five U.S. producers and four importers provided varied amounts of usable pricing data for sales of the requested products.⁸ Data reported by these firms accounted for approximately *** percent of U.S. producers' shipments of folding metal tables and 69 percent of shipments of folding metal chairs in 2001. For importers of Chinese products, the data represented *** percent of shipments of subject imports of folding metal tables and *** percent of shipments of subject imports of folding metal chairs in 2001.

Sales of all four products tended to be highly concentrated among a few firms during 1999-2001. For product 1, the combined quarterly sales by ***. ***.

Price Trends

Weighted-average prices and shipment quantities for the four products based upon data provided by U.S. producers and importers are shown quarterly during 1999-2001 in tables V-1 through V-4 and in figures V-1 through V-8. The data show that U.S. producer prices for products 1 and 3 have increased irregularly during the period, but no upward movement has occurred for the other two products. For subject imports from China, the price of product 3 has declined over the three-year period, while prices of the other products have been stable.

⁸ The four importers providing usable price data were ***. All of these firms sell at the wholesale level in direct competition with U.S. producers. Data provided by another firm, ***, that also sells at the wholesale level were not used because its imports come from Shin Crest, which was found to have zero dumping margins. Five firms that sell at retail reported the quarterly quantities and values of their imports from China for product price categories. This information was not requested, and the data were not used in computing weighted-average prices of Chinese imports. The companies were ***.

Table V-1

Certain folding metal tables and chairs: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarters, 1999-2001

* * * * *

Table V-2

Certain folding metal tables and chairs: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, 1999-2001

* * * * *

Table V-3

Certain folding metal tables and chairs: Weighted-average f.o.b. prices and quantities of domestic and imported product 3 and margins of underselling/(overselling), by quarters, 1999-2001

* * * * *

Table V-4

Certain folding metal tables and chairs: Weighted-average f.o.b. prices and quantities of domestic and imported product 4 and margins of underselling/(overselling), by quarters, 1999-2001

* * * * *

Figure V-1

Certain folding metal tables and chairs: Weighted-average f.o.b. prices of domestic and imported product 1, by quarters, 1999-2001

* * * * *

Figure V-2

Certain folding metal tables and chairs: Reported sales quantity of product 1 produced in the United States and imported from China, by quarters, 1999-2001

* * * * *

Figure V-3

Certain folding metal tables and chairs: Weighted-average f.o.b. prices of domestic and imported product 2, by quarters, 1999-2001

* * * * *

Figure V-4

Certain folding metal tables and chairs: Reported sales quantity of product 2 produced in the United States and imported from China, by quarters, 1999-2001

* * * * *

Figure V-5

Certain folding metal tables and chairs: Weighted-average f.o.b. prices of domestic and imported product 3, by quarters, 1999-2001

* * * * *

Figure V-6

Certain folding metal tables and chairs: Reported sales quantity of product 3 produced in the United States and imported from China, by quarters, 1999-2001

* * * * *

Figure V-7

Certain folding metal tables and chairs: Weighted-average f.o.b. prices of domestic and imported product 4, by quarters, 1999-2001

* * * * *

Figure V-8

Certain folding metal tables and chairs: Reported sales quantity of product 4 produced in the United States and imported from China, by quarters, 1999-2001

* * * * *

The shipment data show that there is some seasonality in the sales of certain folding metal tables and chairs. For producers, sales of product 2 were consistently higher in the fourth quarter of each year than in other quarters, and for product 4, sales were consistently higher in the third and fourth quarters of each year than in the first and second quarters. For importers, sales of all four products were consistently higher in the fourth quarter for all years than in other quarters.

Price Comparisons

The price comparisons between the U.S.-produced products and imports from China shown in the tables indicate that the import prices are almost always lower than the U.S. prices. The Chinese prices for the four products were lower in 47 of 48 quarters by margins ranging from 7 percent to 67 percent. The U.S. price was lower than the Chinese price in one quarter by a margin of 18 percent.

In addition to producer and importer data, two purchasers also provided price comparisons. One firm ***. Another purchaser, ***, provided annual quantities and values of its purchases of U.S.-produced and imported products 1 and 2 from China for 2000 and 2001. The import price was lower in three out of four comparisons. ***.

Bid Competition

In addition to requesting quarterly price information, producers and importers were also asked to provide detailed information on bid competition for all bids for certain folding metal tables and chairs initiated before or after January 1, 1999 for delivery during 1999 or later. Purchasers were also asked for information on all bids reviewed for delivery during the same time period. Most respondents did not provide detailed bid information, usually stating that bid competition does not apply to their operations. Altogether, 3 of 6 producers, 2 of 13 importers, and 3 of 23 purchasers provided varying amounts of useful bid information. The responses of these firms are discussed below.

Producer and Importer Bid Information

Among producers, ***, ***, and *** each provided detailed information on their bids during the period requested. *** described over *** bids that it submitted for folding metal chairs during the requested period. The bids ranged in value from less than \$*** to over \$*** with most below \$***. Practically all of its bids were submitted to end-use institutional customers such as charities, churches, cities, counties, colleges, and universities. None of ***'s bid customers were mass merchandisers or other retailers. While *** often listed U.S. producers, particularly *** and ***, as competitors in particular bids, it never listed any importers of Chinese-produced folding metal chairs as potential competitors.⁹

While the largest share of ***'s sales (about *** percent) are on a spot basis, it did discuss the bidding process for contract sales to three of its customers: ***. *** reported winning three bids for sales to *** for delivery in 1999, 2000, and 2001. The contracts ranged in value from \$*** to \$***. *** did not know who was competing with them for the *** business. *** reported winning a bid for folding metal chairs with *** in 1999 valued at \$*** for delivery in 1999. However, *** did not sell any folding metal chairs to *** in 2000 and 2001.¹⁰ *** also won bids to *** valued at \$*** for delivery in 2000 and \$*** for delivery in 2001.¹¹ *** stated that *** has indicated a desire since 1999 to switch to an offshore source. However, *** is continuing to retain *** as a supplier as discussed below and in the lost sales section of the report.

*** provided a detailed discussion concerning its bids to four customers, ***. *** reported that it won contracts for delivery of tables and chairs to *** valued at \$*** for delivery in 1999, \$*** for delivery in 2000, and \$*** for delivery in 2001. *** said that *** has been a customer since the 1980s but that *** has been competing aggressively with them to capture this business. *** alleged that it lost revenue to *** due to import competition as detailed in the lost sales and lost revenues section of this report. However, *** stated in its posthearing brief that it has not pursued the *** and has not submitted any quotes to *** for their business in ***.¹²

*** reported that it won contracts for delivery of tables and chairs to *** valued at \$*** in 1999 and \$*** in 2000, despite intense price competition from ***, but lost the *** business for 2001, due to ***'s lower prices. *** acknowledged that it switched its business to ***, but denied that a lower import price was the reason (see lost sales and lost revenues section of report for discussion of factors affecting their decision). In its posthearing brief, *** stated that it won the account from *** principally because it was offering a product that was superior in quality to that available from ***.¹³

*** reported that it won contracts with *** for folding metal tables and chairs valued at \$*** for delivery in 1999, \$*** for delivery in 2000, and \$*** for delivery in 2001. Despite retaining the business, *** said that it has lost revenue on its sales to *** due to price competition from ***. However, *** has denied this allegation in its posthearing brief.¹⁴ *** acknowledged that it has quoted prices to ***, but was told that it would have to include an *** and a *** in order for *** to make a direct comparison between *** and ***'s current vendor, ***. *** has also denied the lost revenue allegations (see lost sales and lost revenues section of report).

⁹ ***.

¹⁰ ***.

¹¹ ***.

¹² ***.

¹³ ***.

¹⁴ ***.

*** reported that it won contracts with *** for folding metal tables and chairs valued at \$*** for delivery in 1999, \$*** for delivery in 2000, and \$*** for delivery in 2001. However, *** said that it was forced to reduce its prices substantially in order to retain its business in 2001. *** acknowledged that it did force *** to reduce its prices for both tables and chairs substantially for delivery in 2001 in order to retain their business, as discussed below and in the lost sales and lost revenues section of the report.

Two importers, *** and ***, both provided some bid information. *** won a bid for folding metal chairs to *** that was valued at \$*** for delivery in 1999 and 2000 and another bid for folding metal chairs to *** that was valued at \$*** for delivery in 1999. *** reported that it won a contract for folding metal chairs to *** valued at \$*** for delivery in 2000. Neither *** nor *** were able to identify competing bidders in these transactions, and none of the U.S. producers cited these purchasers in their discussions of bid competition.¹⁵

Purchaser Bid Information

Among purchasers, ***, ***, and *** all provided detailed bid information. *** provided a detailed discussion of bids that it received in *** for *** to be delivered in ***. The bidders included ***. The low bidder was ***, a subsidiary of *** with offices in ***. This subsidiary specializes in importing products for ***. The bid by *** was \$***, an amount substantially lower than the bids of the other suppliers. ***, which had been the original supplier of these chairs, provided a bid of \$***. As a result of the low bid by ***, ***.¹⁶

*** provided detailed information on competing bids by *** and *** for sales of folding metal tables and chairs. According to this purchaser, *** had been its only supplier of these products during 1999-2001. However, in ***, *** faced price competition from ***. *** initially offered to supply *** metal tables to *** for \$*** and *** chairs for \$***. However, *** offered to supply the tables for \$*** and the chairs for \$***. As a result, *** lowered its bid to \$*** for the tables and to \$*** for the chairs. It was awarded the business on *** for delivery on ***.¹⁷

*** also provided information on competing bids by *** and *** for sales of both folding metal tables and chairs in ***. While ***'s bid of *** was lower than ***'s bid of ***, the product mixes offered by the two companies were somewhat different. *** won the bid on the basis of ***.

Price Leadership

When asked to name a price leader among suppliers of certain folding metal tables and chairs during 1999-2001, 11 purchasers listed one or more firms, while nine others were either not able to identify a leader or did not believe that a leadership pattern exists.¹⁸ Dorel, the ***, was listed six times; Virco, ***, was listed four times; Meco, ***, was listed three times; and Kreuger, ***, was mentioned twice. While several other suppliers were mentioned, none was named as a price leader more than once.

¹⁵ *** and *** are both ***.

¹⁶ Conversation with ***.

¹⁷ In its posthearing brief ***.

¹⁸ A price leader was defined in the questionnaire as “(1) one or more firms that initiate a price change, either upward or downward, that is followed by other firms, or (2) one or more firms that have a significant impact on prices. A price leader does not have to be the lowest priced supplier.”

When asked whether the price leader led prices up or down, just three purchasers responded. One purchaser, ***, said that Virco and Kreuger both led prices up, and another, ***. A third purchaser, ***, said that Dorel quoted lower prices than its regular supplier.

LOST SALES AND LOST REVENUES

Three U.S. producers provided information involving 14 purchasers concerning alleged lost sales and/or lost revenues due to imports of certain folding metal tables and chairs from China. The reported allegations of lost sales and lost revenues were valued at \$*** and involved approximately *** units of certain folding metal tables and chairs. The staff contacted purchasers to investigate the allegations. Of the 20 specific lost sales/lost revenue allegations, 3 were confirmed or partially confirmed by purchasers, 8 were denied by purchasers, and in 9 instances purchasers did not or could not respond to the allegations (tables V-5 and V-6).¹⁹ The three confirmed or partially confirmed allegations concerned transactions involving *** units valued at \$***. Additional information provided by purchasers follows.

**Table V-5
Certain folding metal tables and chairs: Lost sales allegations**

* * * * *

**Table V-6
Certain folding metal tables and chairs: Lost revenue allegations**

* * * * *

* * * * *^{*20}

* * * * *^{*21}

* * * * *^{*22}

* * * * *^{*23}

* * * * *^{*24}

* * * * *^{*25}

¹⁹ Attempts to obtain responses to these 9 allegations were not successful despite repeated efforts by the staff in both the preliminary and final phases of the investigation.

²⁰ Fax response of *** of ***, May 23, 2001.

²¹ In addition to competing with ***.

²² Dorel also said that these allegations were inaccurate (see bid section of report).

²³ Dorel stated that it has never quoted prices to *** (section 12 of Dorel posthearing brief).

²⁴ Dorel argued that it was able to win the *** (Dorel posthearing brief, section 12).

²⁵ Dorel posthearing brief, section 12.

*	*	*	*	*	*	*26
*	*	*	*	*	*	*27
*	*	*	*	*	*	*28
*	*	*	*	*	*	*29
*	*	*	*	*	*	*30
*	*	*	*	*	*	*31
*	*	*	*	*	*	*32

²⁶ Dorel posthearing brief, section 12.

²⁷ Dorel posthearing brief, section 12.

²⁸ See ***.

²⁹ Dorel also commented on the allegation (see bid section of report).

³⁰ ***.

³¹ Dorel posthearing brief, section 12.

³² Dorel posthearing brief, section 12.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Six firms that produced certain folding metal tables and/or chairs during the period examined supplied financial data on their certain folding metal tables and/or chairs operations.¹ Only one producer (Meco) reported operations and financial data on certain folding metal tables, whereas all six producers reported operations and financial data on certain folding metal chairs. No producers reported internal consumption, while *** reported transfers to related firms.

OPERATIONS ON CERTAIN FOLDING METAL TABLES

The results of operations on certain folding metal tables are presented in table VI-1. While sales volume and value, as well as operating income, increased from 1999 to 2000, they all decreased from 2000 to 2001. Per-unit profitability followed the same pattern, increasing from 1999 to 2000 and decreasing from 2000 to 2001.

Table VI-1
Results of operations of the U.S. producer in the production of certain folding metal tables, fiscal years 1999-2001

* * * * *

Selected per-unit sales, cost, and operating income data of the producer on its operations on certain folding metal tables are presented in table VI-2. The average sales price of certain folding metal tables decreased continuously from 1999 through 2001. While unit cost of goods sold (COGS) increased over the period, per-unit total cost decreased from 1999 to 2000 and then increased back to the 1999 level in 2001. From 1999 to 2000, per-unit total cost decreased more than the decrease in unit sales price, resulting in an increased per-unit operating income in 2000. This was followed by a decreased per-unit operating income in 2001 which resulted from the combined effect of a decreased unit sales price and an increased unit total cost.

Table VI-2
Results (*per unit*) of operations of the U.S. producer in the production of certain folding metal tables, fiscal years 1999-2001

* * * * *

A variance analysis showing the effects of price and volume on the producer's sales of certain folding metal tables, and of cost and volume on its total cost, is presented in table VI-3. The analysis for certain folding metal tables shows the decrease in operating income (\$***) between 1999 and 2001 was attributable mainly to the negative effects of falling sales price (a negative \$*** of price variance) and sales volume (a negative \$*** of volume variance).

¹ The producers whose fiscal years end other than on December 31 are ***.

Table VI-3

Variance analysis of operations of the U.S. producer in the production of certain folding metal tables, fiscal years 1999-2001

* * * * *

OPERATIONS ON CERTAIN FOLDING METAL CHAIRS

The aggregate results of operations of certain folding metal chairs are presented in table VI-4. Only one producer, ***, reported a small amount of transfers to related firms (approximately *** percent in terms of sales value in 2001). As net sales volume and value decreased continuously from 1999 through 2001, operating income also decreased continually for the same periods and changed to an operating loss in 2001.

Selected per-unit sales, cost, and operating income (loss) data of the producers on their operations on certain folding metal chairs are presented in table VI-5. Per-unit sales value increased continually from 1999 through 2001, as did per-unit COGS and per-unit total cost. Since per-unit total cost increased more than the increase in unit sales price, per-unit operating income decreased from 1999 to 2000 and further decreased to an operating loss in 2001.

The results of operations by individual firms are presented in table VI-6. The table presents financial information on a company-by-company basis for net sales value, operating income (loss), and the ratio of operating income (loss) to net sales values. While three producers, including ***, experienced operating income in all periods, two producers had operating losses in all periods. ***.

Table VI-4

Results of operations of U.S. producers in the production of certain folding metal chairs, fiscal years 1999-2001

Item	Fiscal year		
	1999	2000	2001
	Quantity (1,000 units)		
Commercial sales	***	***	***
Related company transfers	***	***	***
Total net sales	6,195	5,762	4,528
	Value (\$1,000)		
Commercial sales	***	***	***
Related company transfers	***	***	***
Total net sales	72,122	68,464	56,676
COGS	57,025	55,455	46,900
Gross profit	15,097	13,009	9,776
SG&A expenses	12,835	12,196	9,876
Operating income (loss)	2,262	813	(100)
Interest expense	1,885	2,016	2,464
Other expense	1,904	2,080	3,076
Other income	3,821	3,496	4,216
Net income (loss)	2,294	213	(1,424)
Depreciation/amortization	2,026	2,448	2,159
Cash flow	4,320	2,661	735
	Ratio to net sales (percent)		
COGS	79.1	81.0	82.8
Gross profit	20.9	19.0	17.2
SG&A expenses	17.8	17.8	17.4
Operating income (loss)	3.1	1.2	(0.2)
	Number of firms reporting		
Operating losses	1	2	3
Data	5	6	6
Source: Compiled from data submitted in response to Commission questionnaires.			

Table VI-5**Results (per unit) of operations of U.S. producers in the production of certain folding metal chairs, fiscal years 1999-2001**

Item	Fiscal year		
	1999	2000	2001
	Value (per unit)		
Net sales	\$11.64	\$11.88	\$12.52
COGS:			
Raw materials	4.63	4.77	5.17
Direct labor	1.40	1.44	1.52
Factory overhead	3.18	3.41	3.67
Total COGS	9.21	9.62	10.36
Gross profit	2.44	2.26	2.16
SG&A expenses:			
Selling expenses	1.06	1.14	1.12
G&A expenses	1.01	0.98	1.06
Total SG&A expenses	2.07	2.12	2.18
Total cost	11.28	11.74	12.54
Operating income (loss)	0.37	0.14	(0.02)
Source: Compiled from data submitted in response to Commission questionnaires.			

Table VI-6**Results of operations of U.S. producers, by firms, in the production of certain folding metal chairs, fiscal years 1999-2001**

* * * * *

A variance analysis showing the effects of price and volume on the producers' sales of certain folding metal chairs, and of cost and volume on their total cost, is shown in table VI-7. The analysis for certain folding metal chairs shows the substantial decrease in operating income (\$2.4 million) between 1999 and 2001 was attributable mainly to the negative effects of climbing costs and expenses (negative \$5.7 million), which were combined with falling sales volumes (a negative \$0.6 million of volume variance) and only offset by the positive effect of increasing unit sales values (\$4.0 million).

Table VI-7**Variance analysis of operations of U.S. producers in the production of certain folding metal chairs, fiscal years 1999-2001**

Item	Between fiscal years		
	1999-2001	1999-2000	2000-2001
	Value (\$1,000)		
Net sales:			
Price variance	3,961	1,383	2,874
Volume variance	(19,407)	(5,041)	(14,662)
Total net sales variance	(15,446)	(3,658)	(11,788)
Cost of sales:			
Cost variance	(5,220)	(2,416)	(3,321)
Volume variance	15,345	3,986	11,876
Total cost variance	10,125	1,570	8,555
Gross profit variance	(5,321)	(2,088)	(3,233)
SG&A expenses:			
Expense variance	(495)	(258)	(292)
Volume variance	3,454	897	2,612
Total SG&A variance	2,959	639	2,320
Operating income variance	(2,362)	(1,449)	(913)
Summarized as:			
Price variance	3,961	1,383	2,874
Net cost/expense variance	(5,714)	(2,674)	(3,613)
Net volume variance	(609)	(158)	(174)
Note.--Unfavorable variances are shown in parentheses; all others are favorable.			
Source: Compiled from data submitted in response to Commission questionnaires.			

Selected per-unit financial data for certain folding metal tables and certain folding metal chairs, as well as combined products, are presented in table VI-8 for comparison. As indicated, average per-unit selling prices and costs of certain folding metal tables are consistently higher than those of certain folding metal chairs, but unit income is even higher.

Table VI-8
Comparison of results (*per unit*) of operations of U.S. producers in the production of certain folding metal tables and chairs, by products, fiscal years 1999-2001

Item	Fiscal year		
	1999	2000	2001
	<i>Value (per unit)</i>		
Net sales:			
Tables	\$***	\$***	\$***
Chairs	11.64	11.88	12.52
Average	***	***	***
Total cost:			
Tables	***	***	***
Chairs	11.28	11.74	12.54
Average	***	***	***
Operating income (loss)			
Tables	***	***	***
Chairs	0.37	0.14	(0.02)
Average	***	***	***

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

CAPITAL EXPENDITURES, RESEARCH AND DEVELOPMENT EXPENSES, AND INVESTMENT IN PRODUCTIVE FACILITIES

The U.S. producers' capital expenditures and research and development (R&D) expenses, together with the value of their fixed assets, are presented in table VI-9. Capital expenditures for certain folding metal chairs decreased continually from 1999 through 2001. Even though three producers (***) reported R&D expenses, a majority of these expenses were by ***. R&D expenses for these products increased continuously from 1999 through 2001. The original cost of fixed assets and book value for these products increased from 1999 to 2000, and decreased from 2000 to 2001, except for a decrease in book value for certain folding metal chairs in 2000 from 1999.

Table VI-9

Capital expenditures, R&D expenses, and assets utilized by U.S. producers in their production of certain folding metal tables and chairs, by products, fiscal years 1999-2001

Item	Fiscal year		
	1999	2000	2001
	Value (\$1,000)		
Capital expenditures:			
Tables	***	***	***
Chairs	4,991	2,906	1,518
R&D expenses:			
Tables	***	***	***
Chairs	***	***	***
Fixed assets:			
Tables:			
Original cost	***	***	***
Book value	***	***	***
Chairs:			
Original cost	36,952	37,844	37,787
Book value	16,508	13,752	12,563
Source: Compiled from data submitted in response to Commission questionnaires.			

CAPITAL AND INVESTMENT

The Commission requested the producers to describe any actual or potential negative effects of imports of certain folding metal tables and chairs from China on their growth, investment, ability to raise capital, and/or their development efforts (including efforts to develop a derivative or more advanced version of the product). The producers' comments are as follows:

Actual Negative Effects

- Krueger** ***.
- McCourt** ***.
- Meco** ***.
- Mity Lite** ***.
- SCF** ***.
- Virco** ***.

Anticipated Negative Effects

Krueger	***.
McCourt	***.
Meco	***.
Mity Lite	***.
SCF	***.
Virco	***.

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 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 CHINA

Five Chinese producers of certain folding metal tables and chairs responded to the Commission's questionnaire request -- Dongguan Shichang Metals Factory, Ltd.; The Feili Group Companies (Feili Group (Fujian) Co., Ltd. and Feili Furniture Development, Ltd.); Fujian Furniture Import Export Corp.; New-Tec Integration Co., Ltd.;¹ and Supper Chair Enterprise Co., Ltd. In addition, Himark Industry Corp., Ltd. supplied data in the preliminary phase of this investigation.² The data obtained are presented in tables VII-1 and VII-2. Three of the respondents exported folding metal tables to the United States: Dongguan accounted for *** percent of reported exports in 2001, Feili accounted for *** percent, and New-Tec accounted for *** percent. All five respondents exported folding metal chairs to the United States: Dongguan accounted for *** percent of reported exports in 2001; Feili accounted for *** percent; Fujian accounted for *** percent; New-Tec accounted for *** percent; and Supper Chair accounted for *** percent. Capacity for folding metal tables (table VII-1) and chairs (table VII-2) is lower than production because *** did not report its capacity in a usable format, although it did report production. A faxed request was sent to the firm to correct its data, but no response was received.

Table VII-1

Certain folding metal tables: China's production capacity, production, shipments, and inventories, 1999-2001 and projected 2002-03

* * * * *

Table VII-2

Certain folding metal chairs: China's production capacity, production, shipments, and inventories, 1999-2001 and projected 2002-03

* * * * *

¹ In the preliminary phase of this investigation, New-Tec was referenced as Xiamen New-Tec Jcc Col, Ltd. (Xiamen). Despite the different reference names, it is the same firm.

² ***. Five Chinese producers that were identified in importers' questionnaires did not respond to the Commission's foreign producer questionnaire: Nummark-Zhejiang Himax, Fujian Anxi Yinfa, Xiamen Goldetta, Hubei Gangying Furniture, and China Precision Machinery.

U.S. INVENTORIES OF CERTAIN FOLDING METAL TABLES AND CHAIRS FROM CHINA

*** importers reported inventories of subject imports during the period examined.³ Data on inventories of imported certain folding metal tables and chairs are presented in table VII-3.

Table VII-3

Certain folding metal tables and chairs: U.S. importers' end-of-period inventories, by products, 1999-2001

* * * * *

U.S. IMPORTERS' CURRENT ORDERS

Four firms reported imports or arrangements for the importation of a total of *** folding metal tables and *** folding metal chairs from China after December 31, 2001.⁴

DUMPING IN THIRD-COUNTRY MARKETS

There is no indication that certain folding metal tables and chairs from China have been subject to any other import relief investigations in the United States or in any other countries.

³ Those firms were ***.

⁴ Those firms were ***.

Contains Business Proprietary Information

APPENDIX A

***FEDERAL REGISTER* NOTICES**

DOC case No.	ITC case No.	Country	Product
A-588-839	731-TA-740	Japan	Sodium Azide

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* (19 CFR 351.218) and *Sunset Policy Bulletin*, the Department's schedule of sunset reviews, case history information (*i.e.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset Internet website at the following address: "<http://ia.ita.doc.gov/sunset/>".

All submissions in this sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303. Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. The Department will make additions to and/or deletions from the service list provided on the sunset website based on notifications from parties and participation in this review. Specifically, the Department will delete from the service list all parties that do not submit a substantive response to the notice of initiation.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order ("APO") immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304-306.

Information Required From Interested Parties

Domestic interested parties (defined in 19 CFR 351.102) wishing to participate in this sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic

interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of sunset reviews.¹ Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: November 27, 2001.

Richard W. Moreland,
Acting Assistant Secretary, for Import Administration.

[FR Doc. 01-29893 Filed 11-30-01; 8:45 am]
BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-868]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs from the People's Republic of China

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

EFFECTIVE DATE: December 3, 2001.

¹ A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation, 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

FOR FURTHER INFORMATION CONTACT:

Helen Kramer or John Drury, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0405, and (202) 482-0195, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Preliminary Determination

We preliminarily determine that folding metal tables and chairs ("FMTC") from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

This investigation was initiated on May 17, 2001. See Initiation of Antidumping Duty Investigation: Folding Metal Tables and Chairs from the People's Republic of China, 66 FR 28728, May 24, 2001 ("Notice of Initiation"). The Department set aside a period for all interested parties to raise issues regarding product coverage. See Notice of Initiation at 28730. We received comments regarding product coverage as follows:

(1) Cosco, Inc. (an importer of the merchandise under investigation) suggested on June 6, 2001, that folding tables and folding chairs should be considered as primarily of metal only if at least two structural components consist entirely of metal;

(2) Mecor Corporation (the petitioner) responded on June 18, 2001, that Cosco's suggested clarification was an impermissible attempt to change the intended scope of the investigation to exempt merchandise that the petition expressly covers, and to permit future

circumvention of antidumping duty order through minor alterations; and

(3) On October 5, 2001, National Public Seating Corp. ("NPSC"), an importer, asked that certain double-hinged chairs be excluded from the scope. On October 26, 2001, Mecor responded that the petition expressly covers the type of chair NPSC sought to exclude.

On June 11, 2001, the United States International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of the subject merchandise from the PRC, which was published in the *Federal Register* on June 15, 2001. See *Certain Folding Metal Tables and Chairs From China*, 66 FR 32644.

On June 21, 2001, the Department issued a questionnaire requesting volume and value of U.S. sales information to the Embassy of the PRC and to the Ministry of Foreign Trade and Economic Development, and sent courtesy copies to the following known producers/exporters of subject merchandise identified in the petition: Dongguan Shichang Metals Factory Co., Ltd., Xiamen New-Tec Jcc Co., Ltd., Samwise Hardware Products Factory, Office Max, Inc., Fujian Anxi Yinfa Handicrafts Co., Ltd., Shin Crest (Div. Taiwan Shin Yeh Enterprise Co.), Shian International Co., Tian Jian Industries (Group) Co. Ltd., China National Aero-Technology Import & Export Corp., Numark Industries Co., Ltd., Sun Son Trading Co. (Agent of Supper Chair Enterprise Co., Ltd.), Fujian Province Materials General Co., Xiaguang Industry Co., Ltd., China North Industries Guangzhou, Ningbo United Group Co., Ltd., China Precision Machinery, Xiamen Xiangjiang Imp. and Exp. Corp., Wuxi East Grace Garments Imp. Exp. Corp., Mitex International (H K) Ltd., and Nanhai Hongda Metal Products Co., Ltd. Additionally, we notified the PRC Government that it was responsible for ensuring that volume and value information for those companies and for all other companies not identified in our list be provided to the Department.

A timely response to the Department's questionnaire seeking volume and value of U.S. sales information was received on July 9, 2001, from Dongguan Shichang Metals Factory Co. Ltd. ("Dongguan"). Because Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd. ("Feili Group"), New-Tec Integration Co., Ltd. ("New-Tec") and Shin Crest Pte. Ltd. ("Shin Crest") did not file public versions of their original

submissions in proper form on July 6 and 9, 2001, respectively, we rejected these submissions, but indicated they would be accepted if refiled in proper form. They were refiled in proper form on July 13, 2001, by Shin Crest and on July 16, 2001, by Feili Group and New-Tec. On August 3, 2001, the Department issued the respondent selection memorandum, selecting Feili Group and Shin Crest to be investigated (see Selection of Respondents section below). Additional responses were received on August 9, 2001, from Himark Industry Corp. Ltd. and on September 13, 2001, from Supper Chair Enterprise Co., Ltd., which were rejected by the Department as untimely.

On July 12, 2001, Mecor proposed product characteristics. On August 6, 2001, the Department issued its antidumping questionnaire to Feili Group and Shin Crest and a letter to interested parties providing an opportunity to comment on the Department's proposed product characteristics. Comments were submitted on August 13, 2001 by Cosco proposing additional characteristics, which were not accepted by the Department.

On August 7, 2001, the Department received requests from Dongguan and New-Tec to be treated as voluntary respondents in this investigation. Dongguan also requested that if it were not selected as a voluntary respondent that it be allowed to answer section A of the questionnaire and be granted a rate equal to the average of the mandatory respondents' rates.

The Department received section A responses from Feili Group and New-Tec on August 27, 2001, and from Dongguan and Shin Crest on September 4, 2001. On September 7, 2001, petitioners submitted comments regarding respondents' section A responses. On September 12, 2001, the Department received a section C and D questionnaire response from Dongguan. On September 13, 2001, the Department issued section A supplemental questionnaires to Feili Group and Shin Crest and received sections C and D questionnaire responses from Feili Group, New-Tec and Shin Crest. The Department received responses from Feili Group and Shin Crest to its section A supplementals on September 27, 2001. On September 24, 2001, petitioners submitted comments on respondents' section C and D responses. On September 25 and 27, 2001, the Department issued sections C and D supplemental questionnaires to Shin Crest and Feili Group, respectively, and received responses on October 10 and 12, 2001.

On August 29, 2001, the Department issued a request for parties to submit comments on surrogate market-economy country selection, and publicly available information for valuing the factors of production. The petitioner and Feili Group submitted comments in response to these requests on September 28, 2001. On October 1, 2001, Shin Crest submitted surrogate value data to the Department. On October 9, 2001, and subsequent dates petitioner, Feili Group and Shin Crest provided additional information and comments on surrogate country selection and surrogate value data. The petitioner proposed to use Indonesia as the surrogate country, although Indian data were used in the petition. The respondents proposed to use India. See *Surrogate Country* section below.

On October 4, 2001, petitioner alleged that Feili Group and Shin Crest purchased cold-rolled steel inputs from market-economy suppliers at prices that were below the producers' cost of production, or subsidized, or both. On October 15, 2001, Shin Crest commented that the Department's regulations and practice require the use of actual prices paid to market-economy suppliers in NME investigations. Feili Group commented on the same date that petitioner's argument regarding subsidized Korean steel prices is based on a case that was terminated by the ITC. On November 6, 2001, petitioner responded that the Department has the authority to disregard the price that an NME producer pays for an input purchased from a market-economy supplier if it has reason to believe or suspect that the input has been dumped or subsidized.

In response to a request by petitioners for a thirty-day postponement of the preliminary determination, the Department postponed the deadline for the preliminary determination to November 5, 2001, pursuant to section 733(c)(1)(A) of the Act. See *Notice of Postponement of Preliminary Antidumping Duty Determination: Folding Metal Tables and Chairs from the People's Republic of China*, 66 FR 50608 (October 4, 2001). On October 23, 2001, petitioners requested an additional postponement. On November 9, 2001, the Department published a notice extending the deadline to November 23, 2001 (66 FR 56635).

Period of Investigation

The period of investigation (POI) is October 1, 2000 through March 31, 2001. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition

(April 27, 2001). See 19 CFR 351.204(b)(1).

Scope of Investigation

The merchandise subject to this investigation consists of assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

(1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal ("folding metal tables"). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal tables are the following:

- Lawn furniture;
- Trays commonly referred to as "TV trays";
- Side tables;
- Child-sized tables;
- Portable counter sets consisting of rectangular tables 36" high and matching stools; and
- Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28" to 36" wide by 48" to 96" long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal ("folding metal chairs"). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: Those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded

from the scope of folding metal chairs are the following:

- Folding metal chairs with a wooden back or seat, or both;
- Lawn furniture;
- Stools;
- Chairs with arms; and
- Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401710010, 9401710030, 9401790045, 9401790050, 9403200010 and 9403200030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and U.S. Customs Service purposes, the Department's written description of the merchandise is dispositive.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (A) A sample of exporters, producers, or types of products that is statistically valid based on the information available to the Department at the time of selection; or (B) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. After consideration of the complexities expected to arise in this proceeding and the resources available to the Department, we determined that it was not practicable in this investigation to examine all known producers/exporters of subject merchandise. Instead, we limited our examination to two producers, based on the relative volumes of their reported U.S. sales during the POI.

The subject merchandise is classified under broad HTSUS headings and cannot be distinguished from non-subject merchandise in official import statistics. Consequently, the Department could not use this information to determine the volume of imports of the subject merchandise. Therefore, to determine the two largest producers/exporters of subject merchandise for the PRC, we relied on the data submitted by the producers/exporters in response to the Department's June 21, 2001, request for information, which was sent to all companies identified in the petition, as

well as to the PRC Government and Embassy in Washington. The data submitted by the four producers/exporters that submitted timely responses to the quantity and value questionnaire show that, of these producers/exporters, Feili Group and Shin Crest were the two largest producers/exporters of subject merchandise to the United States during the POI. Feili Group was not identified in the petition, but responded to the Department's request for information. While information submitted by petitioners indicates that these producers/exporters may not constitute the universe of possible producers/exporters of subject merchandise during the POI, because we did not receive any response from the PRC indicating what constitutes the complete universe, we must rely on data submitted by the four producers/exporters for purposes of respondent selection. See Memorandum from Richard O. Weible to Joseph A. Spetrini on Respondent Selection (August 3, 2001).

Non-Market Economy Country Status

The Department has treated the PRC as a non-market economy ("NME") country in all past antidumping investigations (see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China, 65 FR 33805 (May 25, 2000); Notice of Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China, 65 FR 19873 (April 13, 2000) (Apple Juice)). A designation as an NME remains in effect until it is revoked by the Department (see section 771(18)(C) of the Act). No party to this investigation has requested a revocation of the PRC's NME status. We have, therefore, preliminarily determined to continue to treat the PRC as an NME country. When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base the normal value ("NV") on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the "Normal Value" section, below.

Furthermore, no interested party has requested that the folding metal tables and chairs industry in the PRC be treated as a market-oriented industry and no information has been provided that would lead to such a determination. Therefore, we have not treated the folding metal tables and chairs industry

in the PRC as a market-oriented industry in this investigation.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. The two companies that the Department selected to investigate (i.e., Feili Group and Shin Crest) and the PRC companies that were not selected as mandatory respondents by the Department for this investigation, but which have submitted separate rates responses (i.e., New-Tec and Dongguan) have provided the requested separate rates information and have stated that, for each company, there is no element of government ownership or control.

We considered whether each PRC company is eligible for a separate rate. The Department's separate rate test to determine whether the exporters are independent from government control does not consider, in general, macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See, e.g., *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("Silicon Carbide"). In accordance with the separate rates criteria, the

Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20508.

All four PRC companies seeking separate rates reported that the subject merchandise was not subject to any government list regarding export provisions or export licensing, and was not subject to export quotas during the POI. Each company also submitted copies of its respective business license. We found no inconsistencies with the exporters' claims of the absence of restrictive stipulations associated with an individual exporter's business license. Our examination of the record indicates that each exporter submitted copies of the legislation of the PRC or documentation demonstrating the statutory authority for establishing the *de jure* absence of government control over the companies. Thus, we believe that the evidence on the record supports a preliminary finding of *de jure* absence of governmental control based on: (1) an absence of restrictive stipulations associated with the individual exporter's business license; and (2) the applicable legislative enactments decentralizing control of the companies.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the*

People's Republic of China, 60 FR 22544, 22545 (May 8, 1995). As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Silicon Carbide*, 56 FR at 22587. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Regarding whether each exporter sets its own export prices independently of the government and without the approval of a government authority, each exporter reported that it determines its prices for sales of the subject merchandise based on the cost of the merchandise, movement expenses, overhead, profit, and the market situation in the United States. Each exporter stated that it negotiates prices directly with its customers. Also, each exporter claimed that its prices are not subject to review or guidance from any governmental organization. Regarding whether each exporter has authority to negotiate and sign contracts and other agreements, our examination of the record indicates that each exporter reported that it has authority to negotiate and sign contracts and other agreements. Also, each exporter claimed that its negotiations are not subject to review or guidance from any governmental organization. There is no evidence on the record to suggest that there is any governmental involvement in the negotiation of contracts.

Regarding whether each exporter has autonomy in making decisions regarding the selection of management our examination of the record indicates that each exporter reported that it has autonomy in making decisions regarding the selection of management. Also, each exporter claimed that its selection of management is not subject to review or guidance from any governmental organization. There is no evidence on the record to suggest that there is any governmental involvement in the selection of management by the exporters.

Regarding whether each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses, our examination of the record indicates that each exporter reported that it retains the proceeds of its export sales, using profits according to its business needs. Also, each exporter reported that the allocation of profits is determined by its top management.

There is no evidence on the record to suggest that there is any governmental involvement in the decisions regarding disposition of profits or financing of losses.

Therefore, we determine that the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing that: (1) Each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each exporter has the authority to negotiate and sign contracts and other agreements; and (4) each exporter has autonomy from the government regarding the selection of management.

The evidence placed on the record of this investigation by Dongguan, Feili Group, New-Tec and Shin Crest demonstrates an absence of government control, both in law and in fact, with respect to each of the exporter's exports of the merchandise under investigation, in accordance with the criteria identified in Sparklers and Silicon Carbide. Therefore, for the purposes of this preliminary determination, we are granting separate rates to the two mandatory respondents, Feili Group and Shin Crest, and a rate equal to the weighted average of the mandatory respondents' rates (excluding zero or *de minimis* rates and rates based entirely on adverse facts available) to Dongguan and New-Tec, which provided complete questionnaire responses, including supplemental responses. For a full discussion of this issue, see the memorandum from Helen Kramer to Richard Weible, Folding Metal Tables and Chairs from the People's Republic of China: Separate Rates Analysis for the Preliminary Determination, dated November 23, 2001 ("Separate Rates Memorandum").

Facts Available

Section 776(a) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e) of the Act, the

Department shall not decline to consider submitted information if that information is necessary to the determination but does not meet all of the requirements established by the Department provided that all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting Department requirements; and (5) the information can be used without undue difficulties.

Section 776(a)(2)(B) of the Act requires the Department to use facts available when a party does not provide the Department with information by the established deadline or in the form and manner requested by the Department. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of that party as facts otherwise available.

PRC-Wide Rate

As discussed above (see "Separate Rates"), all PRC producers/exporters that do not qualify for a separate rate are treated as a single enterprise. As noted above in "Case History," all producers/exporters were given the opportunity to respond to the Department's questionnaire regarding volume and value of U.S. sales. As explained above, we received timely responses from Dongguan, Feili Group, New-Tec, and Shin Crest. Late responses were submitted by Himark Industry Corp. Ltd. and Supper Chair Enterprise Co., Ltd. The Department did not receive responses from the following companies identified in the petition as exporters of the subject merchandise to the United States during the POI: Samwise Hardware Products Factory, Office Max, Inc., Fujian Anxi Yinfa Handicrafts Co., Ltd., Shian International Co., Tian Jian Industries (Group) Co. Ltd., China National Aero-Technology Import & Export Corp., Numark Industries Co., Ltd., Sun Son Trading Co. (Agent of Supper Chair Enterprise Co., Ltd.), Fujian Province Materials General Co., Xiaguang Industry Co., Ltd., China North Industries Guangzhou, Ningbo United Group Co., Ltd., China Precision Machinery, Xiamen Xiangjiang Imp. and Exp. Corp., Wuxi East Grace Garments

Imp. Exp. Corp., Mitex International (H K) Ltd., and Nanhai Hongda Metal Products Co., Ltd.

Because these companies did not respond to our June 21, 2001, request for information, we assume that these companies also exported the subject merchandise to the United States during the POI. Consequently, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters in the PRC based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China, 65 FR 25706, 25707 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from Dongguan, Feili Group, New-Tec, and Shin Crest.

As set forth above, section 776(b) of the Act provides that, in selecting from among the facts available, the Department may employ adverse inferences against an interested party if that party failed to cooperate by not acting to the best of its ability to comply with requests for information. See also "Statement of Administrative Action" accompanying the URAA, H.R. Rep. No. 103-316, 870 (1994) ("SAA"). The Department finds that exporters (i.e., the single PRC entity) who did not respond to our request for information have failed to cooperate to the best of their ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate. See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Germany, 63 FR 10847 (March 5, 1998).

Section 776(b) provides that an adverse inference may include reliance on information derived from (1) the petition, (2) the final determination in the investigation segment of the proceeding, (3) a previous review under section 751 of the Act or a determination under section 753 of the Act, or (4) any other information placed on the record. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse "as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner." See Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less than Fair

Value, 63 FR 8909, 8932 (February 23, 1998). The Department also considers the extent to which a party may benefit from its own lack of cooperation in selecting a rate. See Roller Chain, Other than Bicycle, from Japan; Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review, 62 FR 60472, 60477 (November 10, 1997). Accordingly, in order to ensure that the rate is sufficiently adverse so as to induce cooperation by the PRC entity, we have preliminarily assigned the highest dumping margin calculated in this segment of the proceeding, which is 134.77 percent, to the PRC entity, based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China, 65 FR 25706, 25707 (May 3, 2000) ("Synthetic Indigo").

Because this is a preliminary margin, the Department will consider all margins on the record at the time of the final determination for the purpose of determining the most appropriate final PRC-wide margin. See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation, 65 FR 1139 (January 7, 2000).

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production, valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that: (A) are at a level of economic development comparable to that of the NME country; and (B) are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below.

The Department has determined that India, Pakistan, Indonesia, Sri Lanka and the Philippines are countries comparable to the PRC in terms of economic development. See Memorandum from Jeffrey May to Richard Weible, "Antidumping Duty Investigation of Folding Metal Tables and Chairs from the People's Republic

of China," dated July 31, 2001. Customarily, we select an appropriate surrogate country based on the availability and reliability of data from the countries. For PRC cases, the primary surrogate country has most often been India, if it is a significant producer of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise. See Surrogate Country Selection Memorandum to The File from John Drury and Helen M. Kramer, dated November 23, 2001, ("Surrogate Country Memorandum").

We used India as the primary surrogate country and, accordingly, we have calculated NV using Indian prices to value the PRC producers' factors of production, when available and appropriate. See Surrogate Country Memorandum. We have obtained and relied upon publicly available information wherever possible. See Factor Valuation Memorandum to The File from Case Analysts, dated November 23, 2001 ("Factor Valuation Memorandum").

In accordance with section 351.301(c)(3)(i) of the Department's regulations, for the final determination in an antidumping investigation, interested parties may submit publicly available information to value factors of production within 40 days after the date of publication of this preliminary determination.

Fair Value Comparisons

To determine whether sales of folding metal tables and chairs to the United States by Feili Group and Shin Crest were made at less than fair value, we compared export price ("EP") to normal value ("NV"), as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs.

Export Price

In accordance with section 772(a) of the Act, export price is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).

In accordance with section 772(a) of the Act, we used EP for Feili Group and Shin Crest because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and because CEP was not otherwise indicated. In

accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the NVs.

Feili Group

We calculated weighted-average EP for Feili Group's U.S. sales, based on packed prices, F.O.B. port of export, to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. Feili Group reported that it paid a fee to an unaffiliated trucking company in the PRC which included all movement expenses. Therefore, Feili Group reported all movement expenses paid in a single field. The charges in this single field include brokerage and handling, and foreign inland freight. Because transportation for all sales was provided by a NME company, we based movement expenses associated with these sales on surrogate values.

Shin Crest

We calculated EP for Shin Crest based on packed F.O.B. prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included domestic inland freight and brokerage and handling charges. Shin Crest reported that it used NME carriers for foreign inland freight to certain ports. We based these expenses for these sales on Indian surrogate freight rates and the distances to the respective ports. For other sales we used Shin Crest's reported foreign inland freight expenses paid to market-economy carriers. For all sales we used the reported brokerage and handling charges, which were paid to a market-economy company. See Factor Valuation Memorandum.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the normal value ("NV") using a factors-of-production methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

Factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used factors of production, reported by respondents, for materials, energy, labor, by-products, and packing.

In accordance with 19 CFR 351.408(c)(1), the Department will

normally use publicly available information to value factors of production. However, the Department's regulations also provide that where a producer sources an input from a market economy and pays for it in market-economy currency, the Department employs the actual price paid for the input to calculate the factors-based NV. Id.; see also *Lasko Metal Products v. United States*, 43 F. 3d 1442, 1445-1446 (Fed. Cir. 1994) ("Lasko"). Respondents Feili Group and Shin Crest reported that some of their inputs were sourced from market economies and paid for in a market-economy currency. See Factor Valuation Memorandum, dated November 23, 2001 for a listing of these inputs.

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by respondents for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, see Factor Valuation Memorandum.

Except as noted below, we valued raw material inputs using the weighted-average unit import values for the period April 2000-February 2001 derived from the Monthly Trade Statistics of Foreign Trade of India—Volume II—Imports (February 2001) ("Indian Import Statistics"). We valued electricity using the cost in India per kwh in 1997 reported in U.S. dollars, adjusted for inflation using wholesale price indices published in the International Monetary Fund's International Financial Statistics. We valued water as reported for India in 1997 by the Asian Development Bank, adjusted for inflation. See Factor Valuation Memorandum.

As noted above, respondents Shin Crest and Feili Group sourced certain raw material inputs from market-economy suppliers and paid for them in market-economy currencies.

Specifically, Feili Group sourced cold-rolled steel, plastic pellets and polyester fabric from market-economy suppliers. Shin Crest reported that it sourced cold-rolled steel coils, PVC sheets, polyester fabric, polyurethane foam, rivets, screws, polyethylene panels, plywood, plastic caps, plastic bags, cartons and powder paint from market-economy suppliers. For this preliminary determination, the Department has used the market-economy prices for the inputs listed above, in accordance with 19 CFR 351.408(c)(1). We added to the weighted-average price for each input the Indian surrogate value for transporting the input to the factory, where appropriate (i.e., where the sales terms for the market-economy inputs were not delivered to the factory).

For all instances in which respondents reported delivery by truck to calculate domestic inland freight, we used an average of multiple price quotes in September 2000 and April 2001 for transporting materials by truck between Mumbai (Bombay) and various Indian cities, which were reported by The Financial Express of India on its website. We converted the Indian rupee value to U.S. dollars.

As noted above under Case History, the petitioner has urged the Department to reject the prices paid for cold-rolled steel. Section 773(c)(1) of the Act requires the Department to use "best available information" to value a NME producer's factors of production. Section 351.408(c)(1) of the Department's regulations describes our method for valuing factors of production, including our preference for using the price paid by a NME producer that imports the input, when the input is purchased from a market-economy supplier and paid for in a market-economy currency. It is not the Department's practice to reject actual prices paid in market-economy currencies to market-economy suppliers, unless they are not at arm's length or if the amount purchased was insignificant. See *Helical Spring Lock Washers from the People's Republic of China*; Final Results of Antidumping Administrative Review, 65 FR 31143 (May 16, 2000), Issues and Decision Memorandum at Comment 1, where the Department stated:

We do not believe that substituting a surrogate value for the price a NME producer actually paid to a market economy supplier for an input actually used to produce the merchandise being sold to the United States could meet the best available information standard imposed by the statute.

See also *Shakeproof Assembly Components Division of Illinois Tool Works, Inc. v. United States*, 2001 U.S.

App. LEXIS 22491, Fed. Cir. Slip Op. 00-1521 (October 12, 2001). The Department intends to verify on-site the respondents' reported factor prices.

Respondents identified steel scrap as a by-product which they claimed was sold. The Department has offset the respondents' cost of production by the amount of reported scrap. See Factor Valuation Memorandum for a discussion of the surrogate value used.

For energy, to value electricity, we used 1997 data reported as the average Indian domestic prices within the category "Electricity for Industry," published in the International Energy Agency's publication, *Energy Prices and Taxes—Quarterly Statistics (Third Quarter 2000)*, as adjusted for inflation. We valued water using the Asian Development Bank's *Second Water Utilities Data Book: Asian and Pacific Region (1997)*, adjusted for inflation. We valued LPG and diesel oil using prices as of June 2001 from India Infoline.

For direct, indirect, and packing labor, consistent with section 351.408(c)(3) of the Department's regulations, we used the PRC regression-based wage rate at Import Administration's home page, Import Library, *Expected Wages of Selected NME Countries*, revised in May 2000 (see <http://ia.ita.doc.gov/wages>). The source of the wage rate data on the Import Administration's Web site is the 1999 Year Book of Labour Statistics, International Labor Office (Geneva: 1999), Chapter 5B: Wages in Manufacturing.

To value factory overhead, selling, general and administrative expenses ("SG&A") and profit, we used the audited financial statements for the year ended March 31, 2001, from an Indian producer of steel furniture, including the subject merchandise, Godrej & Boyce Manufacturing Company Ltd. ("Godrej"). See Factor Valuation Memorandum for the calculation of these ratios from Godrej's financial statements. The petitioner argued that the Department should use the financial statement of an Indonesian producer of steel furniture (but not the subject merchandise) to calculate the overhead, selling, general and administrative expenses ("SG&A") and profit ratios. As discussed in the Surrogate Country Memorandum, India is the preferred surrogate country, and Godrej is a producer of comparable merchandise; therefore we used Godrej's financial statements rather than those of an Indonesian surrogate.

Finally, to value material inputs for packing, we used the reported values for purchases from market-economy suppliers. For packing materials

purchased from NME sources, we used Indian Import Statistics data for the period April 1, 2000 through February 2001. See Factor Valuation Memorandum.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify company information relied upon in making our final determination.

Rate for Producers/Exporters That Responded to the Questionnaires

For Dongguan and New-Tec, which were not selected as respondents, but provided separate rates information in section A and also responded to the sections C and D questionnaires, we have calculated a weighted-average margin based on the rates calculated for those producers/exporters that were selected to respond. The rate for these companies is analogous to the Department's calculation of the All Others rate (see section 735(c)5 of the Act). It is equal to an average of all calculated margins other than any zero or de minimis margins, or any margins determined entirely under section 776 of the Act. As Shin Crest's preliminary margin is zero, the rate for Dongguan and New-Tec is equal to Feili's margin.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise, except for merchandise produced and exported by Shin Crest, entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated 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 percent margin
Shin Crest Pte. Ltd.	0.00
Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd.	134.77
Dongguan Shichang Metals Factory Co. Ltd.	134.77
New-Tec Integration Co., Ltd. ..	134.77
China-Wide	134.77

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. See 19 CFR 351.309(c)(1)(i); 19 CFR 351.309(d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c). If this investigation proceeds normally, we will make our final determination no later than 75 days

after the date of the preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: November 23, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01-29814 Filed 11-30-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-560-812]

Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia

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

EFFECTIVE DATE: December 3, 2001.

FOR FURTHER INFORMATION CONTACT:

Mark Manning or Ronald Trentham at (202) 482-3936 and (202) 482-6320, respectively, AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended, (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (2000).

Background

On September 28, 2001, in accordance with sections 735(d) and 777(i)(1) of the Act, the Department published its affirmative final determination in this proceeding. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia*, 66 FR 49628.

Scope of Order

For purposes of this order, the products covered are certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with

Estimated completion time: An average of 2 hours per respondent.

Annual responses: 500 respondents.

Annual burden hours: 1,000.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Dated: December 3, 2001.

Elizabeth Cordova-Harrison,

Deputy Director, Office of Policy.

[FR Doc. 02-398 Filed 1-7-02; 8:45 am]

BILLING CODE 4310-94-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-932 (Final)]

Certain Folding Metal Tables and Chairs From China

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-932 (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 China of certain folding tables and chairs, provided for in subheadings 9401.71.00, 9401.79.00, and 9403.20.00 of the Harmonized Tariff Schedule of the United States.¹

¹ For purposes of this investigation, the Department of Commerce has defined the subject merchandise as assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

(1) Assembled and unassembled folding tables made primarily or exclusively from steel or other

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: December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa Hand (202-205-3182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDISON-LINE) at <http://dockets.usitc.gov/eol/public>.

SUPPLEMENTARY INFORMATION:

metal ("folding metal tables"). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal tables are the following: Lawn furniture; Trays commonly referred to as "TV trays"; Side tables; Child-sized tables; Portable counter sets consisting of rectangular tables 36" high and matching stools; and Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28" to 36" wide by 48" to 96" long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal ("folding metal chairs"). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal chairs are the following: Folding metal chairs with a wooden back or seat, or both; Lawn furniture; Stools; Chairs with arms; and Child-sized chairs.

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 certain folding metal tables and chairs from China 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 April 27, 2001, by MECO Corporation, Greeneville, TN.

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 April 10, 2002, and a public version will be issued thereafter, pursuant to § 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 April 23, 2002, 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 April 15, 2002. 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 April 18, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 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 April 17, 2002. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is April 30, 2002; 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 April 30, 2002. On May 16, 2002, 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 May 20, 2002, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of § 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 §§ 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 § 207.21 of the Commission's rules.

Issued: January 2, 2002.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 02-393 Filed 1-7-02; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE**Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act**

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States and State of Maine v. A&S Motors, Inc., et al.*, Civil Nos. 01-238-B, was lodged on November 30, 2001 with the United States District Court for the district of Maine.

The proposed consent decree embodies an agreement with 60 potentially responsible parties, pursuant to section 107 of CERCLA, 42 U.S.C. 9607, to pay \$155,281, in aggregate, in reimbursement of past response costs at the Hows Corner Superfund Site in Plymouth, Maine. A total of \$128,748 of these amounts will be paid to the United States and the balance will be paid to the State of Maine.

The monies paid by the settling defendants under the consent decree is to reimburse past and future costs incurred and to be incurred at the Site. The consent decree provides the settling defendants with releases for civil liability for EPA's and the State's past and future response costs at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S.

Department of Justice, PO Box 7611, Washington, DC 20044-7611, and should refer to *United States and State of Maine v. A&S Motors, Inc., et al.*, DOJ Ref. No. 90-11-3-1733/2.

The proposed consent decree may be examined at the Office of the United States Attorney, 99 Franklin Street, 2nd Floor, Bangor, ME 04401, and at the Region I Office of the Environmental Protection Agency, Region I records Center, 1 Congress Street, Suite 1100, Boston, MA 02114-2023. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, PO Box 7611, Washington, DC 20044-7611. In requesting a copy, please refer to the referenced case and enclose a check in the amount of \$22.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02-363 Filed 1-7-02; 8:45 am]

BILLING CODE 44410-15-M

DEPARTMENT OF JUSTICE**Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act**

In accordance with the Departmental Policy, 28 CFR 50.7 and section 122(d) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), notice is hereby given that a Consent Decree in *United States v. Cytec Industries, Inc., Ford Motor Company, SPS Technologies, Inc. and TI Automotive Systems Corp.*, Civil Action No. 01-CV-6109, was lodged with the United States District Court for the Eastern District of Pennsylvania on December 6, 2001. This Consent Decree resolves certain claims of the United States' against Cytec Industries, Inc., Ford Motor Company, SPS Technologies, Inc., and TI Automotive Systems Corp. ("Settling Defendants") under sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9606 and 9607(a). The Consent Decree requires the Settling Defendants to perform remedial work at the Site consisting of all Operable Unit 2 response activities (as defined in the Decree) and to reimburse the Superfund for past response costs in the amount of \$7 million and to pay future response costs for the Boarhead Farms Superfund Site

Investigations: Ferrovanadium from the People's Republic of China and the Republic of South Africa, 66 FR 66398 (December 26, 2001).

Postponement of Preliminary Determination

Currently, the preliminary determinations are due no later than May 6, 2002. However, pursuant to section 733(c)(1)(B) of the Act, we have determined that these investigations are "extraordinarily complicated" and are postponing the preliminary determinations by 50 days to June 25, 2002. Under section 733(c)(1)(B) of the Act, the Department can extend the period for reaching a preliminary determination until not later than the 190th day after the date on which the administering authority initiates an investigation if:

(B) The administering authority concludes that the parties concerned are cooperating and determines that (i) the case is extraordinarily complicated by reason of

(I) the number and complexity of the transactions to be investigated or adjustments to be considered;

(II) the novelty of the issues presented; or

(III) the number of firms whose activities must be investigated; and (ii) additional time is necessary to make the preliminary determination.

The parties concerned are cooperating in these investigations. Additional time is necessary, however, to complete the preliminary determinations due to the complexity of the transactions to be investigated and adjustments to be considered, and the novelty of issues presented.

With respect to the PRC, the Department needs to consider a number of complex issues that will impact our selection of the surrogate country. Ferrovanadium is produced by only a few countries that are all more economically advanced than the PRC, thus complicating our evaluation and determination of the appropriate surrogate country. We must also determine whether there exists a product that is comparable to ferrovanadium and, if so, whether such a product is produced in a country that is economically comparable to the PRC.

In regard to South Africa, on February 21, 2002, the petitioners alleged that during the POI Xstrata made sales below the cost of production (COP) in Germany, the country from which we will calculate normal value. On March 12 and 15, 2002, the petitioners submitted addenda to their cost allegation to include price and cost information placed on the record by

Xstrata in its section A questionnaire response. We reviewed this allegation and initiated an investigation of sales below COP on March 26, 2002. In addition, Xstrata has a complex chain of distribution, involving multiple affiliated companies in South Africa, the United States, and Europe, for sales to the U.S. and German markets. We issued extensive supplemental questionnaires in order to understand the function of these companies in Xstrata's sales process. For these reasons, pursuant to section 733(c)(1)(B) of the Act, we are postponing the preliminary determinations in these investigations until June 25, 2002.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f).

Dated: April 17, 2002

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02-10067 Filed 4-23-02; 8:45 am]

BILLING CODE 3510-DS-8

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-868]

Notice of Final Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs from the People's Republic of China

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

DATES: April 24, 2002.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or John Drury at (202) 482-0405 and (202) 482-0195, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

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 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("the Department") regulations are to the regulations at 19 CFR Part 351 (2001).

Final Determination

We determine that folding metal tables and chairs ("FMTC") from the

People's Republic of China 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 margin of sales at LTFV is shown in the "Continuation of Suspension of Liquidation" section of this notice.

Scope of Investigation

The merchandise subject to this investigation consists of assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal ("folding metal tables"). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal tables are the following:

- Lawn furniture;
- Trays commonly referred to as "TV trays";
- Side tables;
- Child-sized tables;
- Portable counter sets consisting of rectangular tables 36" high and matching stools; and
- Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28" to 36" wide by 48" to 96" long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal ("folding metal chairs"). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs

made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal chairs are the following:

- Folding metal chairs with a wooden back or seat, or both;
- Lawn furniture;
- Stools;
- Chairs with arms; and
- Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401710010, 9401710030, 9401790045, 9401790050, 9403200010 and 9403200030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and U.S. Customs Service purposes, the Department's written description of the merchandise is dispositive.

Case History

The preliminary determination in this investigation was published on December 3, 2001. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs from the People's Republic of China*, 66 FR 60185 ("Preliminary Determination"). The investigation covers two manufacturers/exporters, Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd. ("Feili Group") and Shin Crest Pte. Ltd. ("Shin Crest"). The petitioner is Meco Corporation.

The Department verified Feili Group's and Shin Crest's responses to the antidumping questionnaire from January 14 - 18, 2002 (Feili Group) and from January 21 - 25, 2002 (Shin Crest). We invited parties to comment on our *Preliminary Determination*. We received comments and rebuttal briefs from the petitioner, Feili Group, and Shin Crest. At the requests of the petitioner and Feili Group, a hearing was held on March 22, 2002. On March 22, 2002, the petitioner filed an allegation of critical circumstances in this investigation.

Based on our analysis of verification findings and the comments received, we have made changes in the margin calculation. Therefore, the final determination differs from the preliminary determination.

Period of Investigation

The Period of Investigation ("POI") is October 1, 2000 through March 31, 2001.

Non-Market Economy

The Department has treated the PRC as a non-market economy (NME)

country in all its past antidumping investigations. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China*, 66 FR 50608 (October 4, 2001) and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes from the People's Republic of China*, 66 FR 58115 (November 20, 2001). A designation as an NME country remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. The respondents in this investigation have not requested a revocation of the PRC's NME status. Therefore, we have continued to treat the PRC as an NME in this investigation. For further details, see the department's *Preliminary Determination*.

Separate Rates

In our *Preliminary Determination*, we found that the mandatory respondents, Feili Group and Shin Crest, had met the criteria for the application of separate antidumping duty rates and that the cooperative PRC companies, Dongguan Shichang Metals Factory Co. Ltd. ("Dongguan") and New-Tec Integration Co., Ltd. ("New-Tec"), had met the criteria for a rate equal to the weighted-average of the mandatory respondents' rates (excluding zero or *de minimis* rates and rates based entirely on adverse facts available). We have not received any other information since the *Preliminary Determination* which would warrant reconsideration of our separate rates determination with respect to these companies. Therefore, we continue to find that the respondents should be assigned individual dumping margins and that Dongguan and New-Tec should be assigned a weighted-average rate. For a complete discussion of the Department's determination that the respondents are entitled to separate rates, see the *Preliminary Determination*.

The PRC-Wide Rate

For the reasons set forth in the *Preliminary Determination*, we continue to believe that use of adverse facts available for the PRC-wide rate is appropriate. See *Preliminary Determination*, 66 FR at 60189-90.

Surrogate Country

For purposes of the final determination, we find that India remains the appropriate surrogate country for the PRC. For further discussion and analysis regarding the surrogate country selection for the PRC, see the Department's *Preliminary Determination* and the Memorandum to Richard O. Weible from John Drury and

Helen M. Kramer on Surrogate Country Selection (November 23, 2001) on file in the Department's Central Records Unit, Room B-099 of the Main Department of Commerce Building.

Critical Circumstances

On March 22, 2002, the petitioner filed an allegation of critical circumstances in this investigation based on data for one importer. Because the calculated margins for both Shin Crest and Feili Group in the final determination are below 25 percent, the Department's threshold for imputing knowledge of dumping for EP sales is not met. We therefore do not find critical circumstances with respect to these companies. As to Dongguan and New-Tec, the PRC exporters that were not selected as respondents but did not fail to respond to our requests for information, the final margins also are below 25 percent. Therefore, we do not find critical circumstances with respect to these exporters. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China*, 65 FR 19873 (April 13, 2000).

With respect to exporters subject to the PRC-wide rate, the final margin is above 25 percent. Furthermore, the ITC preliminarily determined that there is material injury by reason of imports of the subject merchandise. Therefore, the first prong of the test is met. With regard to massive imports, because the PRC-wide entity failed to respond to our request for information, the Department has based its massive imports determination on facts available and used an adverse inference in accordance with section 776(b) of the Act. We cannot use U.S. Customs import data to analyze imports from the PRC-wide entity, in part because the relevant product categories include both subject and non-subject merchandise. Because we have no independent means by which to determine import levels for the PRC-wide entity, we have determined, as adverse facts available, that there were massive imports. Accordingly, we determine that there are critical circumstances with respect to the PRC-wide entity.

For a discussion of interested party comments on this issue, see Issues and Decision Memorandum for the Less Than Fair Value Investigation of Folding Metal Tables and Chairs from the People's Republic of China from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated April 17, 2002 ("Issues and Decision Memorandum").

Analysis of Comments Received

All issues raised in the case briefs by parties to this investigation are addressed in the Issues and Decision Memorandum. A list of the issues which parties raised, and to which we have responded, all of which are in the Issues and Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/>. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made corrections to the respondents' reported factor usage and surrogate value changes. We have also corrected certain clerical errors in our preliminary determination. These changes are discussed in the relevant sections of the Issues and Decision Memorandum. See also the Factors of Production Valuation Memorandum for the Final Determination, dated April 17, 2002, and the respective Analysis Memorandum for the Final Determination for Feili Group and Shin Crest on the same date.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the mandatory respondents for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents. For changes from the Preliminary Determination as a result of verification, see the Analysis Memorandums.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, we are directing the Customs Service to continue to suspend liquidation of entries of subject merchandise from the PRC exported by Feili Group, Shin Crest, Dongguan and New-Tec that are entered, or withdrawn from warehouse, for consumption on or after December 3, 2001. With respect to the PRC-wide entity, we are directing the Customs

Service to suspend liquidation of entries of subject merchandise entered on or after September 4, 2001, the date 90 days prior to the date of publication of the preliminary determination in the Federal Register, in accordance with our critical circumstances finding. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the U.S. price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice.

The margins in the final determination are as follows:

Exporter/Manufacturer	Weighted-Average Percent Margin
Shin Crest Pte. Ltd.	00.00
Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd.	23.48
Dongguan Shichang Metals Factory Co. Ltd.	23.48
New-Tec Integration Co., Ltd.	23.48
PRC-Wide	70.71

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 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: April 17, 2002

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

Appendix

List of Comments and Responses

1. Whether import prices paid by Feili Group for cold-rolled steel coils from Korea may be distorted by reason of subsidies
2. Whether import prices paid by Feili Group and Shin Crest for inputs from

Taiwan may be distorted by reason of subsidies

3. Whether Shin Crest is affiliated with its steel supplier in Taiwan by reason of control and its import prices should be disregarded

4. Whether the Department's practice regarding allegedly dumped inputs is too restrictive, and the Department should disregard Shin Crest's import prices for steel as putatively dumped

5. Whether it is appropriate to use Indian surrogate values for steel if the Department disregards market economy prices for steel from Korea and/or Taiwan

6. Whether the Department should disregard Indian steel imports from Belgium, Brazil, France, Korea, Russia, South Africa, Thailand and Ukraine in calculating surrogate value

7. Whether Feili Group's "multi-chair" falls within the scope of the investigation

8. Whether National Public Seating Corp.'s double-hinged commercial chair is within the scope

9. Whether the Department should use P.T. Lion Metal Works' financial statements to value overhead, SG&A and profit

10. Whether the Department should use adverse facts available ("FA") to calculate the PRC-wide margin

11. Whether the Department should use updated Indian import statistics for surrogate values and "correct" the exchange rate

12. Whether the dates of sale for Feili Group and Shin Crest should be the purchase order date

13. Whether the Department should apply adverse FA to Feili Group's steel consumption

14. Whether the Department should apply a value to steel Feili Group purchased before the POI and used during the POI

15. Whether Feili Group should be required to report usage rates for inputs purchased from third parties

16. Whether the Department should deny a steel scrap adjustment to Feili Group

17. Whether the Department should apply the Indian surrogate value for supported vinyl to all of Feili Group's vinyl consumption

18. Whether Feili Group impermissibly included physically different models in the same control number

19. Whether the Department should require Feili Group to report the usage rate for plastic pellets used to make cup corners for folding metal tables

20. Whether the Department should assume Feili Group's production workers worked 12-hour shifts

21. Whether the Department used the wrong weight for sets in the margin calculation program for Feili Group

22. Whether the Department used the wrong inflation rate to value electricity for Feili Group

23. Whether the Department incorrectly used Feili Group's market economy purchases of plastic pellets to value nylon caps instead of the Indian surrogate value for plastic caps

24. Whether the Department incorrectly calculated the surrogate value of poly bags for Feili Group

25. Whether the Department erred in adding, instead of subtracting, the steel scrap offset for Feili Group

26. Whether the Department should correct the surrogate value for wooden pallets by dividing the average value by the average pallet weight for Feili Group

27. Whether the Department incorrectly included Indian import values for cardboard other than boxes in its calculation of surrogate value for cardboard cartons for Feili Group

28. Whether the Department made clerical errors in calculations of surrogate values for screws, other metal fittings and rubber washers for Feili Group

29. Whether the Department should correct the weights of foam, vinyl and fabric inputs incorrectly reported by Feili Group

30. Whether the Department should correct the number of tables packed in a carton for Feili Group

31. Whether Shin Crest should include inland freight for one U.S. sale in the sales listing

32. Whether the Department should apply adverse FA for Shin Crest's consumption of hardboard because it was not verified

33. Whether the Department should apply Feili Group's usage of wooden pallets for packing to Shin Crest as FA

34. Whether the Department's calculations of the surrogate value of water were incorrect

35. Whether the Department should make a finding of critical circumstances for all Chinese producers of folding metal tables and chairs

[FR Doc. 02-10071 Filed 4-23-02; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[C-507-501; C-507-601]

Certain In-Shell Pistachios from Iran and Certain In-Shell Roasted Pistachios from Iran: Extension of Time Limit for Preliminary Results of Countervailing Duty New Shipper Reviews

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

ACTION: Notice of Extension of Time Limit for Preliminary Results of Countervailing Duty New Shipper Reviews.

EFFECTIVE DATE: April 24, 2002.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds or Darla Brown, AD/CVD Enforcement, Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Time Limits:

Statutory Time Limits

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to make a preliminary determination within 180 days after the date on which the review is initiated and a final determination within 90 days after the date the preliminary determination is issued. However, if the Department concludes that the case is extraordinarily complicated such that it cannot complete the review within these time periods, section 751(a)(2)(B)(iv) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 300 days and 150 days for the final determination from the date of publication of the preliminary determination.

Background

On November 7, 2001, and November 27, 2001, the Department published notices of initiation of new shipper reviews of the countervailing duty orders on certain in-shell pistachios from Iran and certain in-shell roasted pistachios from Iran covering the period October 1, 2000 through September 30, 2001 (66 FR 59277 and 66 FR 59235, respectively). The preliminary results are currently due no later than April 29, 2002 for certain in-shell pistachios and

May 18, 2002 for certain in-shell roasted pistachios.

Extension of Time Limit for Preliminary Results of Review

We determine that these cases are extraordinarily complicated because there are a large number of complex issues which require thorough consideration and analysis by the Department, including allegations of new subsidy programs that were not examined during the original investigations and a complex system of exchange rates in Iran. Consequently, we are not able to complete the preliminary results of these reviews within the time limit. Therefore, the Department is extending the time limit for completion of the preliminary results for both of these new shipper reviews until no later than August 27, 2002. This date is the full 120 days extension for the new shipper review of in-shell pistachios. We intend to issue the final results no later than 90 days after the publication of the preliminary results notice. This extension is in accordance with section 751(a)(2)(B)(iv) of the Act.

Dated: April 18, 2002

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 02-10069 Filed 4-23-02; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-835]

Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Extension of Preliminary Results of Countervailing Duty Administrative Review

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

ACTION: Notice of Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review.

EFFECTIVE DATE: April 24, 2002.

FOR FURTHER INFORMATION CONTACT: Tipten Troidl or Carrie Farley, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, N.W., Washington, D.C. 20230; telephone: 202-482-1767 or 202-482-0395, respectively.

SUPPLEMENTARY INFORMATION:

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-868]

Notice of Amended Final Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs From the People's Republic of China

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

ACTION: Notice of Amended Final Determination of Sales at Less Than Fair Value.

EFFECTIVE DATE: May 16, 2002.

FOR FURTHER INFORMATION CONTACT: John Drury or Helen Kramer, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0195 or (202) 482-0405, respectively.

SUPPLEMENTARY INFORMATION:**Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department") regulations are to 19 CFR part 351 (April 2001).

Background

On April 17, 2002, the Department determined that folding metal tables and chairs from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735(a) of the Act. See *Notice of Final Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs from the People's Republic of China*, 67 FR 20090 (April 24, 2002). The Department released disclosure materials to interested parties on April 19, 2002.

On April 23, 2002, the petitioner informed the Department that some disclosure materials, specifically copies of the pages of the *Monthly Statistics of the Foreign Trade of India* used by the Department to calculate surrogate values, were not included in the disclosure package. The petitioner requested copies of these pages. The

petitioner contacted the Department again on April 25, 2002, and was informed how to obtain copies of the necessary pages. Petitioner obtained these pages on the same day.

On April 24, 2002, respondent Feili Group submitted a letter to the Department alleging ministerial errors. On April 26, 2002, petitioner also submitted a letter to the Department alleging ministerial errors. Neither party submitted any further comments.

Scope of the Investigation

The merchandise subject to this investigation consists of assembled and unassembled folding tables and folding chairs made primarily or exclusively from steel or other metal, as described below:

(1) Assembled and unassembled folding tables made primarily or exclusively from steel or other metal ("folding metal tables"). Folding metal tables include square, round, rectangular, and any other shapes with legs affixed with rivets, welds, or any other type of fastener, and which are made most commonly, but not exclusively, with a hardboard top covered with vinyl or fabric. Folding metal tables have legs that mechanically fold independently of one another, and not as a set. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal tables are the following:

- Lawn furniture;
- Trays commonly referred to as "TV trays";
- Side tables;
- Child-sized tables;
- Portable counter sets consisting of rectangular tables 3" high and matching stools; and

Banquet tables. A banquet table is a rectangular table with a plastic or laminated wood table top approximately 28" to 36" wide by 48" to 96" long and with a set of folding legs at each end of the table. One set of legs is composed of two individual legs that are affixed together by one or more cross-braces using welds or fastening hardware. In contrast, folding metal tables have legs that mechanically fold independently of one another, and not as a set.

(2) Assembled and unassembled folding chairs made primarily or exclusively from steel or other metal ("folding metal chairs"). Folding metal chairs include chairs with one or more cross-braces, regardless of shape or size, affixed to the front and/or rear legs with rivets, welds or any other type of

fastener. Folding metal chairs include: those that are made solely of steel or other metal; those that have a back pad, a seat pad, or both a back pad and a seat pad; and those that have seats or backs made of plastic or other materials. The subject merchandise is commonly, but not exclusively, packed singly, in multiple packs of the same item, or in five piece sets consisting of four chairs and one table. Specifically excluded from the scope of folding metal chairs are the following:

- Folding metal chairs with a wooden back or seat, or both;
- Lawn furniture;
- Stools;
- Chairs with arms; and
- Child-sized chairs.

The subject merchandise is currently classifiable under subheadings 9401710010, 9401710030, 9401790045, 9401790050, 9403200010 and 9403200030 of the HTSUS. Although the HTSUS subheadings are provided for convenience and U.S. Customs Service purposes, the Department's written description of the merchandise is dispositive.

Amended Final Determination

In accordance with section 735(e) of the Act, we have determined that ministerial errors in the calculations of Feili Group's surrogate values for packing cartons, scrap steel, plastic links, and plastic bags were made in our final margin calculations. For plastic links and packing cartons, we made errors in addition and subtraction when using the *Monthly Statistics of the Foreign Trade of India* to calculate the surrogate values. Concerning scrap steel, we did not apply the proper SAS calculations for our stated methodology. As to plastic bags, we did not correct the placement of the decimal point for the reported factor of production. For a detailed discussion of the above-cited ministerial error allegations and the Department's analysis, see Memorandum to Richard O. Weible, "Allegation of Ministerial Error; Final Determination in the Antidumping Duty Investigation of Folding Metal Tables and Chairs from the People's Republic of China" dated May 10, 2002, which is on file in room B-099 of the main Commerce building.

Therefore, in accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of folding metal tables and chairs from the PRC to correct these ministerial errors. The revised final weighted-average dumping margins are as follows:

Exporter/manufacturer	Original weighted-average margin percentage	Revised weighted-average margin average percentage
Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd	23.48	13.72
Dongguan Shichang Metals Factory Co. Ltd	23.48	13.72
New-Tec Integration Co., Ltd	23.48	13.72
Shin Crest Pte. Ltd	00.00	00.00
All Others	70.71	70.71

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 imports of folding metal tables and chairs from the PRC, except for subject merchandise produced by Shin Crest (which has a weighted-average margin of zero). Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission of our amended final determination.

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

Dated: May 10, 2002.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02-12296 Filed 5-16-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-824]

Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip From India

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

EFFECTIVE DATE: May 16, 2002.

FOR FURTHER INFORMATION CONTACT: Timothy Finn, Zev Primor, or Howard Smith at (202) 482-0065, (202) 482-4114, and (202) 482-5193, respectively; AD/CVD Enforcement, Office 4, Group II, Import Administration, Room 1870, International Trade Administration,

U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations are to 19 CFR part 351 (April 2001).

Final Determination

We determine that polyethylene terephthalate film, sheet, and strip (PET film) from India are being sold, 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 margin of sales at LTFV is shown in the *Suspension of Liquidation* section of this notice.

Case History

On December 21, 2001, the Department published the preliminary determination of the antidumping duty investigation of PET film from India. *See Polyethylene Terephthalate Film, Sheet, and Strip from India; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 66 FR 65893 (December 21, 2001) (*Preliminary Determination*). For the respondent, Polyplex Corporation Limited (Polyplex) we issued and received an additional supplemental questionnaire pertaining to further manufacturing in January. We conducted a verification of the questionnaire responses of the respondent, Ester Industries Limited (Ester) during the weeks of January 7, 2002 and January 14, 2002, and Polyplex during the weeks of February 11, 2002, and February 18, 2002. Further, we conducted a verification of the questionnaire responses of Ester's U.S. affiliate, Ester International (USA) Limited (EIUL), during the week of February 25, 2002, and Polyplex's U.S.

affiliates, Spectrum Marketing Company Incorporated (Spectrum) and Company A during the week of March 4, 2002. See Affiliation of Parties below. We gave interested parties an opportunity to comment on our *Preliminary Determination* and our findings at verification. On April 10, 2002, both respondents, and on April 11, 2002, the petitioners,¹ submitted case briefs. On April 15, 2002, all parties submitted rebuttal briefs. The Department received requests for a public hearing from both petitioners and respondents; and a public hearing was held on April 17, 2002.

In addition, on December 28, 2001, respondents and two other Indian producers, Flex Industries Limited (Flex) and Jindal Polyester Ltd. (Jindal), submitted a proposal for a suspension agreement in this investigation. Subsequently, on January 22, 2002, we met with counsel for Ester, Flex, Jindal, and Polyplex to discuss this proposal, but no agreement resulted from this meeting. For further details, *see* Memorandum to the File dated May 6, 2002 on proposed suspension agreement.

The Department has conducted this investigation in accordance with section 731 of the Act.

Scope of Investigation

For purposes of these investigations, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

¹ The petitioners in this investigation are Dupont Teijin Films of Mitsubishi Polyester Film of America and Toray Plastics (America) (collectively the petitioners).

APPENDIX B

LIST OF WITNESSES
WHO APPEARED AT THE HEARING

CALENDAR OF PUBLIC HEARING

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

Subject: Certain Folding Metal Tables and Chairs from China
Inv. No.: 731-TA-932 (Final)
Date and Time: April 23, 2002 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room (Room 101), 500 E Street, S.W., Washington, D.C.

OPENING REMARKS:

Petitioners (**Warren E. Connelly**, Akin, Gump, Strauss, Hauer & Feld, L.L.P)

Respondents (**Peter L. Winik**, Latham & Watkins)

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

Akin, Gump, Strauss, Hauer & Feld, L.L.P.
Washington, D.C.
on behalf of

Meco Corporation

Allan Reitzer, President, Meco Corporation

Steven Botica, Chief Financial Officer, Meco Corporation

Bill Neal, President, AMG Incorporated

Randy Tess, Product Manager, Krueger International

Warren E. Connelly)
) – OF COUNSEL
Anne K. Cusick)

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

Powell Goldstein Frazer & Murphy, LLP
Washington, D.C.
on behalf of

National Public Seating Corporation

Barry Stauber, President, National Public Seating Corporation

Niall P. Meagher)
) – OF COUNSEL
Leigh Fraiser)

Latham & Watkins
Washington, D.C.
on behalf of

Dorel Juvenile Group, Incorporated (f/k/a Cosco, Inc.)

Tom Szczurek, President, Cosco Home and Office Products,
Incorporated

Joy Broadhurst, Vice President, Cosco Home and Office Products,
Incorporated

Shawn Smith, Buyer for Target

Bruce Malashevich, President, Economic Consulting Services,
Incorporated

Peter L. Winik)
) – OF COUNSEL
Eric J. Wycoff)

REBUTTAL AND CLOSING REMARKS:

Petitioners (**Warren E. Connelly**, Akin, Gump, Strauss,
Hauer & Feld, L.L.P)

Respondents (**Peter L. Winik**, Latham & Watkins)

APPENDIX C
SUMMARY DATA

Table C-1
Certain folding metal tables: Summary data concerning the U.S. market, 1999-2001

* * * * *

Table C-2

Certain folding metal chairs: Summary data concerning the U.S. market, 1999-2001

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

Item	Reported data			Period changes		
	1999	2000	2001	1999-2001	1999-2000	2000-2001
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China (subject)	***	***	***	***	***	***
China (nonsubject)	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***
Importers' share (1):						
China (subject)	***	***	***	***	***	***
China (nonsubject)	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***
Other sources	***	***	***	***	***	***
Total imports	***	***	***	***	***	***
U.S. shipments of imports from:						
China (subject):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity . . .	***	***	***	***	***	***
China (nonsubject):						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity . . .	***	***	***	***	***	***
Subtotal:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity . . .	***	***	***	***	***	***
Other sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity . . .	***	***	***	***	***	***
All sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity . . .	***	***	***	***	***	***

Table continued on next page.

Table C-2--Continued

Certain folding metal chairs: Summary data concerning the U.S. market, 1999-2001

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

Item	Reported data			Period changes		
	1999	2000	2001	1999-2001	1999-2000	2000-2001
U.S. producers':						
Average capacity quantity	13,423	13,478	13,543	0.9	0.4	0.5
Production quantity	6,135	5,240	4,145	-32.4	-14.6	-20.9
Capacity utilization (1)	45.7	38.9	30.6	-15.1	-6.8	-8.3
U.S. shipments:						
Quantity	5,650	5,439	3,921	-30.6	-3.7	-27.9
Value	66,133	66,201	49,406	-25.3	0.1	-25.4
Unit value	\$11.70	\$12.17	\$12.60	7.7	4.0	3.5
Export shipments:						
Quantity	469	523	443	-5.4	11.6	-15.3
Value	4,963	5,603	4,649	-6.3	12.9	-17.0
Unit value	\$10.58	\$10.70	\$10.48	-0.9	1.1	-2.1
Ending inventory quantity	519	462	282	-45.7	-11.0	-38.9
Inventories/total shipments (1)	8.5	7.7	6.5	-2.0	-0.7	-1.3
Production workers	437	505	408	-6.6	15.6	-19.2
Hours worked (1,000s)	932	993	816	-12.4	6.5	-17.8
Wages paid (\$1,000s)	9,624	10,091	8,840	-8.2	4.8	-12.4
Hourly wages	\$10.33	\$10.16	\$10.83	4.9	-1.6	6.6
Productivity (chairs per hour) .	6.6	5.3	5.1	-22.8	-19.8	-3.7
Unit labor costs	\$1.57	\$1.93	\$2.13	36.0	22.8	10.7
Net sales:						
Quantity	6,195	5,762	4,528	-26.9	-7.0	-21.4
Value	72,122	68,464	56,676	-21.4	-5.1	-17.2
Unit value	\$11.64	\$11.88	\$12.52	7.5	2.1	5.3
Cost of goods sold (COGS)	57,025	55,455	46,900	-17.8	-2.8	-15.4
Gross profit or (loss)	15,096	13,009	9,776	-35.2	-13.8	-24.9
SG&A expenses	12,835	12,197	9,876	-23.1	-5.0	-19.0
Operating income or (loss)	2,261	813	(100)	(2)	-64.1	(2)
Capital expenditures	4,991	2,906	1,518	-69.6	-41.8	-47.8
Unit COGS	\$9.20	\$9.62	\$10.36	12.5	4.6	7.6
Unit SG&A expenses	\$2.07	\$2.12	\$2.18	5.3	2.2	3.0
Unit operating income or (loss)	\$0.37	\$0.14	(\$0.02)	(2)	-61.3	(2)
COGS/sales (1)	79.1	81.0	82.8	3.7	1.9	1.8
Operating income or (loss)/ sales (1)	3.1	1.2	(0.2)	-3.3	-1.9	-1.4

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

(2) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year. 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.

Table C-3

Commercial folding metal tables: Summary data concerning the U.S. market, 1999-2001

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Table C-4

Certain folding metal tables and commercial folding metal tables: Summary data concerning the U.S. market, 1999-2001

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