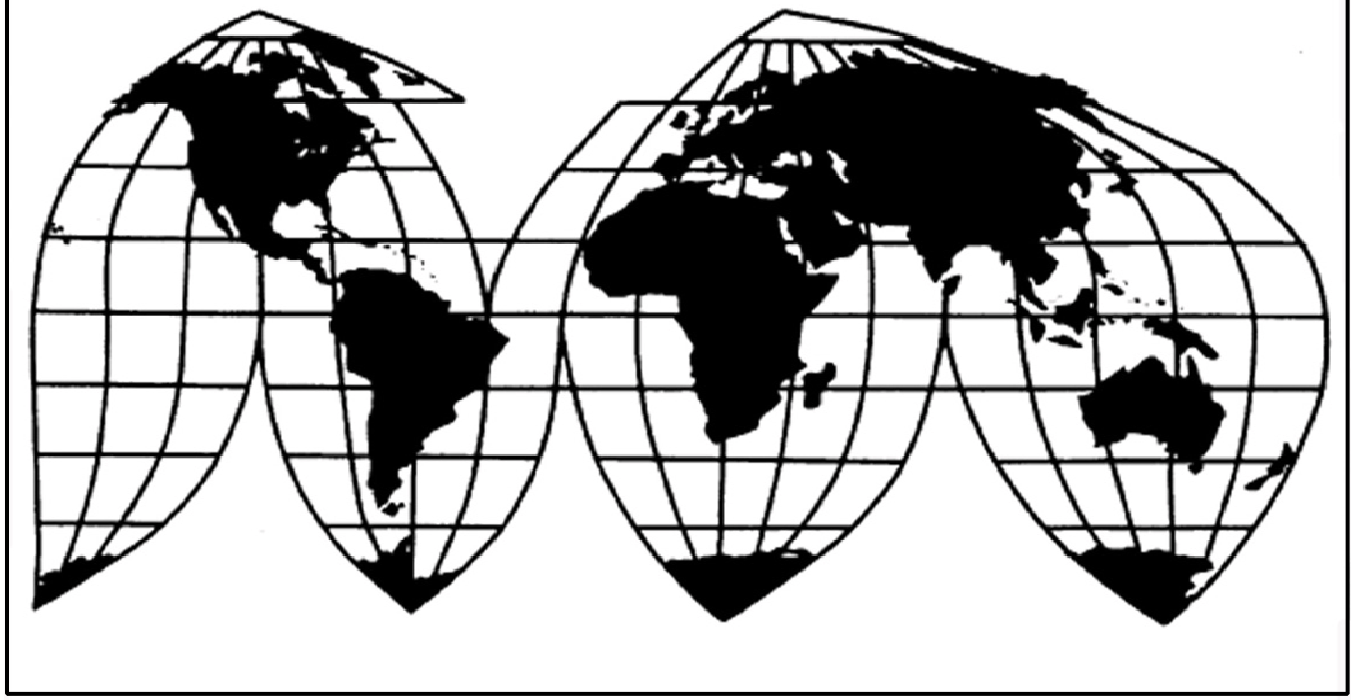
Light-Walled Rectangular Pipe and Tube From China, Korea, Mexico, and Turkey

Investigation Nos. 701-TA-449 and 731-TA-1118-1121
(Preliminary)

Publication 3941 **August 2007**

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Daniel R. Pearson, Chairman
Shara L. Aranoff, Vice Chairman
Deanna Tanner Okun
Charlotte R. Lane
Irving A. Williamson
Dean A. Pinkert

Robert A. Rogowsky
Director of Operations

Staff assigned

Russell Duncan, *Investigator*
Karl Tsuji, *Industry Analyst*
Ioana Mic, *Economist*
Justin Jee, *Accountant*
Lita David-Harris, *Statistician*
David Fishberg, *Attorney*

Douglas Corkran, *Supervisory Investigator*
George Deyman, *Supervisory Investigator*

Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey

Investigation Nos. 701-TA-449 and 731-TA-1118-1121
(Preliminary)

Publication 3941 **August 2007**

CONTENTS

CONTENTS--*Continued*

Page

Appendixes

Note.–Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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 Nos. 701-TA-449 and 731-TA-1118-1121 (Preliminary)

LIGHT-WALLED RECTANGULAR PIPE AND TUBE
FROM CHINA, KOREA, MEXICO, AND TURKEY

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured[2] or threatened with material injury[3] [4] by reason of imports from China, Korea, Mexico, and Turkey of light-walled rectangular pipe and tube, provided for in subheading 7306.61.50 of the Harmonized Tariff Schedule of the United States,[5] that are alleged to be subsidized by the Government of China and that are alleged to be to be sold in the United States at less than fair value (LTFV) from China, Korea, Mexico, and Turkey.[6]

COMMENCEMENT OF FINAL PHASE INVESTIGATIONS

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

---

[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 Charlotte R. Lane determines that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of light-walled rectangular pipe and tube from China, Korea, Mexico, and Turkey.

[3] Vice Chairman Shara L. Aranoff, Commissioner Deanna Tanner Okun, and Commission Irving A. Williamson determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of light-walled rectangular pipe and tube from China, Korea, Mexico, and Turkey.

[4] Chairman Daniel R. Pearson determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of light-walled rectangular pipe and tube from China, Korea, and Turkey, but that there is not a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of light-walled rectangular pipe and tube from Mexico.

[5] Prior to February 3, 2007, the merchandise subject to these investigations was properly classified under subheading 7306.60.50 of the Harmonized Tariff Schedule of the United States.

[6] Commissioner Dean A. Pinkert recused himself to avoid any conflict of interest or appearance of a conflict.

countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

BACKGROUND

On June 27, 2007, a petition was filed with the Commission and Commerce by twelve U.S. producers,[7] alleging that an industry in the United States is materially injured by reason of subsidized imports of light-walled rectangular pipe and tube from China and LTFV imports from China, Korea, Mexico, and Turkey. Accordingly, effective June 27, 2007, the Commission instituted countervailing duty investigation No. 701-TA-449 (Preliminary) and antidumping investigation Nos. 731-TA-1118-1121 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of July 3, 2007 (72 FR 36479). The conference was held in Washington, DC, on July 18, 2007, and all persons who requested the opportunity were permitted to appear in person or by counsel.

[7] Allied Tube and Conduit, Harvey, IL; Atlas Tube, Plymouth, MI; California Steel and Tube, City of Industry, CA; EXLTUBE, Kansas City, MO; Hannibal Industries, Los Angeles, CA; Leavitt Tube Company LLC, Chicago, IL; Maruichi American Corporation, Sante Fe Springs, CA; Searing Industries, Rancho Cucamonga, CA; Southland Tube, Birmingham, AL; Vest Inc., Los Angeles, CA; Welded Tube, Concord, Ontario (Canada); and Western Tube and Conduit, Long Beach, CA.

VIEWS OF THE COMMISSION

Based on the record in the preliminary phase of these investigations, we find that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of light-walled rectangular pipe and tube ("LWR pipe and tube") from China, Korea, Mexico, and Turkey that are allegedly sold in the United States at less than fair value ("LTFV"), and by reason of imports of LWR pipe and tube from China allegedly subsidized by the government of China.[1] [2] [3]

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured, threatened with material injury, or whether the establishment of an industry is materially retarded, by reason of the allegedly unfairly traded imports.[4] In applying this standard, the Commission weighs the evidence before it and determines whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no likelihood exists that contrary evidence will arise in a final investigation."[5]

II. BACKGROUND

A. In General

LWR pipe and tube is an intermediate product employed in a variety of end uses not involving the conveyance of liquids or gases, and is not designed to bear weight.[6] The main uses for LWR pipe and tube include ornamental fencing, window guards and framing, cattle chutes, railings for construction and agricultural applications, and more ornamental (but also functional) items such as metal furniture parts**,**

---

[1] Commissioner Charlotte R. Lane determines that there is a reasonable indication that an industry in the United States is suffering material injury by reason of imports of LWR pipe and tube from China, Korea, Mexico, and Turkey. See Separate Views of Commissioner Charlotte R. Lane Concerning Material Injury. She joins in parts I, II, III, IV, V, and VI.B.1.2.a-e. of these Views.

[2] Chairman Daniel R. Pearson determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of LWR pipe and tube from China, Korea, and Turkey, but that there is not a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of subject imports of LWR pipe and tube from Mexico. See Separate and Dissenting Views of Chairman Daniel R. Pearson. He joins in parts I, II, III, IV, and V of these Views.

[3] Commissioner Dean A. Pinkert has recused himself from these investigations to avoid any conflict of interest or appearance of a conflict.

[4] 19 U.S.C. § 1673b(a); 19 U.S.C. § 1671b(a); see, e.g., Co-Steel Raritan, Inc. v. United States, 357 F.3d 1294 (Fed. Cir. 2004); American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed. Cir. 1986); Aristech Chemical Corp. v. United States, 20 CIT 353, 354 (1996). No party argued that the establishment of an industry is materially retarded by reason of the allegedly unfairly traded imports.

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

[6] CR at I-9.

athletic equipment, lawn and garden equipment, store display shelves and racks, towel racks, and similar items.[7]

The petition in these investigations was filed on June 27, 2007. The petitioners are Allied Tube and Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, Ex-L-Tube[8], Hannibal Industries, Leavitt Tube, Maruichi American Corporation, Searing Industries, Southland Tube, Vest, Inc., Welded Tube, and Western Tube and Conduit ("Petitioners").[9] Representatives from Allied Tube, Leavitt Tube, and Searing Corp. appeared at the conference and Petitioners filed a postconference brief.

Mexican producers Hylsa S.A. de C.V., Maquilacero S.A. de C.V., Nacional de Acero S.A. de C.V., Perfiles y Herrajes LM S.A. de C.V., Productos Laminados de Monterrey S.A. de C.V. ("Prolamsa"), and Regiomontana de Perfiles y Tubos S.A. de C.V., and their affiliated importers, Prolamsa, Inc., and Ternium International USA Corp., ("Mexican Respondents") submitted a postconference brief. A representative from Prolamsa appeared at the conference. No producer or exporter of the subject merchandise from China, Korea, or Turkey appeared at the conference or submitted a postconference brief.[10]

B. Previous and Related Investigations [11]

LWR pipe and tube imports from a number of countries have been the subject of numerous countervailing duty and antidumping duty investigations since the mid-1980s.[12] The only antidumping

---

[7] CR at I-9.

[8] Ex-L-Tube is not a petitioner in the investigation regarding imports of LWR pipe and tube from Mexico.

[9] These producers account for approximately *** of reported U.S. production of light-walled rectangular pipe and tube ("LWR pipe and tube"). Confidential Staff Report ("CR") at Table III-1; Public Staff Report ("PR") at Table III-1. The Staff Report was revised in accordance with memorandum INV-EE-091 (Aug. 9, 2007).

[10] An entry of appearance was filed on behalf of Korean producers Miju Steel Mfg. Co., Ltd.; Histeel Co., Ltd.; Nexteel Co., Ltd.; Kukje Steel Co., Ltd.; Dong-A Steel Co., Ltd.; Jinbang Steel Corp., Ltd.; and Han Gyu Rae Steel Co., Ltd., but these companies did not appear at the conference or file a brief.

[11] Each antidumping or countervailing duty investigation is *sui generis*, presenting unique interactions of the economic variables the Commission considers, and therefore is not binding on the Commission in subsequent investigations, even when the same subject country and merchandise are at issue. E.g., Nucor Corp. v. United States, 414 F.3d 1331, 1340 (Fed. Cir. 2005); Ugine-Savoie Imphy v. United States, 248 F. Supp. 2d 1208, 1220 (Ct. Int'l Trade 2002). Findings made in investigations under other statutory provisions, such as those in the section 201 and section 421 investigations discussed in this section, provide even lesser guidance in subsequent antidumping or countervailing duty proceedings. Greenhouse Tomatoes from Canada, Inv. No. 731-TA-925 (Preliminary), USITC Pub. 3424 (May 2001) at n.13 ("See Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F. Supp. 2d 1353, 1379 (Ct. Int'l Trade 1999) ('As the ITC explained that the previous [ITC] publication was not for an antidumping investigation and the information and data gathered were not for the same time period as this investigation, the Court finds the ITC did not abuse its discretion in apparently not relying on its previous finding in this determination.'"); Live Cattle from Canada and Mexico, Inv. Nos. 701-TA-386 (Preliminary) and 731-TA-812-813 (Preliminary), USITC Pub. 3155 (Feb. 1999) at 5-6, n.20 ("determinations in Commission investigations of live cattle conducted under section 201 of the Trade Act of 1974 in 1977 . . . offer limited guidance in decisions under the antidumping/countervailing duty laws").

[12] Certain Pipe and Tube from Argentina, Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey, Inv. Nos. 701-TA-253 and 731-TA-132, 252, 271, 274, 409, 410, 532-534, and 536 (Second Review), USITC Pub. 3867 (July 2006); Light-Walled Rectangular Pipe and Tube from Mexico and Turkey, Inv. Nos. 731-TA-1054 and 1055 (Final) USITC Pub. 3728 (Oct. 2004) at 15; Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey, and Venezuela, Inv. Nos. 701-TA-253 (Review) and 731-TA-132, 252, 271, 273, 276, 277, 296, 409, 410, 532-534, 536, and 537 (Review) USITC Pub. 3316 (July 2000) at 13-14; Light-Walled
(continued...)

duty order currently in effect for LWR pipe and tube is on imports from Taiwan.[13] There are no outstanding countervailing duty orders on LWR pipe and tube in effect. The most recent antidumping investigations involving subject countries were initiated on October 6, 2003 and covered imports from Mexico and Turkey. After final affirmative LTFV determinations by the Department of Commerce ("Commerce"), the Commission determined that the domestic LWR pipe and tube industry was neither materially injured nor threatened with material injury by reason of imports of LWR pipe and tube from Mexico and Turkey.[14]

III. DOMESTIC LIKE PRODUCT

A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the subject merchandise, the Commission first defines the "domestic like product" and the "industry."[15] 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."[16] 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 . . . ."[17]

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.[18] No single factor is dispositive, and the Commission

---

[12] (...continued)
Rectangular Pipe and Tube from Mexico, Inv. No. 731-TA-730 (Preliminary) USITC Pub. 2892 (May 1995) at I-6-I-7; Certain Light-Walled Rectangular Pipes and Tubes from Argentina, Inv. No. 731-TA-409 (Final) USITC Pub. 2187 (May 1989) at 5, 15-16, 31, 37; Certain Light-Walled Rectangular Pipes and Tubes from Taiwan, Inv. No. 731-TA-410 (Final), USITC Pub. 2169 (Mar. 1989) at 3-6, 51 n.2, 59, 67 n.1; Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. No. 731-TA-349 (Final) USITC Pub. 1994 at 3-4 (July 1987); Certain Welded Carbon Steel Pipes and Tubes from the Philippines and Singapore, Inv. Nos. 731-TA-293, 294, and 296 (Final) USITC Pub. 1907 (Nov. 1986); Certain Welded Carbon Steel Pipes and Tubes from Taiwan, Inv. No. 731-TA-211 (Final) USITC Pub. 1799 (Jan. 1986); Certain Welded Carbon Steel Pipes and Tubes from Brazil and Spain, Inv. Nos. 731-TA-197 and 198 (Preliminary) USITC Pub. 1569 (Aug. 1984); Certain Welded Carbon Steel Pipes and Tubes from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-131,132, and 138 (Final) USITC Pub. 1519 (Apr. 1984). A summary of prior investigations regarding LWR pipe and tube appears in the CR/PR at Table I-1.

[13] 71 Fed. Reg. 42118 (July 25, 2006).

[14] 69 Fed. Reg. 53675, 53677 (Sept. 2, 2005); and Light-Walled Rectangular Pipe and Tube from Mexico and Turkey, Inv. Nos 731-TA-1054 and 1055 (Final) USITC Pub. 3728 at 1 (Oct. 2004).

[15] 19 U.S.C. § 1677(4)(A).

[16] 19 U.S.C. § 1677(4)(A).

[17] 19 U.S.C. § 1677(10).

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

may consider other factors it deems relevant based on the facts of a particular investigation.[19] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[20] Although the Commission must accept the determination of Commerce as to the scope of the imported merchandise allegedly sold at LTFV,[21] the Commission determines what domestic product is like the imported articles Commerce has identified.[22] The Commission must base its domestic like product determination on the record in these investigations. The Commission is not bound by prior determinations, even those pertaining to the same imported products, but may draw upon previous determinations in addressing pertinent like product issues.[23]

B. Product Description

Commerce's notice of initiation defines the imported merchandise within the scope of these investigations as follows –

> certain welded carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section (LWR), having a wall thickness of less than 4 mm.[24]

---

[18] (...continued)
States, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

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

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

[21] See, e.g., USEC, Inc. v. United States, Slip Op. 01-1421 (Fed. Cir. April 25, 2002) at 9 ("The ITC may not modify the class or kind of imported merchandise examined by Commerce."); Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), aff'd, 865 F.3d 240 (Fed. Cir.), cert. denied, 492 U.S. 919 (1989).

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

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

[24] 72 Fed. Reg. 40275 (July 24, 2007). Commerce' scope language defines "carbon-quality" in terms of the "small amounts" of alloying elements contained in the steel. Id.

C. Analysis[25]

Petitioners argue that the Commission should define a single domestic like product, coextensive with the scope of these investigations; namely, LWR pipe and tube. For purposes of these preliminary determinations, no party objects to this proposed domestic like product definition.[26] [27]

In the absence of any clear dividing lines among LWR pipe and tube, we find a single domestic like product coterminous with Commerce's scope.

LWR pipe and tube are used in a variety of applications, with its principal uses as railing for the construction industry, fencing, and window guards.[28] All LWR pipe and tube can be produced at the same facilities with the same workers. Although the same facilities can also be used to produce other types of pipe, LWR pipe and tube is commonly produced to ASTM A-500 or A-513 specifications, while other types of pipe are commonly used for different purposes and produced to different specifications.[29] There is limited interchangeability between LWR pipe and tube and other types of products due to design criteria for specific applications and price competitiveness.[30] Although some less expensive products, including steel angle, bar, and rod, can be substituted for LWR pipe and tube for some applications, their inferior strength-to-weight ratio serves to restrain their usage in numerous applications.[31] Additionally, circular light-walled pipe and tube could theoretically be substituted for LWR pipe and tube, but end user

---

[25] In previous antidumping duty investigations, the Commission has defined LWR pipe and tube as a single domestic like product, co-extensive with scopes that encompassed black and corrosion-resistant LWR pipe and tube. The scope language in these investigations is basically the same as in all the previous LWR pipe and tube investigations since 1982, with minor revisions. Tr. at 64-65 (Schagrin).

[26] In their Postconference Brief, under a heading "Issues for Consideration by the Commission in any final investigation," Mexican Respondents state that in any final investigation the Commission should "reexamine whether rectangular and round pipe and tube are separate like products." Mexican Respondents' Postconference Brief at 32. At the outset, it is not clear what Mexican Respondents are asking the Commission to "reexamine" as this issue has not been raised before in an investigation. Additionally, Mexican Respondents do not define "round pipe and tube." Moreover, because round pipe and tube is not included within the scope of these investigations, the Commission cannot define rectangular pipe and tube and round pipe and tube as two separate domestic like products. Substantively, the limited information on the record of these investigations appears to support the fact that rectangular and circular light-walled pipe and tube are produced with common production facilities, processes, and employees; however, there appears to be different physical characteristics, channels of distribution, and end uses. Beyond the obvious difference in physical characteristics, as one product is rectangular and the other is circular, LWR tubing is generally sold through distributors whereas most circular mechanical tubing is a tailored product sold directly to original equipment manufacturers that produce parts for the automotive industry. See generally CR at I-7-13, PR at I-6-10.

[27] Mexican Respondents also raise as an issue for consideration by the Commission in any final phase investigation the fact that there "appears to be some confusion as to what constitutes the like-product, in particular, whether so-called 'structural' tubing is part of the like product." Mexican Respondents' Postconference Brief at 31. Mexican Respondents submitted a list of firms that they allege produce the domestic like product, but were not included in the petition. While it is true that the petition in these proceedings did not identify the entire universe of LWR pipe and tube production in the United States, the firms it did identify are the primary producers of LWR pipe and tube. CR at III-9, PR at III-4, 7. After contacting several of the producers identified by Mexican Respondents, Commission Staff concluded that the current coverage of domestic producers is "high" based on questionnaire responses "from all the major producers" of LWR pipe and tube. CR at III-9, PR at III-4, 7. In any final phase investigations, the Commission will clarify reporting obligations as needed.

[28] CR at I-8 n. 17 and I-10, PR at I-7 n. 17 and I-8.

[29] CR at I-13, PR at I-10.

[30] CR at I-12, PR at I-9.

[31] CR at I-12, PR at I-9.

specifications and long-standing customer preferences limit the interchangeability of these products.[32] Channels of distribution for most LWR pipe and tube are the same, as the vast majority of U.S. producers' shipments is made through distributors, with the remainder sold directly to end users.[33] On the basis of the foregoing, we define the domestic like product in these investigations as LWR pipe and tube coterminous with Commerce's scope.

IV. DOMESTIC INDUSTRY

The domestic industry is defined as the "producers as a [w]hole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[34] In defining the domestic industry, the Commission's general practice has been to include in the industry all domestic production of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.[35] Based on our finding that the domestic like product is LWR pipe and tube, we find that the domestic industry consists of the domestic producers of LWR pipe and tube. The Commission obtained data from 22 domestic producers estimated to account for the vast majority of U.S. production of LWR pipe and tube.[36]

V. CONDITIONS OF COMPETITION AND THE BUSINESS CYCLE

Several conditions of competition are pertinent to our analysis in the preliminary phase of these investigations.

---

[32] CR at I-11, PR at I-9.

[33] CR at I-12-13, PR at I-9-10. In contrast, mechanical tubing is generally sold directly to end users.

[34] 19 U.S.C. § 1677(4)(A).

[35] 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).

[36] No party argues for exclusion of any related producers from the domestic industry under 19 U.S.C. §1677(4)(B). None of the domestic producers is related to an exporter or importer of the subject merchandise and none imported subject merchandise during the period examined. CR/PR at Table IV-1.

Although they apparently did not import subject merchandise directly, both *** and *** purchased subject merchandise during the period of investigation. CR/PR at Table III-7. The Commission has concluded that a domestic producer that does not itself import subject merchandise, or does not share a corporate affiliation with an importer, may nonetheless be deemed a related party if it controls large volumes of imports. The Commission has found such control to exist where the domestic producers were responsible for a predominant proportion of an importer's purchases and the importer's purchases were substantial. See, e.g., Certain Cut-to-Length Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia, Inv. Nos. 701-TA-387-392 and 731-TA-815-822 (Preliminary), USITC Pub. 3181 at 12 (April 1999); Certain Brake Drums and Rotors from China, Inv. No. 731-TA-744 (Final), USITC Pub. 3035 at 10 n.50 (April 1997).

From 2005 through interim 2007, domestic producer *** purchased *** short tons of ***-origin LWR pipe imported by ***. CR/PR at Table III-1. There is no evidence on the record indicating that *** is affiliated with *** in any way, or exerts direct or indirect control over ***. Moreover, it does not appear that *** purchased a predominant proportion of *** importations of the subject merchandise during this period. Accordingly, there is no basis for concluding that *** is a related party by reason of its purchases.

***, purchased *** short tons of ***-origin LWR pipe and tube in 2006. There is no indication that *** is responsible for a predominant portion of any importer's purchases, and its purchases do not constitute a large proportion of total imports from China. Consequently, we find no basis for concluding that *** became a related party producer by reason of its purchasing activities.

A. Demand Conditions

LWR pipe and tube is an intermediate product with many end-use applications, including fences, gates, hand rails, furniture, sports equipment, and automotive equipment. Overall demand for LWR pipe and tube is closely linked to demand for those end products. The parties agree that demand for LWR pipe and tube increased between 2004 and 2006, before declining in the first quarter of 2007.[37]

When measured by apparent U.S. consumption, U.S. LWR pipe and tube demand increased steadily throughout the period, from 945,340 short tons in 2004 to 1.07 million short tons in 2006, for an increase of 13.1 percent. Apparent U.S. consumption was 4.7 percent lower in interim 2007, at 241,268 short tons, than it was in interim 2006, at 253,094 short tons.[38]

B. Supply Conditions

The Commission received questionnaire responses from 22 U.S. producers, accounting for nearly all of U.S. production of LWR pipe and tube in 2006.[39] The record indicates that no one producer *** within the U.S. LWR pipe and tube industry, in terms of production.[40] The domestic industry's capacity exceeded apparent U.S. consumption throughout the period examined.[41] The domestic industry's production capacity and production remained relatively flat during the period, although production capacity was 8.2 percent higher in interim 2007 than in interim 2006, while production was 5.3 percent lower in interim 2007 than in interim 2006.[42]

---

[37] Tr. at 5-6 (Schagrin); Mexican Respondents' Postconference Brief at 6-8.

[38] CR/PR at Table IV-8.

[39] CR at III-2, III-7-8, PR at III-2, 4, 7. Mexican Respondents argue that the data show a growing trend of captive production within the domestic industry. Mexican Respondents' Postconference Brief at 12. Mexican Respondents argue that mills that are producing their own LWR pipe and tube are clearly not going to purchase the product from domestic producers or others. They claim that the Commission did not receive any data on these producers, and in the absence of this information, the Commission should not find that the industry is materially injured or threatened with material injury. Our investigations have not demonstrated a significant gap in data obtained from domestic producers, including captive producers. In any final investigations, we will seek to reconfirm our coverage of U.S. producers and the domestic like product to ensure that we receive data from captive producers so that we may determine what affect, if any, these producers have on the domestic industry.

[40] CR/PR at Table III-1 (reflecting that the individual shares of production for the four largest U.S. producers of LWR pipe and tube range from *** to *** percent and for the four smallest from *** percent to *** percent during the period examined). The 22 domestic producer questionnaire responses in these investigations are greater in number than the questionnaire responses received by the Commission in the two most recent LWR pipe and tube investigations. Certain Pipe and Tube from Argentina, Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey, Inv. Nos. 701-TA-253 and 731-TA-132, 252, 271, 274, 409, 410, 532-534, and 536 (Second Review), USITC Pub. 3867 (July 2006) at LWR-III-1 (14 domestic producers responding); Light-Walled Rectangular Pipe and Tube from Mexico and Turkey, Inv. Nos. 731-TA-1054 and 1055 (Final) USITC Pub. 3728 (Oct. 2004) at III-1 (18 domestic producers responding). Mexican Respondents argue in these investigations that the Petitioners "have either overlooked or ignored more than thirty producers of the domestic like product," indicating that Mexican respondents believe the U.S. LWR pipe and tube industry to be even more fragmented than our data would suggest. Mexican Respondents' Postconference Brief at 13.

[41] CR/PR at C-1.

[42] The industry's capacity remained flat at approximately 1.16 million short tons in 2004 to 2006, and was 318,012 short tons in interim 2007 as compared with 292,117 short tons in interim 2006. Domestic production decreased slightly from 675,178 in 2004 to 672,018 in 2006, and was 167,537 in interim 2007 as compared with 176,915 in interim 2006. CR/PR at Table III-3.

Domestic producers' share of the U.S. market, by quantity, declined steadily during the period, from 70.7 percent in 2004 to 62.2 percent in 2006, a decline of 8.5 percentage points.[43] Subject imports' share of the U.S. market increased steadily during the period, from 19.1 percent in 2004 to 29.5 percent in 2006, a 10.4 percentage point increase.[44] The U.S. market share held by nonsubject imports, an overwhelming majority imported from Canada, declined during the period examined, from 10.2 percent in 2004 to 8.3 percent in 2006, a 1.9 percentage point decrease.[45]

C. Interchangeability and Other Conditions

The parties generally agree that domestically produced and imported LWR pipe and tube are considered interchangeable, commodity-like products.[46] LWR pipe and tube is manufactured to ASTM specifications (such as A-513 or A-500). All U.S. producers and a large majority of importers reported that the domestic like product and the subject imports are always or frequently interchangeable.[47] Moreover, the vast majority of U.S. producers and importers reported that product differences other than price were either sometimes or never significant between U.S.-produced LWR pipe and tube and subject imports.[48]

VI. REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF SUBJECT IMPORTS[49]

A. General Legal Standards

Section 771(7)(F) of the Act directs the Commission to determine whether the U.S. industry is threatened with material injury by reason of the subject imports by analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[50] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.[51] In making our

---

[43] CR/PR at Table IV-8. Domestic producers' share of the U.S. market was 66.7 percent in interim 2007 as compared with 70.7 percent in interim 2006.

[44] CR/PR at Table IV-8. Subject imports' share of the U.S. market was 27.3 percent in interim 2007 as compared with 20.5 percent in interim 2006.

[45] CR/PR at Table IV-8. Nonsubject imports' share of the U.S. market was 6.0 percent in interim 2007 as compared with 8.8 percent in interim 2006.

[46] CR at I-11, PR at I-9.

[47] CR/PR at Table II-1.

[48] CR at II-2, PR at II-2.

[49] No party argues that negligibility is an issue in these investigations. Subject imports from each of the subject countries were above three percent of total imports for the most recent 12-month period preceding the filing of the petition, June 2006 to May 2007. Specifically, subject imports from China accounted for 26.6 percent, subject imports from Korea accounted for 5.5 percent, subject imports from Mexico accounted for 36.9 percent, and subject imports from Turkey accounted for 12.7 percent of total imports of the merchandise in that period. Consequently, we find that the subject imports are not negligible. CR at IV-14, PR at IV-9-10.

[50] 19 U.S.C. § 1677(7)(F)(ii).

[51] 19 U.S.C. § 1677(7)(F)(ii).

determination, we consider all statutory threat factors that are relevant to these investigations.[52] Based on our evaluation of the record compiled in this preliminary phase of these investigations, we have determined that there is a reasonable indication that the domestic LWR pipe and tube industry is threatened with material injury by reason of subject imports from China, Korea, Mexico, and Turkey.

B. Cumulation

1. In General

For purposes of evaluating the volume and price effects for a present material injury determination, Section 771(7)(G)(I) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the United States market.[53] In assessing whether subject imports compete with each other and with the domestic like product,[54] the Commission has generally considered four factors, including:

(1) the degree of fungibility between the subject imports from different countries and between imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;

(2) the presence of sales or offers to sell in the same geographical markets of subject imports from different countries and the domestic like product;

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

---

[52] 19 U.S.C. § 1677(7)(F)(i). Statutory threat factor (VII) is inapplicable, as no imports of agricultural products are involved. Id.

We observe that in its notice of initiation, Commerce estimated the alleged dumping margin for subject imports ranged from 6.3 percent to 40.52 percent for China, 11.74 percent to 30.66 percent for Korea, 11.5 percent for Mexico, and 15.28 percent to 41.71 percent for Turkey. *Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People's Republic of China*, 72 Fed. Reg. 40274 (July 24, 2007).

Moreover, in its notice of initiation, Commerce initiated investigations into 27 potentially countervailable subsidy programs in China, including two related to preferential lending, ten related to preferential income tax treatment, three related to provincial subsidies, four related to tariff treatment, two related to grants, four related to allegedly subsidized provision of goods and services, and two related to export restraint programs. *Notice of Initiation of Countervailing Duty Investigation: Light-Walled Rectangular Pipe and Tube from the People's Republic of China*, 72 Fed. Reg. 402281 (July 24, 2007). Initiation of an investigation into loans made to uncreditworthy companies was postponed until such time that specific companies for investigation have been identified.

[53] 19 U.S.C. § 1677(7)(G)(I). There are four exceptions to the cumulation provision, none of which applies to these investigations. See id. at 1677(7)(G)(ii).

[54] The Uruguay Round Agreements Act, Statement of Administrative Action ("SAA"), H.R. Doc. No. 103-316, 103rd Cong., 2d Sess. (1994) (at 848) expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." (citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade), aff'd 859 F.2d 915 (Fed. Cir. 1988)).

(4) whether the subject imports are simultaneously present in the market.[55]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.[56] Only a "reasonable overlap" of competition is required.[57]

For purposes of determining if a threat of material injury exists, cumulation is discretionary. Under section 771(7)(H) of the Act, the Commission may "to the extent practicable" cumulatively assess the volume and price effects of subject imports from all countries as to which petitions were filed on the same day if the requirements for cumulation for material injury analysis are satisfied.[58] In addition to considering the four cumulation factors described above, the Commission has considered other factors such as the similarity of the volume trends and pricing data of subject imports from the countries under investigation.[59]

Petitioners argue that the Commission should cumulate subject imports for purposes of its threat analysis.[60] Mexican Respondents contend that Mexico should not be cumulated for purposes of threat as the record indicates diverging trends in import volume and prices for imports from Mexico and imports from China, Korea, and Turkey.[61]

2. Analysis

In these investigations, the threshold criterion is satisfied because Petitioners filed a petition with respect to each of the subject countries on the same day, June 27, 2007. None of the cumulation exceptions applies.[62] Subject imports from China, Korea, Mexico, and Turkey are thus eligible for cumulation. We consequently examine whether there is a reasonable overlap of competition between subject imports from China, Korea, Mexico, and Turkey as well as between subject imports and the domestic like product.

The Commission generally has considered whether subject imports would be likely to compete with each other and with the domestic like product with reference to four factors: (1) fungibility; (2) sales or offers in the same geographic markets; (3) common or similar channels of distribution; and (4) simultaneous market presence.[63]

---

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

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

[57] See, e,g., Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required").

[58] 19 U.S.C. § 1677(7)(H).

[59] See Torrington Co. v. United States, 790 F. Supp. at 1172 (affirming Commission's determination not to cumulate for purposes of threat analysis when pricing and volume trends among subject countries were not uniform and import penetration was extremely low for most of the subject countries); Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741-42 (Ct. Int'l Trade 1989); Asociacion Colombiana de Exportadores de Flores v. United States, 704 F. Supp. 1068, 1072 (Ct. Int'l Trade 1988).

[60] Petitioners' Postconference Brief at 18.

[61] Mexican Respondents' Postconference Brief at 34-35.

[62] See 19 U.S.C. § 1677(7)(G)(ii).

[63] Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Intl. Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988); Mukand Ltd. v. United States, 937 F. Supp. 910, 915 (Ct. Int'l Trade

(continued...)

a. Fungibility

Subject imports from the four subject countries appear to be fungible with both the domestic like product and with each other. Both Petitioners and Mexican Respondents have described LWR pipe and tube as a commodity product.[64] The vast majority of U.S. producers and importers found domestically produced LWR pipe and tube always or frequently interchangeable with LWR pipe and tube from China, Korea, Mexico, and Turkey.[65] Additionally, a vast majority of market participants who compared subject imports from different sources also found them to be always or frequently interchangeable.[66]

b. Same Geographical Markets

There was significant geographical overlap among the subject merchandise from each subject country and the domestic like product during the period of investigation. Five of 21 U.S. producers reported selling LWR pipe and tube to all geographic regions of the United States, while the remaining 16 producers sell LWR pipe and tube to more than one specific geographic area.[67] For example, eight U.S. producers sell in the Central Southwest, eight sell in the Midwest, six sell in the Southeast and the Pacific Coast, five sell in the Mountain Region, and two sell in the Northeast.[68] Shipments of subject imports from China and Korea showed the highest concentration in the West, but were also imported through the Gulf Coast and other districts.[69] Shipments from Turkey showed the highest concentration in the Gulf Coast, but were also imported in other districts.[70] Shipments from Mexico were imported almost exclusively through Laredo, Texas, 99.0 percent in 2006. Mexican Respondents testified that although Mexican imports were concentrated in the "central" region of the United States, "that is not to say that Mexican exports don't make their way through to other parts of the United States," and that Mexican producers "clearly sell in the Southeast" and "there has been, at times, sales west in California and other regions as well."[71]

The record demonstrates that subject imports from China, Korea, Mexico, and Turkey and the domestic like product were each marketed and sold in common geographic regions. In any final phase investigations, the Commission may consider whether to gather data from U.S. producers regarding their shipments by region.

---

[63] (...continued)
1996). While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the imports compete with each other and with the domestic like product. Only a "reasonable overlap" of competition is required. See Goss Graphic at 1087 ("cumulation does not require two products to be highly fungible"), aff'd, 216 F.3d 1357 (Fed. Cir. 2000);

[64] Petitioners' Postconference Brief at 4; Tr. at 138 (Diederichs).

[65] CR/PR at Table II-1.

[66] CR/PR at Table II-1.

[67] CR/PR at II-1.

[68] CR/PR at II-1.

[69] CR/PR at Table IV-6.

[70] CR/PR at Table II-1.

[71] Tr. at 129 (Baisburd). Domestic producer Leavitt Tube testified that its Jackson, Mississippi plant has been "devastated by imports from all four of these countries {which} are entering the Gulf Coast and Texas markets." Tr. 25 (Klima).

c. Channels of Distribution

Domestic producer and importer shipments of LWR pipe and tube within the United States were both more likely to go to distributors than to end users during the period of investigation. U.S. producers sold 76.3 percent of their U.S. shipments to distributors during the period of investigation, and importers sold 83.9 percent of their U.S. shipments to distributors.[72] The record therefore demonstrates a substantial overlap in the channels of distribution through which subject imports and the domestic like product are distributed in the United States.

d. Simultaneous Presence

Imports from each of the subject countries have been present in the U.S. market throughout the period of investigation. Specifically, subject imports from China, Korea, and Mexico were recorded in every month of the period of investigation.[73] Subject imports from Turkey were recorded in 35 of the 39 months.[74] Thus, this factor supports cumulating subject imports.

e. Conclusion on Reasonable Overlap of Competition

We find that there is a reasonable overlap of competition among subject imports and between the subject imports and the domestic like product. The record evidence indicates that subject imports and the domestic like product are generally fungible and are sold through similar channels of distribution. The record also shows that imports from each of the subject countries were simultaneously present in the U.S. market during the POI and that both the domestic like product and the subject imports from all countries were sold in the same geographic markets.

f. Discretionary Factors

We find that imports from the subject countries exhibited similar volume and price trends during the period for which data were collected. During the period of investigation, the volume of subject imports from each of the four countries increased.[75] From 2004 to 2006, imports from Mexico and Korea increased by 9.5 percent and 13.8 percent, respectively, while imports from China and Turkey increased by 839.8 percent and 382.3 percent, respectively, although starting from comparatively smaller import volume levels. Additionally, pricing data indicated similar margins of underselling among the four subject countries.[76] The average margin of underselling during the period for imports from China was 14.9 percent, 15.8 percent for imports from Korea, 18.6 percent for imports from Mexico, and 30.2 percent for imports from Turkey.[77] Based on an examination of all of the factors discussed above, we

---

[72] CR at I-12-13, PR at I-9-10.

[73] CR/PR at Table IV-7.

[74] CR/PR at Table IV-7.

[75] CR/PR at Table IV-3.

[76] CR/PR at Table V-4. Mexican Respondents argue that there are significant differences between Mexico and the other subject countries regarding the yearly AUVs for each country. We rely principally on the specific pricing data gathered in these investigations, rather than the AUV data, due to the potential differences among LWR pipe and tube products. The Federal Circuit has criticized the use of AUV data as a basis for price trends when there are issues of product mix and where the values may thus reflect different merchandise rather than differences in price. Allegheny Ludlum Corp. v. United States, 287 F.3d 1365, 1373-74 (Fed. Cir. 2002).

[77] CR/PR at Table V-4. Prices of imports from each of the subject countries generally followed similar trends over the period examined.

exercise our discretion to assess cumulatively the volume and price effects of the subject imports from China, Korea, Mexico, and Turkey for purposes of these preliminary determinations.[78]

C. Analysis of Statutory Threat Factors [79] [80]

The volume and market penetration of the subject imports increased during the POI, indicating the likelihood of substantially increased imports in the imminent future. The quantity of subject imports increased overall by 74.5 percent from 2004 to 2006 and by 26.9 percent between interim periods.[81] Subject imports' U.S. market share, by quantity, increased by 10.4 percentage points, from 19.1 percent to 29.5 percent between 2004 and 2006, and by 6.8 percentage points from interim 2006 to interim 2007.[82] While domestic consumption of LWR pipe and tube increased by 13.1 percent from 2004 to 2006, subject imports captured most of the increased demand at the expense of the domestic industry.[83]

Data on subject country capacity and production also indicate the likelihood of substantially increased imports in the imminent future. We note that the Commission did not receive a completed

---

[78] In any final phase investigations, Commissioner Okun intends to examine whether Mexico's role as a consistent and significant supplier of LWR to the U.S. market indicates that imports from Mexico are likely to compete under different conditions of competition than imports from the other subject countries. See CR/PR at Table IV-3, Light-Walled Rectangular Pipe and Tube from Mexico and Turkey, Inv. Nos. 731-TA-1054 and 1055 (Final), USITC Pub. 3728 (Oct. 2004) at Table IV-2.

[79] There is limited information on the record regarding the role of nonsubject imports of LWR pipe and tube in the U.S. market. See, e.g., CR at VII-17-19, PR at VII-8-11. In any final phase investigations, we will seek additional information on the role of nonsubject imports of LWR pipe and tube in the U.S. market. We invite parties to comment in any final phase investigations on whether the decision by the U.S. Court of Appeals for the Federal Circuit, Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006), is applicable to the facts of these investigations. The Commission also invites parties to comment on what additional information the Commission should collect to address the issues raised by the Court and how that information should be collected, and to identify which of the various nonsubject sources should be the focus of additional information gathering by the Commission in any final phase investigations.

[80] Commissioner Okun does not join the preceding footnote. The U.S. Court of Appeals for the Federal Circuit did not address the application of its mandate in Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006) to preliminary investigations. In that case the Court indicated that, in cases involving commodity products in which imports from non-subject countries are price-competitive and are a significant factor in the U.S. market, in order to establish a causal link between subject imports and material injury the Commission must evaluate whether the non-subject imports would replace subject imports and thereby eliminate the benefit to the domestic industry of an antidumping or countervailing duty order.

The legal standard for preliminary antidumping and countervailing duty determinations requires the Commission to determine, based upon the information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of the allegedly unfairly traded imports. 19 U.S.C. §§ 1671b(a), 1673b(a) (2000). Thus, Commissioner Okun concludes that she must conduct a Bratsk analysis as she would any other type of causation analysis in a preliminary investigation. Commissioner Okun finds that the record in the preliminary phase of these investigations is insufficient to determine if Bratsk is triggered. See Separate and Additional Views of Commissioner Deanna Tanner Okun Concerning Bratsk Aluminum v. United States.

[81] CR/PR at Table C-1. Subject imports increased from 180,719 short tons in 2004 to 250,312 short tons in 2005 to 315,302 in 2006, and were 65,937 short tons in interim 2007 compared with 51,959 short tons in interim 2006. CR/PR at Table IV-3.

[82] CR/PR at Table IV-8.

[83] CR/PR at Table C-1.

questionnaire response from any producer of LWR pipe and tube in China.[84] Based on the large increase in imports from China during the period, 839.8 percent from 2004 to 2006, and 232.3 percent from interim 2006 to interim 2007, it is apparent that the Chinese LWR pipe and tube industry has the ability and incentive to ship substantially increased volumes of LWR pipe and tube to the United States. For purposes of the preliminary phase of these investigations, we find that such an increase is likely to occur in the imminent future.

With respect to the other three subject countries, the foreign producer data that the Commission obtained from questionnaire responses, although somewhat limited in coverage, show that cumulated subject countries' LWR pipe and tube industries registered significant increases in capacity and production during the POI, with further increases projected for full-year 2007 and 2008.[85] In 2006, the cumulated unused capacity of the subject countries was equal to approximately 65 percent of U.S. apparent consumption, and that percentage is projected to increase based on full-year 2007 and 2008 projections.[86]

The LWR pipe and tube industries in Korea, Mexico, and Turkey all exported at least 20 percent of their production during the period, and the U.S. market is a significant market for Korea and Mexico.[87]

---

[84] CR at VII-2, PR at VII-2.

[85] Combined production capacity for Korea, Mexico, and Turkey increased from 1.68 million short tons in 2004 to 1.77 million short tons in 2005 and to 2.19 million short tons in 2006, and was 581,238 short tons in interim 2007 compared with 557,329 in interim 2006. Production capacity is projected to increase to 2.32 million short tons in full-year 2007 and 2.35 million short tons in 2008. Production increased from 1.15 million short tons in 2004 to 1.33 million short tons in 2005, and to 1.51 million short tons in 2006, and was 406,353 short tons in interim 2007 compared with 375,088 in interim 2006. Production is projected to increase to 1.71 million short tons in full-year 2007 and 1.76 million short tons in 2008. Foreign Producer Summation, Memorandum INV-EE-092.

[86] Producers in all subject countries could increase their production of LWR pipe and tube even further through product shifting, *i.e.*, by decreasing other tubular production such as for circular mechanical tubing in favor of LWR pipe and tube. CR at VII-6, 8, 13, PR at VII-3-4. However, there appears to be enough unutilized capacity in each of the subject countries that could be used to greatly increase LWR pipe and tube production without expanding capacity or reducing circular and other tube production. Id.

[87] While the largest share of Korean producers' total shipments went to its home market, Korean producers' exports to the United States increased in each year of the period, and the United States was a substantial export market for the Korean industry by the end of the period. CR/PR at Table VII-1. The share of Korea's total shipments of LWR pipe and tube exported to the United States was 3.3 percent in 2004, 6.7 percent in 2005, 10.5 percent in 2006, 7.8 percent in interim 2006, and 3.8 percent in interim 2007. The share of Korea's total shipments that was exported to all countries was 21.7 percent in 2004, 20.6 percent in 2005, 30.5 percent in 2006, 22.7 percent in interim 2006, and 20.5 percent in interim 2007. CR/PR at Table VII-1.

Like Korea, the largest share of Mexican producers' total shipments went to its home market; however, the vast majority of the Mexican producers' exports, over 20 percent of total shipments throughout the period, were shipped to the United States. CR/PR at Table VII-3. The share of Mexico's total shipments of LWR pipe and tube exported to the United States was 23.9 percent in 2004, 26.3 percent in 2005, 21.2 percent in 2006, 17.3 percent in interim 2006, and 16.8 percent in interim 2007. The share of Mexico's total shipments that was exported to all countries was 24.2 percent in 2004, 26.4 percent in 2005, 21.4 percent in 2006, 17.5 percent in interim 2006, and 16.9 percent in interim 2007. CR/PR at Table VII-3.

The largest percentage of Turkish producers' LWR pipe and tube shipments went to the home market. While Turkish producers exported over 27 percent of their total shipments during the period, exports to the United States rose to a period high of 2.9 percent in 2006. CR/PR at Table VII-5. The share of Turkey's total shipments of LWR pipe and tube exported to the United States was 0.7 percent in 2004, 1.5 percent in 2005, 2.9 percent in 2006, 2.1 percent in interim 2006, and 0.6 percent in interim 2007. The share of Turkey's total shipments that was exported to all countries was 36.7 percent in 2004, 27.9 percent in 2005, 32.6 percent in 2006, 33.8 percent in interim 2006, and 28.4 percent in interim 2007. CR/PR at Table VII-5.

Based on official Commerce import statistics, we note that U.S. imports of LWR pipe and tube from each

(continued...)

The record also shows that both importers' and foreign producers' inventories of subject merchandise declined from 2004 to 2005, increased in 2006, and were higher in interim 2007 than in interim 2006, albeit to levels that were still somewhat modest compared to apparent U.S. consumption. Thus, inventory levels are another indication that subject import shipments in the United States will likely be even more substantial in the imminent future.[88]

The Commission considered pricing developments during the period examined and likely developments in the imminent future. The record in these preliminary investigations indicates that price is an important factor in the sale of LWR pipe and tube.[89] The Commission collected pricing data on two pricing products.[90] There was consistent underselling of the domestic products by subject imports throughout the period examined, by margins averaging between 10 and 20 percent.[91] By pervasively underselling the domestic like product, subject imports gained market share at the expense of the domestic industry. We find it likely that the subject imports will enter the U.S. market at prices that are likely to increase demand for further imports, causing the domestic industry to lose sales and market share at an even greater rate than during the period examined.[92]

Domestic prices fluctuated from 2004 to 2006.[93] In the first quarter of 2007, domestic prices declined noticeably. For products 1 and 2, domestic prices declined by approximately 4.9 percent and 2.8 percent, respectively, from fourth quarter 2006 to first quarter 2007.[94] The recent declines in prices indicate that the increasing volumes of subject imports may have begun to have significant price-depressing effects on domestic producer prices, although reduced apparent U.S. consumption in the first quarter of 2007 as compared to the first quarter of 2006 may help explain this decline as well.

We find that subject imports will likely suppress domestic prices. The industry's cost of goods sold as a ratio of net sales ("COGS/sales") increased from 76.8 percent in 2004 to 83.2 percent in 2005, before declining to 80.8 percent in 2006.[95] In interim 2007, when domestic prices fell, COGS/sales was at a period high of 86.6 percent as compared to 81.1 percent in interim 2006. The average unit value of

---

[87] (...continued)
of these countries are greater than the reported amounts of exports.

[88] U.S. importers' inventories of subject imports decreased from 4,441 short tons in 2004 to 2,774 short tons in 2005, before increasing to 6,896 short tons in 2006. CR/PR at Table VII-7. Between the interim periods, inventories rose from 1,758 short tons in interim 2006 to 4,557 short tons in interim 2007. CR/PR at Table VII-7. End-of-period inventories for foreign subject producers decreased from 96,024 short tons in 2004 to 94,090 short tons in 2005, but increased to 108,262 short tons in 2006, and were 112,040 short tons in interim 2007 compared with 94,995 short tons in interim 2006. Foreign Producer Summation, Memorandum INV-EE-092.

[89] CR/PR at Table II-2 (nearly all U.S. producers and the majority of U.S. importers reported that differences other than price between LWR pipe and tube produced in the United States and in other countries were only sometimes or never important in their firm's sales of LWR pipe and tube).

[90] By quantity, pricing data reported by responding firms accounted for 8.0 percent of reported U.S. producers' LWR pipe and tube shipments and 38.7 percent of Chinese shipments, 15.2 percent of Korean shipments, 5.1 percent of Mexican shipments, and 12.9 percent of Turkish shipments during the period of investigation. CR at V-6, PR at V-6. In any final phase investigations, we invite the parties to provide additional pricing products.

[91] Subject imports undersold the domestic like product in 96 of 99 quarterly price comparisons, with margins of underselling ranging from 7.4 percent to 39.2 percent. CR/PR at Table V-4.

[92] The Commission has confirmed a number of lost sales and lost revenues amounting to $***. CR/PR at Table V-6. Commission Staff contacted 30 purchasers, representing the largest value of lost sales and lost revenues. Fourteen purchasers did not respond. For the lost sales, five purchasers reported that they disagreed with the allegations, and three reported that they agreed, while for lost revenues, three purchasers disagreed and three purchasers agreed. CR at V-15, PR at V-12.

[93] CR/PR at Figure V-3.

[94] CR/PR at Table V-2.

[95] CR/PR at Table C-1.

COGS in interim 2007 was $773, its highest level of the period examined, as compared to $737 in interim 2006.[96] We conclude that the domestic industry will be unlikely to raise its prices sufficiently to cover growing costs, and that it will be unable to do so due in significant part to increased volumes of lower-priced subject imports that are interchangeable with the domestic product.

Domestic industry performance indicators moved in divergent directions during the period examined. While many output-related indicators remained steady, others declined. Notwithstanding rising apparent U.S. consumption and excess capacity,[97] the domestic industry's production and U.S. shipments remained relatively flat from 2004-2006.[98] In interim 2007, when apparent U.S. consumption declined, the domestic industry's production declined by 5.3 percent, and its U.S. shipments also declined by 10.1 percent as compared to interim 2006.[99] U.S. producers lost market share as subject imports increased.[100] As discussed above, the ratio of COGS to sales increased to its highest levels in interim 2007.[101] Employment declined throughout the period, while hourly wages increased as did productivity until interim 2007.[102] Capital expenditures more than doubled from 2004-2006, and were higher in interim 2007 as compared to interim 2006.[103]

Several U.S. producers indicated that the subject imports had actual and potential negative effects on their companies' development and production efforts. For example, ***. ***. Several producers reported eroding profit margins and revenue losses due to subject imports, as well as the cancellation,

---

[96] CR/PR at Table C-1.

[97] U.S. capacity slightly increased from 1.157 million short tons in 2004 to 1.160 million short tons in 2006. Capacity was 316,012 short tons in interim 2007, 8.2 percent higher compared with 292,117 short tons in interim 2006. CR/PR at Tables III-3 and C-1. The domestic industry's capacity utilization showed little change during the period examined until the interim period. Capacity utilization was between 57 percent and 58 percent from 2004 to 2006, and was 53.0 percent in interim 2007 as compared to 60.1 percent in interim 2007. CR/PR at Table III-3.

[98] U.S. production declined by 0.5 percent from 2004-2006, from 675,178 short tons in 2004 to 660,754 short tons in 2005 before increasing slightly to 672,016 short tons in 2006. CR/PR at Tables III-3 and C-1. U.S. shipments declined by 0.5 percent from 2004-2006, from 668,232 short tons in 2004 to 660,272 short tons in 2005 before increasing slightly to 664,849 short tons in 2006. CR/PR at Tables III-3 and C-1.

[99] U.S. production was 167,537 short tons in interim 2007 as compared to 176,915 short tons in interim 2006. CR/PR at Tables III-3 and C-1. U.S. shipments were 160,824 short tons in interim 2007 as compared to 178,855 short tons in interim 2006. CR/PR at Tables III-5 and C-1.

[100] CR/PR at Table C-1.

[101] Raw material costs, primarily the cost of hot-rolled steel coils, increased from $539 per short ton in 2004 to $610 per short ton in 2005 before declining to $598 per short ton in 2006. Raw material costs were $608 per short ton in interim 2007 as compared to $580 per short ton in interim 2006. CR/PR at Table VI-4.

[102] Employment declined from 676 workers in 2004 to 662 workers in 2005, and to 651 workers in 2006. Employment was lower in interim 2007, at 627 workers, than in interim 2006, when it was 630 workers. CR/PR at Table C-1. Hourly wages increased from $17.51 in 2004 to $17.82 in 2005 and then to $18.75 in 2006. Hourly wages were also higher in interim 2007 at $17.85 than in interim 2006 when they were $17.61. CR/PR at Table C-1. Productivity increased from 397.2 tons per thousand hours in 2004 to 402.0 tons per thousand hours in 2005 and then to 418.0 tons per thousand hours in 2006. However, in interim 2007 productivity was 406.1 tons per thousand hours as compared to 420.7 tons per thousand hours in interim 2006. CR/PR at Table C-1.

[103] Capital expenditures increased from $9.8 million in 2004 to $10.9 million in 2005 and then to $24.0 million in 2006. Capital expenditures were $10.7 million in interim 2007 as compared to $3.1 million in interim 2006. CR/PR at C-1.

postponement or rejection of expansion projects, denial or rejection of investment proposals, and the reduction in the size of capital investments.[104]

Notwithstanding the recent declines in these domestic industry performance indicators, we do not find the industry operated in a weakened state during 2004-2006. The domestic industry operated profitably throughout the period examined. The industry's operating income ratio began the period examined at a peak of 16.1 percent following a significant increase in demand for LWR pipe and tube and all steel products generally. With this increase in demand, the market was in tight supply in 2004 and allowed producers and importers to push through large price increases for LWR pipe and tube, which reached then-record high levels.[105] While operating margins declined from 2004 to 2006 as the market corrected for the tight supply in 2004, the industry's profitability improved from 2005 to 2006.[106] No more than two of 20 domestic producers reported operating losses from 2005 to 2006.[107] However, in interim 2007, the domestic industry's operating margins declined by 5.3 percentage points as compared to interim 2006 due to the negative effects of increased costs/expenses, primarily raw material costs,[108] combined with decreases in prices and sales volumes that could not be forestalled by the numerous producers in the domestic industry.[109] Thus, for the purposes of these preliminary determinations, we find a reasonable indication that the continued or increased presence of subject imports at low prices will likely result in material injury to the domestic industry unless antidumping duty and countervailing duty orders are issued.

CONCLUSION

For the foregoing reasons, we find that there is a reasonable indication that the domestic industry producing LWR pipe and tube is threatened with materially injury by reason of subject imports of LWR pipe and tube from China, Korea, Mexico and Turkey that are allegedly sold in the United States at less than fair value, and by reason of subject imports of LWR pipe and tube from China allegedly subsidized by the government of China.

---

[104] See CR/PR at Appendix D for a description of negative effects on development and production efforts of the domestic industry.

[105] See Light-Walled Rectangular Pipe and Tube from Mexico and Turkey, Inv. Nos. 731-TA-1054 and 1055 (Final), USITC Pub. 3728 (Oct. 2004) at 14, 20. These price increases were partly in response to rapidly increasing raw material prices at that time. Id.

[106] The domestic industry's operating margins declined from 16.1 percent in 2004 to 10.6 percent in 2005, before increasing to 12.2 percent in 2006. CR/PR at Table C-1.

[107] CR/PR at Table VI-1. The industry's 2006 capital expenditures were at their highest annual level during the period examined. The industry's 2006 research and development expenditures were at a period low, but steady as compared to the level in 2005. CR/PR at Table VI-6.

[108] Raw material costs, primarily the cost of hot-rolled steel coils, increased from $539 per short ton in 2004 to $610 per short ton in 2005 before declining to $598 per short ton in 2006. Raw material costs were $608 per short ton in interim 2007 as compared to $580 per short ton in interim 2006. CR/PR at Table VI-4.

[109] CR at VI-13, PR at VI-3, 5. The domestic industry's operating margins declined to 5.9 percent in interim 2007 compared to 11.2 percent in interim 2006. CR/PR at C-1.

SEPARATE AND ADDITIONAL VIEWS OF COMMISSIONER DEANNA TANNER OKUN CONCERNING *BRATSK ALUMINUM V. UNITED STATES*

I. Legal Issues Concerning *Bratsk Aluminum Smelter v. United States*

In the recent case of *Bratsk Aluminum Smelter et al. v. United States*, 444 F.3d 1369 (Fed. Cir. 2006) ("*Bratsk*"), the Federal Circuit reaffirmed that the requisite causal link to subject imports is not demonstrated if such imports contributed only "'minimally or tangentially to the material harm.'"[1] [2] Applying that standard to an investigation involving a commodity product, *i.e.*, silicon metal, and the significant presence of nonsubject imports, the Court held that the Commission had not sufficiently explained whether nonsubject imports simply would have replaced subject imports during the period of investigation had an antidumping order been in place and continued to cause injury to the domestic industry.[3]

As a threshold matter, it is not immediately clear how the Commission should interpret the *Bratsk* opinion in terms of its effect on our analysis of causation in Title VII investigations. I discern at least two possible interpretations that differ substantially. The first interpretation is that *Bratsk* mandates application of an additional test apparently not contemplated by the statute (the so-called "replacement/benefit test"). Under this interpretation, *Bratsk* appears to require that the Commission apply an extra-statutory causation test with respect to nonsubject imports and to determine that the domestic industry will benefit from the antidumping duty or countervailing duty order. While I respectfully disagree with the Court that such a causation analysis is legally required, I discuss *infra* my interpretation of the *Bratsk* standard and attempt to perform the analysis based on the record in these preliminary investigations.[4] The second interpretation is that *Bratsk* is a further development of the causation approach prescribed by *Gerald Metals*. Under this interpretation I am required to identify and assess the competitive effects of subject imports to ensure that they contribute more than "minimally or tangentially to the material harm" of the domestic industry. To the extent that we had the relevant information, the Commission evaluated this issue in our threat analysis. I will re-examine this in any final phase of these investigations once the Commission has collected further relevant information (*e.g.*, information about the market from purchasers).[5]

II. Application of *Bratsk* Replacement/Benefit Test

Having found that there is a reasonable basis to determine that an industry in the United States is threatened with material injury by reason of subject imports from China, Mexico, Korea, and Turkey, I

---

[1] 444 F.3d at 1373 (Fed. Cir. 2006), *quoting Gerald Metals, Inc. v. United States*, 132 F.3d 716, 722 (Fed. Cir. 1997).

[2] I did not participate in the underlying investigation nor the subsequent litigation.

[3] 444 F.3d at 1375-1376.

[4] Moreover, it is unclear whether the Court intended its approach to apply to analyses of threat of material injury, or only to analyses of present material injury. Given that one of the Court's formulations of the standard is framed in terms of likely future events, I have interpreted the Court's decision as applying both to the context of present injury and threat of injury.

[5] For a complete statement of Commissioner Okun's interpretation *Bratsk* in a preliminary investigation, *see* Separate and Additional Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Concerning *Bratsk Aluminum V. United States* in *Sodium Hexametaphosphate from China*, Inv. No. 731-TA-1110 (Preliminary), USITC Pub. 3912 (Apr. 2007) at 19-25.

now must assess whether the facts of this investigation trigger a *Bratsk* analysis under the "replacement/benefit test" interpretation of *Bratsk*. *Bratsk* requires a two-step analysis. First, I must determine whether *Bratsk* is triggered based on the facts of the investigation. Second, if it is triggered, then I must consider whether the non-subject imports would have replaced the subject imports and continue to cause injury to the domestic industry. Based on the record in these preliminary investigations, I conclude that *Bratsk* is not triggered.

The *Bratsk* Court states that "{t}he obligation under *Gerald Metals* is triggered whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market."[6] Thus, the *Bratsk* test purportedly is not required in every case, only in cases involving a "commodity product" and where "price competitive non-subject imports are a significant factor in the market."

Petitioners assert that LWR is a fungible commodity sold largely on the basis of price.[7] Petitioners also concede that the first *Bratsk* triggering factor is satisfied.[8] Indeed, questionnaire responses from both producers and importers indicate that, for the most part, the domestic like product, subject imports, and nonsubject imports are viewed as always or frequently interchangeable.[9] While recognizing that a level of interchangeability does not necessarily mean that a product is a commodity, for purposes of this analysis I find, based on the record available in these preliminary investigations, that the first *Bratsk* trigger is satisfied.

With respect to the second factor, whether nonsubject imports are price competitive, the Commission requested product-specific price data from nonsubject countries in its importers' questionnaires. The Commission received a limited amount of price data for nonsubject imports. These data show predominant underselling of the domestic like product by nonsubject imports.[10] The prices of nonsubject imports show mixed overselling/underselling compared with prices of subject imports.[11] The average unit values of all nonsubject imports were consistently above the average unit values of subject imports, but they were consistently below the average unit values of U.S. producers' U.S. shipments from 2004 to 2006.[12] I note that the average unit values for imports from Canada, the largest nonsubject producer of LWR pipe and tube, were significantly higher than average unit values for subject imports from China, Korea, Mexico, and Turkey.[13] On balance, for purpose of these preliminary determinations, it appears that nonsubject imports of LWR, viewed as a whole, are price-competitive with the domestic like product.

As to whether price-competitive nonsubject imports are a significant factor in the U.S. market, the record in the preliminary phase of these investigations indicates that nonsubject imports were present throughout the period examined.[14] Nonsubject imports accounted for 34.8 percent of total imports (on a

---

[6] *Bratsk*, 444 F.3d at 1375.

[7] Petitioners' Postconference Brief at 4, A-1; Hearing Transcript at 60 (Klima) ("They're pretty much commodity products, interchangeable. In the industry, just about everything is price related.").

[8] Petitioners' Postconference Brief at A-1.

[9] CR/PR at Table II-1.

[10] CR/PR at Tables V-1-V-2.

[11] CR/PR at Tables V-1-V-2.

[12] CR/PR at Table C-1.

[13] In 2006, the average unit value for imports from Canada was $922 per short ton and the average unit value for subject imports was $698 per short ton. CR/PR at Table IV-3.

[14] Nonsubject import volume was 96,388 short tons in 2004, 87,288 short tons in 2005, and 89,175 short tons in 2006. Nonsubject import volume was 22,280 short tons in interim 2006 and 14,506 short tons in interim 2007. CR/PR at Table IV-3.

quantity basis) in 2004, 25.9 percent in 2005, and 22.0 percent in 2006. Nonsubject imports accounted for 30.0 percent of total imports in interim 2006 and 18.0 percent in interim 2007.[15] The U.S. market share of nonsubject imports ranged from 10.2 percent in 2004 to 8.7 percent in 2005 and to 8.3 percent in 2006. The U.S. market share of nonsubject imports was 8.8 percent in interim 2006 and 6.0 percent in interim 2007.[16]

Subject imports accounted for 65.2 percent of total imports (on a quantity basis) in 2004, 74.1 percent in 2005, and 78.0 percent in 2006. Subject imports accounted for 70.0 percent of total imports in interim 2006 and 82.0 percent in interim 2007.[17] The U.S. market share of subject imports increased from 19.1 percent in 2004 to 25.1 percent in 2005 and then to 29.5 percent in 2006. The U.S. market share of subject imports was 20.5 percent in interim 2006 and 27.3 percent in interim 2007.[18] The volume of subject imports exceeded the volume of LWR imports from all nonsubject countries throughout the period examined.[19]

According to official import statistics, Canada is the largest supplier of nonsubject LWR to the United States. In 2006, Canada's share of U.S. nonsubject imports was approximately 80 percent.[20] Moreover, Canada appears to be a consistent supplier of LWR to the United States. While imports of LWR from Canada recently have declined with the increasing volumes of subject imports,[21] Canada has remained a more consistent supplier of LWR to the United States than other nonsubject countries.[22] In addition, based on the limited information compiled during the preliminary phase of these investigations, the largest Canadian producer of LWR is affiliated with U.S. producers of LWR.[23] These trends and this relationship suggest that nonsubject imports of LWR likely will not be a "significant factor" in the U.S. market.[24] In any final phase of these investigations, I will seek additional information about nonsubject imports and their supply relationships to re-examine this issue and complete my analysis under *Bratsk*.

---

[15] CR/PR at Table IV-3.

[16] CR/PR at Table C-1.

[17] CR/PR at Table IV-3.

[18] CR/PR at Table C-1.

[19] *See* CR/PR at Table IV-3. The largest supplier of nonsubject imports was Canada, which, in quantity terms, accounted for 28.0 percent of total imports in 2004, 22.6 percent in 2005 and 17.6 percent in 2006. Canada accounted for 25.6 percent of total imports in interim 2006 and 16.9 percent in interim 2007. CR/PR at Table IV-3.

[20] CR/PR at Table IV-3, CR at VII-16 - VII-17, PR at VII-8 - VII-9.

[21] Imports of LWR from Canada declined from 77,643 short tons in 2004 to 76,230 short tons in 2005 and to 71,142 short tons in 2006. Imports from Canada were 18,986 short tons in interim 2006 and 13,631 short tons in interim 2007. CR/PR at Table IV-3.

[22] Imports of LWR from nonsubject countries (excluding Canada) declined from 18,745 short tons in 2004 to 11,058 short tons in 2005 and to 18,033 short tons in 2006. Imports from nonsubject countries (excluding Canada) were 3,294 short tons in interim 2006 and 875 short tons in interim 2007. CR/PR at Table IV-3.

[23] CR/PR at Table VII-10.

[24] While some of these trends and a corporate relationship between U.S. producers and nonsubject producers were present in *Certain Lined Paper School Supplies from China, India, and Indonesia*, part of the domestic industry in those investigations had closed U.S. facilities and had begun to source its supply from its facilities in nonsubject countries. *See Certain Lined Paper School Supplies from China, India, and Indonesia*, Inv. Nos. 701-TA-442-443, 731-TA-1095-1097 (Final), USITC Pub. 3884 (Sept. 2006) at 69-70, 74 (finding that nonsubject imports were at significant levels and were a "significant factor" in the U.S. market and noting the role of nonsubject imports in the domestic industry's financial declines in 2004). There is no indication that this is likely to occur in the present investigations.

Because I find that nonsubject imports are not likely to be a significant factor in the U.S. market, I therefore am not required to address "whether non-subject imports would have replaced subject imports without any beneficial effect on domestic producers."

SEPARATE VIEWS OF COMMISSIONER CHARLOTTE R. LANE

Based on the record in the preliminary phase of these investigations, I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of light-walled rectangular pipe and tube ("LWR pipe and tube") from China, Korea, Mexico, and Turkey that are allegedly sold in the United States at less than fair value ("LTFV"), and by reason of imports of LWR pipe and tube from China allegedly subsidized by the government of China. I join in parts I, II, III, IV, V, VI.B.1., and 2. a-e of the Views of the Commission.

I. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS OF LIGHT WALLED RECTANGULAR PIPE AND TUBE [1]

A. General Legal Standards

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.[2] In making this determination, the Commission shall consider the volume of subject imports, the effect of subject imports on prices for the domestic like product, and the impact of the subject imports on domestic producers of the domestic like product, but only in the context of U.S. product operations.[3] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[4] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, the Commission considers all relevant economic factors that bear on the state of the industry in the United States.[5] 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."[6]

Based on an evaluation of the relevant statutory factors, I find there is a reasonable indication that the domestic industry producing LWR pipe and tube is materially injured by reason of subject imports from China, Korea, Mexico and Turkey.

---

[1] There is limited information on the record regarding the role of nonsubject imports of LWR pipe and tube in the U.S. market. See e.g., CR at VII-17-19, PR at VII-8-11. In any final phase investigations, I, along with my colleagues, will seek additional information on the role of nonsubject imports of LWR pipe and tube in the U.S. market. Parties are invited to comment in any final phase investigations on whether the decision by the U.S. Court of Appeals for the Federal Circuit, Bratsk Aluminum Smelter v. United States, 444 F.3d 1369 (Fed. Cir. 2006), is applicable to the facts of these investigations. The Commission also invites parties to comment on what additional information the Commission should collect to address the issues raised by the Court and how that information should be collected, and to identify which of the various nonsubject sources should be the focus of additional information gathering by the Commission in any final phase investigations.

[2] 19 U.S.C. §§ 1671b(a) and 1673b(a).

[3] 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).

[4] 19 U.S.C. § 1677(7)(A).

[5] 19 U.S.C. § 1677(7)(C)(iii).

[6] Id.

B. Volume of Subject Imports

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

Based on the record evidence, I find the volume of subject imports of LWR pipe and tube is significant and increased significantly over the period of investigation, both in absolute and relative terms. The volume of subject imports, measured by quantity, increased by 74.5 percent from 2004 to 2006, from 180,719 short tons in 2004 to 250,312 short tons in 2005 and 315,302 short tons in 2006, an overall increase of 134,583 short tons.[8] From 2004 to 2006, overall domestic consumption increased by 13.1 percent, or 123,986 short tons.[9] In interim 2007, subject imports continued to increase while domestic consumption decreased by 4.7 percent.[10] Thus, during the period of investigation increases in subject imports exceeded increases in domestic consumption both on an absolute and percentage basis. Further, subject import volumes continued to increase in interim 2007 and were 26.9 percent higher in interim 2007, at 65,937 short tons as compared to 51,959 short tons in interim 2006.[11]

During this same period of time, the market share of U.S. apparent consumption volume held by subject imports increased, from 19.1 percent in 2004 to 25.1 percent in 2005 and to 29.5 percent in 2006.[12] In interim 2007, subject import market share was 27.3 percent compared with 20.5 percent in interim 2006.[13]

For the foregoing reasons, I find that both the volume and increase in volume of subject imports to be significant.

C. Price Effects of Subject Imports

Section771(C)(ii) of the Act provides that, in evaluating the price effects of 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 in 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.

I find that subject imports significantly undersold the domestic like product, and both depressed and suppressed domestic prices to a significant degree.

Domestic prices, as reflected in the pricing data collected, exhibited a downward trend during the period of investigation. For product 1, average quarterly prices for U.S. producers fell in 2005, and then rose in 2006, before dropping significantly in interim 2007.[14] Product 2 data reveal a fairly steady downward trend for reported U.S. producers' prices.[15] Thus, while prices fluctuated during the period, there were overall price declines for these products, indicating price depression.

---

[7] 19 U.S.C. § 1677(7)(C)(i).

[8] CR/PR Table IV-3; Table C-1.

[9] Id.

[10] Id.

[11] CR/PR Table IV-8; Table C-1.

[12] Id.

[13] Id.

[14] CR/PR Table V-1.

[15] CR/PR Table V-2.

Furthermore I find there is strong evidence of a cost/price squeeze on the domestic industry, which indicates that needed domestic price increases were suppressed by lower-priced subject imports. Both the cost of goods sold and the unit value of sales for the domestic industry increased over the period of investigation; however, the unit value of sales did not keep pace with the cost of goods sold. The unit value of cost of goods sold increased by $69 between 2004 and 2006 while the unit value of sales increased by only $41.[16] Moreover, for the interim periods examined, the unit value of sales declined by $16 while the unit value of cost of goods sold increased by $36.[17] Cost of goods sold as a ratio to net sales increased between 2004 and 2005, before decreasing slightly in 2006.[18] Notwithstanding these fluctuations, I find the overall increase in this ratio between 2004 and 2006 to be significant. Moreover, in the most recent interim period, cost of goods sold as a ratio to net sales increased from 81.1 percent to 86.6 percent, as subject import volumes were higher than they had been in the corresponding period in 2006.[19] The reported average prices for the subject imports remained below the reported average prices for the domestic product for most of the products sold during the most recent period, and unit values of subject imports were significantly below the unit value of domestic shipments by U.S. producers.[20] The domestic industry's inability to increase its unit value of sales to cover the increased cost of goods sold from 2004 through 2006 and the drop in unit value of sales, even as cost of goods sold continued to increase in interim 2007, occurred concurrently with significant increases in the volume of these significantly lower priced subject imports.[21] This is a strong indication that subject imports restricted the U.S. producers' ability to raise prices to recover increased costs.

The Commission was able to confirm three out of six allegations of lost revenue by Petitioners, and of the 8 lost sales allegations on which the Commission received responses, three were confirmed and one was agreed to by the purchaser with regard to price but not quantity.[22] This evidence further supports my conclusion that subject imports have had a significant adverse impact on domestic prices.

In sum, the record indicates significant underselling by subject imports during the period of investigation, and it further indicates that subject imports have depressed and/or suppressed domestic prices to a significant degree. Accordingly, I find that subject imports have had significant adverse effects on domestic prices during the period of investigation.

D. Impact of Subject Imports

In examining the impact of the subject imports on the domestic industry, the Commission considers all relevant economic factors that bear on the state of the industry in the United States. 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."

---

[16] CR/PR Table C-1.

[17] Id.

[18] Id.

[19] Id.

[20] CR/PR Table V-1; Table C-1.

[21] CR/PR Table C-1.

[22] CR p. V-15, PR p. V-11.

Subject imports had a significant adverse impact on the domestic industry's performance during the period of investigation. As noted above, apparent U.S. consumption increased by 13.1 percent between 2004 and 2006, and declined only slightly, by 4.7 percent, in the interim 2007 relative to interim 2006.[23] Even though the domestic industry was profitable throughout the period of investigation, most indicators of its financial condition showed declines during this time. Additionally, the domestic industry finished with a greatly weakened performance in interim 2007 as compared to interim 2006.[24]

During the period of investigation, the domestic industry's output did not keep pace with the overall consumption increase in the U.S. market. Domestic output decreased 0.5 percent between 2004 and 2006, and was 5.3 percent lower in interim 2007 as compared to interim 2006.[25] Capacity utilization decreased modestly by 0.4 percentage points between 2004 and 2006 but this decline worsened as capacity utilization was 7.6 percentage points lower in interim 2007 relative to interim 2006.[26]

In addition to declines in overall output, U.S. producers' U.S. shipment volumes decreased slightly by 0.5 percent between 2004 and 2006.[27] Although the average unit value of shipments increased during the period of investigation, by 4.0 percent between 2004 and 2006, this increase in unit value of shipments was far outpaced by an increase in the unit value of cost of goods sold which increased by 10.0 percent between 2004 and 2006.[28] Moreover, the value of U.S. shipments decreased by 12.4 percent in interim 2007 as compared to interim 2006 as unit cost of goods sold increased by 5.0 percent.[29] Domestic inventory volume was generally stable, resulting in a *** decreasing ratio of inventories to total shipments throughout the period of investigation, but inventories increased as a ratio of total shipments in interim 2007 reaching *** percent.[30]

Employment indicators showed declines between 2004 and 2006, with the number of workers and hours worked decreasing. The number of workers decreased from 676 in 2004 to 651 in 2006, a decrease of 3.7 percent, and dropped further to 627 in interim 2007 as compared to 630 in interim 2006.[31] Similarly, hours worked dropped by 3.8 percent between 2004 and 2006 and showed a bigger decline than the decline in workers in interim 2007 as hours worked were 2.5 percent lower in interim 2007 as compared to interim 2006.[32] Productivity increased slightly throughout the period of investigation from 2004 through 2006, but declined in interim 2007.[33]

The industry's financial performance declined in 2005 as compared to 2004 although it rebounded partially in 2006 and remained profitable throughout the remainder of the period of investigation.[34] However, overall, the industry's profitability and employee levels declined from 2004 to 2006 and its performance in general declined even more dramatically in interim 2007.[35] Operating income decreased

---

[23] CR/PR Table C-1.

[24] Id.

[25] Id.

[26] Id.

[27] CR/PR Table III-3; III-5; Table C-1.

[28] CR/PR Table VI-4; Table C-1.

[29] CR/PR Table C-1.

[30] CR/PR Table III-7; Table C-1.

[31] CR/PR Table III-8; Table C-1.

[32] Id.

[33] CR/PR Table VI-1; Table C-1.

[34] Id.

[35] CR/PR Table VI-1; Table C-1.

between 2004 and 2005 from $93 million to $61 million, but increased somewhat to $71.6 million in 2006 which was still 23.3 percent below the operating income level in 2004.[36] Operating income on a per-unit basis followed the same trend, decreasing by 20.8 percent between 2004 and 2006.[37] Operating margins decreased from 16.1 percent in 2004 to 10.6 percent in 2005, before increasing to 12.2 percent in 2006.[38] This drop in the ratio of operating income to net sales from 2004 to 2006 represents a decline of 3.9 percentage points, or a 24.2 percent decrease.[39]

Operating income in interim 2007 was well below the amount in interim 2006, dropping to $7.9 million in interim 2007 as compared to $17.3 million in interim 2006.[40] This equals a decrease in operating income of 54.2 percent from interim 2006 to interim 2007.[41] Operating income on a per-unit basis dropped significantly in interim 2007 as compared to interim 2006, dropping from $102 to $53.[42] Operating margins decreased 5.3 percentage points in interim 2007 as compared to interim 2006, dropping from 11.2 percent to 5.9 percent.[43]

Out of twenty responding companies, operating losses during the period of investigation were reported by 1 company in 2004, 2 in 2005, 2 in 2006, and 4 in interim 2007.[44] The domestic industry's return on assets between 2004 and 2006 declined by 5.1 percentage points, or 19 percent, between 2004 and 2006.[45] Even in the face of declining profits, the domestic industry's capital expenditures increased between 2004 and 2006, and capital expenditures and research and development expenses were higher in interim 2007 as compared to interim 2006.[46] Thus, the domestic industry as a whole operated profitably throughout the period of investigation, but at a declining rate of profitability, including dramatic declines in interim 2007.

The domestic industry's declining operating results are attributable to its inability to increase its average sales values to match increases in production costs. As noted above, even though the domestic industry increased its average unit value of sales from 2004 to 2006, these increases did not keep pace with the increases in the average unit costs of goods sold. Moreover, while the increasing unit cost of goods sold continued into interim 2007, the unit value of sales actually declined.[47] This cost-price squeeze was occurring as domestic consumption remained relatively stable but the subject imports were increasing significantly in absolute quantities and in market share.

In light of my finding that subject imports have suppressed and/or depressed prices to a significant degree, and the correlation between increasing subject imports and deteriorating financial performance of the domestic industry, I find that subject imports have had a significant adverse impact on the domestic industry.

---

[36] Id.

[37] Id.

[38] Id.

[39] Id.

[40] Id.

[41] Id.

[42] Id.

[43] Id.

[44] CR/PR Table VI-1.

[45] CR/PR Table VI-8.

[46] CR/PR Table VI-6.

[47] CR/PR Table C-1.

Based on the foregoing, I find that there is a reasonable indication that the domestic industry producing LWR pipe and tube is materially injured by reason of subject imports of LWR pipe and tube from China, Korea, Mexico, and Turkey that allegedly are sold in the United States at less than fair value, and by reason of subject imports of LWR pipe and tube allegedly subsidized by the government of China.

DISSENTING VIEWS OF CHAIRMAN DANIEL R. PEARSON

Based on the record in these preliminary investigations, I find that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of light-walled rectangular ("LWR") pipe and tube from China that are allegedly subsidized and imports of LWR pipe and tube from China, Korea, and Turkey that are allegedly sold in the United States at less than fair value ("LTFV"). I find there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of LWR pipe and tube from Mexico that are allegedly sold at LTFV. I adopt as my own the discussion of domestic like product, domestic industry, related parties, and conditions of competition as laid out in sections I–V of the Views of the majority, but write separately on the issues of cumulation, material injury, threat of material injury, and the application of Bratsk.

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

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

II. CUMULATION

For purposes of evaluating the volume and price effects for a determination of material injury by reason of the subject imports, section 771(7)(G)(i) of the Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with domestic like products in the U.S. market.[3] In assessing whether subject imports compete with each other and with the domestic like product, the Commission has generally considered the following factors:

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

[1] 19 U.S.C. § 1673b(a); see also American Lamb Co. v. United States, 785 F.2d 994, 1001-04 (Fed Cir. 1986); Ranchers-Cattlemen Action Legal Foundation v. United States, 74 F.Supp.2d 1353, 1368-69 (CIT 1999); Aristech Chemical Corp. v. United States, 20 CIT 353, 354-55 (1996).

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

[3] 19 U.S.C. § 1677(7)(G)(i).

(4) whether the subject imports are simultaneously present in the market.[4]

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.[5] Only a "reasonable overlap" of competition is required.[6]

A. Fungibility

The majority of responding domestic producers reported that the domestic like product is always interchangeable with subject imports and with nonsubject imports; responding domestic producers also reported that subject imports are always interchangeable with other imports. Importers were more likely to report that imports were only "sometimes" interchangeable with the domestic like product, but a majority of all responding importers reported that the domestic like product is always interchangeable with subject imports and other imports, as well as reporting that subject imports are interchangeable with each other and with nonsubject imports.[7] Most domestic producers reported that non-price differences between the domestic like product and imports were only sometimes or never important; similarly, few responding importers found LWR pipe and tube from different sources to have significant non-price differences.[8] The record indicates that some differences may exist that limit the interchangeability of LWR pipe and tube from different sources, such as differences in inventory based on metric sizing, differences in surface quality, and delivery time.[9] Nonetheless, the record suggests a degree of interchangeability between the domestic like product, subject imports, and nonsubject imports.

B. Same geographical markets

Five of 21 domestic producers sell throughout the U.S. market; another 16 sell in multiple regions. There are a significant number selling product in the Midwest, Southeast, Central Southwest, and on the Pacific coast.[10] Subject imports from China and Korea were most likely to enter the U.S. market through the Los Angeles district. However, significant volumes of imports from each country entered the U.S. market through a Texas port, as did the majority of all subject import volume from both

---

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

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

[6] The SAA (at 848) expressly states that "the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition." SAA at 848 (citing Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898, 902 (Ct. Int'l Trade 1988)), aff'd 859 F.2d 915 (Fed. Cir. 1988). See Goss Graphic Sys., Inc. v. United States, 33 F. Supp. 2d 1082, 1087 (Ct. Int'l Trade 1998) ("cumulation does not require two products to be highly fungible"); Wieland Werke, AG, 718 F. Supp. at 52 ("Completely overlapping markets are not required.").

[7] CR/PR at Table II-1.

[8] CR/PR at Table II-2.

[9] CR at II-8, PR at II-5.

[10] CR at II-1, PR at II-1.

Mexico and Turkey.[11] A significant number of importers also reported selling on the Pacific Coast, the Southeast, Central Southwest, and the Midwest.[12]

C. Channels of distribution

U.S. producers sold 76.3 percent of their U.S. shipments to distributors. Importers sold 83.9 percent of their U.S. shipments to distributors as well.[13]

D. Simultaneous presence

The domestic like product was available in the U.S. market throughout the POI. Subject imports from China, Korea, and Mexico entered the U.S. market in every quarter of the POI; subject imports from Turkey entered the U.S. market in 35 of 39 months.[14]

E. Conclusion

The record indicates that both U.S.-produced LWR pipe and tube and subject imports from China, Korea, Mexico, and Turkey are sufficiently fungible to support a finding of a reasonable overlap of competition, are primarily sold to distributors, have geographic overlaps in sales, and have been simultaneously present in the U.S. market during the entire period of investigation. I consequently conclude that the subject imports from China, Korea, Mexico, and Turkey compete with each other and with the domestic like product, and I cumulatively assess the volume and effects of subject imports in making my determination as to whether there is a reasonable indication of material injury by reason of subject imports.

III. NO REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF THE SUBJECT IMPORTS[15]

In the preliminary phase of antidumping or countervailing duty investigations, the Commission determines whether there is a reasonable indication that an industry in the United States is materially injured by reason of the imports under investigation.[16] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[17] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or

---

[11] CR/PR at Table IV-6.

[12] CR at II-1, PR at II-1.

[13] CR at I-12-I-13, PR at I-9-I-10. The majority of subject imports from each of the subject countries was also sold to distributors. CR at I-13 n.35, PR at I-10, n.35.

[14] CR/PR at Table IV-7.

[15] I note that negligibility is not an issue in these investigations. Subject imports from China accounted for 26.6 percent of all LWR pipe and tube imports in the 12-month period ending in May 2007; subject imports from Korea were 5.5 percent; subject imports from Mexico were 36.9 percent; and subject imports from Turkey accounted for 12.7 percent. CR at IV-14, PR at IV-9.

[16] 19 U.S.C. §§ 1671b(a) and 1673b(a).

[17] 19 U.S.C. § 1677(7)(B)(i). The Commission "may consider such other economic factors as are relevant to the

(continued...)

unimportant."[18] In assessing whether there is a reasonable indication that the domestic industry is materially injured by reason of subject imports, all relevant economic factors that bear on the state of the industry in the United States are considered.[19] 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."[20]

For the reasons discussed below, I find that there is no reasonable indication that the domestic industry producing LWR pipe and tube is materially injured by reason of cumulated subject imports from China, Korea, Mexico, and Turkey.

A. Conditions of Competition and the Business Cycle

Several conditions of competition are pertinent to the analysis in the preliminary phase of these investigations.

1. Demand Conditions

LWR pipe and tube is an intermediate product with many end-use applications, including fences, gates, hand rails, furniture, sports equipment, and automotive equipment. Overall demand for LWR pipe and tube is derived from demand for those end products. The parties acknowledge that demand for LWR pipe and tube increased between 2004 and 2006, before declining in the first quarter of 2007.[21]

When measured by apparent U.S. consumption, U.S. LWR pipe and tube demand increased steadily throughout the period, from 945,340 short tons in 2004 to 1.07 million short tons in 2006, for a period increase of 13.1 percent. Apparent U.S. consumption was 4.7 percent lower in interim 2007, at 241,268 short tons, than it was in interim 2006, at 253,094 short tons.[22]

2. Supply Conditions

The Commission received questionnaire responses from 22 U.S. producers, accounting for nearly all of U.S. production of LWR pipe and tube in 2006.[23] The domestic industry's capacity exceeded

---

(...continued)
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).

[18] 19 U.S.C. § 1677(7)(A).

[19] 19 U.S.C. § 1677(7)(C)(iii).

[20] 19 U.S.C. § 1677(7)(C)(iii).

[21] Tr. at 5-6 (Schagrin); Mexican Respondents' Postconference Brief at 6-8.

[22] CR/PR at Table C-1.

[23] CR at III-2, III-7-8, PR III-2, III-4, III-7. Mexican Respondents argue that the data show a growing trend of captive production within the domestic industry. Mexican Respondents' Postconference Brief at 12. Mexican Respondents argue that mills that are producing their own LWR pipe and tube are clearly not going to purchase the product from domestic producers or others. They claim that the Commission did not receive any data on these producers, and in the absence of this information, the Commission should not find that the industry is materially injured or threatened with material injury. Our investigations have not demonstrated a significant gap in data obtained from domestic producers, including captive producers. In any final investigation, we will seek to reconfirm our coverage of U.S. producers and the domestic like product to ensure that we receive data from captive producers so that we may determine what effect, if any, these producers have on the domestic industry.

apparent U.S. consumption throughout the period examined.[24] The domestic industry's production capacity and production remained relatively flat during the period, although production capacity was 8.2 percent higher in interim 2007 than in interim 2006, while production was 5.3 percent lower in interim 2007 than in interim 2006.[25]

Domestic producers' share of the U.S. market declined steadily during the period from 70.7 percent in 2004 to 62.2 percent in 2006, a decline of 8.5 percentage points.[26] Subject imports' share of the U.S. market increased steadily during the period from 19.1 percent in 2004 to 29.5 percent in 2006, a 10.4 percentage point increase.[27] The U.S. market share held by nonsubject imports, an overwhelming majority imported from Canada, declined during the period examined from 10.2 percent in 2004 to 8.3 percent in 2006, a 1.9 percentage point decrease.[28]

3. Interchangeability and Other Conditions

The parties generally agree that domestically produced and imported LWR pipe and tube are considered interchangeable, commodity-like products.[29] LWR pipe and tube is manufactured to ASTM specifications (such as A-513 or A-500). Virtually all U.S. producers and a large majority of importers reported that the domestic like product and the subject imports are always or frequently interchangeable.[30] Moreover, the vast majority of U.S. producers and importers reported that product differences other than price were either sometimes or never significant between U.S. produced LWR pipe and tube and subject imports.[31]

B. Volume of Subject Imports

Section 771(7)(C)(i) of the Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[32]

The cumulated volume of subject imports increased by 74.5 percent between 2004 and 2006, rising from 180,719 short tons to 315,302 short tons. The increase was fairly steady: subject imports

---

[24] CR/PR at C-1.

[25] The industry's capacity remained flat at 1.16 million short tons in 2004 to 2006, and was 316,012 short tons in interim 2007 as compared with 292,117 short tons in interim 2006. Domestic production decreased slightly from 675,178 short tons in 2004 to 672,016 short tons in 2006, and was 167,537 short tons in interim 2007 as compared with 176,915 short tons in interim 2006. CR/PR at C-1.

[26] CR/PR at C-1. Domestic producers' share of the U.S. market was 66.7 percent in interim 2007 as compared with 70.7 percent in interim 2006.

[27] CR/PR at C-1. Subject imports' share of the U.S. market was 27.3 percent in interim 2007 as compared with 20.5 percent in interim 2006.

[28] CR/PR at C-1. Nonsubject imports' share of the U.S. market was 6.0 percent in interim 2007 as compared with 8.8 percent in interim 2006.

[29] CR at I-11, PR at I-9.

[30] CR/PR at Table II-1.

[31] CR/PR at Table II-2.

[32] 19 U.S.C. § 1677(7)(C)(i).

increased by 69,593 short tons in 2005 and by 64,990 short tons in 2006. Subject import volume in interim 2007 was 65,937 short tons, 26.9 percent higher than the interim 2006 volume.[33]

The increase in import volume occurred at a time when apparent U.S. domestic consumption was also increasing. Apparent U.S. consumption rose by 5.6 percent in 2005 and by 7.2 percent in 2006, for an overall increase between 2004 and 2006 of 13.1 percent. But increases in subject import volume outstripped increases in overall apparent U.S. consumption, and the share of apparent U.S. consumption accounted for by subject imports also increased, from 19.1 percent in 2004 to 29.5 percent in 2006.[34]

This increase in market share came largely at the expense of the domestic industry. Shipments of the domestic like product were relatively steady between 2004 and 2006, with shipments in 2006 a few thousand tons lower than in 2004. Given the increase in subject import volume, however, shipments of the domestic like product accounted for 62.2 percent of apparent U.S. consumption in 2006, down from a share of 70.7 percent in 2004. Both shipments and market share in interim 2007 were lower than in interim 2006.[35]

While the volume of subject imports was increasing, the volume of nonsubject imports was declining. Nonsubject import volume in 2006 was 89,175 short tons, down 7.5 percent from the 2004 level of 96,388 short tons. Nonsubject imports accounted for 8.3 percent of apparent U.S. consumption in 2006, down from 10.2 percent in 2004. The volume of nonsubject imports in interim 2007 was 14,506 short tons, nearly 35 percent lower than the volume of subject imports in interim 2006; in interim 2007 nonsubject imports accounted for only 6.0 percent of apparent U.S. consumption.

Thus, the record indicates that subject import volume increased at a rate faster than overall apparent domestic consumption. The market share of subject imports increased between 2004 and 2006, and that increase came mostly at the expense of the domestic industry. At a time when overall demand increased by 13.1 percent, shipments of the domestic like product were flat and imports of nonsubject LWR pipe and tube declined. The share of the market held by subject imports increased substantially between 2004 and 2006. For these reasons, I find for purposes of the preliminary phase of these investigations that both the volume and increase in volume of cumulated subject imports were significant, both in absolute terms and relative to consumption and production in the United States.

C. Price Effects of the Subject Imports

> Section 771(C)(ii) of the Act provides that, in evaluating the price effects of 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.[36]

The Commission staff gathered quarterly pricing data on two specific products. The quarterly pricing data gathered accounted for 8.0 percent of U.S. producers' commercial shipments during the POI; 38.7 percent of shipments of subject imports from China; 15.2 percent of subject imports from Korea; 5.1

[33] CR/PR at Table IV-3.

[34] CR/PR at Table C-1.

[35] CR/PR at Table C-1.

[36] 19 U.S.C. § 1677(7)(C)(ii).

percent of subject imports from Mexico; and for 12.9 percent of subject imports from Turkey.[37] Comparisons were available for most quarterly product/country combinations.[38]

The product-specific data indicate that subject imports generally undersold the domestic like product. Of the 99 quarterly comparisons available, subject imports undersold the domestic like product in 96 comparisons, and subject imports from China and Mexico undersold the domestic like product in every quarterly comparison. Average underselling margins ranged from 14.9 percent for China to 30.2 percent for Turkey; for subject imports overall, the average underselling margin was 17.8 percent.[39]

However, the record does not indicate any clear relationship between subject imports and the prices received for domestic like products. The peak price for domestically produced products 1 and 2 occurred in 2004, as did the lowest price recorded for both products. The same pattern held true for subject imports combined, with both the peak and the trough occurring in 2004 for product 1, and both the trough and the near-peak in 2004 for product 2. After that, prices for products 1 and 2 did not follow a pattern that seemed related to subject import volume or prices. After peaking in late 2004, prices received for the domestic like product generally fell in 2005 and rose in 2006; prices in the third quarter 2006 were generally significantly higher than prices received in the same quarter of the prior year.[40]

Nor does the record indicate price suppression by reason of subject imports throughout most of the POI. The average unit values (AUVs) for U.S. shipments of the domestic like product rose by 4.0 percent between 2004 and 2006. Unit cost of goods sold (COGS) were 10.0 percent higher in 2006 than in 2004, but also down somewhat from 2005 levels. Unit operating income was lower in 2006 than in 2004, but 2004 likely represented a cyclical peak for this and other steel products. Unit operating income in 2006 was 17.1 percent higher than in 2005.[41]

For the foregoing reasons, I find for purposes of these preliminary determinations that subject imports undersold the domestic like product to a significant degree, but I do not find that subject imports depressed or suppressed prices for the domestic like product. Thus, I find that subject imports did not have significant adverse effects on domestic prices.

D. Impact of the Subject Imports[42]

Section 771(7)(C)(iii) provides that the Commission, in examining the impact of the subject imports on the domestic industry, "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[43] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, research and development, and factors affecting domestic prices. 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."

---

[37] CR at V-6, PR at V-5.

[38] CR/PR at Table V-3.

[39] CR/PR at Table V-4.

[40] CR/PR at Tables V-1, V-2, and V-3.

[41] CR/PR at Table C-1.

[42] In its notice of initiation, Commerce estimated the following dumping margins: China, 6.3-40.52 percent; Korea, 11.74-30.66 percent; Mexico, 11.5 percent; and Turkey, 15.28-41.71 percent. 72 Fed. Reg. 40274 (July 24, 2007).

[43] 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851, 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.") SAA at 885.

The domestic industry in 2006 looked much like the domestic industry in 2004. Production capacity was essentially unchanged, as was production and capacity utilization. Domestic shipments were a few thousand tons lower, export shipments *** higher. Average unit values for domestic shipments were up 4.0 percent. Inventories were lower by a modest margin. The number of production and related workers declined by less than four percent, as did hours worked, but hourly wages rose by 7.1 percent and productivity by 5.2 percent.[44]

Total cost of goods sold rose by 6.5 percent and gross profit declined by 16.4 percent between 2004 and 2006. Operating income declined by 23.3 percent and operating income as a share of sales was 12.2 percent in 2006, down from 16.1 percent in 2004. However, while most financial measures were lower in 2006 than in 2004, virtually all showed an increase over 2005 levels. Gross profit was up by 16.9 percent in 2006, operating income increased by 17.7 percent, and operating income as a percentage of sales rose from 10.6 percent to 12.2 percent. The operating profit per unit rose from $98 in 2005 to $115 in 2006. Capital expenditures in 2006 were more than double those made in either 2004 or 2005.[45]

Subject import volume increased by the same amount in 2006 as in 2005, yet industry performance in 2006 was in almost every way superior to that in 2005. The record in these preliminary investigations suggests that the domestic industry reached a cyclical peak in 2004, a year in which prices quickly jumped from trough to peak, despite the presence of imports. Some decline from that peak was inevitable, as markets recovered from the price shocks and raw material supply constraints of 2004. The industry's performance in 2006 suggests that the domestic industry adjusted well and successfully, improving its 2006 operating profit and margin over 2005 levels.

Therefore, I find no reasonable indication that subject imports had a significant impact on the domestic industry.

IV. REASONABLE INDICATION OF THREAT OF MATERIAL INJURY BY REASON OF CUMULATED IMPORTS FROM CHINA, KOREA, AND TURKEY

In accordance with section 733(a)(1)(A) of the Tariff Act of 1930,[46] I find a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of the subject merchandise from China, Korea, and Turkey. I find a reasonable indication that an industry in the United States is not threatened with material injury by reason of imports of the subject merchandise from Mexico.

A. Cumulation

I use the discretion offered by section 771(7)(H) of the Tariff Act of 1930[47] to cumulate the volume and price effects of subject imports from China, Korea, and Turkey. Cumulating the subject imports of China, Korea, and Turkey is permissible under the statute because the petitions were filed on the same day and because the imports from these three countries compete with each other and with the domestic like product in the U.S. market. My evaluation of the traditional factors touching on the statutory requirement that the imports "compete with each other and with the domestic like product": (a) fungibility; (b) same geographical markets; (c) channels of distribution; and (d) simultaneous presence, is the same as found in part II of this opinion, supra.

---

[44] CR/PR at Table C-1.

[45] CR/PR at Table C-1.

[46] 19 U.S.C. § 1673b(a)(1)(A).

[47] 19 U.S.C. § 1677(7)(H).

While producers in Korea and Turkey have expanded their collective production capacities over the period of investigation, and plan to expand their capacities further over the next two years, producers in Mexico have increased capacity modestly and do not have ambitious expansion plans for the next two years.[48] The Mexican industry has a robust home market for its product, absorbing more than 70 percent of its output and it has no other export markets from which it might divert to the U.S. market. Conversely, the U.S. market receives a much smaller share of the exports from Korea and Turkey, thus leaving a much larger amount of production that might be shifted to the U.S. market.

For the above reasons, I find that the subject imports from China, Korea, and Turkey should be cumulated for purposes of evaluating a threat of material injury, but that subject imports from Mexico should not be cumulated.

B. Reasonable Indication of Threat of Material Injury by Reason of Subject Imports from China, Korea, and Turkey

I find, in accordance with section 771(7)(F) of the Trade Act of 1930,[49] a reasonable indication that an industry in the United States is threatened with material injury by reason of subject imports.

Over the period 2004-2006, subject imports from China, Korea, and Turkey increased by 122,028 short tons (252 percent).[50] This increase in import volume occurred against a backdrop of an increase in U.S. consumption of 123,986 short tons (13.1 percent).[51] Increased volumes of subject imports captured virtually all of the increase in domestic consumption.

Coincident with these increases in import volumes, the collective share of U.S. consumption held by subject imports from China, Korea, and Turkey roughly tripled over the period 2004-2006. In quantity terms, the collective share of these three countries rose from 5.1 percent to 15.9 percent and, in value terms, from 4.0 percent to 11.7 percent.[52] The increased share of U.S. consumption gained by these three countries was accompanied by a reduction in the share of U.S. consumption served by U.S. producers over the period 2004-2006 from 70.7 percent to 62.2 percent in quantity terms and from 73.8 percent to 67.3 percent in value terms.[53] Subject imports also captured market share from nonsubject imports.

Over the period 2004-2006, combined production capacity in Korea and Turkey grew by 44.0 percent, and responding subject producers forecast capacity to rise by an additional 9.9 percent.[54] Subject producers were not successful in filling the capacity added between 2004 and 2006, as capacity utilization rates fell steadily both in Korea[55] from 90.0 percent to 76.6 percent and irregularly in Turkey[56] from 65.6 percent to 62.3 percent. Capacity utilization rates in both countries were even lower in the first quarter of 2007 (67.2 percent in Korea[57] and 60.7 percent in Turkey[58]). Some increase is forecast for those utilization rates going into the future, but data for the 2004-2006 period suggest that subject producers

---

[48] CR/PR at Tables VII-1 (Korea), VII-3 (Mexico), and VII-5 (Turkey). No producer in China submitted a questionnaire response. CR at VII-2, PR at VII-1.

[49] 19 U.S.C. § 1677(7)(F).

[50] CR/PR at Table IV-8.

[51] CR/PR at Table IV-8.

[52] CR/PR at Table IV-8.

[53] CR/PR at Table IV-8.

[54] CR/PR at Tables VII-1 & VII-5. Note that no data are available for China.

[55] CR/PR at Table VII-1.

[56] CR/PR at Table VII-5.

[57] CR/PR at Table VII-1.

[58] CR/PR at Table VII-5.

may have some difficulty in finding markets for new capacity. Future production capacity forecast by Korean producers in response to questionnaires shows *** percent growth in capacity between 2006-2008.[59] Such a *** increase in capacity has the potential *** to increase unused Korean production capacity especially because Korean producers of the subject merchandise have already experienced a decrease in domestic shipments (i.e., within Korea) by 11.7 percent (in quantity terms) between 2004-2006. The record indicates that a significant amount of unused capacity in the subject countries will be available.

While inventories held by importers of the subject imports are not significant,[60] inventories held in their domestic markets by the Korean and Turkish producers of the subject imports are large. The amount of subject merchandise held in inventory by subject producers in Korea and Turkey at the end of 2006 was 74,119 short tons. This level of inventories is equal to 85 percent of the level of 2006 U.S. shipments of subject imports from Korea and Turkey, and about 6.9 percent of 2006 U.S. consumption. Inventories at the end of 2007 were expected to be even higher (81,461 short tons). Inventories of this size indicate that there is some potential for additional quantities of subject LWR pipe and tube to be directed to the U.S. market.[61]

Subject producers in both Korea and Turkey direct a majority of shipments to their home market, but exports were significant for subject producers in both countries, and subject producers in both countries directed the majority of their exports to non-U.S. markets.[62] This indicates that should domestic demand weaken in Korea or Turkey, or in other major export markets, significant additional volumes of subject merchandise could be available for shipment to the U.S. market. This phenomenon may be at work in Korea, which saw its share of home market consumption fall from 78.3 percent to 69.5 percent over the period 2004-2006. This home market share continued to fall to 59.7 percent into the first quarter of 2007.[63] Access to other export markets is already limited, as antidumping orders were placed by Canadian authorities in November 2003 on imports sent from Korea and Turkey.[64] In May 2007, Australia levied antidumping duties against imports from China.[65]

A closely related product, circular mechanical tubing, is produced using the same facilities and production workers,[66] and could be converted into LWR pipe and tube and shipped to the U.S. market.[67] The record contains data on production of circular mechanical tubing for Korea[68] and Turkey.[69] These responses indicate that total production of the circular mechanical tubing in both Korea and Turkey is about one-quarter of the production of LWR pipe and tube. Nonetheless, this current production of

[59] CR/PR at Table VII-1.

[60] CR/PR at Table VII-7.

[61] Calculated from CR/PR at Tables VII-1 and VII-5.

[62] CR/PR at Tables VII-1 and VII-5.

[63] CR/PR at Table VII-1.

[64] CR at VII-15, PR at VII-8.

[65] CR at VII-16, PR at VII-8. The Department of Commerce instituted an investigation of a wide variety of allegedly countervailable subsidies supplied by the government of China to its LWR pipe and tube industry. See 72 Fed. Reg. 40281 (July 24, 2007).

[66] CR at I-10, PR at I-8.

[67] CR at VII-13, PR at VII-6.

[68] CR/PR at Tables VII-1 & VII-2 (for Korea); CR at VII-3, n.4, PR at VII-3, n.4 (stating that between 80-100 percent of Korean exports to the United States is covered by the questionnaire data).

[69] CR/PR at Tables VII-5 & VII-6 (for Turkey); CR at VII-10, n.16, PR at VII-5, n.16 (stating that between *** percent of the industry in Turkey is covered by the questionnaire data).

circular mechanical pipe represents a potential additional production of 250,000 short tons in Korea and Turkey.[70]

The record indicates likely capacity increases and other sources of additional product available for export to the U.S. market. The record also indicates that subject producers found significant additional volumes to ship to the U.S. market over the POI, as well as an ability to capture most of the growth in demand over the POI and to gain market share at the expense of both the domestic industry and other nonsubject import sources. These factors suggest a likelihood of increased imports in the imminent future.

The Commission gathered pricing data on two products. Subject imports undersold U.S. producers in 70 out of 73 possible quarterly comparisons across both products.[71] The margins of underselling ranged as high as *** percent for China (product 1), *** percent for Korea (product 2), and *** percent for Turkey (product 1). The three documented periods of overselling all occurred in 2005.[72] The record does not indicate that underselling by subject imports over the POI had a clear effect on prices for the domestic like product, but underselling is likely to continue.

U.S. producers saw improvements in operating income between 2005 and 2006, both in absolute numbers (from $60.9 million to $71.6 million) and as a ratio to net sales (from 10.6 percent to 12.2 percent). Figures for gross profit showed similar trends. However, 2006 industry performance in most measures was below that registered in 2004.[73] Figures for the domestic industry on return on investment also showed increases between 2005 and 2006 (from 20.5 percent to 23.1 percent), but again these represented only a partial recovery of erosion experienced between 2004 and 2005.[74] Most performance measures were lower in interim 2007 than in interim 2006.[75]

The record indicates that subject import volume increased significantly over the POI and captured virtually all of the increase in apparent U.S. consumption. The record also indicates that the LWR pipe and tube industries in the subject countries are expanding and will have available additional unused capacity and inventories to direct to the U.S. market. I conclude, based on the foregoing considerations, that there is a reasonable indication that a domestic industry in the United States is threatened with injury by reason of subject imports from China, Korea, and Turkey.

V. NO REASONABLE INDICATION OF A THREAT OF MATERIAL INJURY BY REASON OF IMPORTS FROM MEXICO

I find, in accordance with section 771(7)(F) of the Trade Act of 1930, no reasonable indication that an industry in the United States is threatened with material injury by reason of subject imports from Mexico.

---

[70] Note that, with respect to certain welded pipe, antidumping or countervailing duty orders are currently in place against Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey. See Circular Welded Carbon-Quality Steel Pipe from China, 701-TA-447 and 731-TA-1116 (Preliminary), Table I-1. In that matter, the Commission determined that there is a reasonable indication that an industry in the U.S. is materially injured or threatened with material injury by reason of imports from China. 72 Fed. Reg. 43295 (Aug. 3, 2007). Thus, there are orders in place with respect to circular mechanical tubing against imports from all four countries involved in the present proceeding.

[71] CR/PR at Table V-4.

[72] CR/PR at Tables V-1-V-2.

[73] CR/PR at Table VI-1.

[74] CR/PR at Table VI-8.

[75] CR/PR at Table C-1.

Over the period 2004-2006, subject imports from Mexico increased by 9.5 percent in quantity terms.[76] These changes occurred against a backdrop of increases in U.S. consumption of 13.1 percent in quantity terms and 13.5 percent in value terms.[77] Mexico's volume trends roughly paralleled those of broader U.S. consumption, and the share of U.S. consumption held by subject imports from Mexico decreased modestly over the POI, from 14.0 percent to 13.6 percent.[78]

Production capacity in Mexico increased by only 9.1 percent over the period 2004-2006, and subject producers in Mexico forecast that production capacity will grow by less than three percent between 2007 and 2008.[79] Capacity utilization rose significantly over 2004-2006. Capacity utilization in the Mexican industry was at 80.1 percent in 2006, a notable increase over the 2004 utilization rate of 68.0 percent, and subject producers project operating at rates at or above the 2006 peak in 2007 and 2008. In 2008 the industry should have significantly less unused capacity, both in absolute volume and relative to total capacity, than in 2004.[80]

Inventories held by the importers of subject imports from Mexico only amount to about *** percent of imports.[81] More significant are the inventories held inside Mexico by the producers themselves. The ratio of inventories to production was lower in 2006 than in 2004 and is projected to continue to decline in 2008, as are actual inventory levels.[82] A modest increase in inventories in 2006 had no apparent effect on imports into the U.S. market, which declined that year.[83]

The industry in Mexico directed three quarters or more of its annual shipments to its home market. In 2006, the home market's share was *** percent; in interim 2007, it was *** percent, and the home market is projected to account for *** percent in 2008 as well.[84] There were no antidumping orders against LWR pipe and tube from Mexico in other markets, but the U.S. market is the industry's only substantial export market, even though pricing data indicate that LWR from Mexico is price-competitive with other subject imports. Producers in Mexico have little in the way of alternate foreign markets from which to divert product to the U.S. market in the future. Furthermore, the industry in Mexico does not seem particularly focused on exports, as there are no barriers to exports and products are competitively priced, yet export shipments actually declined as a share of total shipments over the POI.[85]

A closely related product, circular mechanical tubing, is produced using the same facilities and production workers,[86] and could be converted into LWR pipe and tube and shipped to the U.S. market. Data were reported on production of circular mechanical tubing for Mexico.[87] The reported production

[76] CR/PR at Table IV-8.

[77] CR/PR at Table IV-8.

[78] CR/PR at Table IV-8.

[79] CR/PR at Table VII-3.

[80] CR/PR at Table VII-4.

[81] CR/PR at Table VII-7.

[82] CR/PR at Table VII-1.

[83] CR/PR at Tables VII-3 and Table C-1.

[84] CR/PR at Table VII-3.

[85] CR/PR at Table VII-3.

[86] CR at I-10, PR at I-7-I-8.

[87] CR/PR at Tables VII-3 & VII-4; CR at VII-7, n.11, PR at VII-4, n.11 (stating that between *** percent of Mexican exports to the United States is covered by the questionnaire data).

for circular mechanical tubing is significant relative to LWR pipe and tube exports to the U.S. market, but this available capacity had little apparent effect on exports to the U.S. market over the POI.[88]

In product-specific price comparisons, Mexican prices were shown to be lower than U.S. producers' prices in all 26 quarterly comparisons. The average margin of underselling over the 13 quarters was 18.6 percent.[89] However, this record of consistent underselling appeared to have little effect on domestic prices and did not lead to significant increases in subject import volume over the POI.

While there was underselling of subject imports from Mexico throughout the POI, U.S. producers were able to increase AUVs of U.S. shipments between 2004 and 2006.[90] Operating margins in the domestic industry remained healthy over the period,[91] as did return on investment.[92] During the first two years of this period, Mexico was the largest import source for the United States and had about double the volume of subject imports as did the other three countries combined.[93] It appears that the U.S. industry has adjusted to the presence of Mexican imports in this market.

The record indicates that the industry in Mexico is not likely to expand significantly in the near future. The industry has a large home market. Subject import volume increased over the POI, but at a level somewhat more modest than apparent U.S. consumption; market share remained steady, despite underselling. I conclude, based on the foregoing considerations, that there is no reasonable indication that a domestic industry in the United States is threatened with injury by reason of subject imports from Mexico.

VI. APPLICATION OF THE BRATSK ALUMINUM SMELTER V. UNITED STATES REPLACEMENT/BENEFIT TEST

A. Legal Issues Concerning *Bratsk Aluminum Smelter v. United States*

In the recent case of Bratsk Aluminum Smelter et al. v. United States[94] ("Bratsk"), the Federal Circuit reaffirmed that the requisite causal link to subject imports is not demonstrated if such imports contributed only "'minimally or tangentially to the material harm.'"[95] Applying that standard to an investigation involving a commodity product, i.e., silicon metal, and the significant presence of nonsubject imports, the Court held that the Commission had not sufficiently explained whether nonsubject imports simply would have replaced subject imports during the period of investigation had an antidumping order been in place and continued to cause injury to the domestic industry.[96]

As a threshold matter, it is not immediately clear how the Commission should interpret the Bratsk opinion in terms of its effect on my analysis of causation in Title VII investigations. I discern at least two possible interpretations that differ substantially. The first interpretation is that Bratsk mandates application of an additional test apparently not contemplated by the statute (the so-called "replacement/benefit test"). Under this interpretation, Bratsk appears to require that the Commission

[88] Note that, with respect to certain welded pipe, antidumping or countervailing duty orders are currently in place against Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey. See Circular Welded Carbon-Quality Steel Pipe from China, 701-TA-447 and 731-TA-1116 (Preliminary), Table I-1.

[89] CR/PR at Table V-4.

[90] CR/PR at Table IV-8.

[91] CR/PR at Table VI-1.

[92] CR/PR at Table VI-8.

[93] CR/PR at Table IV-8.

[94] 444 F.3d 1369 (Fed. Cir. 2006)

[95] 444 F.3d at 1373, quoting Gerald Metals, Inc. v. United States, 132 F.3d 716, 722 (Fed. Cir. 1997).

[96] 444 F.3d at 1375-76.

apply an extra-statutory causation test with respect to nonsubject imports and to determine that the domestic industry will benefit from the antidumping duty or countervailing duty order. While I respectfully disagree with the Court that such a causation analysis is legally required, I attempt to perform the analysis based on the record in these preliminary investigations.[97] The second interpretation is that Bratsk is a further development of the causation approach prescribed by Gerald Metals. Under this interpretation I am required to identify and assess the competitive effects of subject imports to ensure that they contribute more than "minimally or tangentially to the material harm" of the domestic industry. I will re-examine this in any final phase of these investigations once the Commission has collected further relevant information (e.g., information about the market from purchasers).[98]

B. Application of Bratsk Replacement/Benefit Test

Having found that there is a reasonable basis to determine that an industry in the United States is threatened with material injury by reason of subject imports from China, Korea, and Turkey, I now must assess whether the facts of these investigations trigger a Bratsk analysis under the "replacement/benefit test" interpretation of Bratsk. Based on the record in these preliminary investigations, I conclude that Bratsk is triggered. Nevertheless, I find that the current record does not permit me to determine conclusively that nonsubject imports would replace subject imports and negate the beneficial effect of the order on subject imports from China, Korea, and Turkey.

1. Triggering Factors

Petitioners agree that the first Bratsk trigger is present, as LWR pipe and tube is a commodity product.[99] As noted above, the vast majority of responding producers and importers find domestically produced LWR pipe and tube to be interchangeable with imports from both subject and nonsubject sources. While recognizing that a level of interchangeability does not necessarily mean that a product is a commodity, for purposes of this analysis I find, based on the record available in these preliminary investigations, that the first Bratsk trigger is met.

With respect to the second factor, whether price-competitive nonsubject imports are a significant factor in the U.S. market, the record in the preliminary phase of these investigations indicates that nonsubject imports were present throughout the period examined. Nonsubject imports from Mexico accounted for 13.6 percent of apparent U.S. consumption in 2006, and other nonsubject imports accounted for 8.3 percent. As recently as 2004, nonsubject imports from countries other than Mexico accounted for 10.2 percent of apparent U.S. consumption.[100]

As to whether nonsubject imports are price competitive, the Commission requested product-specific price data from nonsubject countries in its importers' questionnaires. The Commission received pricing data on products from Mexico as well as products from other nonsubject countries. These data show predominant underselling of the domestic like product by all nonsubject imports, including those

[97] Moreover, it is unclear whether the Court intended its approach to apply to analyses of threat of material injury, or only to analyses of present material injury. Given that one of the Court's formulations of the standard is framed in terms of likely future events, I have interpreted the Court's decision as applying both to the context of present injury and threat of injury.

[98] For a complete statement of Chairman Pearson's interpretation Bratsk in a preliminary investigation, *see* Separate and Additional Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Concerning Bratsk Aluminum v. United States in Sodium Hexametaphosphate from China, Inv. No. 731-TA-1110 (Preliminary), USITC Pub. 3912 (Apr. 2007) at 19-25.

[99] Petitioners' postconference brief, Answers to Staff Questions, at A-1.

[100] CR/PR at Table C-1.

from Mexico.[101] Average unit values for nonsubject imports were also consistently below AUVs for the domestic like product; AUVs for nonsubject imports from Mexico in particular were closer to AUVs for subject imports. Therefore, for purpose of these preliminary determinations, it appears that nonsubject imports of LWR pipe and tube, viewed as a whole, are price-competitive with the domestic like product, and thus appear to be a "significant factor" in the U.S. market.

2. Replacement/Benefit Factors

As it appears that the Bratsk tests are triggered, I now analyze whether nonsubject imports are likely to replace subject imports and continue to cause injury to the domestic industry. One of the key factors I must examine in assessing this issue is the size of the nonsubject supplier industries and the amount of excess capacity in those industries. Regrettably, there is no information on the record concerning the capacity of nonsubject suppliers, or their capacity utilization rates, aside from the information regarding the industry in Mexico.[102] The industry in Mexico has unused production capacity, but its capacity is not sufficient to replace subject imports.[103] Furthermore, LWR pipe and tube from Mexico has been in the U.S. market at consistent volumes throughout the POI; while subject import volumes increased by 252 percent between 2004 and 2006, subject imports from Mexico increased by less than 10 percent, though pricing data indicate that LWR pipe and tube from Mexico should have been very competitive with other imports. Thus, the record does not suggest that subject imports from Mexico would increase to the point of significantly replacing subject imports if the orders were imposed.

Welded pipe and tube, of which LWR pipe and tube is a subset, is made throughout the world, and production of various types of welded pipe exceeded 50 million tons in 2005.[104] Canada in particular has nine producers capable of making LWR pipe and tube.[105] The record, however, does not contain sufficient detail on the industries in other countries to determine whether nonsubject imports could in fact replace subject imports.

Because the record lacks information on nonsubject foreign production capacity, I cannot reach a definite conclusion on this point. In any final phase of these investigations, I will seek additional information on production capacity of major nonsubject producers of LWR pipe and tube to complete the analysis under Bratsk.

VII. CONCLUSION

For the reasons stated above, I find that there is a reasonable indication that the domestic industry producing LWR pipe and tube is threatened with material injury by reason of subject imports of LWR pipe and tube from China that allegedly are subsidized and sold in the United States and by subject imports of LWR pipe and tube from China, Korea, and Turkey that are allegedly sold at less than fair value. I find that there is no reasonable indication that the domestic industry producing LWR pipe and tube is materially injured by, or threatened with material injury by, subject imports of LWR pipe and tube from Mexico that allegedly are sold in the United States at less than fair value.

[101] CR/PR at Tables V-1-V-2.

[102] See generally CR at VII-18 to VII-30, PR at VII-10 to VII-21.

[103] CR/PR at Table VII-3.

[104] CR/PR at Table VII-9.

[105] CR/PR at Table VII-10.

PART I: INTRODUCTION

BACKGROUND

These investigations result from a petition filed on behalf of 12 U.S. producers of carbon-quality light-walled rectangular pipe and tube ("LWR pipe and tube")[1] 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 LWR pipe and tube from China, Mexico, Korea, and Turkey and by reason of imports of subsidized LWR pipe and tube from China. The following tabulations provides information relating to the background of these investigations:[2]

Effective date	Action
June 27, 2007	Petition filed with Commerce and the Commission; institution of Commission investigations (72 FR 36479, July 3, 2007)
July 18, 2007	Commission's conference
July 24, 2007	Commerce's notices of initiation (72 FR 40274 (antidumping) and 72 FR 40281 (countervailing))
August 10, 2007	Commission's vote
August 13, 2007	Commission's determinations transmitted to Commerce
August 20, 2007	Commission's views transmitted to Commerce

[1] A list of witnesses appearing at the conference is presented in app. B.

STATUTORY CRITERIA AND ORGANIZATION OF REPORT

Section 771(7)(B) of the Tariff Act of 1930 (the "Act") (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

> *shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

[1] Allied Tube and Conduit, Harvey, IL ("Allied"); Atlas Tube, Plymouth, MI ("Atlas"); California Steel and Tube, City of Industry, CA ("California"); Ex-L-Tube, Kansas City, MO ("Ex-L-Tube"); Hannibal Industries, Los Angeles, CA ("Hannibal"); Leavitt Tube Company LLC, Chicago, IL ("Leavitt"); Maruichi American Corporation, Sante Fe Springs, CA ("Maruichi"); Searing Industries, Rancho Cucamonga, CA ("American"); Southland Tube, Birmingham, AL ("Southland"); Vest Inc., Los Angeles, CA ("Vest"); Welded Tube, Concord, Ontario (Canada) ("Welded"); and Western Tube and Conduit, Long Beach, CA ("Western"). Bull Moose Tube, Inc. ("Bull Moose") joined the original 12 petitioning firms over the course of these investigations, resulting in a total of 13 petitioning U.S. producers of LWR pipe and tube.

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

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

> *In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.*
> . . .
> *In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether. . .(I) there has been significant price underselling by the imported merchandise as compared with the price of 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.*
> . . .
> *In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to . . . (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in an antidumping investigation, the magnitude of the margin of dumping.*

Information on the subject merchandise, alleged margins of dumping, and domestic like product is presented in *Part I*. Information on conditions of competition and other relevant economic factors is presented in *Part II*. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. The volume and pricing of imports of the subject merchandise are presented in *Parts IV and V*, respectively. *Part VI* presents information on the financial experience of U.S. producers. The statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury are presented in *Part VII*.

MARKET SUMMARY

Trade in the U.S. market for LWR pipe and tube totaled nearly $912 million during 2006, of which approximately 67 percent related to sales of U.S.-produced LWR pipe and tube, 24 percent related to imports from subject sources, and 9 percent related to imports from nonsubject sources (overwhelmingly Canada). Twenty-two firms supplied the Commission with data on their U.S. LWR pipe and tube operations. Thirty-three firms responded that they imported subject merchandise during the period of investigation. LWR pipe and tube is used for a variety of applications, such as ornamental fencing, display racks, sports equipment, furniture, hand rails, scaffolding, and carports.

SUMMARY DATA

Table C-1 in appendix C presents a summary of data collected in these investigations. Except as noted, U.S. industry data are based on the questionnaire responses from U.S. producers, which account for the vast majority of U.S. production of LWR pipe and tube during the period examined (see Part III of this report).[3] U.S. import data are based on official Commerce statistics, while information on U.S. importers' U.S. shipments is based on data compiled from responses to the Commission's U.S. importers' questionnaire (see Part IV of this report). Information on LWR pipe and tube industries in China, Korea, Mexico, and Turkey was compiled from responses to the Commission's foreign producers'/exporters' questionnaire (see Part VII of this report).

PREVIOUS INVESTIGATIONS

Since 1980, the Commission has looked at the U.S. LWR pipe and tube industry several times both in import-injury investigations and in studies associated with steel safeguard measures. Three of antidumping duty investigations resulted in the imposition of orders on imports of LWR pipe and tube. Following the Commission's second five-year review investigations concerning LWR pipe and tube in 2005, which resulted in a negative determination regarding Argentina and an affirmative determination regarding Taiwan, the order on Taiwan is the only current outstanding antidumping duty order in effect on LWR pipe and tube imports into the United States. Table I-1 presents data on previous investigations concerning LWR pipe and tube in the United States since 1980.

NATURE AND EXTENT OF ALLEGED SUBSIDIES AND SALES AT LTFV

Sales at LTFV

On July 24, 2007, the Commission received notification of Commerce's initiation of antidumping investigations concerning LWR pipe and tube from China, Korea, Mexico, and Turkey.[4] The alleged dumping margins range from 6.3 to 40.52 percent for LWR pipe and tube producers in China, 11.74 to 30.66 percent for LWR pipe and tube producers in Korea, 11.5 percent for LWR pipe and tube producers in Mexico, and 15.28 to 41.71 percent for LWR pipe and tube producers in Turkey.[5]

Subsidies

On July 24, 2007, the Commission received notification of Commerce's initiation of countervailing duty investigations concerning LWR pipe and tube from China.[6] Commerce initiated investigations into 27 potentially countervailable subsidy programs, including two relating to preferential

---

[3] Some structural tube producers may produce small quantities of merchandise which qualifies as LWR pipe and tube and which has not been gathered in these proceedings. Additionally, several small producers of LWR pipe and tube have failed to provide the Commission with a response to its request for information in this preliminary phase of these investigations. However, all major U.S. producers of subject merchandise have provided the Commission with useable data on their U.S. operations. For a further discussion of U.S. industry coverage and coverage issues see Part III of this report.

[4] *Initiation of Antidumping Duty Investigations: Light–Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People's Republic of China*, 72 FR 40274, July 24, 2007.

[5] Ibid.

[6] *Notice of Initiation of Countervailing Duty Investigation: Light–Walled Rectangular Pipe and Tube from the People's Republic of China*, 72 FR 40281, July 24, 2007.

Table I-1
LWR pipe and tube: Previous investigations

Source	Inv. No.	USITC Publication		Result
		Number	Date	
Korea	731-TA-138 (F)	USITC 1519	April 1984	Affirmative; revoked October 1985 following VRA
Spain	731-TA-198 (P)	USITC 1569	August 1984	Terminated after preliminary; petition withdrawn
Taiwan	731-TA-211 (F)	USITC 1799	January 1986	Negative
Singapore	731-TA-296 (F)	USITC 1907	November 1986	Affirmative
	731-TA-296 (Review)	USITC 3316	July 2000	Revoked
Taiwan	731-TA-349 (F)	USITC 1994	July 1987	Negative
Argentina	731-TA-409 (F)	USITC 2187	May 1989	Affirmative
	731-TA-409 (Review)	USITC 3316	July 2000	Order continued
	731-TA-409 (Second Review)	USITC 3867	July 2006	ITC Negative
Taiwan	731-TA-410 (F)	USITC 2169	March 1989	Affirmative
	731-TA-410 (Review)	USITC 3316	July 2000	Order continued
	731-TA-410 (Second Review)	USITC 3867	July 2006	Order continued
Mexico	731-TA-730 (P)	USITC 2892	May 1995	ITC Negative
World wide	201-TA-73	USITC 3479	December 2001	Additional tariffs and tariff-rate quotas;[1] relief did not apply to imports from Mexico or Turkey
	204-TA-9 332-TA-452	USITC 3632	September 2003	The President terminated the import relief shortly after these investigations[2]
Mexico	731-TA-1054 (F)	USITC 3728	October 2004	ITC Negative
Turkey	731-TA-1055 (F)	USITC 3728	October 2004	ITC Negative

[1] Following affirmative determinations of serious injury and remedy recommendations by the Commission, President Bush issued a proclamation on March 5, 2002, imposing temporary import relief for a period not to exceed three years and one day. Presidential Proclamation 7529 of March 5, 2002 (67 FR 10553, March 7, 2002). Import relief relating to LWR pipe and tube consisted of an additional tariff of 15 percent *ad valorem* on imports in the first year, 12 percent in the second year, and 9 percent in the third year.

[2] Following receipt of the Commission's mid-term monitoring report "Steel: Monitoring Developments in the Domestic Industry" (Inv. No. TA-204-9) and "Steel-Consuming Industries: Competitive Conditions With Respect to Steel Safeguard Measures" (Inv. No. 332-452), the President terminated the steel safeguard tariffs and tariff-rate quotas. Presidential Proclamation 7741 of December 4, 2003 (68 FR 68483, December 8, 2003). The Commission issued a final evaluation of the safeguard measures in its final evaluation report "Steel: Evaluation of the Effectiveness of Import Relief" (Inv. No. 204-12).

Source: Cited Commission publications.

lending, ten related to preferential income tax treatment, three related to provincial subsidies, four related to tariff treatment, two related to grants, four related to allegedly subsidized provision of goods or services, and two related to export restraints.[7] Initiation of an investigation into loans made to uncreditworthy companies was postponed until such time as specific companies for investigation have been identified.[8]

THE SUBJECT MERCHANDISE

Commerce's Scope

Commerce has defined the scope of these investigations as:

> *"certain welded carbon–quality light–walled steel pipe and tube, of rectangular (including square) cross section (LWR), having a wall thickness of less than 4mm."*[9]

Tariff Treatment

LWR pipe and tube is classifiable in the Harmonized Tariff Schedule of the United States ("HTS") under subheading 7306.61.50 (after February 3, 2007) and 7306.60.50 (prior to February 3, 2007). Certain LWR pipe and tube is misclassified under HTS subheading 7306.69.50 (between January 1, 2007 and February 3, 2007). LWR pipe and tube imported from China, Korea, Mexico, Turkey enter the U.S. market at a column 1-general duty rate of "free." The HTS subheadings are provided for convenience and Customs purposes, and Commerce's scope of these investigations is dispositive.

THE DOMESTIC LIKE PRODUCT

The Commission's decision regarding the appropriate domestic products that are "like" the subject imported product 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. In previous antidumping investigations involving LWR pipe and tube, the Commission defined a single domestic like product co-extensive with the scope of investigations as defined by Commerce.[10]

For the preliminary phase of investigations of LWR pipe and tube from China, Korea, Mexico, and Turkey, the petitioners argue that the Commission should find a single domestic like product co-extensive within Commerce's scope.[11] By contrast, Mexican respondents urge the Commission to "re-

---

[7] Ibid.

[8] Ibid.

[9] *Initiation of Antidumping Duty Investigations: Light-Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People's Republic of China*, 72 FR 40275 (July 14, 2007).

[10] The Commission has previously considered whether corrosion-resistant LWR pipe and tube was a separate domestic like product from black LWR pipe and tube. In the final phase investigations on LWR pipe and tube from Mexico and Turkey in 2004, the Commission found a single domestic like product consisting of all LWR pipe and tube. Data on U.S. production and U.S. imports of corrosion-resistant and black LWR pipe and tube are discussed in parts III and IV of this report. In the current investigations, however, no party has argued for separate domestic like products based on corrosion resistance.

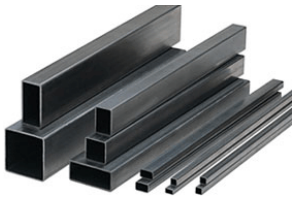
[11] Conference transcript, p. 56 (Schagrin); and petitioners' postconference brief, p. 3.

examine" whether or not rectangular and circular tubing are two separate like products.[12] [13] Information on the Commission's domestic like product factors is set forth below.

Physical Characteristics and Uses

In common usage, and generally in the HTS, the terms "pipes," "tubes," and "tubular products" are interchangeable. Producers of tubular products, however, typically characterize pipes as circular cross-sectional tubular products produced in a few standard sizes, while tubes, conversely, may be of any cross-sectional shape, including circular, square, and rectangular, among others. Steel pipes and tubes can be divided into two general categories according to the method of manufacture-either welded or seamless; however, only welded steel tubular products are subject to these investigations. Steel pipes and tubes are also distinguished by specific end uses.[14] LWR pipe and tube, shown in figure I-1, is often referred to by industry participants as "ornamental" or "mechanical tubing."[15]

Figure I-1
LWR pipe and tube: Examples



Source: www.alibaba.com.

A small portion, the upper range of this product in terms of wall thickness, may be considered by industry participants as a hollowed structural section ("HSS").[16] In the United States, steel pipes and tubes are

[12] Mexican respondents contend that rectangular and circular light-walled pipe and tube have similar physical characteristics and uses; common channels of distribution; and common production facilities, processes, and employees. Also, according to the Mexican respondents, U.S. producers can readily shift production between rectangular and circular light-walled pipe and tube. Mexican respondents' postconference brief, p. 32.

[13] Although petitioners agree that rectangular and circular light-walled pipe and tube are produced with common production facilities, processes, and employees, they note the different channels of distribution and end uses. LWR tubing is generally sold through distributors whereas most circular mechanical tubing is a tailored product sold directly to original equipment manufacturers that produce parts for the automotive industry. Conference transcript, pp. 89-91 (Schagrin).

[14] Tubes and pipes are also classified according to end uses by the AISI, including standard pipe, line pipe, structural pipe and tubing, mechanical tubing, pressure tubing, and oil country tubular goods.

[15] Ornamental tubing is a subset of mechanical tubing. Because most mechanical tubing has a circular cross section, such tubing is not referred to by industry participants as "ornamental tubing." Conference transcript, pp. 14-15 (Baker) and pp. 34-35 (Schagrin and Baker).

[16] Petitioners' counsel did not provide a numerical estimate as to the extent of the overlap of LWR tubing and HSS. Conference transcript, pp. 37-38 (Schagrin).

generally produced according to industrial standards and specifications by standards-setting organizations.[17]

LWR tubing is also a distinct category of pipe and tube employed in a variety of end uses not involving the conveyance of liquids or gases, and is not designed to bear weight. The main uses for LWR pipe and tube include ornamental fencing; window guards and framing; cattle chutes; railings for construction and agricultural applications; and more ornamental (but also functional) items such as metal furniture parts, athletic equipment, lawn and garden equipment, store display shelves and racks, towel racks, and similar items.[18]

LWR pipe and tube is also distinguished according to coating types:

- Corrosion-resistant LWR tubing is produced from hot-rolled and cold-rolled sheet that is either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel-, or iron-based alloys, whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating.
- Black LWR tubing is blackened, pickled, and/or coated with a thin layer of oil or lacquer for weather and rust protection; and does not meet the description above for corrosion-resistant products.

Generally, the physical properties (strength, hardness, and ductility) and the mechanical characteristics of black and corrosion-resistant LWR pipe and tube are not affected by the galvanizing process.[19] Although reportedly both black and corrosion-resistant LWR pipe and tube can be used in the same applications, depending upon customer specification and quality, galvanized products are used in applications where corrosion resistance is an important service requirement (e.g., air conditioning equipment, automotive parts, outdoor signs, etc.).[20]

Manufacturing Process

The process of manufacturing LWR pipe and tube begins by slitting flat-rolled steel is first slit (cut) into strips lengthwise to the width necessary for the desired pipe or tube diameter. The steel strips are then fed into machinery that bends it into tubular form. The edges of the strip are then pressed together and heated to approximately 2,600 degrees Fahrenheit to form a weld. After welding, the round tube is passed through additional forming rolls to shape the tube into rectangular or square cross sections.

---

[17] Product-standard organizations for steel pipe and tube include ASTM International (formerly the American Society of Testing and Materials ("ASTM")) and the American Society of Mechanical Engineers ("ASME"). Domestically produced and subject imported LWR pipe and tube are typically manufactured to meet ASTM specifications A-513 (Standard Specification for Electric-Resistance-Welded Carbon and Alloy Steel Mechanical Tubing) or, less frequently, A-500 (Standard Specification for Cold-Formed Welded and Seamless Carbon Steel Structural Tubing in Rounds and Shapes). ASTM A-513 is a specification with lower tensile and yield strengths than for A-500. Conference transcript, pp. 14 and 39 (Baker). Nevertheless, there is also considerable overlap between these two specifications, particularly for smaller sized tubing. Conference transcript, pp. 39-40 (Schagrin and Baker).

[18] Circular mechanical tubing, by contrast, is used in the auto and industrial vehicles, conveyor belts, water heaters, office furniture, playground equipment, scaffolding, and the like.

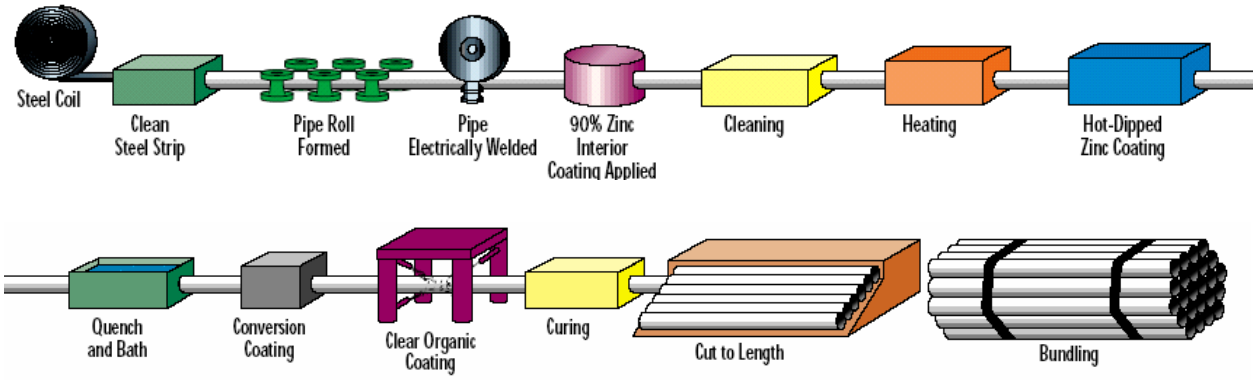
[19] *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey (Inv. Nos. 731-TA-1054 and 1055 (Final))*, USITC Publication 3728, October 2004, p. I-9.

[20] *Ibid.*

The tube is then cooled and cut to length.[21] U.S. producers currently employ two methods for manufacturing LWR pipe and tube— either two-stage forming (from flat coil, to round tube, to rectangular tube) or direct forming (from flat coil to rectangular tube).[22] LWR pipe and tube is frequently produced on the same equipment, by the same employees, as for circular and other non-circular tubing, and for heavier-walled (structural) tubing.[23] [24]

Corrosion-resistant galvanized products are subject to galvanizing, the process of coating steel with a thin film of zinc to protect the steel from corrosion. The most common galvanizing method is the hot-dip process, which involves dipping the tube into a molten zinc bath. Alternatively, some producers manufacture LWR tubing from purchased pre-galvanized sheet and subsequently re-galvanize the weld zone.[25] Figure I-2 graphically depicts the manufacturing process for LWR pipe and tube with in-line galvanizing.

Figure I-2
LWR pipe & tube: Manufacturing process



Note.--This image does not demonstrate the additional step necessary for the production of square and rectangular shapes which would involve additional rollers following the welding step to shape the circular pipe into the appropriate shape. Note also that this image demonstrates the production of corrosion-resistant pipe through a zinc bath. Black product would be cut following the rolling into squares or rectangles (black product as well as corrosion resistant product might also be painted, pickled, oil, et cetera). In terms of corrosion-resistant product, another production method is possible which would involve welding pre-galvanized or already corrosion-resistant sheet into pipe.

Source: Prolamsa, Inc.

---

[21] A succinct description of the production process which is still valid today can be found in *Certain Light-Walled Rectangular Pipes and Tubes from Taiwan (Inv. No. 731-TA-410 (Final))*, USITC Publication 2169, March 1989, pp. A-4-A-5.

[22] *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey (Inv. Nos. 731-TA-1054 and 1055 (Final))*, USITC Publication 3728, October 2004, p. I-10.

[23] Conference transcript, p. 14 (Baker), p. 18 (Kurasz), and p. 23 (Klima). Some mills may be limited to specific wall thickness ranges, and there may be a tendency to utilize smaller mills for LWR tubing and larger mills for heavier-walled tubing. Conference transcript, pp. 36-37 (Klima and Schagrin).

[24] While there is an overlap between producers of LWR pipe and tube and circular mechanical tubing, the mechanical tubing industry is substantially larger, encompassing an estimated 70 to 80 producers in the United States. Staff e-mail correspondence with ***.

[25] Conference transcript, p. 14 (Baker). In previous LWR tubing investigations, the share of domestic production utilizing pre-galvanized sheet was estimated as a small portion of the total volume. *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey (Inv. Nos. 731-TA-1054 and 1055 (Final))*, USITC Publication 3728, October 2004, p. I-10.

Interchangeability and Customer and Producer Perceptions

In the current investigations, both petitioners and Mexican respondents agree that domestically produced and imported LWR pipe and tube are considered interchangeable, commodity-like products, with meeting common customer specifications.[26] Because manufacturing processes and technologies are similar throughout the world, LWR pipe and tube from different sources are generally viewed as interchangeable across a range of applications.[27] In addition, LWR tubing must meet common standards regarding materials, dimensions, and testing, established by standard authorities.

Design criteria for specific applications and price competitiveness, key considerations for the use of LWR pipe and tube, tend to limit interchangeability with other products.[28] Although other, generally less expensive products, including steel angle, bar, rod, and channel can be utilized in place of LWR pipe and tube in many applications, their inferior strength-to-weight ratio serves to restrain their usage in many other instances.[29] Also, circular light-walled pipe and tube could theoretically be substituted for LWR pipe and tube, but end-user specifications and long standing customer preferences limit the interchangeability of these products.[30] Industry participants report that although black and corrosion-resistant LWR pipe and tube can be interchangeable in most applications, specific applications and customers may require the use of the corrosion-resistant product (e.g., manufacturers of carports).[31]

Channels of Distribution

During the period of investigation, both U.S. producers[32] and importers sold the majority of their LWR pipe and tube to distributors, who in turn sell the product to end users.[33] U.S. producers sold 76.3 percent of their U.S. shipments to distributors over the entire period of investigation, whereas U.S.

---

[26] A domestic producer representative testified that "...Chinese and Mexican producers manufacture LWR products to either industry specifications or to the specifications required by most original equipment manufacturers." Conference transcript, p. 19 (Kurasz). According to a witnesses for the largest exporter of LWR tubing from Mexico, Mexican producers manufacture "commodity products the same as the U.S. produced commodity product." Conference transcript, pp. 118 and 138 (Diederichs).

[27] *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey (Inv. Nos. 731-TA-1054 and 1055 (Final))*, USITC Publication 3728, October 2004, p. 15; and *Certain Pipe and Tube from Argentina, Brazil, Canada, India, Korea, Mexico, Singapore, Taiwan, Thailand, Turkey, and Venezuela (Inv. Nos. 731-TA-296 and 409-410 (Review))*, USITC Publication 3316, July 2000, p. LWR-I-11.

[28] Conference transcript, pp. 73-74 (Schagrin).

[29] *Light-Walled Rectangular Pipe and Tube from Mexico (Inv. No. 731-TA-730 (Preliminary))*, USITC Publication 2892, May 1995, p. II-4.

[30] *Light-Walled Rectangular Pipe and Tube from Mexico and Turkey (Inv. Nos. 731-TA-1054 and 1055 (Final))*, USITC Publication 3728, October 2004, p. I-12.

[31] *Ibid.*

[32] Petitioners' representatives testified that the proportion of their sales have increased over the past few years to distributors. Conference transcript, p. 44 (Klima) and p. 45 (Baker). One of petitioners' witnesses attributed the decline of end-use customers to import competition for downstream LWR-tubing-containing products. Conference transcript, pp. 44-45 (Baker).

[33] In contrast, mechanical tubing is generally sold to end users. *Certain Circular, Welded, Non-Alloy Steel Pipes and Tubes from Brazil, Korea, Mexico, Romania, Taiwan, and Venezuela, (Inv. Nos. 731-TA532-537 (Final))*, USITC Publication 2564, October 1992, p. I-23 (88 percent of hot-rolled mechanical tubing sold directly to end users).

importers sold 83.9 percent of their U.S. shipments to distributors.[34] [35] Some end users are large enough to purchase directly from domestic mills, from importers, or both.[36]

Price

Pricing practices and prices reported for LWR pipe and tube in response to Commission's questionnaires are presented in *Part V* of this report.

[34] Responses to Commission's producer's and importer's questionnaires. There are individual firms with a higher proportion of their shipments to end users rather than to distributors. For example, a petitioners' witness testified that for the Mechanical Tube Division of Allied Pipe and Tube and Conduit, only 30 percent of its business is with distributors. Conference transcript, p. 45 (Kurasz).

[35] Percentage of U.S. shipments going to distributors broken out by subject source: 93.2 percent China, 100.0 percent Korea, 78.1 percent Mexico, and 100.0 Turkey.

[36] Conference transcript, p. 15 (Baker).

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

U.S. MARKET SEGMENTS

LWR pipe and tube is used in a wide variety of applications. Uses cited by questionnaire respondents included automotive applications, fences, shelving, furniture, windows, athletic equipment, steel ramps, gas grills, agricultural equipment, utility and boat trailers, RV equipment, store fixtures, ornamental/railings, shelters, metal buildings, greenhouses, light posts, and cow stalls.

In most cases, U.S. producers and importers of product from the subject countries sell LWR pipe and tube in one or more specific regions of the United States. Five of 21 U.S. producers reported that they sell throughout the continental United States. The majority of the remaining 16 producers sells LWR pipe and tube in multiple geographic areas: eight sell in the Central Southwest, eight sell in the Midwest, six sell in the Southeast and the Pacific Coast, five sell in the Mountain region, and 2 sell in the Northeast. One producer, ***, reported that it sells only to ***. Of the 27 responding importers, 13 sell to the Pacific Coast, 13 sell to the Central Southwest, 11 sell to the Southeast, 3 to the Midwest, and 1 to the Mountain region.[1] One importer, ***, sells only to Puerto Rico, one importer, ***, sells only to ***, and one importer, ***, did not report any geographical area.

U.S. inland shipping distances for U.S.-produced LWR pipe and tube and imports from China, Korea, Mexico, and Turkey were reported during the review period. Of the 21 responding producers, only 5 producers reported the majority of their U.S. sales occurring within 100 miles of their production or storage facilities. Most producers, 15 of 21, sold the majority of their LWR pipe and tube within distances of 101 to 1,000 miles. Nonetheless 14 producers sold up to 10 percent of their LWR pipe and tube at distances of over 1,000 miles. Similarly, only 4 of 20 responding importers had the majority of their U.S. sales occurring within 100 miles of their production or storage facilities. Nine importers sold the majority of their LWR pipe and tube within distances of 101 to 1,000 miles while three importers sold the majority of their LWR pipe and tube at distances of over 1,000 miles.

Delivery lead times from inventories varied widely for both U.S.-produced and imported LWR pipe and tube. For U.S. producers, they ranged from 1 day to as much as 60 days. For importers, they ranged from three days to as much as four months. Delivery lead times from produced-to-order LWR pipe and tube averaged about one month for U.S. producers and over three months for importers. Most imports are produced to order, while U.S. producers the produced to order and sold from inventory.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

The sensitivity of the domestic supply of LWR pipe and tube to changes in price depends on several factors including the level of excess capacity, the availability of alternate markets for U.S.-produced LWR pipe and tube, inventory levels, and the ability to shift to the manufacture of other products. The overall evidence in the preliminary phase of these investigations indicates that the domestic industry has a high degree of flexibility in expanding output and U.S. shipments in response to an increase in price, chiefly due to the low industry capacity utilization rates and relatively high ratios of inventories to shipments. U.S. producers' annual aggregate capacity utilization rates were generally below 60 percent during the period for which the data were collected in the investigation. They ranged

[1] Responses of 27 of 30 firms that submitted questionnaires are discussed in this section since 3 firms, *** did not provide usable pricing and narrative data.

from a low of 57.1 percent in 2005 to a high of 58.3 percent in 2004. During January-March 2006 and 2007, the rates were 60.6 and 53.0 percent. However, export quantities were consistently small during 2004-06. In each of these years, exports, as a percent of total shipments, ranged between *** percent in 2005 and *** percent in 2006. During January-March 2007, the ratio of exports to total U.S. shipments was *** percent. The ratio of U.S. producers' end-of-period inventories to their total shipments ranged from *** to *** percent during 2004-06. During January-March 2007, the ratio was *** percent.

Questionnaire responses show that producers make other kinds of pipe and tube using the same production equipment and production and related workers employed in making LWR pipe and tube. Circular mechanical tubing was most commonly cited, and electrical conduit, structural tubing, roll-formed shapes, and other products were also mentioned. This information suggests that the industry has flexibility in shifting its product mix.

Supply of Subject Imports to the U.S. Market

The responsiveness of supply of imports from subject countries to changes in price in the U.S. market is affected by such factors as capacity utilization rates, the availability of home markets, other export markets, and inventories. Based on available information, suppliers of subject imports are likely to respond in changes in demand with moderate to high changes in the quantity of shipments of LWR pipe and tube to the U.S. market.[2]

Subject Imports from Korea

During 2004-06, the capacity utilization rate for Korean producers of LWR pipe and tube was between *** percent; it is projected to be *** percent in 2007 and *** in 2008. Available data indicate that Korean LWR pipe and tube producers' inventories, as a percentage of total shipments, ranged from a low of *** percent to a high of *** percent. The majority (*** percent) of LWR pipe and tube shipments were sold commercially in the Korean home market during this period. Korean LWR pipe and tube producers' exports to non-U.S. markets, as a percentage of shipments, ranged from a low of *** percent to a high of *** percent.

Subject Imports from Mexico

During 2004-06, the capacity utilization rate for Mexican producers of LWR pipe and tube was between *** percent; it is projected to remain around *** percent in 2007-08. Available data indicate that Mexican LWR pipe and tube producers' inventories, as a percentage of total shipments, ranged from a low of *** percent to a high of *** percent. The majority (*** percent) of LWR pipe and tube shipments were sold commercially in the Mexican home market during this period. Mexican LWR pipe and tube producers' exports to non-U.S. markets, as a percentage of shipments, ranged from a low of *** to a high of ***.

[2] The Commission received no questionnaire responses from Chinese suppliers; therefore, no analysis of Chinese suppliers responsiveness is made at the preliminary phase of these investigations.

Subject Imports from Turkey

During 2004-06, the capacity utilization rate for Turkish producers of LWR pipe and tube was between *** percent; it is projected to remain around *** percent in 2007-08. Available data indicate that Turkish LWR pipe and tube producers' inventories, as a percentage of shipments, ranged from a low of *** percent to a high of *** percent. The majority (*** percent) of LWR pipe and tube shipments were sold commercially in the Turkish home market during this period. Turkish LWR pipe and tube producers' exports to non-U.S. markets, as a percentage of shipments, ranged from a low of *** to a high of ***.

U.S. Demand

Demand Characteristics

Since LWR pipe and tube is an intermediate product with many end-use applications, including fences, gates, hand rails, furniture, sports equipment, automotive equipment, and others as discussed above, the overall demand for LWR pipe and tube is closely linked to the demand for those end use products. The price elasticity of demand for LWR pipe and tube is probably moderate due to the fact that LWR pipe and tube products have substitutes for some applications and they often account for a substantial share of the final cost of products in which they are used as inputs.

When asked how the U.S. demand for LWR pipe and tube had changed since January 1, 2004, responses from U.S. producers were mixed: 6 of 17 producers reported that demand had increased, 4 reported that demand decreased, and 7 reported that demand either fluctuated or did not change. The producers reporting increased demand attributed the rise to economic factors such as population, increased construction, and relocation of northern manufacturing to the Southeast. The producers reporting reduced demand attributed the decline to their customers moving production outside of the producers' sales region or to an increase in imports of finished products. Five importers reported that demand increased, five importers reported no change in demand, and no importers reported that demand decreased during the review period. The importers reporting increased demand attributed the rise to factors such as increases in exports and GDP.

Apparent U.S. consumption of LWR pipe and tube increased from 945,340 short tons in 2004 to 1,069,326 short tons in 2006. During January-March 2007, apparent U.S. consumption was 241,268 short tons as compared to 253,094 short tons during the same period in 2006.

Substitute Products

U.S. producers and importers were asked to list any products that may be substituted for LWR pipe and tube, the relevant applications and end uses, and to indicate whether changes in the prices of the substitutes affected the price for LWR pipe and tube. Eight of 21 producers mentioned substitute products for different end uses, including angle steel for fencing and shelving; roll-formed sections and lumber for racks and shelving; chain link; block wall; plastic and wood for fences; steel channels; seamless tube construction; drawn mandrel for automotive and hydraulics; hydroformed tube for automotive; and aluminum for furniture and plastic. Only three of these eight producers reported that the prices of the substitutes affect the price of LWR pipe and tube. Nine of the 10 responding importers reported a few substitutes including plastic; wood and circular pipe for fences; purlin; aluminum tube and round pipe and tube; and solid steel bars. The petitioner stated that generally there are no available substitutes, although wire mesh or wood might be a substitute for LWR pipe and tube in some instances

such as building a fence.[3] However, the Mexican respondents contend that wood, plastic, and especially aluminum are also good substitutes for LWR pipe and tube.[4]

Cost Share

Producers and importers were asked to estimate the cost of LWR pipe and tube products as a share of the cost of the end use products in which they are used as inputs. Eight producers and two importers provided estimates for various products. The firms reported that LWR pipe and tube often accounts for a substantial share of the final product cost, although the cost share varies widely. A summary of the share of total cost of the end-use products is presented below.

End use	Share of total cost of end-use product (*percent*)
Agricultural equipment	50
Athletic equipment	25-90
Autos	90
Consumer carports/shelters	50
Cow stalls	25
Fences	20-80
Furniture	1-92
Gas grills	70-75
Greenhouses	30
Metal/fabric buildings	35
Shelving	2-80
Utility trailers	70
Windows	33-65

SUBSTITUTABILITY ISSUES

The extent of substitutability between domestic products and subject and nonsubject imports, between subject imports from different sources, and between subject and nonsubject imports is examined in this section. The discussion is based upon the results of questionnaire responses from producers and importers.

Comparisons of Domestic Products and Subject Imports

In order to determine whether U.S.-produced LWR pipe and tube can generally be used in the same applications as imports from China, Korea, Mexico, and Turkey, producers and importers were asked whether the product can "always," "frequently," "sometimes," or "never" be used interchangeably. The vast majority of producers that compared LWR pipe and tube from these four countries with that produced in the United States reported that they are always interchangeable (table II-1).

[3] Conference transcript, pp. 73-74 (Schagrin).

[4] Conference transcript, p. 146 (Diederichs).

Table II-1
LWR pipe and tube: Interchangeability of product from different sources[1]

Country comparisons	U.S. producers					U.S. importers				
	A	F	S	N	0	A	F	S	N	0
U.S. vs. China	16	2	1	-	1	11	-	5	-	-
U.S. vs. Korea	10	2	-	-	1	10	2	-	-	-
U.S. vs. Mexico	10	-	-	-	1	9	3	1	-	-
U.S. vs. Turkey	16	2	-	-	1	7	3	4	-	-
U.S. vs. Nonsubject	12	1	-	-	1	8	-	1	-	-
China vs. Korea	10	-	-	-	1	9	1	1	-	-
China vs. Mexico	10	-	-	-	1	9	-	2	-	-
China vs. Turkey	10	-	-	-	1	7	2	2	-	-
China vs. Nonsubject	3	-	-	-	1	7	-	1	-	-
Korea vs. Mexico	10	-	-	-	1	9	-	1	-	-
Korea vs. Turkey	10	-	-	-	1	7	-	2	-	-
Korea vs. Nonsubject	10	-	-	-	1	7	-	1	-	-
Mexico vs. Turkey	10	-	-	-	1	9	-	3	-	-
Mexico vs. Nonsubject	10	-	-	-	1	9	-	1	-	-
Turkey vs. Nonsubject	10	-	-	-	1	7	-	1	-	-

[1] Producers and importers were asked if LWR pipe and tube produced in the United States and in other countries is used interchangeably.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

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

For importers that compared U.S. products with those from China, Korea, Mexico, and Turkey, the majority reported that the products from these countries can always or frequently be used interchangeably, with a few reporting that the product is only sometimes interchangeable. However, for China and Turkey, five and four importers, respectively, reported that U.S.-produced and Turkish LWR pipe and tube are only sometimes interchangeable.

Three importers that compared the domestic products and subject imports with respect to interchangeability made additional comments on factors that limit or preclude interchangeability. One firm stated that price and availability of shipping vessels limit interchangeability. Another firm indicated that the use of the metric system makes current home-market inventories in other countries unmarketable in the United States with regard to both the length and the exterior shape of the products. A third firm reported several factors including poor surface quality, impossible delivery time for an OEM, no respect of the ASTM specifications and very little traceability, and difficulty obtaining certain cost specifications.

Producers and importers were also asked to compare U.S.-produced products with imports from each of the subject countries in terms of product differences other than price such as quality, availability, product range, and technical support. Again, firms were asked whether these product differences are always, frequently, sometimes, or never significant (table II-2). Of the producers that compared the U.S. product with those from China, Korea, Mexico, and Turkey, most said that the differences are sometimes or never significant. Two producers said that differences between the U.S. and Mexican products are frequently significant and two said that the differences are always significant. Two producers said that differences between the U.S. and Chinese products are frequently significant and two said that the differences are always significant. Two producers said that differences between the U.S. and Turkish

products are frequently significant and one said that the differences are always significant. Among the importers, the majority said that the differences are sometimes or never significant for all four countries, with a few reporting that differences are always or frequently significant.

Table II-2
LWR pipe and tube: Differences other than price between products from different sources[1]

Country comparisons	U.S. producers					U.S. importers				
	A	F	S	N	0	A	F	S	N	0
U.S. vs. China	2	2	8	7	1	1	-	7	7	-
U.S. vs. Korea	-	-	4	5	1	-	-	7	4	-
U.S. vs. Mexico	2	2	8	7	1	-	2	6	4	-
U.S. vs. Turkey	2	1	8	7	1	1	2	6	3	-
U.S. vs. Nonsubject	1	-	6	7	1	-	1	3	4	-
China vs. Korea	-	-	4	5	1	1	-	6	3	-
China vs. Mexico	-	-	4	5	1	1	2	3	4	-
China vs. Turkey	-	-	4	5	1	-	-	4	4	-
China vs. Nonsubject	-	-	4	5	1	-	1	3	3	-
Korea vs. Mexico	-	-	4	5	1	-	2	4	4	-
Korea vs. Turkey	-	-	4	5	1	-	-	4	4	-
Korea vs. Nonsubject	-	-	4	5	1	-	1	3	3	-
Mexico vs. Turkey	-	-	3	6	1	-	1	5	4	-
Mexico vs. Nonsubject	-	-	3	6	1	-	2	3	4	-
Turkey vs. Nonsubject	-	-	4	5	1	-	1	3	3	-

[1] Producers and importers were asked if differences other than the price between LWR pipe and tube produced in the United States and in other countries are a significant factor in their firms' sales of LWR pipe and tube.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

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

Comparisons of Domestic Products and Nonsubject Imports

Producers and importers from all sources were also asked to compare U.S.-produced LWR pipe and tube with nonsubject imports both in terms of interchangeability and product specifications. Twelve responding producers that compared the interchangeability of the domestic product with nonsubject imports said that they are always interchangeable and one producer reported that the product is frequently interchangeable. The majority of responding producers that compared the domestic product with nonsubject imports in terms of product differences said that the differences are either sometimes or never significant, while one producer reported that the differences are always significant. Of the importers that compared the domestic product with nonsubject imports in terms of interchangeability, the majority stated that they are always interchangeable. The majority of importers that compared the domestic product with nonsubject imports in terms of product differences said that the differences are always or sometimes significant.

Comparisons of Subject Imports and Nonsubject Imports

U.S. producers and importers of LWR pipe and tube from all sources were also asked to separately compare imports from China, Korea, Mexico, and Turkey with nonsubject imports, both in terms of interchangeability and product differences. All U.S. producers that compared imports from China, Korea, Mexico, and Turkey with nonsubject imports in terms of interchangeability said that the products are always interchangeable. All U.S. producers that compared imports from China, Korea, Mexico, and Turkey with nonsubject imports in terms of product differences said that the differences are sometimes or never significant. Of the importers that compared products from the four countries with nonsubject imports in terms of interchangeability, the majority said that they are always interchangeable. One importer reported that the products are only sometimes interchangeable.

Comparisons of Subject Products from the Subject Countries

U.S. producers and importers of LWR pipe and tube from all sources were also asked to compare imports from China, Korea, Mexico, and Turkey both in terms of interchangeability and product differences. All responding producers that compared products from the four countries in terms of interchangeability said that they are always interchangeable. All of the U.S. producers that compared products from China, Korea, Mexico, and Turkey in terms of product differences said that the differences are sometimes or never significant. Of the importers that compared products from the four countries in terms of interchangeability, a majority said that they are always or sometimes interchangeable. Of the importers that compared products from the four countries in terms of product differences, the majority said that the differences are only sometimes or never significant.

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

U.S. PRODUCERS

Table III-1 lists 22 U.S. producers of LWR pipe and tube, their plant locations, positions on the petition, and shares of reported production over the period for which data were collected.

Table III-1
LWR pipe and tube: U.S. producers, their positions on the petition, production locations, U.S. production, and shares of reported U.S. production, January 2004-March 2007 aggregated

Firm	Position on the petition	Production location(s)	Total number of mills	Total production (*short tons*)	Share of production (*percent*)
AK Tube	Support	Walbridge, OH	***	***	***
Allied	Support	Harvey, IL Philadelphia, PA Phoenix, AZ Pine Bluff, AR DePere, WI	***	***	***
Atlas (Chicago)	Support	Chicago, IL	***	***	***
Atlas (Plymouth)	Support	Plymouth, MI	***	***	***
Bull Moose	Support	Chicago Heights, IL Elkhart, IN Gerald, MO Masury, OH Trenton, GA	***	***	***
California	Support	City of Industry, CA	***	***	***
Dundee	Support	Dundee, MI	***	***	***
Ex-L-Tube	Support, except no position on Mexico[1]	Kansas City, MO Kansas City, KS	***	***	***
Hanna	Support	Pekin, IL Tuscaloosa, AL	***	***	***
Hannibal	Support	Vernon, CA	***[2]	***	***
Hofmann	Support	Sinking Spring, PA	***[3]	***	***
Jackson	***	Charlotte, NC Pioua, OH	***[4]	***	***
Leavitt	Support	Chicago, IL Jackson, MS	***[5]	***	***
Leggett & Platt	***	Carrollton, KY LaVergne, TN West Point, MS	***[6]	***	***
Longhorn	Support	Dallas, TX	***	***	***

Table continued on next page.

Table III-1--*Continued*
LWR pipe and tube: U.S. producers, their positions on the petition, production locations, U.S. production, and shares of reported U.S. production, January 2004-March 2007 aggregated

Firm	Position on the petition	Production location(s)	Total number of mills	Total production (*short tons*)	Share of production (*percent*)
Maruichi	Support	Santa Fe Springs, CA	***	***	***
Northwest	Support	Houston, TX	***	***	***
Searing	Support	Rancho Cucamonga, CA	***	***	***
Southland	Support	Birmingham, AL	***	***	***
Vest	Support	Vernon, CA	***	***	***
Welded	Support	Berkeley, SC Delta, OH	***	***	***
Western	Support	Long Beach, CA	***	***	***
Total			124	2,175,485	100.0

[1] ***.
[2] ***.
[3] ***.
[7] ***.
[5] ***. ***.
[7] ***.

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

The 22 firms represented in table III-1 account for the vast majority of U.S. production of LWR pipe and tube.[1] The petition in these investigations identified 17 U.S. firms as producers of LWR pipe and tube. While the number of U.S. producers of LWR pipe and tube is larger than the information than indicated in the petition, the remaining U.S. producers have tended to represent smaller operations. The firms identified in the petition include the original 12 petitioning firms: Allied Tube and Conduit, Harvey, IL;[2] Atlas Tube, Plymouth, MI;[3] California Steel and Tube, City of Industry, CA;[4] Ex-L-Tube, Kansas City, MO;[5] Hannibal Industries, Los Angeles, CA;[6] Leavitt Tube Co., LLC, Chicago, IL;[7] Maruichi American Corp., Sante Fe Springs, CA;[8] Searing Industries, Rancho Cucamonga, CA;[9]

[1] Staff believes that the data collected in the preliminary phase of these investigations represents the large majority of domestic U.S. LWR pipe and tube production. Some small producers of LWR pipe and tube have not supplied (and in some instances refused to supply) data, as discussed below.

[2] http://www.alliedtube.com.

[3] http://www.atlastube.com.

[4] http://www.californiasteelandtube.com.

[5] http://www.exltube.com.

[6] http://www.hannibalindustries.com.

[7] http://www.leavitt-tube.com.

[8] http://www.macsfs.com.

[9] http://www.searingindustries.com.

Southland Tube, Birmingham, AL;[10] Vest Inc., Los Angeles, CA;[11] Welded Tube, Concord, Ontario (Canada);[12] and Western Tube and Conduit, Long Beach, CA.[13] [14] In addition to these 12 firms, the petition identified Bull Moose Tube, Chesterfield, MO;[15] Longhorn Tube, LP, Dallas, TX;[16] Hanna Steel, Fairfield, AL;[17] Leggett & Platt, Carthage, MO;[18] and Northwest Pipe, Portland, OR.[19] All of the firms identified in the petition have supplied the Commission with data in these investigations.

Additional producers are believed to include James Steel & Tube Co., Madison Heights, MI;[20] Valmont, Omaha, NE;[21] AK Tube LLC, Walbridge, OH;[22] Dundee Products Co., Dundee, MI;[23] Sterling Pipe & Tube, Inc., Toledo, OH;[24] Jackson Tube Service, Inc., Piqua, OH;[25] Century Tube Corporation, Somerville, NJ;[26] Tarpon Industries, Inc., Marysville, MI;[27] Hofmann Industries, Sinking Spring, PA;[28] Lock Joint Tube, South Bend, IN;[29] and National Metalware, LP, Aurora, IL.[30] Of these, three (AK Tube, Dundee and Jackson) provided completed responses indicating that they produce subject merchandise, one (Hofmann) provided a partial questionnaire response with data on its LWR pipe and tube operations, and the remaining firms have been unresponsive to Commission inquiries.

In the Commission's previous investigations on LWR pipe and tube from Mexico and Turkey, four additional firms were identifiable as potential producers of subject merchandise; however, their total

---

[10] http://www.southlandtube.com.

[11] http://www.vestinc.com.

[12] http://www.weldedtube.com.

[13] http://www.westerntube.com.

[14] Petition, exhibit 1.

[15] http://www.bullmoosetube.com. Bull Moose subsequently joined the petitioning firms.

[16] http://www.longhorntube.com.

[17] http://www.hannasteel.com.

[18] http://www.leggett.com.

[19] http://www.nwpipe.com.

[20] http://www.jamessteel.com. This firm apparently operates a single light-gauge mill, but was unable to gather the data requested in the Commission's questionnaire in the time allotted. Staff telephone interviews with ***.

[21] http://www.valmont.com This firm primarily produces irrigation tubing, but also some subject merchandise ***.

[22] http://www.aktube.com. AK Tube supplied data in these investigations.

[23] http://www.dundeeproducts.com. Dundee Products supplied data in these investigations.

[24] http://www.sterlingpipeandtube.com. Sterling has been unresponsive to Commission inquiries.

[25] http://www.jackson-tube.com. Jackson Tube supplied data in these investigations.

[26] http://www.centurytube.net. Century Tube has been unresponsive to Commission inquiries.

[27] http://www.tarponind.com. Tarpon Industries apparently owns the Eugene Welding Company, Steelbank Tubular, Inc., and SpaceRak. It is a publicly traded company on the American Stock and Options Exchange under the symbol TPO. Tarpon has been extremely unresponsive to Commission inquiries, including at one point hanging up on Commission staff.

[28] http://www.hofmann.com. Hofmann Industries supplied a partial response to the Commission's U.S. producers' questionnaire, including ***.

[29] http://www.lockjointtube.com. Lock Joint Tube has been unresponsive to Commission inquiries.

[30] http://www.nationalmetalwares.com. National Metalwares initially indicated a willingness to provide the Commission data, but then was subsequently unresponsive to Commission inquiries. Staff telephone interview, ***.

aggregate production at the time, *i.e.*, in 2003, was estimated to account for fewer than *** short tons.[31] These firms include: Dothan Tubular Products, Dothan, AL;[32] Great Lakes Tubular Products, Aurora, IL;[33] Lone Star Tube (now part of U.S. Steel), Dallas, TX;[34] and McHone Industries, Inc.[35] These four firms were not contacted in this preliminary phase of these investigations.

Certain U.S. producers identified in previous Commission investigations and reviews no longer produce LWR pipe and tube. Former U.S. producer Copperweld, which operated certain light-gauge tubing mills in Chicago, IL, was purchased in 2005. Copperweld's Chicago-based mills are currently being operated by Atlas Tube[36] and are reported by Atlas in the data gathered in these proceedings. Assets relating to Copperweld's mechanical tubing lines out of Pittsburgh, PA, were sold by Atlas to Dofasco,[37] but produce heavy-walled or structural tubing otherwise known as hollowed structural sections ("HSS") in the industry that are not subject to these investigations.[38] Similarly, former U.S. producer Maverick, which operated certain heavy-gauge mills in Chesterfield, MO, that occasionally ran minimal quantities of material subject to these investigations, was acquired by the Argentine firm Tenaris in 2006[39] and the structural tube assets were sold and acquired by U.S. producer Atlas. Atlas ***, however, this production is related to HSS and not to subject merchandise. Former U.S. producer Dallas Tube & Rollform was ***,[40] but ***.

Table III-2 presents information on U.S. producers' ownership structure, business, and LWR pipe and tube's share of total sales.

Industry Coverage

At the staff conference, Mexican respondents alleged that the Commission did not collect data on the entire universe of U.S. producers of LWR pipe and tube.[41] In their postconference submission, Mexican respondents provided a list of firms that they believe produce subject merchandise.[42] Some of the firms identified are "structural tube" producers, such as Dofasco and IPSCO, that operate mills capable of producing subject rectangular tubing at the low end of their production range. However, the volumes of actual production of LWR pipe and tube on these mills are or are believed to be minimal to

---

[31] *Light-walled Rectangular Pipe and Tube From Mexico and Turkey, Inv. Nos. 731-TA-1054 and 1055 (October 2004)*, USITC Publication 3728, p. III-5.

[32] http://www.dothantube.com.

[33] http://www.gltube.com.

[34] http://www.lonestarsteel.com. Note that according to its web site, Lone Star does not produce LWR pipe and tube.

[35] http://www.mchoneind.com.

[36] *Atlas Tube acquires Copperweld structural tube business*, press release, Atlas Tube, August 15, 2005.

[37] *Dofasco Completes Acquisition of Copperweld Mechanical Tubing and Automotive Components Businesses*, press release, Dofasco, October 4, 2005.

[38] Staff telephone interview with ***.

[39] *Tenaris to Acquire Maverick Tube Corporation*, press release, Tenaris, June 12, 2006.

[40] *** U.S. producers' questionnaire response, question II-2.

[41] Conference transcript, p.116 (Baisburd).

[42] Respondents' postconference brief, exh. 6.

Table III-2
LWR pipe and tube: Parent companies, additional product lines, and LWR pipe and tube's share of total sales, 2006

Firm	Parent company	Additional product lines (*i.e.*, other than LWR pipe and tube)	LWR pipe and tube's share of total sales, 2006 (*percent*)
AK Tube	AK Investments, Inc., Middletown, OH	AK Tube produces and sells other carbon and stainless steel tubular products.	***
Allied	Tyco International, Princeton, NJ[1]	Allied produces and sells primarily circular pipe and tube including mechanical tubing, fire sprinkler pipe, and electrical conduit.	***
Atlas (Chicago)	Atlas (USA) Holding Inc., Harrow, Ontario, Canada[2]	Atlas also produces and sells circular mechanical pipe and structural tubing.	***
Atlas (Plymouth)	Atlas (USA) Holding Inc., Harrow, Ontario, Canada[2]	Atlas produces and sells circular mechanical pipe and heavy-walled rectangular pipe. Atlas (the Canadian parent) claims to be North America's largest manufacturer of hollow structural sections.	***
Bull Moose	Caparo Industries, PLC, London, the United Kingdom	Bull Moose also produces and sells structural pipe, sprinkler pipe, and other non-rectangular mechanical pipe.	***
California	MacSteel Service Centers USA[3]	California Steel and Tube produces and sells primarily mechanical tubing, including subject merchandise.	***
Dundee	None	Dundee Products also produces round tubing.	***
Ex-L-Tube	Steel and Pipe Supply Co., Manhattan, KS	Ex-L-Tube primarily produces and sells structural tubing (*i.e.*, HSS), but also circular mechanical and standard pipe.	***
Hanna	Hanna Holdings, Fairfield, AL	Hanna also produces and sells circular mechanical tubing and line pipe	***
Hannibal	Mitsui Steel Holdings, Inc., New York, NY[4]	Hannibal Industries advertises itself as a diversified metal fabricator. Its tube mills also produce circular mechanical pipe.	***
Hofmann	None	Hofmann also produces and sells circular mechanical tubing and other shapes.	***

Table continued on next page.

Table III-2--*Continued*
LWR pipe and tube: Parent companies, additional product lines, and LWR pipe and tube's share of total sales, 2006

Firm	Parent company	Additional product lines (*i.e.*, other than LWR pipe and tube)	Share of LWR pipe and tube out of total sales, 2006 (*in percent*)
Jackson	None	Jackson Tube produces and sells primarily circular mechanical tubing.	***
Leavitt	None	Leavitt Tube produces and sells mechanical round tubing, structural tubing, and standard pipe.	***
Leggett & Platt	None	Leggett & Platt is a diversified manufacturer of engineered components. Its tube mills also produce circular mechanical pipe, ovals, and heavy-walled squares.	***
Longhorn	None	Longhorn also produces HSS and custom shapes.	***
Maruichi	Maruichi Steel Tube Co. Ltd., Osaka, Japan (***) and Metal One Corp., Tokyo, Japan (***)	Maruichi American also produces and sells circular mechanical pipe, standard pipe, and structural pipe.	***
Northwest	None	Northwest also produces and sells circular mechanical pipe.	***
Searing	None	Searing Industries also produces and sells circular mechanical pipe.	***
Southland	None	Southland Tube also produces and sells circular mechanical pipe and HSS.	***
Vest	JFE Shoji Trade USA[5]	Vest also produces and sells circular mechanical pipe and HSS.	***
Welded	Welded Tube of Canada Holdings, Concord, ON, Canada	Welded also produces and sells circular mechanical and structural pipe. Welded (Canada) also produces HSS, alloy tubular products, line pipe, and oil country tubular goods.	***
Western	Sumitomo Metals Industries, Ltd., Tokyo, Japan (***)	Western Tube also produces and sells circular mechanical pipe, electrical conduit, and fence.	***

[1] ***.
[2] Atlas merged with the John Maneely Co. (owner of Wheatland Tube) in 2006. The John Maneely Co. is currently under the stewardship of the private equity firm, the Carlyle Group. *Atlas Tube announces merger with John Maneely Co., a subsidiary of the Carlyle Group*, press release, Atlas Tube, October 25, 2006.
[3] ***.
[4] ***.
[5] ***.

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

nonexistent.[43] [44] Some of the firms identified by respondents as potential producers of LWR pipe and tube such as Cooper & Cooper and Metal-Matic appear to produce primarily circular mechanical tubing for engineering (auto, boilers, and hydraulic) uses.[45] At least one firm identified by respondents as a potential producer of LWR pipe and tube, Tube Methods, appears to produce nonsubject alloy tubing.[46] Other firms otherwise identified as potential LWR pipe and tube producers in respondents' postconference brief are indeed small producers of LWR pipe and tube, (***), such as Dundee Products, Eugene Welding Co. (a subsidiary to Tarpon Industries), and James Steel, among others. Mexican respondents also identify three U.S. producers of carports with potential production of subject merchandise consumed internally in their production of carports.[47] Staff contacted these carport manufacturers, and one firm, ***, indicated production of *** short tons of subject merchandise.[48] Overall, upon review staff believes that current coverage of U.S. pipe and tube production is high based on responses the Commission has received of completed U.S. producers' questionnaires from all the major U.S. producers of subject merchandise.

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

Table III-3 and figure III-1 present U.S. producers' production, capacity, and capacity utilization calculated based on product allocation.

Table III-3
LWR pipe and tube: U.S. producers' production, capacity, and capacity utilization, 2004-06, January-March 2006, and January-March 2007

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
	Quantity (*short tons*)				
Capacity	1,157,452	1,157,204	1,159,650	292,117	316,012
Production	675,178	660,754	672,016	176,915	167,537
	Ratio (*percent*)				
Capacity utilization	58.3	57.1	57.9	60.6	53.0

Note.–*** indicated that the Commission should look at its mills' total unutilized capacity regardless of product mix allocations.

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

[43] Staff telephone interview, with ***.

[44] IPSCO's website indicates that its produces HSS between 0.120" to 0.375" in wall thickness. http://www.ipsco.com/Products/ProductsTubularHSS.asp.

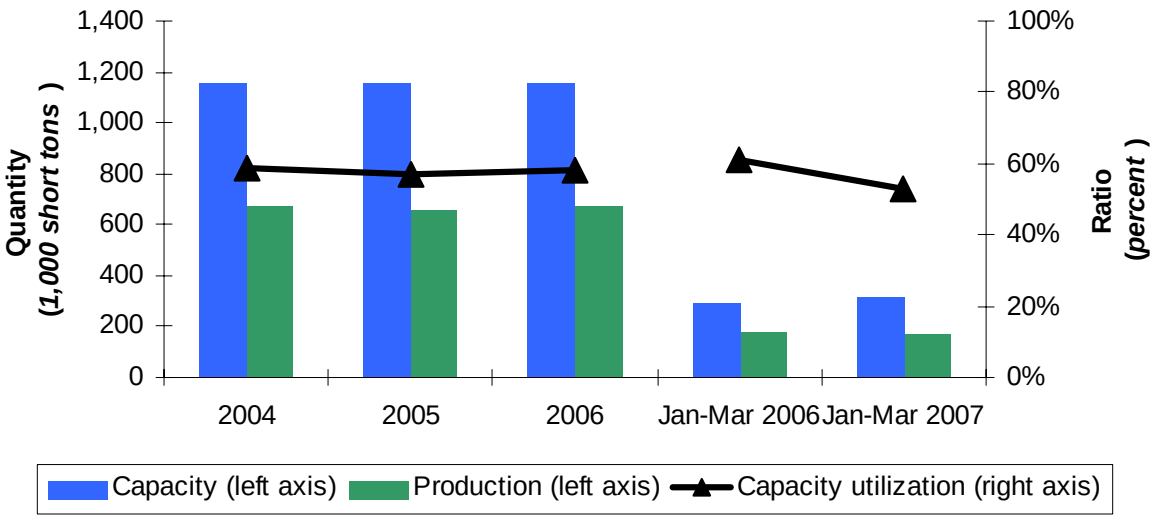
[45] http://www.coopertube.com and http://www.metal-matic.com.

[46] http://www.tubemethods.com.

[47] Mexican respondents' postconference brief, pp. 12-13.

[48] Staff e-mail correspondence, ***.

Figure III-1
LWR pipe and tube: U.S. producers' production, capacity, and capacity utilization, 2004-06, January-March 2006, and January-March 2007



Source: Table III-3.

All producers of LWR pipe and tube produce circular mechanical tube by virtue of the fact that all steel pipe and tube milling technologies weld pipe of circular cross section first, which is then flattened with rollers to produce the square and rectangular tubing. In this sense, all U.S. producers of LWR pipe and tube produce circular mechanical tubing. Some U.S. producers of LWR pipe and tube, like ***, produce and market primarily subject merchandise as their core business, while for the majority of U.S. producers of LWR pipe and tube, subject merchandise makes up a relatively small share of their overall tubular goods sales (see table III-2). The primary other product produced by U.S. producers of LWR pipe and tube was circular mechanical tubing. Other products that shared the same equipment as LWR pipe and tube include electrical conduit, structural tubing (which for the purposes of these investigations are any rectangular or round carbon steel tubing products with a wall thickness of greater than 4 mm), roll-formed shapes (which are steel products rolled to specific shapes, such as street sign posts, but not welded into tubular goods), and light-walled specialty tubing such as ovals, tears, and triangles. Table III-4 presents information on U.S. producers' production of LWR pipe and tube, circular mechanical tubing, and all other carbon steel tubular and rolled-formed products produced on the same equipment as LWR pipe and tube.

Overall production shares among light-walled products (LWR pipe and tube, circular mechanical tubing, and other products) remained virtually constant over the January 2004 to March 2007 period. On an individual basis, most U.S. producers indicated some changes to their U.S. operations:[49] *** indicated that it reduced production and lost market share; *** shut down a mill at its *** facility in 2006 "due largely to the loss of volume to imports and its inability to compete with import prices for LWR and circular product;" *** experienced production curtailments, layoffs, and shortened work weeks; *** reduced production at a LWR pipe and tube mill to a single shift between ***, and then completed a sale of a LWR pipe and tube mill due to lack of demand for the product; *** consolidated some tube

[49] The following compilation was developed from data submitted in response to question II-2 in the U.S. producers' questionnaire on "changes in operations."

Table III-4
Light-walled tubular products: U.S. producers' production of subject and related products, 2004-06, January-March 2006, and January-March 2007

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
	Quantity (*short tons*)				
Capacity	2,298,605	2,346,106	2,333,799	584,435	600,339
Production of--					
LWR pipe and tube	675,178	660,754	672,016	176,915	167,537
Circular mechanical tubing	543,216	538,133	516,526	138,189	125,632
Other products	132,352	131,794	141,902	37,012	32,175
Total, all light-wall	1,350,746	1,330,681	1,330,444	352,116	325,344
	Shares and ratios (*percent*)				
Capacity utilization (overall tubular)	58.8	56.7	57.0	60.2	54.2
Share of total production--					
LWR pipe and tube	50.0	49.7	50.5	50.2	51.5
Circular mechanical tubing	40.2	40.4	38.8	39.2	38.6
Other products	9.8	9.9	10.7	10.5	9.9
Total	100.0	100.0	100.0	100.0	100.0

Note.–Data in this table only report production and capacity for light-walled (less than 4 mm wall thickness) goods.

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

manufacturing at *** into its *** facility, and has also had to alternate mill shutdowns since October 2006 due to lack of volume; *** indicated a decrease of 50 percent in its production; *** indicated that it recently sold two of its LWR pipe and tube mills in July 2007 (past the end of the period for which data were gathered in these investigations) *** due to "***;" *** indicated that it experienced a 90 percent reduction in production on two mills producing LWR pipe and tube; *** indicated that is experienced a production curtailment without providing greater details; *** indicated that its LWR pipe and tube mills have been idled due to the "economics of import competition"; *** indicated that it experienced production curtailments with layoffs; *** indicated that it has not experienced its historical norm of 10 shifts for the production of subject merchandise since October 2004; and *** indicated that it acquired certain steel tube assets *** from a firm called ***.

In the preliminary phase of these investigations, data have been gathered on U.S. producers' production of corrosion-resistant LWR pipe and tube versus black LWR pipe and tube.[50] While not all U.S. producers provided useable data on the breakout between these two types of LWR pipe and tube, data submitted indicate that corrosion-resistant LWR pipe and tube accounted for 22.6 percent of U.S. production in 2006, while black LWR pipe and tube accounted for the remaining 77.4 percent of U.S. production, based on approximately two-thirds of total production.[51]

[50] No party in these investigations has argued that black and corrosion-resistant LWR pipe and tube constitute separate domestic like products.

[51] Not all U.S. producers supplied useable data on their breakout of corrosion-resistant and black LWR pipe and tube.

U.S. PRODUCERS' U.S. SHIPMENTS AND EXPORTS

Table III-5 and figure III-2 present data on the U.S. producers' shipments during the period for which data were collected.

Table III-5
LWR pipe and tube: U.S. producers' shipments, by type, 2004-06, January-March 2006, and January-March 2007

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
Quantity (*short tons*)					
Commercial shipments	***	***	***	***	***
Transfers to related firms and internal consumption[1]	***	***	***	***	***
U.S. shipments	668,232	660,272	664,849	178,855	160,824
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
Value (*1,000 dollars*)					
Commercial shipments	***	***	***	***	***
Transfers to related firms and internal consumption[1]	***	***	***	***	***
U.S. shipments	592,681	597,395	613,234	159,946	140,043
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
Unit value (*per short ton*)					
Commercial shipments	$***	$***	$***	$***	$***
Transfers to related firms and internal consumption[1]	***	***	***	***	***
U.S. shipments	887	905	922	894	871
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
Share of quantity (*percent*)					
Commercial shipments	***	***	***	***	***
Transfers to related firms and internal consumption[1]	***	***	***	***	***
U.S. shipments	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments	100.0	100.0	100.0	100.0	100.0

Table continued on next page.

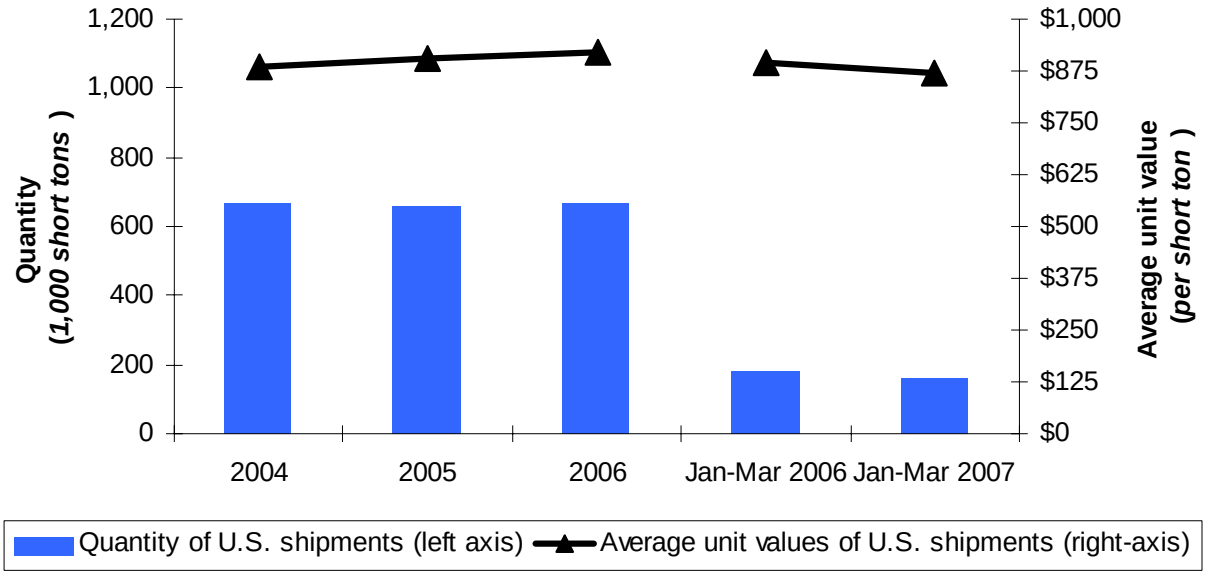
Table III-5--*Continued*
LWR pipe and tube: U.S. producers' shipments, by type, 2004-06, January-March 2006, and January-March 2007

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
	Share of value (*percent*)				
Commercial shipments	***	***	***	***	***
Transfers to related firms and internal consumption[1]	***	***	***	***	***
U.S. shipments	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments	100.0	100.0	100.0	100.0	100.0

[1] U.S. producer *** was the only producer to report internal consumption of LWR pipe and tube, and only very minimal quantities not greater than *** short tons in any year or partial year period. The vast majority (greater than *** percent) of data reported in transfers to related firms and internal consumption relates to ***.

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

Figure III-2
LWR pipe and tube: U.S. producers' U.S. shipments, 2004-06, January-March 2006, and January-March 2007



Source: Table III-5.

Data gathered for the period 2004 to 2006 indicate that the quantity of U.S. shipments of U.S.-produced LWR pipe and tube remained relatively constant, while average unit values of these U.S. shipments increased steadily at approximately 2 percent per year. U.S. producers' U.S. shipments of LWR pipe and tube dropped both in quantity (by 10.1 percent) and average unit value (by 2.6 percent) when comparing January-March 2007 with January-March 2006. All but four of the 22 U.S. producers indicated lower U.S. shipments of LWR pipe and tube in January-March 2007 compared to January-

March 2006, of which *** reported the largest decreases in absolute terms, while *** reported the largest decrease in terms of percentage change (***).

U.S. PRODUCERS' IMPORTS AND PURCHASES

Several U.S. producers also imported and purchased LWR pipe and tube over the period for which data were gathered. Both *** and *** (***) imported LWR pipe and tube from ***. According to data used to compile official Commerce statistics, *** was the *** U.S. importer of LWR pipe and tube in 2006, and *** was the ***. A third U.S. producer, ***, apparently has a sister company in *** that serves as a U.S. importer of record for imports of some *** LWR pipe and tube.[52] Finally, the parent firm *** of a U.S. producer (***) apparently ***.[53] Table III-6 presents data on *** U.S. production and U.S. imports of LWR pipe and tube.

Table III-6
LWR pipe and tube: * and ***'s U.S. production, imports from Canada, and imports as a ratio to production, 2004-06, January-March 2006, and January-March 2007**

* * * * * * *

Three U.S. producers reported purchases of LWR pipe and tube. *** reported a single purchase of *** origin LWR pipe and tube in 2006 of *** short tons that accounted for less than *** percent of its production of LWR pipe and tube over the period for which data were collected. *** reported purchases of *** origin LWR pipe and tube in 2005 and 2006 that accounted for approximately *** percent of its U.S. production.[54] ***. *** reported purchases of *** origin LWR pipe and tube each year between 2004 and 2006 equivalent to less than *** percent of its U.S. production.

U.S. PRODUCERS' INVENTORIES

Table III-7 presents data on U.S. producers' inventories during the period for which data were collected. U.S. producers held greater quantities of end-of-period inventories at the end of March 2007 then they did at the end of March 2006.

[52] The sister company did not provide the Commission with a completed U.S. importers' questionnaire in these proceedings.

[53] The parent company had been one of the 70 firms collectively accounting for less than *** percent of imports based on official Commerce statistics and was not sent a U.S. importers' questionnaire.

[54] *** purchases of *** origin LWR pipe and tube accounted for *** percent of its production in 2004, *** percent in 2005, *** percent in 2006, and *** percent in interim 2007.

Table III-7
LWR pipe and tube: U.S. producers' end-of-period inventories, 2004-06, January-March 2006, and January-March 2007

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
	Quantity (*short tons*)				
End-of-period inventories	75,343	71,536	71,781	67,272	76,582
	Ratio (*percent*)				
Ratio to production	11.2	10.8	10.7	9.5	11.4
Ratio to U.S. shipments	11.3	10.8	10.8	9.4	11.9
Ratio to total shipments	***	***	***	***	***

Note.--January-March ratios were calculated using annualized production or shipment data.

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

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

Table III-8 shows the U.S. producers' employment-related data during the period for which data were collected. Production and related workers and hours worked decreased slightly in each year and period for which data were collected. Wages paid decreased slightly in 2005, then increased in 2006 and decreased marginally again during the interim periods. Hourly wages increased in each year and period, as did unit labor costs.

Table III-8
LWR pipe and tube: Average number of production and related workers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 2004-06, January-March 2006, and January-March 2007

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
Production and related workers (*number*)	676	662	651	630	627
Hours worked (*1,000*)	1,581	1,544	1,521	397	387
Hours worked per worker	2,339	2,332	2,336	630	617
Wages paid (*$1,000*)	27,682	27,511	28,513	6,998	6,913
Hourly wages	$17.51	$17.82	$18.75	$17.61	$17.85
Productivity (*short tons per 1,000 hours*)	397.2	402.0	418.0	420.7	406.1
Unit labor costs (*per short ton*)	$44.08	$44.33	$44.85	$41.86	$43.96

Note.--Data for four U.S. producers (***) were unuseable or not supplied and are therefore not reflected in the data presented in this table.

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

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

U.S. IMPORTERS

Commission staff sent U.S. importers' questionnaires to 62 firms identified as possible importers of subject merchandise.[1] The 62 firms contacted represent 97.3 percent of official Commerce statistics of imports of material under subheading 7306.60.50 of the HTS in 2006.[2] Of the 62 importers contacted, 33 firms provided acceptably completed U.S. importers' questionnaire responses. These firms' responses represent a majority (70.0 percent) of 2006 imports based on official Commerce statistics.[3] U.S. imports of LWR pipe and tube are based on official Commerce statistics, with data presented from responding U.S. importers in select data tables as appropriate. For the preliminary phase of these investigations, imports under both HTS subheadings 7306.61.50 and 7306.69.50 have been used for compilation of import data for the January-March 2007 partial period (see discussion below in the section entitled "Subject Imports in 2007").[4]

Table IV-1 presents data on U.S. importers of LWR pipe and tube that responded to the Commission's U.S. importers' questionnaire.

Table IV-1
LWR pipe and tube: U.S. importers, their locations, and the countries of origin for their imports, 2004-06 and January-March 2007 combined

* * * * * * *

[1] These firms were identified through a review of materials submitted in the petition and ***.

[2] *** identified 70 additional firms that acted as U.S. importers of record for the remaining 2.7 percent of imports under HTS subheading 7306.60.50 in 2006. These firms were not sent U.S. importers' questionnaires.

[3] Two of the 33 "accepted" firms provided certification that they did not import LWR pipe and tube: ***, which indicated that material it had imported under HTS subheading 7306.60.50 was in fact nonsubject merchandise ("closet rods and poles" of "circular cross-section") and should have been classified under a different HTS statistical reporting number, and ***. *** had been one of the firms identified as a potential U.S. importer from materials supplied in the petition and not from ***.

Of the remaining 29 firms not to have adequately responded to the Commission's U.S. importers' questionnaire, (i) two firms (***) supplied deficient data (these two firms accounted for *** percent of 2006 imports based official Commerce statistics, (ii) two firms (***) have provided the Commission with certification that they did not import LWR pipe and tube, however, *** (responses still pending) (these two firms represent *** percent of 2006 imports based on official Commerce statistics); (iii) two *** (***) that served as U.S. importers of record for shipments they made to U.S. customers did not provide the Commission with U.S. importers' questionnaire responses (these two firms accounted for *** percent of 2006 imports based on official Commerce statistics); and (iv) two firms *** (***) did not supply the Commission with responses to its U.S. importers' questionnaire (although the quantities involved were ***, accounting for only *** percent of 2006 imports based on official Commerce statistics; in the case of *** but the quantity ***). Were the Commission to receive acceptable U.S. importers' questionnaires responses from these eight outstanding firms in addition to the firms that have already supplied the Commission with data, the coverage universe for U.S. importers would increase from 33 firms to 41 firms accounting for 84.0 percent (or an additional 14 percentage points) of U.S. imports of LWR pipe and tube in 2006. The remaining 21 firms that have not responded to the Commission's U.S. importers' questionnaires account for 13.3 percent of 2006 imports based on Commerce statistics.

[4] Petition, pp. 6-7.

Table IV-2 presents a comparison of data submitted in U.S. importers' questionnaire responses to U.S. imports based on official Commerce statistics.

Table IV-2
LWR pipe and tube: U.S. imports, by data source, 2004-06, January-March 2006, and January-March 2007

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
	Quantity (*short tons*)				
U.S. imports, official Commerce statistics	277,108	337,600	404,477	74,239	80,444
U.S. imports, from U.S. importers' questionnaire responses	187,668	250,033	274,371	57,456	56,202
	Ratio (*percent*)[1]				
U.S. importers' questionnaire data to official Commerce statistics[1]	67.7	74.1	67.8	77.4	69.9

[1] Note that this ratio is not a perfect measure of import data coverage since data submitted in Commission questionnaire responses do not match perfectly with underlying Commerce data. As was stated earlier, the U.S. importers that supplied the Commission with data account for 70.0 percent of U.S. imports in official Commerce statistics for LWR pipe and tube in 2006 (or 283,045 short tons). Data reported by those U.S. importers in their questionnaire responses apparently indicate that they imported 8,674 fewer short tons of LWR pipe and tube than what was reported in official statistics.

Source: Compiled from data submitted in response to Commission questionnaires and official Commerce statistics.

*** is the single largest U.S. importer of LWR pipe and tube, accounting for *** percent of imports from all sources based on official Commerce statistics in 2006. *** imports relate to LWR pipe and tube produced ***. The next-largest U.S. importer, ***, accounted for *** percent of LWR pipe and tube imports from all sources in 2006. *** imports are ***. The third-largest U.S. importer of LWR pipe and tube in 2006 was ***. This firm served as the importer of record for U.S. Customs purposes on shipments *** to U.S. customers. *** imports accounted for *** percent of all imports of LWR pipe and tube in 2006. *** was the fourth-largest U.S. importer of subject merchandise (from a ***) in 2006, accounting for *** percent of imports based on official Commerce statistics. *** imports of LWR pipe and tube relate primarily to product ***. The fifth- and sixth-largest U.S. importers of LWR pipe and tube based on official Commerce statistics in 2006 were both ***, accounting for *** and *** percent of total U.S. imports of LWR pipe and tube in 2006, respectively.[5] Both firms *** to their U.S. customers. The seventh-largest U.S. importer of LWR pipe and tube in 2006 was the first of the U.S. importers when ranked by quantity of imports to have imported subject merchandise from a source ***. This firm was ***, and it imported subject merchandise from ***, accounting for *** percent of total LWR pipe and tube imports in 2006.[6] The eighth-largest U.S. importer of LWR pipe and tube in 2006 based on official Commerce statistics, ***, imported subject mercandise from ***.[7] *** imports accounted for *** percent of official Commerce statistics. The ninth largest U.S. importer of LWR pipe and tube in 2006, ***,

[5] *** has not provided a completed U.S. importers' questionnaire response to reflect its role as an importer of record for certain shipments to U.S. customers. ***.

[6] *** appears to have ceased its importation of *** LWR pipe and tube in 2005 in favor of Chinese-produced LWR pipe and tube.

[7] *** appears to have first begun importing *** LWR pipe and tube in the January-March 2007 period. In this period, *** reported no imports from other subject or nonsubject sources.

imported its product exclusively from ***. Its imports accounted for *** percent of total imports of LWR pipe and tube in 2006. The tenth-largest U.S. importer of subject merchandise, ***, also imports LWR pipe and tube from *** exclusively. Its imports accounted for *** percent of total imports of LWR pipe and tube in 2006.[8] These ten firms' imports accounted for 55.6 percent of total U.S. imports of LWR pipe and tube in 2006.

U.S. IMPORTS

Official Commerce statistics were used to measure total U.S. imports of LWR pipe and tube. Figure IV-1 and table IV-3 present data on U.S. import statistics by source.

Table IV-3
LWR pipe and tube: U.S. imports, by source, 2004-06, January-March 2006, and January-March 2007

Source	Calendar year			January-March	
	2004	2005	2006	2006	2007
	Quantity (*short tons*)				
China	8,859	40,801	83,259	7,446	24,745
Korea	27,389	22,733	31,167	9,542	4,817
Mexico	132,369	156,262	144,924	30,682	30,588
Turkey	12,102	30,517	55,952	4,289	5,787
Subtotal, subject imports	180,719	250,312	315,302	51,959	65,937
Canada	77,643	76,230	71,142	18,986	13,631
All other sources[1]	18,745	11,058	18,033	3,294	875
Subtotal, nonsubject imports	96,388	87,288	89,175	22,280	14,506
Total, imports from all sources	277,108	337,600	404,477	74,239	80,444
	Landed-duty paid value (*1,000 dollars*)				
China	5,849	28,293	50,182	4,775	14,389
Korea	16,478	15,738	20,541	6,338	3,434
Mexico	98,041	122,203	113,714	22,377	21,494
Turkey	9,479	23,264	35,584	3,815	3,670
Subtotal, subject imports	129,846	189,498	220,021	37,306	42,988
Canada	68,424	69,074	65,584	16,991	12,322
All other sources[1]	12,528	8,524	12,852	2,436	1,073
Subtotal, nonsubject imports	80,952	77,598	78,437	19,427	13,396
Total, imports from all sources	210,798	267,095	298,458	56,733	56,384

Table continued on next page.

[8] While *** submitted some data in response to the Commission's U.S. importers' questionnaire, its response contained no useable data relating to its import operations relating to *** LWR pipe and tube or pricing of imported materials in the United States. Commission staff has been unable to get *** to revise its response to contain the data requested.

Table IV-3--*Continued*
LWR pipe and tube: U.S. imports, by source, 2004-06, January-March 2006, and January-March 2007

Source	Calendar year			January-March	
	2004	2005	2006	2006	2007
			Unit value (per short ton)		
China	$660	$693	$603	$641	$582
Korea	602	692	659	664	713
Mexico	741	782	785	729	703
Turkey	783	762	636	890	634
Average, subject imports	718	757	698	718	652
Canada	881	906	922	895	904
All other sources[1]	668	771	713	739	1,226
Average, nonsubject imports	840	889	880	872	923
Average, total imports	761	791	738	764	701
			Share of quantity (*percent*)		
China	3.2	12.1	20.6	10.0	30.8
Korea	9.9	6.7	7.7	12.9	6.0
Mexico	47.8	46.3	35.8	41.3	38.0
Turkey	4.4	9.0	13.8	5.8	7.2
Subtotal, subject imports	65.2	74.1	78.0	70.0	82.0
Canada	28.0	22.6	17.6	25.6	16.9
All other sources[1]	6.8	3.3	4.5	4.4	1.1
Subtotal, nonsubject imports	34.8	25.9	22.0	30.0	18.0
Total, imports from all sources	100.0	100.0	100.0	100.0	100.0
			Share of value (*percent*)		
China	2.8	10.6	16.8	8.4	25.5
Korea	7.8	5.9	6.9	11.2	6.1
Mexico	46.5	45.8	38.1	39.4	38.1
Turkey	4.5	8.7	11.9	6.7	6.5
Subtotal, subject imports	61.6	70.9	73.7	65.8	76.2
Canada	32.5	25.9	22.0	30.0	21.9
All other sources[1]	5.9	3.2	4.3	4.3	1.9
Subtotal, nonsubject imports	38.4	29.1	26.3	34.2	23.8
Total, imports from all sources	100.0	100.0	100.0	100.0	100.0

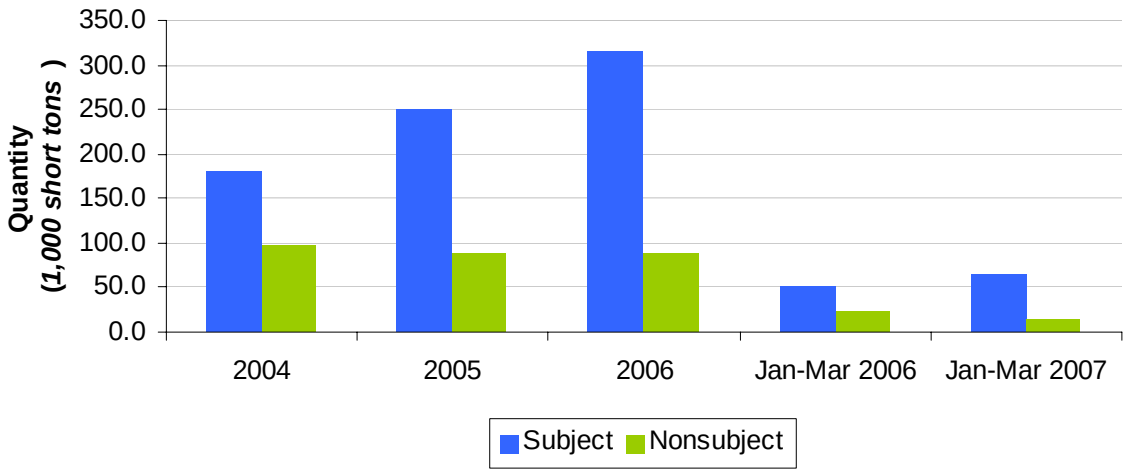
[1] All other sources includes Brazil, Thailand, Costa Rica, and others.

Source: Official Commerce statistics (HTS subheadings 7306.60.50, 7306.61.50, and 7306.69.50).

As demonstrated in table IV-3 and figure IV-1, subject imports increased in quantity in every period over the entire period for which data were collected (for an increase of 74.5 percent between 2004 and 2006), while nonsubject imports decreased irregularly over the period for which data were collected (for a decrease of 7.5 percent between 2004 and 2006). Within subject sources, imports from China and Turkey each increased their share of total imports, while imports from Korea and Mexico decreased as a

share of total imports by quantity. ***. Individual U.S. importers' questionnaire responses confirm a shift to imports of Chinese-origin LWR pipe and tube, although as table IV-3 demonstrates, Mexico remains the primary source of subject imports in the U.S. market.

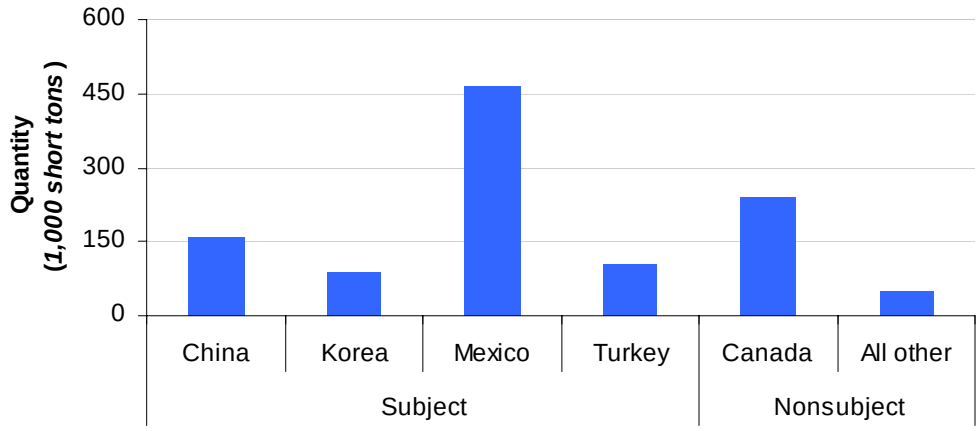
Figure IV-1
LWR pipe and tube: U.S. imports, by source, 2004-06, January-March 2006, and January-March 2007



Source: Table IV-3.

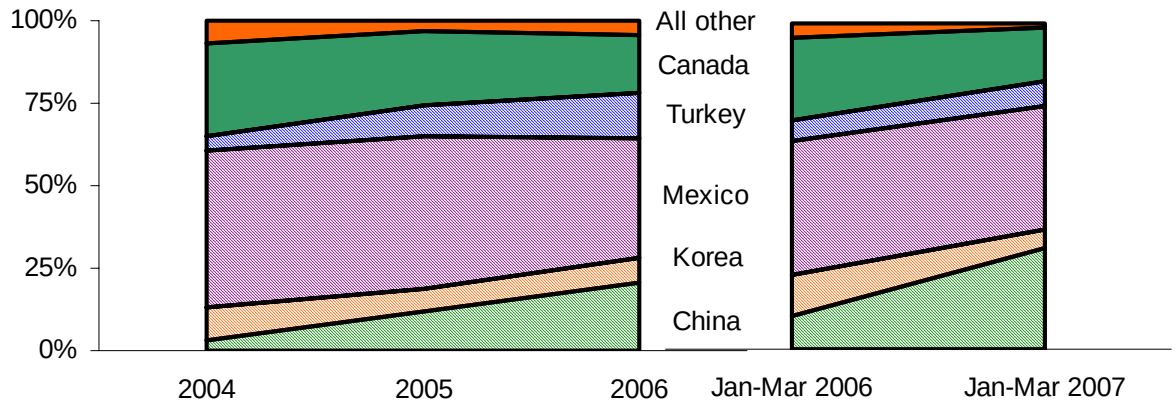
Figure IV-2 presents aggregate data for U.S. imports from principal sources over the period for which data were collected and figure IV-3 presents data on shares of the quantity of U.S. imports.

Figure IV-2
LWR pipe and tube: U.S. imports by principal sources, 2004-06 and January-March 2007 aggregated



Source: Table IV-3.

Figure IV-3
LWR pipe and tube: Shares of quantity of U.S. imports by principal sources, 2004-06, January-March 2006, and January-March 2007



Source: Table IV-3.

Subject Imports in 2007

On January 4, 2007, President Bush issued a Presidential Proclamation modifying the HTS.[9] This proclamation instructed Customs to implement changes in the U.S. tariff schedule pursuant to changes proposed in the Commission's annual Omnibus Trade and Competitiveness Act report.[10] Among other changes enacted, the President's proclamation modified the previous U.S. HTS subheading for LWR pipe and tube, 7306.60.50, by superseding it with two new subheadings: 7306.61.50 and 7306.69.50. The new subheading 7306.61.50 relates specifically to subject merchandise in these investigations,[11] while the other new subheading 7306.69.50 relates to nonsubject merchandise, namely light-walled specialty shapes.[12] This modification as well as all the other modifications from the President's proclamation became effective February 4, 2007.[13] Prior to February 4, 2007, subject merchandise was provided for under the old subheading 7306.60.50, and after February 4, 2007, subject merchandise was provided for under the new subheading 7306.61.50. For import data between January 1, 2007 and February 4, 2007, Customs reclassified all material that had been recorded under the old HTS designation (7306.60.50) as having been imported under the second of the new HTS designations

[9] Presidential Proclamation 8097, *To Modify the Harmonized Tariff Schedule of the United States, To Adjust Rules of Origin Under the United States- Australia Free Trade Agreement and for Other Purposes*, 72 FR 453, January 4, 2007.

[10] *Modifications to the Harmonized Tariff Schedule of the United States Under Section 1206 of the Omnibus Trade and Competitiveness Act of 1988*, USITC Publication 3898, December 2006, retrieved at http://hotdocs.usitc.gov/docs/tata/hts/Pub3898.pdf.

[11] "Other tubes, pipes and hollow profiles... other, welded, of noncircular cross section... of *square* or *rectangular* cross section... having a wall thickness of less than 4 mm.... of iron or nonalloy steel." Emphasis added.

[12] "Other tubes, pipes and hollow profiles... other, welded, of noncircular cross section.... of *other* non circular cross section... having a wall thickness of less than 4 mm.... of iron or nonalloy steel." Emphasis added.

[13] Presidential Proclamation 8097, *To Modify the Harmonized Tariff Schedule of the United States, To Adjust Rules of Origin Under the United States- Australia Free Trade Agreement and for Other Purposes*, 72 FR 453, January 4, 2007.

(7306.69.50), *i.e.*, under the nonsubject merchandise number.[14] Therefore, material reported in official statistics under HTS subheading 7306.61.50 in 2007 understate the actual quantity of LWR pipe and tube imported for the period January-March 2007. Further, since data are not available based on this new classification methodology in the partial period January-March 2006, both numbers have been retained for the U.S. import data used in the January-March 2007 period. Table IV-4 presents data on imports reported under the new classification system between January 2007 and March 2007.

Table IV-4
LWR pipe and tube: U.S. imports, by HTS designation, January-March 2007

Designation	2007			
	January	February	March	January-March
	Quantity (*short tons*)			
HTS -- 7306.61.50 -- squares and rectangles	248	17,902	27,994	46,143
HTS -- 7306.69.50 -- specialty shapes	26,007	4,828	3,466	34,301
Total	26,254	22,729	31,460	80,444

Note.--The new HTS subheadings went into effect on February 4, 2007; certain shipments with an "import date" in January that were processed after February 4 are recorded under the 7306.61.50 subheading. Additionally, some of the material with an "import date" in February that were entered prior to February 4 are potentially still misclassifications due to Customs' reclassification of material entered under the old number. March 2007 was the first full month for which the new classification system was in effect.

Source: Official Commerce statistics.

Corrosion-Resistant and Black Imports

U.S. importers were asked to provide separate data on their U.S. imports of corrosion-resistant and black product in 2006.[15] For the U.S. importers that supplied the Commission with useable data, approximately 17.5 percent of U.S. imports of LWR pipe and tube were corrosion-resistant and 82.5 percent were black.[16] These shares are approximately equivalent to data supplied by U.S. producers indicating that approximately 22.7 percent of their domestic production of LWR pipe and tube was corrosion-resistant product and 77.3 percent was black in 2006.

U.S. SHIPMENTS OF IMPORTS

Table IV-5 presents questionnaire data on U.S. importers' U.S. shipments of LWR pipe and tube by source over the period for which data were collected. U.S. shipments of imports from subject sources combined had lower average unit values than U.S. shipments of imports from nonsubject sources in each year and period. Additionally, U.S. shipments of imports from all sources (both subject and nonsubject) were lower than the average unit values of U.S. producers' U.S. shipments; however, U.S. shipments from nonsubject sources (primarily Canada) were much closer in average unit values to U.S. producers'

[14] Staff telephone interview, ***.

[15] No party in these investigations has argued that black and corrosion-resistant LWR pipe and tube constitute separate domestic like products.

[16] U.S. importers indicated that approximately 21.6 percent of their imports in 2006 from China were corrosion-resistant product, 13.8 percent for Korea, 21.6 percent for Mexico, 0.0 percent for Turkey, 17.7 percent aggregating all subject sources, and *** percent for all other sources.

Table IV-5
LWR pipe and tube: U.S. shipments of imports, by source, 2004-06, January-March 2006, and January-March 2007

U.S. shipments of imports from--	Calendar year			January-March	
	2004	2005	2006	2006	2007
			Quantity (*short tons*)		
China	***	20,405	46,292	5,274	13,714
Korea	14,086	15,116	17,089	4,867	2,203
Mexico	109,903	139,625	124,457	29,650	30,574
Turkey	***	24,359	28,768	2,926	2,089
Subject sources	138,365	199,505	216,606	42,717	48,580
Nonsubject sources	***	***	***	***	***
All sources	***	***	***	***	***
			Value (*1,000 dollars*)		
China	***	14,857	31,597	3,966	8,741
Korea	9,571	11,987	12,135	3,454	1,712
Mexico	84,782	106,367	95,059	21,483	23,700
Turkey	***	14,529	15,372	1,660	1,397
Subject sources	104,343	147,740	154,163	30,563	35,550
Nonsubject sources	***	***	***	***	***
All sources	***	***	***	***	***
			Unit value (*per short ton*)		
China	$***	$728	$683	$752	$637
Korea	679	793	710	710	777
Mexico	771	762	764	725	775
Turkey	***	596	534	567	669
Subject sources	754	741	712	715	732
Nonsubject sources	***	***	***	***	***
All sources	***	***	***	***	***

Note.–Reporting U.S. importers account for 70.0 percent of U.S. imports in official Commerce statistics.

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

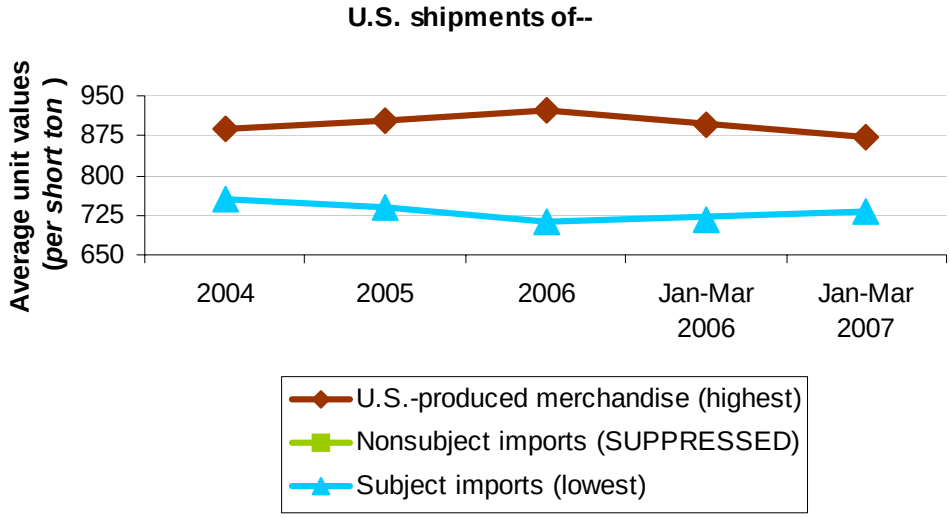
U.S. shipments than U.S. shipments of Chinese, Korean, Mexican, and Turkish LWR pipe and tube: the average unit values of Chinese LWR pipe and tube were lower than U.S. shipments of U.S.-produced LWR pipe and tube by $142 to $240; the average unit values of Korean LWR pipe and tube were lower than U.S. shipments of U.S.-produced LWR pipe and tube by $94 to $212; the average unit values of Mexican LWR pipe and tube were lower than U.S. shipments of U.S.-produced LWR pipe and tube by $96 to $159;[17] and, the average unit values of Turkish LWR pipe and tube were lower than U.S. shipments of U.S.-produced LWR pipe and tube by $202 to $388. Figures IV-4 and IV-5 present data on U.S. importers' and U.S. producers' U.S. shipments of LWR pipe and tube over the period for which data were collected.

[17] ***.

Figure IV-4
LWR pipe and tube: Average unit values of U.S. shipments of subject merchandise, by import source, 2004-06, January-March 2006, and January-March 2007

* * * * * * *

Figure IV-5
LWR pipe and tube: Average unit values of U.S. producers' U.S. shipments and U.S. importers' U.S. shipments of subject merchandise, by source, 2004-06, January-March 2006, and January-March 2007



Note.--Data on the average unit values of nonsubject imports were suppressed from this figure.

Source: Tables IV-5 and III-5 .

NEGLIGIBILITY

The Tariff Act of 1930 provides for the termination of an investigation if imports of the subject product from a country are less than 3 percent of total imports, or, if there is more than one such country, their combined share is less than or equal to 7 percent of total imports, during the most recent 12 months for which data are available preceding the filing of the petition.[18] On an aggregated basis, subject imports accounted for 81.7 percent of total imports of LWR pipe and tube by quantity between June 2006 and May 2007, of which 26.6 percent were imports from China, 5.5 percent were imports from Korea, 36.9 percent were imports from Mexico, and 12.7 percent were imports from Turkey.[19]

CUMULATION CONSIDERATIONS

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell

[18] 19 U.S.C. § 1677(24)(A)(ii).

[19] Calculated from official Commerce statistics.

in the same geographical market, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Issues concerning fungibility are addressed in Part II of this report and channels of distribution are discussed in Parts I and II.

Table IV-6 presents data on U.S. imports by Customs district, and table IV-7 presents data on monthly presence of imports of LWR pipe and tube by source.

Table IV-6
LWR pipe and tube: U.S. imports from subject countries, by Customs district, 2004-06, January-March 2006, and January-March 2007

Source / District	Calendar year			January-March	
	2004	2005	2006	2006	2007
	Quantity (*short tons*)				
China--					
Los Angeles, CA	4,486	22,333	39,017	5,679	13,112
Houston-Galveston, TX	0	10,823	29,687	253	7,164
Columbia-Snake, OR	2,076	671	5,656	385	966
San Francisco, CA	621	3,608	2,622	434	908
San Juan, PR	1,113	1,169	1,896	0	0
All other districts	564	2,196	4,381	696	2,595
Total, imports from China	8,859	40,801	83,259	7,446	24,745
Korea--					
Los Angeles, CA	15,343	10,771	10,342	3,040	822
Columbia-Snake, OR	2,380	3,005	6,555	2,030	751
Houston-Galveston, TX	1,841	4,945	4,389	1,996	0
New Orleans, LA	112	375	1,107	108	1,586
All other districts	7,714	3,637	8,774	2,368	1,657
Total, imports from Korea	27,389	22,733	31,167	9,542	4,817
Mexico--					
Laredo, TX	130,534	154,763	144,132	30,372	30,493
All other districts	1,835	1,498	791	310	95
Total, imports from Mexico	132,369	156,262	144,924	30,682	30,588
Turkey--					
Houston-Galveston, TX	10,365	18,765	28,182	1,682	1,742
Tampa, FL	1,402	5,233	8,866	1,683	2,310
All other districts	335	6,519	18,904	925	1,735
Total, imports from Turkey	12,102	30,517	55,952	4,289	5,787

Table continued on next page.

Table IV-6--*Continued*
LWR pipe and tube: U.S. imports from subject countries, by Customs district, 2004-06, January-March 2006, and January-March 2007

Source / District	Calendar year			January-March	
	2004	2005	2006	2006	2007
	Share of quantity (*percent*)				
China--					
Los Angeles, CA	50.6	54.7	46.9	76.3	53.0
Houston-Galveston, TX	0.0	26.5	35.7	3.4	29.0
Columbia-Snake, OR	23.4	1.6	6.8	5.2	3.9
San Francisco, CA	7.0	8.8	3.1	5.8	3.7
San Juan, PR	12.6	2.9	2.3	0.0	0.0
All other districts	6.4	5.4	5.3	9.3	10.5
Total, imports from China	100.0	100.0	100.0	100.0	100.0
Korea--					
Los Angeles, CA	56.0	47.4	33.2	31.9	17.1
Columbia-Snake, OR	8.7	13.2	21.0	21.3	15.6
Houston-Galveston, TX	6.7	21.8	14.1	20.9	0.0
New Orleans, LA	0.4	1.7	3.6	1.1	32.9
All other districts	28.2	16.0	28.2	24.8	34.4
Total, imports from Korea	100.0	100.0	100.0	100.0	100.0
Mexico--					
Laredo, TX	98.6	99.0	99.5	99.0	99.7
All other districts	1.4	1.0	0.5	1.0	0.3
Total, imports from Mexico	100.0	100.0	100.0	100.0	100.0
Turkey--					
Houston-Galveston, TX	85.6	61.5	50.4	39.2	30.1
Tampa, FL	11.6	17.1	15.8	39.2	39.9
All other districts	2.8	21.4	33.8	21.6	30.0
Total, imports from Turkey	100.0	100.0	100.0	100.0	100.0

Source: Official Commerce statistics.

Table IV-7
LWR pipe and tube: U.S. imports, monthly presence of imports, by source, January 2004 - March 2007

Source	Month												Total number of months present
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
2004													
China	■	■	■	■	■	■	■	■	■	■	■	■	12
Korea	■	■	■	■	■	■	■	■	■	■	■	■	12
Mexico	■	■	■	■	■	■	■	■	■	■	■	■	12
Turkey	■	■		■	■	■	■	■		■	■	■	10
All subject sources	■	■	■	■	■	■	■	■	■	■	■	■	12
2005													
China	■	■	■	■	■	■	■	■	■	■	■	■	12
Korea	■	■	■	■	■	■	■	■	■	■	■	■	12
Mexico	■	■	■	■	■	■	■	■	■	■	■	■	12
Turkey		■	■	■	■	■	■	■	■	■	■	■	11
All subject sources	■	■	■	■	■	■	■	■	■	■	■	■	12
2006													
China	■	■	■	■	■	■	■	■	■	■	■	■	12
Korea	■	■	■	■	■	■	■	■	■	■	■	■	12
Mexico	■	■	■	■	■	■	■	■	■	■	■	■	12
Turkey	■	■	■	■	■	■	■		■	■	■	■	11
All subject sources	■	■	■	■	■	■	■	■	■	■	■	■	12
2007													
China	■	■	■										3
Korea	■	■	■										3
Mexico	■	■	■										3
Turkey	■	■	■										3
All subject sources	■	■	■										3

Note.--Shaded squares indicate that more than zero short tons of LWR pipe and tube entered into the United States in the indicated month.

Source: Compiled from Official Commerce statistics.

APPARENT U.S. CONSUMPTION AND U.S. MARKET SHARES

Table IV-8 presents apparent U.S. consumption and U.S. market shares during the period for which data were collected.

Consistent with testimony relating to demand for LWR pipe and tube at the staff conference, apparent U.S. consumption as measured by U.S. producers' U.S. shipments and official Commerce statistics increased between 2004 and 2006. During this time, U.S. producers' share of the U.S. market decreased 8.5 percentage points from 70.7 percent in 2004 to 62.2 percent in 2006. Comparing the period of January to March 2007 to January to March 2006, apparent U.S. consumption decreased, at the same time that subject (and total) imports were higher, indicating a loss of market share for U.S. producers, especially when measured by quantity. Over the period for which data were collected, subject imports (collectively) gained market share while the share of the U.S. market held by U.S. producers' U.S. shipments and by U.S. imports from nonsubject sources declined.

Table IV-8
LWR pipe and tube: Apparent U.S. consumption and U.S. market shares, 2004-06, January-March 2006, and January-March 2007

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
	Quantity (*short tons*)				
U.S. producers' U.S. shipments	668,232	660,272	664,849	178,855	160,824
Imports from--					
China	8,859	40,801	83,259	7,446	24,745
Korea	27,389	22,733	31,167	9,542	4,817
Mexico	132,369	156,262	144,924	30,682	30,588
Turkey	12,102	30,517	55,952	4,289	5,787
Subject sources	180,719	250,312	315,302	51,959	65,937
Nonsubject sources	96,388	87,288	89,175	22,280	14,506
All sources	277,108	337,600	404,477	74,239	80,444
Apparent U.S. consumption	945,340	997,872	1,069,326	253,094	241,268
	Value (*1,000 dollars*)				
U.S. producers' U.S. shipments	592,681	597,395	613,234	159,946	140,043
Imports from--					
China	5,849	28,293	50,182	4,775	14,389
Korea	16,478	15,738	20,541	6,338	3,434
Mexico	98,041	122,203	113,714	22,377	21,494
Turkey	9,479	23,264	35,584	3,815	3,670
Subject sources	129,846	189,498	220,021	37,306	42,988
Nonsubject sources	80,952	77,598	78,437	19,427	13,396
All sources	210,798	267,095	298,458	56,733	56,384
Apparent U.S. consumption	803,478	864,490	911,691	216,679	196,427
	Unit value (*per short ton)*				
U.S. producers' U.S. shipments	$887	$905	$922	$894	$871
Imports from--					
China	660	693	603	641	582
Korea	602	692	659	664	713
Mexico	741	782	785	729	703
Turkey	783	762	636	890	634
Subject sources	718	757	698	718	652
Nonsubject sources	840	889	880	872	923
All sources	761	791	738	764	701
Average all U.S. shipments	850	866	853	856	814

Table continued on next page.

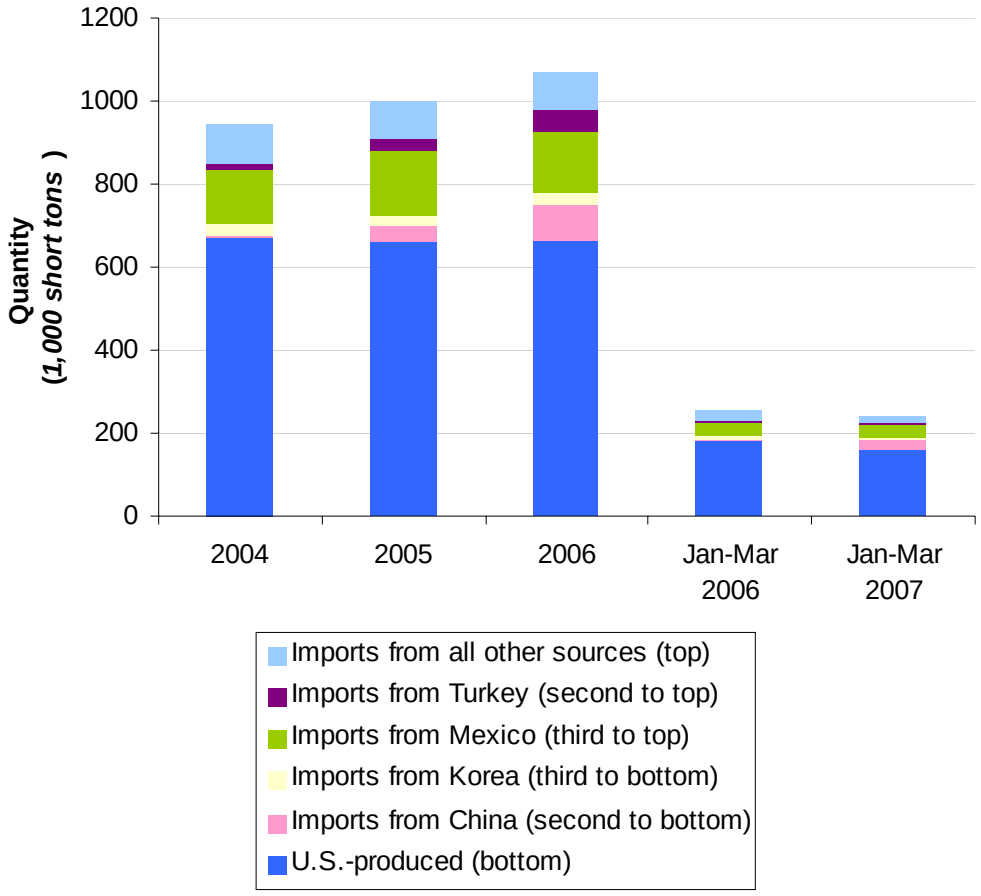
Table IV-8--*Continued*
LWR pipe and tube: Apparent U.S. consumption and U.S. market shares, 2004-06, January-March 2006, and January-March 2007

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
	Market share by quantity (*percent*)				
U.S. producers' U.S. shipments	70.7	66.2	62.2	70.7	66.7
Imports from--					
China	0.9	4.1	7.8	2.9	10.3
Korea	2.9	2.3	2.9	3.8	2.0
Mexico	14.0	15.7	13.6	12.1	12.7
Turkey	1.3	3.1	5.2	1.7	2.4
Subject sources	19.1	25.1	29.5	20.5	27.3
Nonsubject sources	10.2	8.7	8.3	8.8	6.0
All sources	29.3	33.8	37.8	29.3	33.3
Apparent U.S. consumption	100.0	100.0	100.0	100.0	100.0
	Market share by value (*percent*)				
U.S. producers' U.S. shipments	73.8	69.1	67.3	73.8	71.3
Imports from--					
China	0.7	3.3	5.5	2.2	7.3
Korea	2.1	1.8	2.3	2.9	1.7
Mexico	12.2	14.1	12.5	10.3	10.9
Turkey	1.2	2.7	3.9	1.8	1.9
Subject sources	16.2	21.9	24.1	17.2	21.9
Nonsubject sources	10.1	9.0	8.6	9.0	6.8
All sources	26.2	30.9	32.7	26.2	28.7
Apparent U.S. consumption	100.0	100.0	100.0	100.0	100.0

Source: Tables III-5 and IV-3.

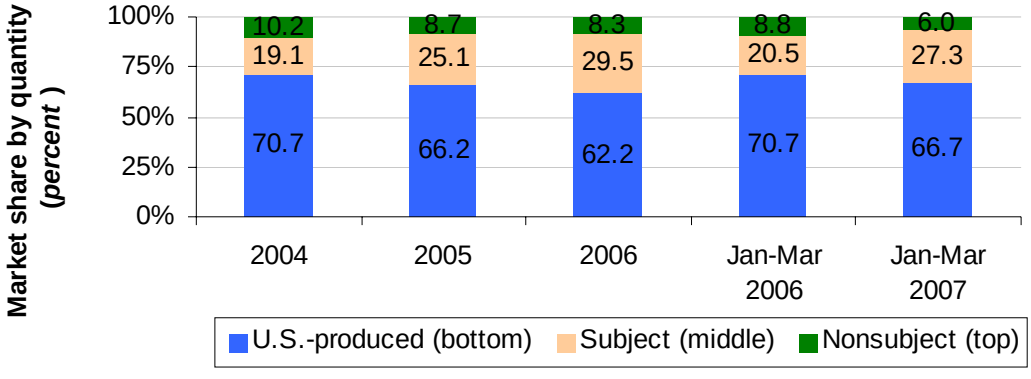
Figures IV-6 and IV-7 present data on the volume of apparent U.S. consumption and market shares, respectively, of the different sources of LWR pipe and tube.

Figure IV-6
LWR pipe and tube: Apparent U.S. consumption, by source, 2004-06, January-March 2006, and January-March 2007



Source: Table IV-8.

Figure IV-7
LWR pipe and tube: U.S. market shares by quantity, by source, 2004-06, January-March 2006, and January-March 2007



Source: Table IV-8.

RATIO OF IMPORTS TO U.S. PRODUCTION

Table IV-9 presents data on ratios of U.S. imports of LWR pipe and tube to U.S. production over the period for which data were collected.

Table IV-9
LWR pipe and tube: Ratio of U.S. imports to U.S. production, 2004-06, January-March 2006, and January-March 2007

Source	Calendar year			January-March	
	2004	2005	2006	2006	2007
	Quantity (*short tons*)				
U.S. production	675,178	660,754	672,016	176,915	167,537
	Ratio to imports from (*percent*)				
China	1.3	6.2	12.4	4.2	14.8
Korea	4.1	3.4	4.6	5.4	2.9
Mexico	19.6	23.6	21.6	17.3	18.3
Turkey	1.8	4.6	8.3	2.4	3.5
Subject sources	26.8	37.9	46.9	29.4	39.4
Nonsubject sources	14.3	13.2	13.3	12.6	8.7
Total, all sources	41.0	51.1	60.2	42.0	48.0

Source: Calculated from tables III-3 and IV-3.

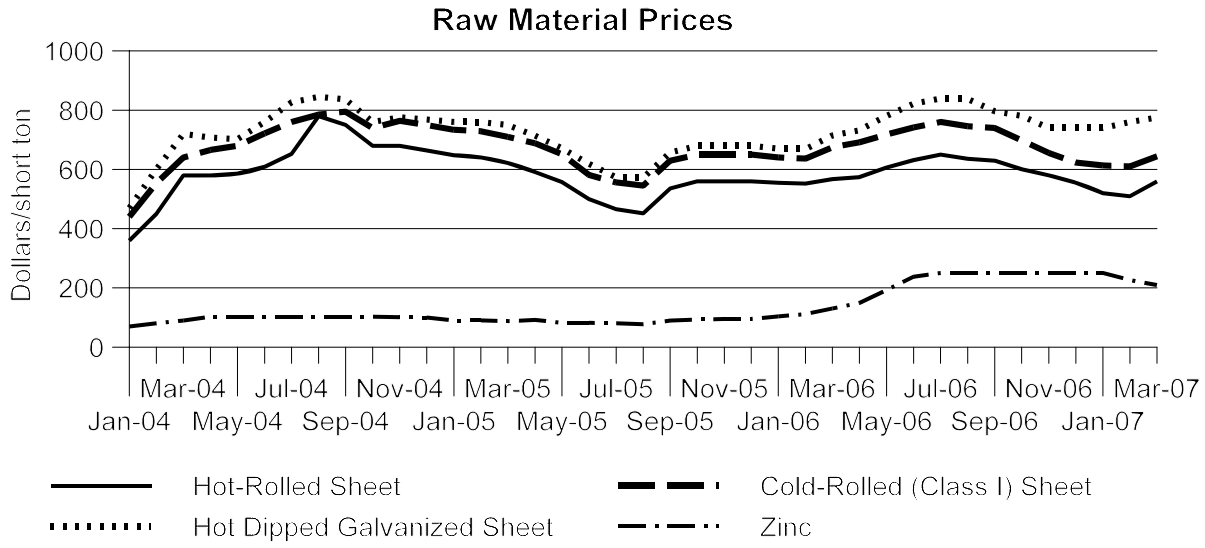
PART V: PRICING AND RELATED INFORMATION

FACTORS AFFECTING PRICES

Raw Material Costs

Raw material costs account for a major share of the cost of producing LWR pipe and tube. During 2004-07, these costs consistently were about 78 or 79 percent of the cost of goods sold. Hot-rolled and cold-rolled sheet are raw material inputs for black LWR pipe and tube and those corrosion-resistant LWR pipes and tubes that are made corrosion-resistant through a zinc bath. Hot dipped galvanized sheet is the raw material input for some producers of LWR pipe and tube that produce corrosion resistant LWR pipe and tube with pre-galvanized materials. Zinc is the raw material input for those producers that produce galvanized LWR pipe and tube through the zinc-dipping process. Prices for hot-rolled, cold-rolled, and galvanized sheet and zinc are shown in figure V-1.

Figure V-1
Monthly average prices for raw materials for LWR pipe and tube



Source: *American Metal Market's* (*AMM's*) on-line "Historical Pricing Archives" website at http://amm.com/priorprice/hprices/histpric.asp

Transportation Costs to the U.S. Market

Transportation costs for LWR pipe and tube shipped from subject countries to the United States were 12.1 percent for China, 11.8 percent for Korea, 3.4 percent for Mexico, and 6.1 percent for Turkey. These estimates are derived from official import data and represent the transportation and other charges on imports.[1]

[1] The estimated transportation costs were obtained by subtracting the customs value from the c.i.f. value of the imports for 2006 and then dividing by the customs value.

U.S. Inland Transportation Costs

Transportation costs on U.S. inland shipments of LWR pipe and tube generally account for a small share of the delivered price of these products. For U.S. producers, reported costs ranged from 2 to 6 percent of the delivered price. For importers that made estimates, these costs ranged from 0 percent to 7 percent.

Exchange Rates

Nominal and real exchange rate data for China, Korea, Mexico, and Turkey are presented on a quarterly basis in figure V-2.[2]

Figure V-2
Exchange rates: Indexes of nominal and real values of the currencies of China, Korea, Mexico, and Turkey relative to the U.S. dollar, by quarters, January 2004-March 2007

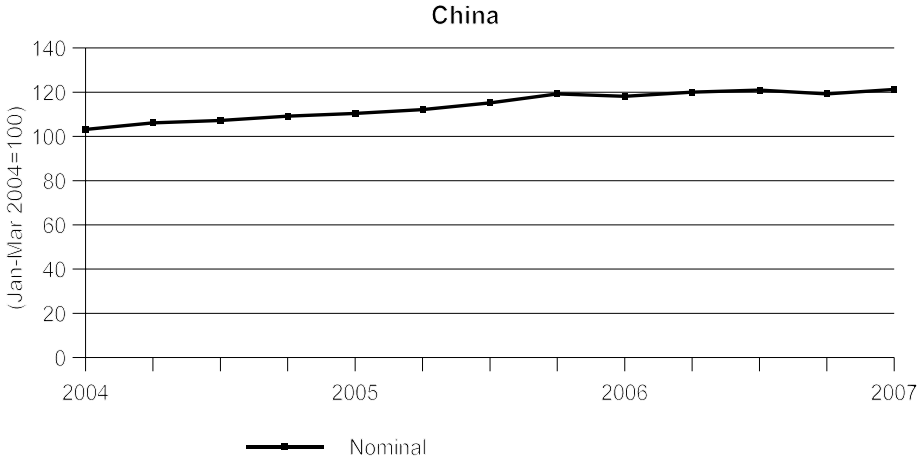
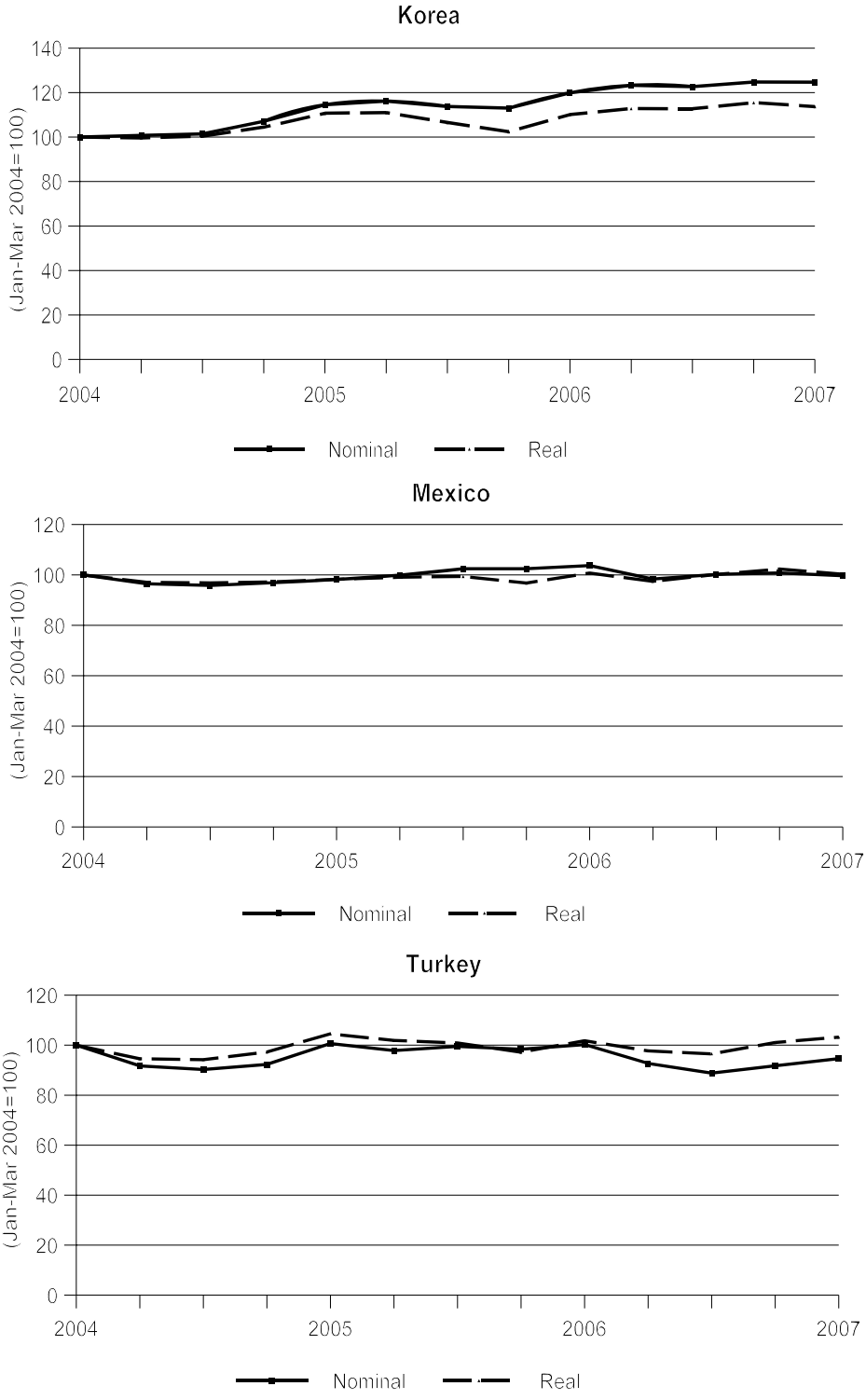


Figure continued on next page.

[2] Real exchange rates are calculated by adjusting the nominal rates for movements in producer prices in the United States and each of the subject countries. The Chinese government effectively pegged the yuan to the U.S. dollar at 8.28 yuan per dollar during the early part of this period. On July 21, 2005, the Chinese government announced that it would no longer peg the yuan to the U.S. dollar but would tie the yuan to a basket of currencies. Within this new basket, the yuan was revalued upward against the U.S. dollar by 2.1 percent, or from 8.28 yuan per dollar under the old peg to 8.11 yuan per dollar under the new exchange rate policy. The Chinese government has not disclosed which currencies are in the new basket, but indicated that the weight of the U.S. dollar represented less than 50 percent of the new basket of currencies.

Figure V-2--*Continued*
Exchange rates: Indexes of nominal and real values of the currencies of China, Korea, Mexico, and Turkey relative to the U.S. dollar, by quarters, January 2004-March 2007



Source: International Monetary Fund, *International Financial Statistics*, July 2007.

PRICING PRACTICES

Firms reported that prices of LWR pipe and tube are determined in a variety of ways. U.S. producers most commonly cited transaction-by-transaction negotiations as their method for arriving at prices (reported by 17 producers). In addition, eight producers reported that prices are determined by contracts. Also, eight producers reported that they use price lists and three producers reported other methods.[3] The majority of the reporting importers (21 of 27) also negotiate prices on a transaction-by-transaction basis. Three importers reported that they use price lists, two importers reported contracts, and one importer reported a different method.[4]

Discount policies vary widely among U.S. producers and importers of LWR pipe and tube. Questionnaire responses indicate that producers are more likely to provide discounts than importers. Annual total volume discounts were reported by 10 producers and quantity discounts were mentioned by nine producers. Four producers mentioned other methods such as negotiating prices with each customer or giving discounts based on payment terms as opposed to volume discounts if attractive financial terms can be met. Twenty-three of 27 importers said they have no discount policy, while four importers reported discounts, including customer-based discounts and a one-percent discount for prompt payment.

The majority of U.S. producers (15 of 20) and the majority of importers (23 of 27) quote prices on f.o.b. basis.[5] The remaining five responding producers and four responding importers of commonly quote prices on a delivered basis.

While LWR pipe and tube is commonly sold both on a spot and on a contract basis, contract sales are more common among producers than among importers. Four producers reported that they sell LWR pipe and tube on long- and short-term contracts and on a spot basis. Ten other producers sell their product on a short-term contract basis and on a spot sale basis, but not on a long-term contract basis. In addition, one producer sells 100 percent of its LWR pipe and tube on a short-term basis and one other producer sells its subject product on only a long-term contract basis. Of the responding importers, 17 firms sell subject product only on a spot sale basis, seven firms reported only short-term contracts, and one firm reported only long-term contracts. In addition, one firm reported that it sells 10 percent of its LWR pipe and tube on a short-term contract basis and 90 percent on a spot sale basis.

Five U.S. producers reported that their long-term contracts ranged from 12 months to 5 years, while one producer and the one reporting importer, ***, reported that the time frame for their contracts was not limited. All firms reported renegotiation of contracts. Producers and importers reported similar short-term contract characteristics. In most cases, short-term contract periods range from 3 to 6 months, although one U.S. producer reported that its short-term contracts are one year in duration. While the majority of the producers' short-term contracts get renegotiated, the majority of the importers' short-term contracts do not get renegotiated. Similarly, all producers' long-term contracts get renegotiated, while only one importer, ***, reported that its long-term contracts get renegotiated. Three responding producers reported that prices and quantities are fixed and two firms reported that only price is fixed during the long-term contract period. Seven responding producers reported that prices and quantities are fixed, seven firms reported that only price is fixed, and one firm reported that only quantity is fixed during the short-tem contract period. All but two responding importers reported that both price and

[3] These methods included establishing price sheets which are subject to change without notice and adjusting pricing depending upon the impending need for business at the time.

[4] This importer reported adding up the actual cost as well as the margin in excess of f.o.b. prices (f.o.b. vessel in Chinese ports).

[5] Producers making f.o.b. quotes reported, among others f.o.b. warehouse, ***. Importers making f.o.b. quotes usually quote f.o.b. port of entry.

quantity are fixed during the contract period.[6] The majority of producers and importers reported that contracts do not have meet-or-release provisions.

PRICE DATA

U.S. producers and importers of LWR pipe and tube were asked to provide quarterly data for the total quantity and f.o.b. (U.S. point of shipment) value of selected products that were shipped to unrelated customers in the U.S. market from January 2004 through March 2007. The products for which pricing data were requested were as follows:

> ***Product 1*.– ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), carbon welded, not pickled and oiled, 2 inch square, 0.120 inch (+ or - 10 percent) wall thickness (11 gauge), 20 foot or 24 foot lengths.**
>
> ***Product 2*.– ASTM A-513 (mechanical) or A-500 grade A or B (ornamental) tubing, carbon welded, pickled and oiled, 1 inch square, 0.065 inch nominal wall thickness (+ or - 10 percent) (16 gauge), 20 foot or 24 foot lengths.**

Twenty-one U.S. producers and 26 importers provided price data. Pricing data reported by U.S. producers accounted for approximately 8.0 percent of U.S. producers' commercial shipments during January 2004-March 2007 and the following percentages of import shipments from each country: China--38.7 percent, Korea--15.2 percent, Mexico--5.1 percent, Turkey--12.9 percent, all other countries--6.9 percent. Quarterly, weighted-average prices for the above products are shown in tables V-1 and V-2 and figure V-3.[7] A summary of price trends is shown in table V-3 and a summary of underselling/overselling is shown in table V-4. Overall, after increasing during the first part of 2004, prices fluctuated throughout January 2004-March 2007. U.S. producer prices for products 1 and 2 were higher than prices for imported products from subject countries in nearly every pricing comparison.

[6] One importer, reported that only price is fixed during the long-term contract period, and another importer reported that only quantity is fixed during the short-term contract period.

[7] One importer, ***, provided pricing data for ***. These data are not included in the tables because staff believes the pricing data to be double-counted, since *** is not the importer of record in several cases. ***. ***. *** submitted revised pricing data as well.

Table V-1
LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 1, and margins of underselling/(overselling), January 2004-March 2007

Period	United States		China			Korea		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	per short ton	*short tons*	*per short ton*	*short tons*	*percent*	*per short ton*	*short tons*	*percent*
2004:								
January-March	$635	11,046	***	***	***	***	***	***
April-June	892	8,177	***	***	***	***	***	***
July-September	985	7,729	***	***	***	798	294	19.0
October-December	980	6,303	***	***	***	825	642	15.9
2005:								
January-March	906	7,397	720	254	20.5	***	***	***
April-June	833	6,988	681	228	18.3	883	481	(6.0)
July-September	773	8,789	676	233	12.5	***	***	***
October-December	820	7,452	577	230	29.6	715	550	12.8
2006:								
January-March	819	8,897	666	729	18.7	696	601	15.0
April-June	862	9,234	691	1,652	19.8	***	***	***
July-September	914	7,187	677	1,417	26.0	744	582	18.7
October-December	863	6,393	713	1,285	17.4	***	***	***
2007:								
January-March	821	7,719	727	1,758	11.5	***	***	***

Period	United States		Mexico			Turkey		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	per short ton	*short tons*	*per short ton*	*short tons*	*percent*	*per short ton*	*short tons*	*percent*
2004:								
January-March	$635	11,046	$492	1,028	22.6	***	***	***
April-June	892	8,177	762	793	14.6	-	-	-
July-September	985	7,729	***	***	***	-	-	-
October-December	980	6,303	832	733	15.1	***	***	***
2005:								
January-March	906	7,397	***	***	***	***	***	***
April-June	833	6,988	696	1,462	16.4	695	942	16.6
July-September	773	8,789	622	1,204	19.5	***	***	***
October-December	820	7,452	635	1,202	22.5	509	406	37.9
2006:								
January-March	819	8,897	655	1,061	19.9	553	605	32.4
April-June	862	9,234	689	2,279	20.1	***	***	***
July-September	914	7,187	***	***	***	536	643	41.4
October-December	863	6,393	***	***	***	719	458	16.8
2007:								
January-March	821	7,719	666	1,354	18.9	624	669	24.0

Table continued on next page.

Table V-1-- *Continued*
LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 1, and margins of underselling/(overselling), January 2004-March 2007

	United States		All subject countries			Other countries	
	Price	Quantity	Price	Quantity	Margin	Price	Quantity
Period	*per short ton*	*short tons*	*per short ton*	*short tons*	*percent*	*per short ton*	*short tons*
2004:							
January-March	$635	11,046	$483	1,181	23.9	$604	972
April-June	892	8,177	707	1,087	20.7	713	857
July-September	985	7,729	846	1,451	14.1	***	***
October-December	980	6,303	849	1,710	13.4	***	***
2005:							
January-March	906	7,397	800	2,309	11.7	***	***
April-June	833	6,988	724	3,113	13.1	***	***
July-September	773	8,789	642	2,174	16.9	694	383
October-December	820	7,452	627	2,388	23.6	689	385
2006:							
January-March	819	8,897	645	2,996	21.2	622	941
April-June	862	9,234	631	5,883	26.8	753	456
July-September	914	7,187	684	3,940	25.2	***	***
October-December	863	6,393	711	2,847	17.7	676	997
2007:							
January-March	821	7,719	690	4,097	15.9	***	***

Product 1 – ASTM A-513 (mechanical) or A-500 grade A or B (ornamental), carbon welded, not pickled and oiled, 2 inch square, 0.120 inch (+ or - 10 percent) wall thickness (11 gauge), 20 foot or 24 foot lengths.

Note.--Margins are calculated from unrounded data and may not be directly calculated from the price data presented in this table.

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

Table V-2
LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 2, and margins of underselling/(overselling), January 2004-March 2007

Period	United States		China			Korea		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	per short ton	*short tons*	*per short ton*	*short tons*	*percent*	*per short ton*	*short tons*	*percent*
2004:								
January-March	$755	6,084	***	***	***	***	***	***
April-June	1,031	5,265	***	***	***	***	***	***
July-September	1,044	4,558	***	***	***	***	***	***
October-December	1,059	3,690	***	***	***	***	***	***
2005:								
January-March	999	4,259	***	***	***	***	***	***
April-June	965	4,551	***	***	***	***	***	***
July-September	928	4,756	***	***	***	***	***	***
October-December	931	4,163	***	***	***	***	***	***
2006:								
January-March	891	4,810	***	***	***	***	***	***
April-June	921	5,473	760	3,644	17.5	***	***	***
July-September	990	4,146	752	5,181	24.0	***	***	***
October-December	949	3,687	750	1,048	21.0	***	***	***
2007:								
January-March	921	3,881	786	2,221	14.6	***	***	***

Period	United States		Mexico			Turkey		
	Price	Quantity	Price	Quantity	Margin	Price	Quantity	Margin
	per short ton	*short tons*	*per short ton*	*short tons*	*percent*	*per short ton*	*short tons*	*percent*
2004:								
January-March	$755	6,084	$623	409	17.5	***	***	***
April-June	1,031	5,265	***	***	***	-	-	-
July-September	1,044	4,558	***	***	***	-	-	-
October-December	1,059	3,690	***	***	***	***	***	***
2005:								
January-March	999	4,259	***	***	***	***	***	***
April-June	965	4,551	***	***	***	***	***	***
July-September	928	4,756	***	***	***	***	***	***
October-December	931	4,163	744	378	20.0	***	***	***
2006:								
January-March	891	4,810	721	315	19.1	***	***	***
April-June	921	5,473	784	482	14.9	***	***	***
July-September	990	4,146	866	306	12.5	***	***	***
October-December	949	3,687	***	***	***	***	***	***
2007:								
January-March	921	3,881	702	332	23.8	-	-	-

Table continued on next page.

Table V-2-- *Continued*
LWR pipe and tube: Weighted-average f.o.b. selling prices and quantities for product 2, and margins of underselling/(overselling), January 2004-March 2007

	United States		All subject countries			Other countries	
	Price	Quantity	Price	Quantity	Margin	Price	Quantity
Period	*per short ton*	*short tons*	*per short ton*	*short tons*	*percent*	*per short ton*	*short tons*
2004:							
January-March	$755	6,084	$597	2,454	20.9	***	***
April-June	1,031	5,265	775	893	24.8	***	***
July-September	1,044	4,558	***	***	***	***	***
October-December	1,059	3,690	815	1,550	23.1	***	***
2005:							
January-March	999	4,259	799	2,707	20.1	***	***
April-June	965	4,551	820	2,551	15.0	***	***
July-September	928	4,756	766	3,469	17.4	***	***
October-December	931	4,163	766	1,823	17.7	***	***
2006:							
January-March	891	4,810	754	2,552	15.4	***	***
April-June	921	5,473	759	4,351	17.6	***	***
July-September	990	4,146	757	5,676	23.5	***	***
October-December	949	3,687	730	1,373	23.0	***	***
2007:							
January-March	921	3,881	774	2,615	16.0	***	***

Product 2 – ASTM A-513 (mechanical) or A-500 grade A or B (ornamental) tubing, carbon welded, pickled and oiled, 1 inch square, 0.065 inch nominal wall thickness (+ or - 10 percent) (16 gauge), 20 foot or 24 foot lengths.

Note.--Margins are calculated from unrounded data and may not be directly calculated from the price data presented in this table.

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

Figure V-3
LWR pipe and tube: Weighted-average f.o.b. selling prices for products 1 and 2, January 2004-March 2007

* * * * * * *

Table V-3
LWR pipe and tube: Summary of weighted-average sales prices, by country and by product

Country	Product 1			Product 2		
	Number of quarters	High price	Low price	Number of quarters	High price	Low price
United States	13	$985	$635	13	$1,059	$755
China	13	908	456	13	808	675
Korea	13	900	475	13	***	***
Mexico	13	869	492	13	927	623
Turkey	11	938	384	10	***	***
Other	13	810	604	13	***	***

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

Table V-4
LWR pipe and tube: Summary of underselling/overselling, by country

Country	Number of quarters of underselling	Number of quarters of overselling	Average margin of underselling
China:			
2004.....	***	***	***
2005.....	***	***	***
2006.....	8	0	17.1
2007 (Jan.-Mar.)...	2	0	11.1
Subtotal.....	26	0	14.9
Korea:			
2004.....	***	***	***
2005.....	***	***	***
2006.....	***	***	***
2007 (Jan.-Mar.)...	***	***	***
Subtotal.....	24	2	15.8
Mexico:			
2004.....	8	0	14.9
2005.....	8	0	19.4
2006.....	8	0	19.6
2007 (Jan.-Mar.)...	2	0	21.2
Subtotal.....	26	0	18.6
Turkey:			
2004.....	***	***	***
2005.....	***	***	***
2006.....	***	***	***
2007 (Jan.-Mar.)...	***	***	***
Subtotal.....	20	1	30.2
Total.....	96	3	17.8

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

LOST SALES AND LOST REVENUES

In the petition, the petitioning firms provided numerous allegations of lost sales from China and four allegations of lost sales from Mexico during January 2004-March 2007. There were no allegations of lost sales from Korea or Turkey. The petitioning firms also provided numerous lost revenue allegations from China during January 2004-March 2007. There were no allegations of lost revenues from Korea, Mexico, or Turkey. Staff contacted 30 purchasers, representing the largest value of lost sales and lost revenues, to investigate these allegations. Fourteen purchasers, including some accounting for largest volume allegations, did not respond. For the lost sales, five respondents reported that they disagreed, and three reported that they agreed with the allegations.[8] The three confirmed lost sales totaled $2.3 million. For the lost revenues, three firms disagreed and three firms reported that they agreed with the allegations.[9] The three confirmed lost revenues totaled $***. Information regarding lost sales is presented in table V-5 and information regarding lost revenues is presented in table V-6. Information is only presented for purchasers which responded to the staff's request for information. Responses from purchasers are discussed below.

Table V-5
LWR pipe and tube: Selected U.S. producers' lost sales allegations

* * * * * * *

Table V-6
LWR pipe and tube: U.S. producers' lost revenue allegations

* * * * * * *

*** disagreed with the lost revenue allegation, stating, "I do not recall receiving an offer from a domestic supplier, responding that their price was too high, the domestic supplier lowering their price, and accepting the lower offer."

*** agreed with the lost sale allegation, and provided no further comment.

*** disagreed with the lost revenue allegation. It stated, "during the referenced time frame, domestic producers lowered their prices less than *** percent and it was due, in large part, to increased domestic competition and an anticipated and/or actual reduction in their raw material cost."

*** disagreed with the lost revenue allegation. It said that it buys *** tons per year, not *** tons; that it purchases about *** percent from domestic producers and about *** percent from China and Europe; and that the percentage purchased from U.S. producers has not changed over the years regardless of price. It further said, "***."

*** disagreed with the lost sale allegation, stating "our company does not import raw material pipe or tubing from ***; we purchase any such product from a U.S. producer."

*** agreed with the lost sale allegation, and provided no further comment.

*** stated that it purchased nothing during the period referenced (***) in the allegation. It stated, however, "in 2005, we purchased approx. $*** in tube from trading companies." It further stated, "the 2005 tube was manufactured in ***. Typically the price is approximately *** percent lower than U.S.-produced."

[8] One additional purchaser, ***, reported that it was unable to respond.

[9] One additional purchaser, ***, reported that it disagrees with the allegation, although it only disagreed with the quantity and not with the price.

*** said that it was unable to respond. It stated that it did not recall soliciting such a quote over the past year and generally does not respond to unsolicited quotes. It further stated, "No business has a right to claim they lost our business merely because we failed or refused to respond to, or declined, an unsolicited quote, nor should it be assumed that price alone is/was the reason for our decision to disregard an unsolicited offer."

*** agreed with ***, and provided no further comment.

*** disagreed with the lost revenue allegation, stating that the difference in price was *** to *** percent, not *** percent.

*** disagreed with the lost sale allegation but agreed with the lost revenue allegation. It stated, "our purchases from *** were above the range you listed by $*** to $*** per ton because we made sure the material we bought was excellent quality."

*** disagreed with the lost sale allegation. It stated, "the prices here locally for *** tons are pretty much about *** percent, they are based in $*** CWT coming from *** versus $*** or $*** at the most locally."

*** agreed with the lost revenue allegation, although it said the volume offered by the U.S. producer was *** tons, not ***, as stated in the allegation.

*** stated that it did not recall rejecting a U.S. offer for purchases of LWR pipe and tube. It said that it has purchased both domestic and imported products for years but that purchases are not always based on price. Other factors considered include logistics, demand, quality, and terms.

PART VI: FINANCIAL CONDITION OF U.S. PRODUCERS

BACKGROUND

Twenty producers provided usable financial data on their operations producing LWR pipe and tube.[1] The responding producers are believed to represent the substantial majority of U.S. production.

Firms differ considerably in size in terms of sales volume and value. The *** largest producers, ***, reported average annual sales volumes over *** short tons. In contrast, *** firms reported average annual sales of less than *** short tons. Overall, net sales consisted of commercial sales, and no U.S. producer reported either internal consumption or related transfers.[2]

OPERATIONS ON LWR PIPE AND TUBE

The results of operations of the responding firms on their LWR pipe and tube operations are presented in table VI-1, which includes data on a per-short ton basis as well as operating income (loss) to net sales ratios. The quantity of total sales decreased from 2004 to 2005 and then partially recovered from 2005 to 2006. In contrast, total sales values decreased somewhat from 2004 to 2005 due to the decreased sales quantity and increased from 2005 to 2006, as unit net sales values increased continuously between 2004 to 2006. The unit values of cost of goods sold ("COGS") increased substantially from 2004 to 2005, due primarily to increased raw material costs, and then fell slightly from 2005 to 2006 as raw material costs decreased. The combined producers' operating income decreased from $93 million in 2004 to $61 million in 2005, then increased in 2006 to $72 million as a result of higher sales quantities and higher per-unit sales prices. The ratio of operating income to net sales decreased by about 5.5 percentage points between 2004 and 2005 and increased by 1.6 percentage points between 2005 and 2006.

Since the both net sales quantity and value were lower in January-March 2007 than in January-March 2006, operating income was noticeably lower in interim 2007 ($8 million compared to $17 million), due mainly to the decreased per-unit sales price as well as to increased per-unit total costs/expenses, especially raw material costs and conversion costs.[3] While the average unit sales values decreased by $16 per short ton, average unit total cost (COGS plus selling, general, and administrative ("SG&A") expenses) increased ($840 compared to $807) between the two interim periods. As a result, the operating income margin decreased from 11.2 percent in interim 2006 to 5.9 percent in interim 2007.

There is some toll processing done by two producers, ***.[4] Toll processing revenue accounted for less than *** percent of the total net sales value for all firms combined in 2006 and toll operations were not reflected in the aggregate results of operations of LWR pipe and tube due to their completely different revenue and cost structures *** toll-processed for *** and *** toll-processed for ***. In toll processing, the firm that owns raw materials (the tollee) arranges for unrelated processors (the tollers) to

---

[1] The producers with fiscal year ends other than December 31 are ***. However, the financial data of *** were submitted on a calendar year basis. ***. ***. Differences between data reported in the trade and financial sections of the Commission's producers' questionnaire mainly are attributable to timing differences.

[2] ***.

[3] Per-unit conversion costs, which included direct labor and factory overhead, generally increased from January-March 2006 to January-March 2007 except for ***. Five producers, ***, experienced substantially increased per-unit conversion costs between the two interim periods. Their supplemental responses to Commission staff's inquiries about the substantial increases of conversion costs are summarized in footnote 6.

[4] ***.

Table VI-1
LWR pipe and tube: Results of operations of U.S. producers, fiscal years 2004-06, January-March 2006, and January-March 2007

Item	Fiscal year			January-March	
	2004	2005	2006	2006	2007
	Quantity (*short tons*)				
Net sales	642,103	618,469	621,612	169,013	149,701
	Value (*$1,000*)				
Net sales	579,981	571,975	586,997	153,595	133,660
COGS	445,462	475,751	474,502	124,494	115,773
Gross profit	134,519	96,224	112,495	29,101	17,887
SG&A expenses	41,129	35,351	40,846	11,840	9,985
Operating income	93,390	60,873	71,649	17,261	7,902
Interest expense	3,992	3,764	4,757	1,123	1,284
Other expense	3,437	2,296	3,114	415	326
Other income	1,057	1,127	1,903	210	288
Net income	87,018	55,940	65,681	15,933	6,580
Depreciation/amortization	10,963	11,411	11,188	3,186	2,855
Cash flow	97,981	67,351	76,869	19,119	9,435
	Unit value (*per short ton*)				
Net sales	$903	$925	$944	$909	$893
COGS	694	769	763	737	773
Gross profit	209	156	181	172	119
SG&A expenses	64	57	66	70	67
Operating income	145	98	115	102	53
	Ratio to net sales (*percent*)				
COGS	76.8	83.2	80.8	81.1	86.6
Gross profit	23.2	16.8	19.2	18.9	13.4
SG&A expenses	7.1	6.2	7.0	7.7	7.5
Operating income	16.1	10.6	12.2	11.2	5.9
	Number of firms reporting				
Operating losses	1	2	2	3	4
Data	20	20	20	20	20

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

process the materials for a fee, and then the tollee arranges for the final sale of the products to other parties. Aggregate income-and-loss data for two tollers on their toll-processing operations are presented in table VI-2. While the quantity and value of the toll-processing operations decreased from 2004 to 2005 and increased from 2005 to 2006 and again from interim 2006 to interim 2007, toll processing net income continuously increased between 2004 and 2006 because processing revenue increased during the period.

Table VI-2
LWR pipe and tube: Tolling operations of U.S. producers, fiscal years 2004-06, January-March 2006, and January-March 2007

* * * * * * *

Selected financial data, by firm, are presented in table VI-3.

Table VI-3
LWR pipe and tube: Results of operations of U.S. producers, by firm, fiscal years 2004-06, January-March 2006, and January-March 2007

* * * * * * *

Total net sales (quantities and values), per-unit values (sales and COGS), operating income (loss), and the ratio of operating income (loss) to net sales are presented in this table on a firm-by-firm basis. Sixteen of the 20 reporting producers generated operating income in each fiscal year during 2004-06, while the remaining four reported operating losses in one or two years during the period. However, operating income and operating income margins of all 20 producers combined decreased between 2004 and 2006 and were lower in January-March 2007 than in January-March 2006. When comparing interim 2007 results to interim 2006 results, only four producers, ***, reported improved profitability (in terms of operating income margin). Four producers, ***, reported operating losses in interim 2007, compared to three in interim 2006.

The data show that ***. This may be due to relatively higher average unit sales values for *** compared with its relatively lower COGS. However, *** operating income decreased noticeably (by *** percent) from interim 2006 to interim 2007 principally because its production costs rose and its average unit sales values fell substantially during the same period.

Allied experienced ***. Atlas (Chicago) reported ***. It explained that ***. Longhorn entered the LWR pipe and tube business when it purchased the assets of the closed Dallas Tube and Rollform in September 2005. Therefore, its ***.

Selected aggregate per-short ton cost data of the producers on their operations, i.e., COGS and SG&A expenses, are presented in table VI-4. Overall per-short-ton COGS[5] and total cost (which includes SG&A expenses) increased substantially from 2004 to 2005, driven mainly by changes in raw materials costs (i.e., reflecting changes in the cost of hot-rolled steel coils) and total cost increased further slightly from 2005 to 2006, due to increases in conversion costs and SG&A expenses. Per-short-ton COGS increased from interim 2006 to interim 2007, again due to the increases in raw materials cost and conversion costs.[6] The ratio of total COGS to net sales increased substantially from January-March 2006 (81.1 percent) to January-March 2007 (86.6 percent).

A variance analysis for the 20 U.S. producers is presented in table VI-5. A variance analysis depicts the effects of changes in average prices and volume on the producers' net sales, and of costs/expenses and volume on their total cost. The data presented in table VI-5 are comparable to changes in operating income as presented in table VI-1. The analysis is summarized at the bottom of the table. The analysis indicates that the decrease in operating income ($21.7 million) between 2004 and

[5] ***.

[6] The majority of producers reported substantially increased factory overhead between the two interim periods. Their supplemental responses to Commission staff's questions are as follows: ***.

Table VI-4
LWR pipe and tube: Average unit costs of U.S. producers, fiscal years 2004-06, January-March 2006, and January-March 2007

Item	Fiscal year			January-March	
	2004	2005	2006	2006	2007
COGS:	Value (*per short ton*)				
Raw materials	$539	$610	$598	$580	$608
Direct labor	54	59	62	58	62
Factory overhead	100	100	103	98	103
Total COGS	694	769	763	737	773
SG&A expenses	64	57	66	70	67
Total cost	758	826	829	807	840

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

Table VI-5
LWR pipe and tube: Variance analysis of operations of U.S. producers, fiscal years 2004-06, January-March 2006, and January-March 2007

Item	Between fiscal years--			January-March
	2004-06	2004-05	2005-06	2006-07
	Value (*$1,000*)			
Net sales:				
Price variance	25,525	13,341	12,115	(2,385)
Volume variance	(18,509)	(21,347)	2,907	(17,550)
Total net sales variance	7,016	(8,006)	15,022	(19,935)
Cost of sales:				
Cost variance	(43,256)	(46,685)	3,667	(5,504)
Volume variance	14,216	16,396	(2,418)	14,225
Total cost variance	(29,040)	(30,289)	1,249	8,721
Gross profit variance	(22,024)	(38,295)	16,271	(11,214)
SG&A expenses:				
Expense variance	(1,030)	4,264	(5,315)	502
Volume variance	1,313	1,514	(180)	1,353
Total SG&A variance	283	5,778	(5,495)	1,855
Operating income variance	(21,741)	(32,517)	10,776	(9,359)
Summarized as:				
Price variance	25,525	13,341	12,115	(2,385)
Net cost/expense variance	(44,285)	(42,421)	(1,649)	(5,002)
Net volume variance	(2,980)	(3,437)	309	(1,972)

Note.--Unfavorable variances are shown in parentheses; all others are favorable. The data are comparable to changes in operating income as presented in table VI-1.

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

2006 was attributable mainly to the negative effect of increased costs/expenses ($44.3 million) and decreased sales volume ($3.0 million) which was offset by the positive effect of increased price ($25.5 million). Between the two interim periods, it indicates that the decrease in operating income of $9.4 million again resulted from the negative effects of increased costs/expenses combined with decreases in prices and sales volume.

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

The responding firms' aggregate data on capital expenditures and research and development ("R&D") expenses are presented in table VI-6. All U.S. producers except for *** reported capital expenditures, while eight producers incurred substantial amounts of capital expenditures during the periods examined.[7] Data for capital expenditures on a firm-by-firm basis are shown in table VI-7. While capital expenditures increased continuously and substantially from 2004 to 2006 and into 2007, due primarily to ***, R&D expenses decreased between 2004 and 2006. Both capital expenditures and R&D expenses increased from interim 2006 to interim 2007. Only two of the responding firms, ***, reported R&D expenses.

Table VI-6
LWR pipe and tube: Capital expenditures and R&D expenses by U.S. producers, fiscal years 2004-06, January-March 2006, and January-March 2007

Item	Fiscal year			January-March	
	2004	2005	2006	2006	2007
	Value (*$1,000*)				
Capital expenditures[1]	9,817	10,923	24,005	3,114	10,650
R&D expenses[2]	***	***	***	***	***

[1] All companies except *** reported capital expenditures.
[2] Only *** reported R&D expenses.

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

Table VI-7
LWR pipe and tube: Capital expenditures by U.S. producers, by firms, fiscal years 2004-06, January-March 2006, and January-March 2007

* * * * * * *

ASSETS AND RETURN ON INVESTMENT

U.S. producers were requested to provide data on their assets used in the production and sales of LWR pipe and tube during the period for which data were collected to assess their return on investment ("ROI"). Although ROI can be computed in different ways, a commonly used method is income earned during the period divided by the total assets utilized for the operations. Therefore, staff calculated ROI as operating income divided by total assets used in the production and sales of LWR pipe and tube. Data on the U.S. producers' total assets and their ROI are presented in table VI-8. The return on investment decreased from 2004 to 2005 and increased from 2005 to 2006. The trend of ROI over the period was the same as the trend of the operating income margin shown in table VI-1.

[7] As presented and discussed in some detail in table VI-7, *** accounted for a substantial portion of reported capital expenditures.

Table VI-8
LWR pipe and tube: Value of assets and return on investment of U.S. producers, fiscal years 2004-06

Item	Fiscal year		
	2004	2005	2006
Value of assets	**Value (*$1,000*)**		
1. Current assets:			
A. Cash and equivalents	28,182	44,065	40,555
B. Trade receivables (net)	64,870	71,758	57,318
C. Inventories	123,098	78,995	100,317
D. All other current	7,514	6,636	6,294
Total current	223,664	201,454	204,484
2. Non-current assets:			
A. Productive facilities[1] investments	225,336	226,084	247,338
B. Productive facilities[2] (net)[2]	95,433	87,283	95,873
C. Other non-current	7,529	8,139	9,292
Total non-current	102,962	95,422	105,165
Total assets	326,626	296,876	309,649
	Value (*$1,000*)		
Operating income	93,390	60,873	71,649
	Ratio of operating income to total assets (*percent*)		
Return on investment	28.6	20.5	23.1

[1] Original cost of property, plant, and equipment (PPE).
[2] Net book value of PPE (original cost less accumulated depreciation).

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

While the value of total assets fluctuated over the period, the original cost of property, plant, and equipment ("PPE") increased steadily. As net book value of PPE followed the pattern of total assets over the period examined, the data for individual companies show a wide range of fluctuation during the same period.[8] [9] [10] [11] [12]

CAPITAL AND INVESTMENT

The Commission requested U.S. producers to describe any actual negative effects on their return on investment, or their growth, investment, ability to raise capital, existing development and production efforts, or the scale of capital investments as a result of imports of LWR pipe and tube from China, Korea, Mexico, or Turkey. The producers' comments are presented in appendix E.

[8] ***.

[9] ***.

[10] ***.

[11] ***.

[12] Other variations and changes of the value of PPE may be attributable to the allocated assets based on the relative sales value of the subject merchandise compared to total sales.

PART VII: THREAT CONSIDERATIONS

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

> *In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors*[1]*--*
>
> *(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,*
>
> *(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,*
>
> *(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,*
>
> *(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,*
>
> *(V) inventories of the subject merchandise,*
>
> *(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,*
>
> *(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),*

---

[1] Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "The Commission shall consider {these factors} . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).[2]

Information in relation to subsidies in China is presented in Part 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

Of the 53 firms sent foreign producers'/exporters' questionnaires in China, no firm submitted a completed response indicating any LWR pipe and tube production. Several firms responded indicating that they did not produce subject merchandise. No party put in an entry of appearance on behalf of any Chinese interest in these proceedings.

THE INDUSTRY IN KOREA

Six Korean firms provided the Commission with foreign producers' questionnaire responses: Hanguk Steel Co., Ltd ("Hanguk"); Histeel Co., Ltd. ("Histeel"); Jinbang Steel Korea Co., Ltd. ("Jinbang"); Kukje Stee. Co., Ltd. ("Kukje"); Miju Steel Mfg. Co., Ltd. ("Miju"); and Nexteel Co., Ltd. ("Nexteel"). Based on estimates provided in several Korean producers' questionnaire responses as to their share of overall production of LWR pipe and tube in Korea, these firms represent the large majority of Korean LWR pipe and tube production, which was estimated at between 119,000 and 157,000 short tons in 2006.[3] Tables VII-1 and VII-2 present data on the Korean industry. Data for Korean producers *** have not been included in the compilation of the Korean industry data due to outstanding data issues. If data included in the uncorrected foreign producers' questionnaire responses from *** were accurate

[2] Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

[3] ***, at the high end, indicated that its 2006 production accounted for approximately *** percent of overall LWR pipe and tube production in Korea, which would indicate industry-wide production of approximately 157,000 short tons; whereas ***, at the low end, indicated that its 2006 production accounted for approximately *** percent of overall LWR pipe and tube production in Korea, which would indicate industry-wide production of approximately 119,000 short tons. Staff notes, however, that data *** is potentially subject to revision.

and included in table VII-1, Korean producers' reported exports to the United States would account for nearly all of official U.S. import statistics from Korea.[4]

Table VII-1
LWR pipe and tube: Data for producers in Korea, 2004-06, January-March 2006, January-March 2007, and projected 2007-08

* * * * * * *

Table VII-2
Overall light-walled steel pipe and tube: Data for producers in Korea, 2004-06, January-March 2006, and January-March 2007

* * * * * * *

Over the period for which data were collected, Korean producers reported increased capacity but lower production of LWR pipe and tube. The increasing reported capacity between 2004 and 2006 was accounted for by *** entering the market for LWR pipe and tube by bringing online new LWR pipe and tube operations in Korea at the beginning of the period for which data were collected, while the industry's decreasing production was accounted for by apparent decreases in both *** home market sales in Korea between 2004 and 2006. Projections for production and export shipments of LWR pipe and tube to the United States in 2007 and 2008 are higher than the most recent actual experience due to two firms: ***. *** reported relatively high projections for 2007 and 2008 compared to its actual experience in 2006, and its expected export shipments to the United States account for most of the increase in the overall Korean industry's projected increases in export shipments to the United States.[5] ***, on the other hand, reported the ***. *** reported relatively high projections for 2007, returning to its 2004 LWR pipe and tube production levels after decreasing production and decreasing home market sales in Korea between 2004 and 2006; its 2008 projections were even more optimistic than its 2007 projections. While *** expects most of its increased business to occur because of increases in home market sales in Korea and increases in export shipments to markets other than the United States, it, ***, also reported higher projected export shipments to the United States than its most recent actual experience. In general, home market sales in Korea accounted for the majority of Korean producers' shipments of LWR pipe and tube over the period for which data were collected, while the United States is a substantial export market for Korean-produced LWR pipe and tube after the domestic Korean market.[6]

Like any producer of LWR pipe and tube, Korean producers could increase their production of subject merchandise through product shifting, *i.e.* by decreasing other tubular production such as for circular mechanical tubing in favor of LWR pipe and tube. As a whole, however, the industry could first utilize its unutilized production capacity; however, most of the unutilized capacity reported in table VII-2 relates to ***. Reported total unutilized light-walled mill capacity by the reporting Korean producers equaled *** percent of U.S. imports from Korea in 2006.

---

[4] These six firms reported exports accounting for between 80 and 100 percent of imports of LWR pipe and tube from Korea as reported in official Commerce statistics between 2004 and 2006.

[5] *** reported projected export shipments in 2007 to the United States that were *** times its actual experience in 2006, and reported projected export shipments in 2008 to the United States that were *** times its actual experience in 2006.

[6] In aggregate export shipments to all other markets beside the United States were reportedly higher than export shipments to the United States. Other Korean export markets include: countries in the Middle East for ***; Panama, Chile, Australia for ***; countries in South America, East Asia, and the Middle East, as well as New Zealand and Australia for ***.

THE INDUSTRY IN MEXICO

Seven producers of LWR pipe and tube in Mexico provided the Commission with foreign producers' questionnaire responses in these proceedings: Arco Metal S.A. de C.V. ("Arco"); Hylsa, S.A. de C.V. ("Hylsa"),[7] which was purchased by Ternium (an Argentinian producer of steel pipe and tube) in 2005; Industrias Monterrey, S.A. de C.V. ("IMSA");[8] Maquilacero, S.A. de C.V. ("Maquilacero"); Perfiles y Herrajes LM S.A. de C.V. ("Perfiles y Herrajes"); Productos Laminados de Monterrey, S.A. de C.V. ("Prolamsa"); and Regiomontana de Perfiles y Turbos, S.A. de C.V. ("Regio").[9] All of these firms participated in the Commission's previous investigations into LWR pipe and tube from Mexico in 2004 and apparently represent all known Mexican production of LWR pipe and tube.[10] Data submitted by these Mexican producers relating to their exports to the United States correspond closely to official U.S. import statistics for Mexico.[11] Tables VII-3 and VII-4 present data on the Mexican industry.

Over the period for which data were collected, Mexican producers reported both increased capacity and production of LWR pipe and tube. The following Mexican producers reported changes to their operations with implications for capacity and production of subject merchandise: *** apparently began its LWR pipe and tube operations in January 2004, at the very beginning of the period for which data were collected; *** increased its production capacity through productivity improvements; and *** reported replacing old production equipment with new production equipment with a larger wall thickness range and greater capacity for production.[12]

Table VII-3
LWR pipe and tube: Data for producers in Mexico, 2004-06, January-March 2006, January-March 2007, and projected 2007-08

* * * * * * *

Table VII-4
Overall light-walled steel pipe and tube: Data for producers in Mexico, 2004-06, January-March 2006, and January-March 2007

* * * * * * *

Home market sales in Mexico consistently accounted for the majority of Mexican producers' shipments of LWR pipe and tube over the period for which data were collected. The United States was the second largest market for Mexican-produced LWR pipe and tube as reported in the Mexican

[7] Prior to November 2005, Galvak, S.A. de C.V., was a sister company of Hylsa. Hylsa merged Galvak into Hylsa in November 2005. Hysla's foreign producer questionnaire response, question II-2.

[8] *** foreign producers' questionnaire response, question I-4.

[9] Mexican producer *** supplied the Commission with incomplete and inconsistent data in its questionnaire response, which, in turn, had been submitted late.

[10] *Light-Walled Rectangular Pipe and Tube From Mexico and Turkey, Inv. Nos. 731-TA-1054-1055 (Final),* USITC Publication 3728 (October 2004), p. VII-2.

[11] Including ***, these seven Mexican firms accounted nearly all (***) of U.S. imports of LWR pipe and tube from Mexico as reported in official Commerce statistics between 2004 and 2006.

[12] Foreign producers' questionnaire responses, question II-2. Other firms that reported changes in their operations indicated that these changes did not have an effect on the data reported in their questionnaires, such as: ***, which relocated some production equipment within Mexico; and ***, which added a paint line for its subject merchandise.

producers' questionnaire responses.[13] While Mexican producers have some ability to shift production to LWR pipe and tube from their production of circular and other tubular products, there also exists unutilized light-walled mill capacity that could be used to increase production and export shipments to the United States of LWR pipe and tube. The total unutilized capacity by the reporting Mexican producers equaled *** percent of U.S. imports from Mexico in 2006.[14]

THE INDUSTRY IN TURKEY

According to the Commission's 2004 investigation into LWR pipe and tube from Turkey, there were 10 known producers of LWR pipe and tube in Turkey: Borusan Birlesik Boru Earrikalari A.S. ("Borusan"); Erbosan Erciyas Boru Sanayii ve Ticaret A.S. ("Erbosan"); Goktas Yassi Hadde Marnulleri Tic ve San A.S. ("Goktas"); Guven Boru ve Panfil Sanayi ve Ticovet Ltd. Std. ("Guven"); Mannesmann Boru Endustrisi T.A.S. ("Mannesmann"); MMZ Onur Boru Profil Uretim San ve Tic A.S. ("MMZ"); Noksel Celik Boru Sanyi A.S. ("Noksel"); Ozdemir Boru Profil San ve Tic Ltd. Std. ("Ozdemir"); Ozborsan Boru San ve Tic A.S. ("Ozborsan"); and Umran Celik Boru Sanayii A.S. ("Umran").[15] These firms plus five additional firms identified in the petition were sent foreign producers' / exporters' questionnaires in these proceedings. In these investigations, the Commission received completed questionnaire responses from four firms, including Guven, Noksel, Tosçelik Profil ve Sac Endustrisi A.S. ("Tosçelik"), and Yucel Boru ve Profil Endustrisi A.S. ("Yucel"). Compared to data gathered from the Commission's previous investigation into LWR pipe and tube from Turkey in 2004, the new responding firms Tosçelik and Yucel ***.[16] Tables VII-5 and VII-6 present data on the Turkish industry based on data gathered in these proceedings.

Table VII-5
LWR pipe and tube: Data for producers in Turkey, 2004-06, January-March 2006, January-March 2007, and projected 2007-08

* * * * * * *

Table VII-6
Overall light-walled steel pipe and tube: Data for producers in Turkey, 2004-06, January-March 2006, and January-March 2007

* * * * * * *

Over the period for which data were collected, Turkish producers reported increased capacity and production of LWR pipe and tube. *** reported the opening of a new LWR pipe and tube production facility in ***, Turkey with a nameplate capacity of *** short tons as well as the expansion of existing production lines. *** reported added four new production lines, two of which related to the production of subject merchandise between 2005 and 2006. *** reported adding two new production lines in 2004, one

[13] Exports to other markets were minimal, accounting for less than 1 percent of total shipments.

[14] In other words, ***.

[15] *Light-Walled Rectangular Pipe and Tube From Mexico and Turkey, Inv. Nos. 731-TA-1054-1055 (Final),* USITC Publication 3728 (October 2004), p. VII-5.

[16] Ibid., table VII-3. Data gathered in these proceedings on the operations of Tosçelik and Yucel alone in 2004 account for *** percent of data gathered in the earlier LWR pipe and tube investigation for 2002. By that measure, staff estimates that coverage of the Turkish LWR pipe and tube industry in these investigations is approximately *** percent, with potentially better coverage in 2005 and 2006 as reporting Turkish producers expanded capacity for and increased their production of LWR pipe and tube.

new production line in 2005, and a fourth additional production line in 2007. *** reported closing its production facility at ***, Turkey, but then opening an expanded facility in *** Turkey. Projections for capacity and production of LWR pipe and tube are higher than the Turkish firms' actual experience in 2006 due primarily to ***. Exports to the United States reported in table VII-5 account for between *** and *** percent of official U.S. imports from Turkey between 2004 and 2006. According to Turkish producers' questionnaire responses, exports to the United States accounted for *** percent of their total shipments at their highest level in 2006.[17] Turkish producers expect to ship fewer short tons of LWR pipe and tube to the United States in 2007 than they did in either 2005 or 2006. In fact, ***, which ***, reported *** projected shipments to the United States in 2007 or 2008. Other Turkish producers indicated *** projected shipments for 2007 and 2008, but in all cases at quantities ***. On the other hand, Turkish producers projected increases in their home market sales and increases in their exports to markets other than the United States in both 2007 and 2008.

Circular mechanical tubing accounted for a substantial share of production by Turkish producers throughout the period for which data were collected. While Turkish producers could increase their production of subject merchandise through product shifting, *i.e.* by decreasing other tubular production such as circular mechanical tubing in favor of LWR pipe and tube, there was enough unutilized capacity on the Turkish mills to account for an increase of *** times the quantity of U.S. imports of LWR pipe and tube from Turkey without expanding capacity or cutting into circular mechanical tube production.

U.S. INVENTORIES OF IMPORTED SUBJECT MERCHANDISE

Table VII-7 presents data on U.S. importers' inventories of LWR pipe and tube over the period of investigation.

Table VII-7
LWR pipe and tube: U.S. importers' end-of-period inventories, 2004-06, January-March 2006, and January-March 2007

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
Imports from China–					
Inventories (*short tons*)	***	***	***	***	***
Ratio of inventories to imports (*percent*)	***	***	***	***	***
Ratio of inventories to U.S. shipments of imports (*percent*)	***	***	***	***	***
Imports from Korea–					
Inventories (*short tons*)	***	***	***	***	***
Ratio of inventories to imports (*percent*)	***	***	***	***	***
Ratio of inventories to U.S. shipments of imports (*percent*)	***	***	***	***	***
Imports from Mexico–					
Inventories (*short tons*)	***	***	***	***	***
Ratio of inventories to imports (*percent*)	***	***	***	***	***
Ratio of inventories to U.S. shipments of imports (*percent*)	***	***	***	***	***

Table continued on next page.

[17] Other export markets include countries in the European Union for ***.

Table VII-7--*Continued*
LWR pipe and tube: U.S. importers' end-of-period inventories, 2004-06, January-March 2006, and January-March 2007

Item	Calendar year			January-March	
	2004	2005	2006	2006	2007
Imports from Turkey–					
Inventories (*short tons*)	***	***	***	***	***
Ratio of inventories to imports (*percent*)	***	***	***	***	***
Ratio of inventories to U.S. shipments of imports (*percent*)	***	***	***	***	***
Imports from subject sources–					
Inventories (*short tons*)	4,441	2,774	6,896	1,758	4,557
Ratio of inventories to imports (*percent*)	3.2	1.4	3.1	1.1	2.5
Ratio of inventories to U.S. shipments of imports (*percent*)	3.2	1.4	3.2	1.0	2.3
Imports from nonsubject sources–					
Inventories (*short tons*)	***	***	***	***	***
Ratio of inventories to imports (*percent*)	***	***	***	***	***
Ratio of inventories to U.S. shipments of imports (*percent*)	***	***	***	***	***
Imports from all sources–					
Inventories (*short tons*)	***	***	***	***	***
Ratio of inventories to imports (*percent*)	***	***	***	***	***
Ratio of inventories to U.S. shipments of imports (*percent*)	***	***	***	***	***

[1] Not applicable.

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

U.S. IMPORTERS' OUTSTANDING ORDERS

Table VII-8 presents data on imports arranged for importation after March 31, 2007 by quarter.

Table VII-8
LWR pipe and tube: U.S. importers' arranged imports, April 2007- March 2008

Item	2007			2008	Total
	Apr.-June	July-Sep.	Oct.-Dec.	Jan.-Mar.	
	Quantity (*short tons*)				
Imports arranged from--					
China	***	***	***	***	***
Korea	***	***	***	***	***
Mexico	***	***	***	***	***
Turkey	***	***	***	***	***
Subject sources	53,691	26,861	5,688	0	86,240
Nonsubject sources	0	0	0	0	0
All sources	53,691	26,861	5,688	0	86,240

Note.--While U.S. importers reported few arranged imports in later periods, that does not necessarily indicate a trend for future imports as importers may not have arranged for shipments that far in advance.

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

DUMPING IN THIRD COUNTRY MARKETS

On November 17, 2003, the Canadian antidumping authority made a final determination of dumping regarding structural tubing known as hollow structural sections, made of carbon and alloy steel, welded, in sizes up to and including 16.0 inches (406.4 mm) in outside diameter for round products and up to and including 48.0 inches (1219.2 mm) in periphery for rectangular and square products originating in or exported from the Republic of Korea, South Africa, and Turkey.[18] The scope of the orders on steel structural tubing in Canada include both product subject (LWR pipe and tube) and not subject to these investigations (such as heavy-walled rectangular pipe and tube and circular carbon welded pipe and tube). The Canadian order assessed dumping margins of 17.5 percent for imports of Turkish-origin steel structural tubing.

On May 24, 2007, the Australia antidumping authorities imposed interim duties on certain hollow structural sections exported from China.[19] Product subject to the interim Australian antidumping duties include both product subject (LWR pipe and tube) and not subject to these investigations (such as heavy-walled rectangular pipe and tube, and circular carbon welded pipe and tube). Interim duties ranged from 2.5 percent to 14.6 percent.

INFORMATION ON NONSUBJECT SOURCES

"Bratsk" Considerations

As a result of the Court of Appeals for the Federal Circuit ("CAFC") decision in *Bratsk Aluminum Smelter v. United States* ("Bratsk"), the Commission is directed to:[20] [21]

> *undertake an "additional causation inquiry" whenever certain triggering factors are met: "whenever the antidumping investigation is centered on a commodity product, and price competitive non-subject imports are a significant factor in the market." The additional inquiry required by the Court, which we refer to as the Bratsk replacement / benefit test, is "whether non-subject imports would have replaced the subject imports without any beneficial effect on domestic producers.*

---

[18] *Final Determination - Steel Structural Tubing*, Canada Border Services Agency, December 2, 2003, found at http://www.cbsa-asfc.gc.ca/sima/anti-dumping/ad1303f-e.html.

[19] *Certain Hollow Structural Sections Exported from the People's Republic of China*, Australian Customs Service, May 24, 2007, found at http://www.customs.gov.au/webdata/resources/notices/ACDN0722.pdf.

[20] *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2; citing *Bratsk Aluminum Smelter v. United States*, 444 F.3d at 1375.

[21] In the silicon metal remand, Chairman Pearson noted "consistent with his views in *Lined Paper School Supplies From China, India, and Indonesia, Inv. Nos. 701-TA-442-443 and 731-TA-1095-1097 (Final)*, USITC Pub. 3884 (September 2006) at 51, that while he agrees with the Commission that the Federal Circuit's opinion suggests a replacement/benefit test, he also finds that the Federal Circuit's opinion could be read, not as requiring a new test, but rather as a reminder that the Commission, before it makes an affirmative determination, must satisfy itself that it has not attributed material injury to factors other than subject imports." *Silicon Metal from Russia, Inv. No. 731-TA-991 (Second Remand)*, USITC Publication 3910, March 2007, p. 2, fn. 17. Commissioner Okun joined in those separate and dissenting views in *Lined Paper*.

Nonsubject Source Information

During the preliminary phase of these investigations, the Commission sought pricing data from U.S. importers of LWR pipe and tube from all sources, presented in Part V of this report. With respect to foreign industry data, the Commission sought publicly available information regarding producers of LWR tubing from Canada, the predominant source of nonsubject imports into the United States in 2004-06 and January-March 2007 (table IV-3 and figures IV-2 and IV-3). The information obtained is presented in the following sections.

Overview

LWR pipe and tube is produced in substantial quantities by welded pipe and tube producers throughout the world. Although figures specifically for global LWR tubing production are not generally available, the International Iron and Steel Institute ("IISI") publishes data on the global production of the larger product grouping of all welded pipe and tube.[22] As shown in table VII-9, welded pipe and tube production, especially in China, increased between 2003 and 2005.[23]

Table VII-9
LWR pipe and tube: Global welded pipe and tube production, by region, 2003-05

Region	Calendar year		
	2003	2004	2005
	Quantity (*1,000 short tons*)		
North America	6,196	4,892	6,662
European Union (15)	9,916	10,049	9,984
Asia, excluding China	14,315	15,200	14,601
China	11,363	14,344	17,274
Commonwealth of Independent States	3,891	—	—
South America	—	—	—
Other	1,362	2,088	2,146
Total	47,043	46,573	50,668

Note.–The data presented in this table are for all welded pipe and tube, and so are substantially overstated with respect to LWR pipe and tube subject to these investigations. Data were not published for the Commonwealth of Independent States in 2004-05 or for South America in 2003-05. The original data were published in metric tons, which were converted to short tons by multiplying by 1.102311. Because of rounding, figures may not add to the totals shown.

Source: International Iron and Steel Institute, *Steel Statistical Yearbook 2006*.

[22] IISI, *Steel Statistical Yearbook 2006*. Global and regional production data as published by IISI refer to all welded pipe and tube (including, e.g., mechanical tubing, structural tubing, OCTG, and line pipe), and are therefore substantially broader than the subject merchandise. As such, global and regional production data represent general trends and are for illustrative purposes only.

[23] Data for 2006 are not yet available.

Canada

As shown in table VII-10, there are several producers in Canada capable of producing LWR pipe and tube, often in conjunction with other tubular products.

Table VII-10
LWR pipe and tube: Locations, capacity,[1] and parent companies of production facilities in Canada subject countries

Firm	Production location	Capacity [1] (*short tons*)	Product standard(s)	Parent company/related foreign producer
Canada				
Acme Davis Pipe & Tube	Mississauga, Ontario	([2])	ASTM A-409, ASTM A-530	Acquired by Universal Stainless & Alloys Inc. (Canada) in January 2004
Atlantic Tube and Steel	Mississauga, Ontario	([2])	ASTM A-513	
Atlas Tube Inc.	Harrow, Ontario	600,000	ASTM A-500	Atlas Tube Group (Canada) is an affiliate of Carlyle Group (US)
	Winnipeg, Manitoba	30,000		
Bolton Steel Tube Co. Ltd.	Bolton, Ontario	([2])	ASTM A-500, ASTM A-513	
	Mississauga, Ontario			
Bull Moose Tube Ltd.	Burlington, Ontario	([2])	ASTM A-500, ASTM A-513	Affiliated with Bull Moose Tube Co. (US), the North American operations of the Caparo Tube Group (UK)
Delhi-Solac	Delhi, Ontario	([2])	ASTM A-513, ASTM A-787	
	St. Jérôme, Quebec			
Dofasco Tubular Products	Brampton, Ontario	([2])	ASTM A-500, ASTM A-513	ArcelorMittal (Luxembourg/Netherlands)
	Hamilton, Ontario			
	Mississauga, Ontario			
Nova Tube Inc.	Baie d'Urfé, Quebec	80,000	([2])	NovaAmerican Steel (Canada), with LWR tubing manufacturing facilities in the United States
Welded Tube of Canada Ltd.[3]	Concord, Ontario	([2])	([2])	

[1] Capacity may be overstated because LWR pipe and tube is only one among the many products manufactured by the companies' production lines.
[2] Not available.
[3] Welded Tube also has manufacturing facilities in the United States.

Source: Companies' Internet sites and *The Simdex Steel Tube Manufacturers Worldwide Guide, 2007.*

Production Profile

Some Canadian producers of LWR tubing in table VII-10 are owned by non-Canadian parent companies located in:

- The United States– Atlas Tube in Canada and Atlas Tube in Plymouth, Michigan, are affiliates of the Carlyle Group, a U.S. investment entity that purchased John Maneely, the parent company of Sharon Pipe and Wheatland Tube;

- Luxembourg/Netherlands– ArcelorMittal owns Dofasco Tubular Products in Ontario; and

- The United Kingdom– Bull Moose Tube Ltd. is affiliated with Bull Moose Tube Inc. (United States), the North American operations of the Caparo Tube Group (United Kingdom).

Table VII-10 shows a total reported Canadian capacity of 710,000 short tons per year. According to the IISI, Canadian production of all welded pipes and tubes increased from 2.7 million short tons in 2003 to 3.0 million short tons in 2004, and to 3.1 million short tons in 2005.[24]

Export Profile

Petitioners *** are the major U.S. importers of nonsubject LWR pipe and tube from Canada (table III-6). Canada's AUVs were the highest of any (subject or nonsubject) U.S. import source (table IV-3), whereas the AUVs of importers' shipments from nonsubject sources (including Canada) were slightly lower than domestic shipment values (figure IV-5). According to World Trade Atlas, Canada exported almost exclusively to the United States in 2004-06, which accounted for nearly 100 percent of all Canadian exports of nonalloy steel welded pipe and related tubular products (HS 730660), including LWR pipe and tube, in terms of quantity. In 2006, Mexico and Taiwan were the second- and third-largest Canadian export destinations, but together along with all other destinations, accounted for about 0.02 percent of Canada's exports of these products.

[24] IISI, *Steel Statistical Yearbook 2006*, Table 29 (Production of Welded Tubes). The data for 2004 and 2005 differ from capacity estimates in table VII-10 reported in companies' Internet sites and *The Simdex Steel Tube Manufacturers Worldwide Guide, 2007*. These different data sources have potentially different participants and are not expected to agree.

APPENDIX A

FEDERAL REGISTER NOTICES

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–449 and 731–TA–1118–1121 (Preliminary)]

Light-Walled Rectangular Pipe and Tube From China, Korea, Mexico, and Turkey

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a preliminary phase countervailing duty investigation and preliminary phase antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigation and commencement of preliminary phase countervailing duty investigation No. 701–TA–449 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) (the Act) to determine whether there is a reasonable indication that 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 imports from China of light-walled rectangular pipe and tube, currently provided for in subheading 7306.61.50 of the Harmonized Tariff Schedule of the United States,[1] that are alleged to be subsidized by the Government of the People's Republic of China. The Commission also hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping investigations Nos. 731–TA–1118–1121 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that 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 imports from China, Korea, Mexico, and Turkey of light-walled rectangular pipe and tube, currently provided for in subheading 7306.61.50 of the Harmonized Tariff Schedule of the United States,[1] that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B)), the Commission must reach preliminary determinations in antidumping and countervailing duty investigations in 45 days, or in this case by Monday, August 13, 2007. The Commission's views are due at Commerce within five business days thereafter, or by Monday, August 20, 2007.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

DATES: *Effective Date:* June 27, 2007.

FOR FURTHER INFORMATION CONTACT: Russell Duncan (*russell.duncan@usitc.gov*), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. These investigations are being instituted in response to a petition filed on June 27, 2007, by the following firms: Allied Tube and Conduit, Harvey, IL; Atlas Tube, Plymouth, MI; California Steel and Tube, City of Industry, CA; Ex-L-Tube, Kansas City, MO; Hannibal Industries, Los Angeles, CA; Leavitt Tube Company LLC, Chicago, IL; Maruichi American Corporation, Sante Fe Springs, CA; Searing Industries, Rancho Cucamonga, CA; Southland Tube, Birmingham, AL; Vest Inc., Los Angeles, CA; Welded Tube, Concord,

[1] Prior to February 3, 2007, the merchandise subject to these investigations was properly classified under subheading 7306.60.50 of the Harmonized Tariff Schedule of the United States.

Ontario (Canada); and Western Tube and Conduit, Long Beach, CA.

Participation in the investigations and public service list. Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

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 these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference. The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on Wednesday, July 18, 2007, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Russell Duncan (*russell.duncan@usitc.gov*) not later than Monday, July 16, 2007, to arrange for their appearance. Parties in support of the imposition of countervailing and of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour each within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions. As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before Monday, July 23, 2007, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (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: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: June 28, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–12846 Filed 7–2–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–580–859, A–201–835, A–489–815, A–570–914)

Initiation of Antidumping Duty Investigations: Light–Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People's Republic of China.

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

EFFECTIVE DATE: July 24, 2007.

FOR FURTHER INFORMATION CONTACT: David Cordell (Republic of Korea), John Drury (Mexico), Fred Baker (Turkey), or Jeffrey Pedersen (People's Republic of China), AD/CVD Operations, Office 7 and Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0408, (202) 482–0195, (202) 482–2924, or (202) 482–2769, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On June 27, 2007, the Department of Commerce (the Department) received a petition on imports of light–walled rectangular pipe and tube (LWR) from the Republic of Korea (Korea), Mexico, Turkey, and the People's Republic of China (PRC), filed in proper form by Allied Tube and Conduit, Atlas Tube, California Steel and Tube, EXLTUBE, Hannibal Industries, Leavitt Tube Company, Maruichi American Corporation, Searing Industries, Southland Tube, Vest Inc., Welded Tube, and Western Tube and Conduit

(the petitioners). *See Antidumping Duty Petition on Light–Walled Rectangular Pipe and Tube from Korea, Mexico, the People's Republic of China, and Turkey and Countervailing Duty Petition on Light–Walled Rectangular Pipe and Tube from the People's Republic of China* (June 27, 2007) (petition). Bull Moose Tube Company later joined the petitioning firms. *See* petitioners' letter dated July 9, 2007, at 7. On June 29, 2007, and July 3, 2007, the Department issued requests for additional information and clarification of certain areas of the petition. Petitioners filed their response to our request for information on July 6, 2007. On July 10, 2007, the Department issued another request for information and clarification of certain areas of the petition. We received petitioners' response to our request for information on July 12, 2007.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of light–walled rectangular pipe and tube from Korea, Mexico, Turkey, and the PRC, are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds the petitioners filed this petition on behalf of the domestic industry because the petitioners are interested parties as defined in section 771(9)(C) of the Act, and the petitioners have demonstrated sufficient industry support with respect to the investigations the petitioners are requesting the Department to initiate. (*See* ''Determination of Industry Support for the Petition'' below.)

Scope of Investigations

The merchandise that is the subject of these investigations is certain welded carbon–quality light–walled steel pipe and tube, of rectangular (including square) cross section (LWR), having a wall thickness of less than 4 mm.

The term carbon–quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon–quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon–quality is intended to identify carbon–quality products within the scope. The welded carbon–quality rectangular pipe and tube subject to these investigations is currently classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of these investigations is dispositive.

Comments on the Scope of the Investigations

During our review of the petition, we discussed the scope with the petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of the publication of this notice. Comments should be addressed to Import Administration's Central Records Unit (CRU), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed by an interested party described in subparagraph (C), (D), (E), (F) or (G) of section 771(9) of the Act, or on behalf of the domestic industry. In order to determine whether a petition has been filed by or on behalf of the industry, the Department, pursuant to section 732(c)(4)(A) of the Act, determines whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989)).

Section 771(10) of the Act defines the 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 under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that light–walled rectangular pipe and tube constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the

domestic like product analysis in this case, *see* ''Antidumping Investigation Initiation Checklist: Light–Walled Rectangular Pipe and Tube from the Republic of Korea'' (*Korea Initiation Checklist*) at Attachment II (Industry Support), ''Antidumping Investigation Initiation Checklist: Light–Walled Rectangular Pipe and Tube from Mexico'' (*Mexico Initiation Checklist*) at Attachment II (Industry Support), and ''Antidumping Investigation Initiation Checklist: Light–Walled Rectangular Pipe and Tube from Turkey'' (*Turkey Initiation Checklist*) at Attachment II (Industry Support), ''Antidumping Investigation Initiation Checklist: Light–Walled Rectangular Pipe and Tube from the People's Republic of China'' (*PRC Initiation Checklist*) at Attachment II (Industry Support), on file in the Central Records Unit, Room B–099 of the main Department of Commerce building.

In determining whether petitioners have standing (*i.e.*, those domestic workers and producers supporting the petitions account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petitions), we considered the industry support data contained in the petition with reference to the domestic like product as defined in Attachment I (Scope of the Petitions) to the *Korea Initiation Checklist*, *Mexico Initiation Checklist*, *Turkey Initiation Checklist*, and *PRC Initiation Checklist*. To establish industry support, petitioners provided their production of the domestic like product for the year 2006, and compared that to production of the domestic like product for the industry. For further discussion *see* the *Korea Initiation Checklist*, *Mexico Initiation Checklist*, and *Turkey Initiation Checklist*, and *PRC Initiation Checklist* at Attachment II (Industry Support).

Our review of the data provided in the petitions, supplemental submissions, and other information readily available to the Department indicates petitioners have established industry support. First, the domestic producers have met the statutory criteria for industry support under 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the petition account for at least 25 percent of the total production of the domestic like product. Second, the domestic producers have met the statutory criteria for industry support under 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petitions. Because the petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* section 732(c)(4)(D) of the Act. Accordingly, the Department determines that the petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See Korea Initiation Checklist*, *Mexico Initiation Checklist*, *Turkey Initiation Checklist*, and the *PRC Initiation Checklist*, at Attachment II (Industry Support).

The Department finds petitioners filed the petitions on behalf of the domestic industry because they are an interested party as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the antidumping investigation they are requesting the Department initiate. *See Korea Initiation Checklist*, *Mexico Initiation Checklist*, *Turkey Initiation Checklist*, and *PRC Initiation Checklist* at Attachment II (Industry Support).

Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). Petitioners contend the industry's injured condition is illustrated by reduced market share, lost sales, reduced production, reduced capacity, and reduced capacity utilization rate, reduced shipments and increased inventories, underselling and price depression or suppression, lost revenue, reduced employment, decline in financial performance and increase in import penetration. In addition, petitioners allege that imports of the subject merchandise exceed the negligibility threshold provided for under section 771(24)(A) of the Act. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* the *Korea Initiation Checklist*, *Mexico Initiation Checklist, Turkey Initiation Checklist*, and *PRC Initiation Checklist* at Attachment III (Injury).

Periods of Investigation

In accordance with section 19 C.F.R. 351.204(b) of the Department's regulations, because the petition was filed on June 27, 2007, the period of investigation (POI) for Korea, Mexico, and Turkey, is April 1, 2006, through March 31, 2007, and the POI for the PRC is October 1, 2006, through March 31, 2007.

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department has based its decision to initiate investigations with respect to Korea, Mexico, Turkey, and the PRC. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the *Korea Initiation Checklist*, *Mexico Initiation Checklist*, the *Turkey Initiation Checklist*, and the *PRC Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act, we may reexamine the information and revise the margin calculation, if appropriate.

Korea

Export Price

Petitioners calculated EP using prices at which the subject merchandise was offered for sale in the United States, and also on the AUVs for import data for the POI obtained from the U.S. Census Bureau IM–145 data for Korea. Petitioners based one EP on the FAS (Free Alongside Ship) AUV of the appropriate HTSUS numbers under which LWR is imported into the United States and that fall within the scope of the investigations for the period of investigation. These HTSUS numbers contain imports of products which were most similar to the product on which the Petitioners based normal value (NV) in the petition. HTSUS number 7306.60.50.00 was the appropriate number for all of 2006. In 2007, merchandise that previously entered under 7306.60.50.00 in 2006 was divided between two new HTSUS numbers. The appropriate HTSUS for LWR is 7306.61.50.00 in 2007. From both the price quotes and the AUVs petitioners deducted an amount for international freight from the EP for the margin calculation to reflect the proposed delivery terms of sale. International freight was calculated as the difference between the IM–45 FAS and the IM–45 CIF values derived from U.S. Census data. Petitioners also deducted a three percent dealer mark up from the price quotes to reflect the

estimated expenses the U.S. trader/importer incurred in selling the merchandise. *See Korea Initiation Checklist.*

Normal Value

Petitioners stated they were unable to obtain reliable pricing data directly from home market producers or trading companies. Therefore, petitioners based home market prices on a January 2007 edition of the *Korean Metal Journal.* The publication listed the prices at which various metal products, including light–walled rectangular pipe and tube, are sold in Korea. The *Korean Metal Journal* listed a single wholesale price and various consumer prices based on location in South Korea. Petitioners used the lower ''wholesale price'' as a conservative measure. Petitioners converted prices from Korean won to U.S. dollars and from a per–meter to a per–hundred-weight (cwt) basis because subject merchandise is typically sold on a per–cwt basis in the United States. Petitioners claim the prices in the *Korean Metal Journal* are an actual offering of the subject merchandise for sale in Korea. Petitioners made no deduction for freight in calculating NV, claiming the terms of sale for the wholesale prices were ex–factory.

Mexico

Export Price

The petitioners calculated a single EP using the AUVs for import data collected by the U.S. Census Bureau for Mexico. The petitioners used the FAS AUV of the appropriate HTSUS numbers under which light–walled rectangular pipe and tube is imported into the United States and that fall within the scope of the investigations. These HTSUS numbers contain imports of products which were most similar to the product on which the petitioner based NV in Mexico. 7306.60.50.00 was the appropriate HTSUS number for subject merchandise during 2006. In 2007 the HTSUS number was changed, and now subject merchandise is imported under HTSUS 7306.61.50.00. These HTSUS numbers account for 100 percent of the volume of imports from Mexico. *See Mexico Initiation Checklist.*

Petitioners made an adjustment to U.S. price for inland freight from the plant to the port of importation, specifically Laredo, Texas. Petitioners based the inland freight charge on a comparison market price quote for inland freight within Mexico, adjusted for differences in distance between Laredo and the quoted destination of the comparison market quote. *See Mexico Initiation Checklist.*

Normal Value

Petitioners stated that, since it does not sell light–walled rectangular pipe and tube in the Mexican market, it does not have specific knowledge of how the subject product is sold, marketed, or packaged in that domestic market. Petitioners were able to determine domestic Mexican prices for light–walled rectangular pipe and tube by obtaining a price quotation, through an economic consultant, from a Mexican manufacturer of the subject product. *See* memorandum ''Light–walled Rectangular Pipe and Tube: Telephone Call to Market Research Firm '' dated July 16, 2007. The price quotation identified specific terms of sale and payment terms. Petitioner did not make any adjustments to the quoted prices, as the terms of delivery were FOB (''Free on Board'') at the manufacturing facility. *See Mexico Initiation Checklist.*

Turkey

Export Price

Petitioners calculated EP based on a price quote from a U.S. seller of subject pipe and tube (U.S. dealer), and also on AUVs obtained from U.S. Census Bureau IM 145 import statistics. For the price quotes, petitioners deducted an amount for international freight. Petitioners also deducted a value of three percent of the U.S. price to cover inland freight from the U.S. port to the U. S. dealer, as well as the U.S. dealer's expenses and profit. *See Turkey Initiation Checklist.*

Petitioners also calculated EP based on AUVs. Petitioners based one EP on the FAS AUV of the appropriate HTSUS numbers under which LWR is imported into the United States and that fall within the scope of the investigations for the period of investigation. These HTSUS numbers contain imports of products which were most similar to the product on which the Petitioners based NV in the petition. HTSUS number 7306.60.50.00 was the appropriate number for all of 2006. In 2007, merchandise that previously entered under 7306.60.50.00 in 2006 was divided between two new HTSUS numbers. The appropriate HTSUS for LWR is 7306.61.50.00 in 2007. Petitioners did not make an adjustment for international freight because they calculated the AUV prices on the FAS value of the merchandise. *See Turkey Initiation Checklist.*

Normal Value

Petitioners based NV on two price quotes from each of two Turkish producers of light–walled rectangular pipe and tube. Petitioners obtained these prices by engaging a consultant, who hired a research firm with an agent in Turkey. *See* memorandum ''Light–walled Rectangular Pipe and Tube: Telephone Call to Market Research Firm,'' dated July 16, 2007. Except where terms of sale were ex–works, petitioners made a deduction for a three–percent markup representing the distributor's freight, selling expenses, and profit. For one of the producers, petitioners also made a deduction for a discount the producer offered. *See Turkey Initiation Checklist.*

People's Republic of China

Export Price

The dumping margins in the petition are based on 10 different EPs for LWR. Petitioners based one EP on the FAS AUV of the appropriate HTSUS numbers under which LWR is imported into the United States and that fall within the scope of the investigations for the period of investigation. These HTSUS numbers contain imports of products which were most similar to the product on which the Petitioners based NV in the petition. HTSUS number 7306.60.50.00 was the appropriate number for all of 2006. In 2007, merchandise that previously entered under 7306.60.50.00 in 2006 was divided between two new HTSUS numbers. The appropriate HTSUS for LWR is 7306.61.50.00 in 2007. Petitioners made no adjustments to the AUVs in calculating EPs (foreign inland freight charges were not deducted from the AUVs as the distances between the Chinese producers and the nearest ports are not known). *See PRC Initiation Checklist.*

Petitioners calculated nine EPs using price quotes from distributors of subject pipe manufactured in the PRC. Petitioners calculated EPs from the price quotes by deducting foreign brokerage charges, international freight charges, and commission expenses from the prices. *See* Exhibit II–1 of the petition and the *PRC Initiation Checklist.* Each price quote was for a specific grade and quality of light–walled rectangular pipe and tube that is within the scope of this petition and that was to be delivered to the U.S. customer within the POI.

Normal Value

Petitioners stated that the PRC was a non–market economy (NME) and no determination to the contrary has been made by the Department. In previous investigations, the Department has determined that the PRC is an NME. *See Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's*

Republic of China, 70 FR 24502 (May 10, 2005), *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Magnesium Metal from the People's Republic of China*, 70 FR 9037 (Feb. 24, 2005) and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 7475 (Feb. 14, 2005). In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and remains in effect for purposes of the initiation of this investigation. Accordingly, because available information does not permit the NV of the merchandise to be determined under section 773(a) of the Act, the NV of the product is appropriately based on factors of production valued in a surrogate market economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioners identified India as the surrogate country, arguing that India is an appropriate surrogate, pursuant to section 773(c)(4) of the Act, because it is a market economy country that is at a level of economic development comparable to that of the PRC and is a significant producer and exporter of subject pipe and tube. *See* Volume II of the petition at pages II–1 and II–2. Based on the information provided by petitioners, we believe their use of India as a surrogate country is appropriate for purposes of initiating this investigation. After the initiation of the investigation, the Department will solicit comments regarding surrogate country selection. Also, pursuant to 19 CFR 351.301(c)(3)(i) of the agency's regulations, interested parties will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

Petitioners provided information to calculate NV as required by 19 CFR 351.202(b)(7)(i)(C). *See* Volume II of the petition at Exhibits II–I and 6, as revised in Exhibit 2 of the July 12, 2007 supplement to the petition. Specifically, petitioners provided surrogate values and factors of production information on which they based NV. Petitioners based the amounts and types of inputs used to produce light–walled rectangular pipe and tube on their own production experience because they claimed that they are not aware of any generally available information regarding the factors of production used, and the factor consumption rates experienced, by PRC producers of subject pipe and tube.

According to petitioners, the cost model provided in Exhibit II–6 of the petition, as revised in Exhibit 2 of the July 12, 2007, supplement to the petition, reflects the cost of producing LWR with the following dimensions: 1″x1″x.063″ and 2″x2″x.063.″ These are the sizes of LWR for which petitioners provided price quotes. Petitioners also claim that these are the sizes of commonly sold LWR models on which the ITC based its determination in a prior LWR antidumping investigation. Thus, petitioners claim that these sizes of LWR will result in representative dumping margins. *See* pages II–2 and II–3 of the petition and *PRC Initiation Checklist*.

In accordance with section 773(c)(4) of the Act, petitioners valued factors of production, where possible, using reasonably available, public surrogate country data. Specifically, petitioners valued input materials by multiplying the quantity of the input used to produce a metric ton of LWR by a surrogate value. *See* Exhibit II–6 of the petition. Petitioners valued the hot–rolled steel coil input using prices published online by ''Steel Rx Corporation.'' However, petitioners' steel coil prices are available in only four Indian cities. The Department prefers to use broad market average prices in valuing factors of production. *See Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of the Eleventh Administrative Review and New Shipper Reviews*, 72 FR 34438 (June 22, 2007). Thus, we recalculated the surrogate value for steel coils using data from the *Monthly Statistics of the Foreign Trade of India*, as compiled by *World Trade Data Atlas* (WTA). WTA data are readily available and represent broad market averages. We used WTA prices for coils of a thickness that would be used to produce the LWR for which petitioners provided U.S. prices. *See PRC Initiation Checklist*. Since the Indian WTA import values are expressed in a foreign currency, petitioners converted these values into U.S. dollars using the exchange rates on Import Administration's website, *ia.ita.doc.gov/exchange/india.txt*, for the period during which the imports were made. *See* Exhibit II–6 of the petition.

Petitioners valued labor using the Department's regression–based wage rate for the PRC ($0.83 per hour) in accordance with 19 CFR 351.408(c)(3). *See* the PRC Initiation Checklist.

Petitioners valued the various forms of energy used to produce LWR using the following surrogates: (1) the Indian electricity rate as reported by the International Energy Agency for the year 2000, inflated to a POI value using the Wholesale Price Index (WPI) published by the International Monetary Fund (IMF) (*see* Volume II of the petition at page 9 and Exhibit II–9); and (2) Indian natural gas prices charged to industrial users during a period overlapping the POI, as reported by CRISIL Research India. *See* Volume II of the petition at Exhibit II–10. We revalued natural gas using February 2005 Indian natural gas rates published by GAIL. These rates were recently used in the initiation of the antidumping duty investigation of circular pipe from the PRC. *See Initiation of Antidumping Duty Investigation: Circular Welded Carbon–Quality Steel Pipe from the People's Republic of China*, 72 FR 36663, 36666 (July 5, 2007). We inflated the natural gas price to a POI value using the WPI published by the IMF.

Petitioners calculated surrogate financial ratios (*i.e.*, the overhead, selling, general, and administrative (SG&A), and profit ratios) using the 2005–2006 Annual Report of the Indian LWR producer Zenith Birla (India) Limited. *See* Volume II of the petition at page II–4 and Exhibit II–4. We revised petitioners' financial ratios by including in the denominator of the overhead and SG&A ratios certain financial statement line items that were omitted from those denominators. We also revised the denominator of the profit ratio. *See* PRC Initiation Checklist.

Fair Value Comparisons

Based on a comparison of EP to NV, we find that a dumping margin of 11.50 percent exists for Mexico, that dumping margins exist for Korea ranging from 11.74 percent to 30.66 percent; for Turkey ranging from 15.28 percent to 41.71 percent; and for the PRC ranging from 6.30 percent to 40.52 percent. Therefore, in accordance with section 773(a) of the Act, there is reason to believe that imports of light–walled rectangular pipe and tube from Mexico, Korea, Turkey, and the PRC, are being, or are likely to be, sold in the United States at less than fair value.

Initiation of Antidumping Investigations

Based upon the examination of the petition on light–walled rectangular pipe and tube from Korea, Mexico, Turkey, and the PRC, and other

information reasonably available to the Department, the Department finds that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of light–walled rectangular pipe and tube from Korea, Mexico, Turkey, and the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Separate Rates and Quantity and Value Questionnaire

The Department recently modified the process by which exporters and producers may obtain separate–rate status in NME investigations. *See* Policy Bulletin 05.1: Separate–Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non–Market Economy Countries (*Separate Rates and Combination Rates Bulletin*), (April 5, 2005), available on the Department's website at http://ia.ita.doc.gov/policy/bull05–1.pdf. The process requires the submission of a separate–rate status application. Based on our experience in processing the separate–rate applications in the following antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete: *Initiation of Antidumping Duty Investigations: Certain Lined Paper Products from India, Indonesia, and the People's Republic of China*, 70 FR 58374, 58379 (October 6, 2005), *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005) (*Artist Canvas from the PRC*) and *Initiation of Antidumping Duty Investigations: Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea*, 70 FR 35625, 35629 (June 21, 2005) (*Sawblades from the PRC and Korea*). The specific requirements for submitting the separate- rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's website at *http://ia.ita.doc.gov/ia–highlights-and–news.html* on the date of publication of this initiation notice in the **Federal Register**. The separate–rate application is due no later than September 21, 2007.

NME Respondent Selection and Quantity and Value Questionnaire

For NME investigations, it is the Department's practice to request quantity and value information from all known exporters identified in the petition. In addition, the Department typically requests the assistance of the NME government in transmitting the Department's quantity and value questionnaire to all companies that manufacture and export subject merchandise to the United States, as well as to manufacturers that produce the subject merchandise for companies that were engaged in exporting subject merchandise to the United States during the POI. The quantity and value data received from NME exporters are used as the basis to select the mandatory respondents. Although many NME exporters respond to the quantity and value information request, at times some exporters may not have received the quantity and value questionnaire or may not have received it in time to respond by the specified deadline.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate–rate application by the respective deadlines in order to receive consideration for separate–rate status. This procedure will be applied to this and all future NME investigations. *See Artist Canvas from the PRC*, 70 FR at 21999, *Sawblades from the PRC and Korea*, 70 FR at 35629, and *Initiation of Antidumping Duty Investigation: Certain Activated Carbon from the People's Republic of China*, 71 FR 16757, 16760 (April 4, 2006). Appendix I of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters no later than August 7, 2007. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the IA website: http://ia.ita.doc.gov/ia–highlights-and–news.html. The Department will send the quantity and value questionnaire to those PRC companies identified in Exhibit I–10 of Volume I of the petition, and to the NME government.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The *Separate Rates and Combination Rates Bulletin*, states:

> [w]hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non–investigated firms receiving the weighted–average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash–deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.

Separate Rates and Combination Rates Bulletin, at page 6.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the Governments of Korea, Mexico, Turkey, and the PRC. We will attempt to provide a copy of the public version of the petition to the foreign producers/exporters named in the petition.

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the International Trade Commission

The ITC will preliminarily determine, no later than August 13, 2007, whether there is a reasonable indication that imports of light–walled rectangular pipe and tube from Korea, Mexico, Turkey, and the PRC, are materially injuring, or threatening material injury to a U.S. industry. A negative ITC determination will result in the investigations being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: July 17, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

Appendix I

Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Tariff Act of 1930 (as amended) permits us to investigate 1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or 2) exporters and producers accounting for the largest volume and value of the subject merchandise that can reasonably be examined.

In the chart below, please provide the total quantity and total value of all your sales of merchandise covered by the scope of this investigation (see scope section of this notice), produced in the PRC, and exported/shipped to the United States during the period October 1, 2006, through March 31, 2007.

Market	Total Quantity	Terms of Sale	Total Value
United States			
1. Export Price Sales			
2.			
a. Exporter name			
b. Address			
c. Contact			
d. Phone No.			
e. Fax No.			
3. Constructed Export Price Sales			
4. Further Manufactured			
Total Sales			

Total Quantity:

- Please report quantity on a metric ton basis. If any conversions were used, please provide the conversion formula and source.

Terms of Sales:

- Please report all sales on the same terms (*e.g.*, free on board).

Total Value:

- All sales values should be reported in U.S. dollars. Please indicate any exchange rates used and their respective dates and sources.

Export Price Sales:

- Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated person occurs before importation into the United States.
- Please include any sales exported by your company directly to the United States;
- Please include any sales exported by your company to a third–country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please *do not* include any sales of merchandise manufactured in Hong Kong in your figures.

Constructed Export Price Sales:

- Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated person occurs after importation. However, if the first sale to the unaffiliated person is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation.
- Please include any sales exported by your company directly to the United States;
- Please include any sales exported by your company to a third–country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please *do not* include any sales of merchandise manufactured in Hong Kong in your figures.

Further Manufactured:

- Further manufacture or assembly costs include amounts incurred for direct materials, labor and overhead, plus amounts for general and administrative expense, interest expense, and additional packing expense incurred in the country of further manufacture, as well as all costs involved in moving the product from the U.S. port of entry to the further manufacturer.

[FR Doc. E7–14284 Filed 7–19–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(C–570–915)

Notice of Initiation of Countervailing Duty Investigation: Light–Walled Rectangular Pipe and Tube from the People's Republic of China

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

EFFECTIVE DATE: July 24, 2007.

FOR FURTHER INFORMATION CONTACT: Damian Felton, Shane Subler or Brandon Farlander, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0133, (202) 482–0189 and (202) 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On June 27, 2007, the Department of Commerce (''the Department'') received a petition filed in proper form by Allied Tube & Conduit; Atlas Tube; Bull Moose Tube Company; California Steel and Tube; EXLTUBE; Hannibal Industries; Levitt Tube Company LLC, Maruichi American Corporation; Searing Industries; Southland Tube; Vest Inc.; Welded Tube; and Western Tube and Conduit (collectively, ''petitioners''). The Department received timely information from petitioners supplementing the petition on July 6, July 9 and July 12, 2007.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (''the Act''), petitioners allege that manufacturers, producers, or exporters of light–walled rectangular (''LWR'') pipe and tube in the People's Republic of China (the ''PRC''), receive countervailable subsidies within the meaning of section 701 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that petitioners filed the petition on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and (D) of the Act and petitioners have demonstrated sufficient industry support with respect to the countervailing duty investigation (*see* ''Determination of Industry Support for the Petition'' section below).

Scope of Investigation

The merchandise that is the subject of this investigation is certain welded carbon–quality light–walled steel pipe and tube, of rectangular (including square) cross section (LWR), having a wall thickness of less than 4mm.

The term carbon–quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon–quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon–quality is intended to identify carbon–quality products within the scope. The welded carbon–quality rectangular pipe and tube subject to this investigation is currently classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of these investigations is dispositive.

Comments on Scope of Investigation

During our review of the petition, we discussed the scope with the petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of the publication of this notice. Comments should be addressed to Import Administration's Central Records Unit (''CRU''), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of the

PRC for consultations with respect to the countervailing duty petition. The Department held these consultations in Beijing, China with representatives of the Government of the PRC on July 16, 2007. *See* the Memoranda to The File, entitled, ''Consultations with Officials from the Government of the People's Republic of China'' (July 16, 2007) (public documents on file in the CRU of the Department of Commerce, Room B–099).

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act, provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the 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 under this subtitle.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that LWR pipe and tube constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty Investigation Initiation Checklist: Light–Walled Rectangular Pipe and Tube from the People's Republic of China, (*China Initiation Checklist*) at Attachment II, (Analysis of Industry Support), on file in the Central Records Unit, Room B–099 of the main Department of Commerce building.

In determining whether petitioners have standing (*i.e.*, those domestic workers and producers supporting the petition account for; (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition), we considered the industry support data contained in the petition with reference to the domestic like product as defined in Attachment I, (Scope of the Petition), to the *China Initiation Checklist*. To establish industry support, petitioners provided their production of the domestic like product for the year 2006, and compared that to production of the domestic like product for the industry. For further discussion see the *China Initiation Checklist* at Attachment II (Analysis of Industry Support).

Our review of the data provided in the petition, supplemental submissions, and other information readily available to the Department indicates that petitioners have established industry support. First, the domestic producers have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the petition account for at least 25 percent of the total production of the domestic like product. Second, the domestic producers have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Because the petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). See section 702(c)(4)(D) of the Act. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See* the *China Initiation Checklist* at Attachment II (Analysis of Industry Support).

The Department finds that petitioners filed the petition on behalf of the domestic industry because they are an interested party as defined in sections 771(9)(C) and (D) of the Act and they have demonstrated sufficient industry support with respect to the countervailing duty investigation that they are requesting the Department initiate. *See China Initiation Checklist* at Attachment II (Analysis of Industry Support).

Injury Test

Because the PRC, is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

Petitioners allege that imports of LWR pipe and tube from the PRC are benefitting from countervailable subsidies and that such imports are causing or threatening to cause, material injury to the domestic industry producing LWR pipe and tube. In addition, petitioners allege that subsidized imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioners contend that the industry's injured condition is illustrated by

reduced market share, lost sales, reduced production, reduced capacity and capacity utilization rate, reduced shipments and increased inventories, underselling and price depression or suppression, lost revenue, reduced employment, decline in financial performance and increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See China Initiation Checklist* at Attachment III (Injury).

Initiation of Countervailing Duty Investigation

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry that; (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioners supporting the allegations. The Department has examined the countervailing duty petition on LWR pipe and tube from the PRC and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of LWR pipe and tube in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, see *China Initiation Checklist*.

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

Preferential Lending

1. Government Policy Lending Program
2. Loans and interest subsidies provided pursuant to the Northeast Revitalization Program

Income Tax Programs

3. ''Two Free, Three Half'' program
4. Income tax exemption program for export–oriented foreign investment enterprises (''FIEs'')
5. Corporate income tax refund program for reinvestment of FIE profits in export–oriented enterprises
6. Local income tax exemption and reduction program for ''productive'' FIEs
7. Reduced income tax rates for FIEs based on location
8. Reduced income tax rate for knowledge or technology intensive FIEs
9. Reduced income tax rate for high or new technology FIEs
10. Preferential tax policies for research and development at FIEs
11. Income tax credits on purchases of domestically produced equipment by domestically–owned companies
12. Income tax credits on purchases of domestically produced equipment by FIEs

Provincial Subsidy Programs

13. Program to rebate antidumping legal fees in Zhejiang province
14. Export interest subsidy funds for enterprises located in Zhejiang province
15. Loans pursuant to the Liaoning Province's five–year framework

Indirect Tax Programs and Import Tariff Program

16. Export payments characterized as VAT rebates
17. VAT and tariff exemptions on imported equipment
18. VAT rebates on domestically produced equipment
19. Exemption from payment of staff and worker benefits for export–oriented enterprises

Grant Programs

20. State Key Technology Renovation Program Fund
21. Grants to loss–making state owned enterprises

Provision Of Goods Or Services For Less Than Adequate Remuneration

22. Hot–rolled steel
23. Electricity and natural gas
24. Water
25. Land

Government Restraints on Exports

26. Zinc
27. Hot–rolled steel

For further information explaining why the Department is investigating these programs, see *China Initiation Checklist*.

We are postponing our investigation of the following program until such time as we select our respondents because the allegation is company–specific:

1. Loans to uncreditworthy companies

For further information explaining why the Department is postponing investigation of this program, see *China Initiation Checklist*.

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in the PRC:

1. Currency manipulation

Petitioners allege that the Government of China's (''GOC'') policy of maintaining an undervalued RMB is an export subsidy that provides either a direct transfer of funds or the provision of a good or service at less than adequate remuneration. Petitioners have not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Therefore, we do not plan to investigate the currency manipulation program.

2. Tax incentives for companies engaging in research and development

Petitioners allege that ''domestic'' companies (i.e., companies that are not FIEs) are a *de jure* specific group. Petitioners have not established with reasonably available evidence that this program is *de jure* specific pursuant to section 771(5A)(D)(i) of the Act. Therefore, we do not plan to investigate tax incentives for ''domestic'' companies engaging in research and development.

3. Exemption of LWR pipe and tube from export taxes

Petitioners allege that LWR pipe and tube producers have been exempted from the export taxes that were imposed on 142 steel products effective June 1, 2007. Petitioners have not sufficiently alleged, on the basis of reasonably available information, that LWR pipe and tube producers have been relieved from paying export taxes that would otherwise have been due. Consequently, we do not plan to investigation the exemption of LWR pipe and tube producers from export taxes.

4. Funds for technology and research

Petitioners allege that because the GOC did not provide the criteria for awarding funds under this program when they notified it to the World Trade Organization, funds are awarded on a discretionary basis and, hence, specific. Petitioners have not adequately explained how this program is specific pursuant to section 771(5A)(D)(i) of the Act. Therefore, we do not plan to investigate funds for technology and research.

5. Provision of goods or services for less than adequate remuneration - other companies

Petitioners allege that the GOC's policy of combining steel companies results in the provision of productive assets to the combined companies at less than adequate remuneration. Petitioners have not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information. Consequently, we do not plan to investigate this program.

6. Loan guarantees from government–

owned banks

As part of their Government Policy Lending allegation, petitioners include loan guarantees. To support this allegation, they point to a provincial guarantee program. However, the supporting evidence indicates that this program is for small and medium size enterprises, a non–specific group under our regulations. *See* 19 C.F.R. 351.502(e). Accordingly, we do not plan to investigate loan guarantees from government–owned banks.

7. Program to rebate antidumping legal fees in Shenzhen province

Petitioners allege that the GOC is reimbursing legal fees to local companies located in the Shenzhen province that are facing antidumping duty investigations abroad. However, petitioners did not demonstrate that producers of LWR pipe and tube are located in the Shenzhen Province or explain why such information is unavailable. Therefore, we do not recommend investigating the program to rebate antidumping legal fees in the Shenzhen province.

8. Export interest subsidy funds for enterprises located in Shenzhen province

Petitioners allege that producers of LWR pipe and tube with specific export volumes are eligible for export interest subsidies for merchandise produced in the Shenzhen province. However, petitioners did not demonstrate that producers of LWR pipe and tube are located in the Shenzhen province, or explain why such information is unavailable. Therefore, we do not recommend investigating the program for export interest subsidy funds for enterprises located in Shenzhen province.

9. Funds for ''outward expansion'' of industries in Guangdong province

Petitioners allege that eligible LWR pipe and tube producers in the Guangdong province may apply for special funding for the development of export activities. However, Petitioners did not demonstrate that producers of LWR pipe and tube are located in the Guangdong province or explain why such information is unavailable. Therefore, we do not recommend investigating the program of the funds for outward expansion of industries in Guangdong province.

10. Domestic VAT refunds for companies located in the Hainan economic development zone

This program was found to be preliminarily countervailable in CFS Investigation. *See Coated Free Sheet Paper from the People's Republic of China; Amended Preliminary Affirmative Countervailing Duty Determination*, 72 FR 17484, 17496 (April 9, 2007) (''*CFS Investigation*''). However, petitioners did not demonstrate that producers of LWR pipe and tube are located in the Hainan economic development zone or explain why such information is unavailable. Therefore, we do not recommend investigating the program on domestic VAT refunds for companies located in the Hainan economic development zone.

For further information explaining why the Department is not initiating an investigation of these programs, see *China Initiation Checklist*.

Application of the Countervailing Duty Law to the PRC

Petitioners argue that the Department recently concluded that CVD law may be applied to the present–day Chinese economy and, thus, the Department should continue to find that the countervailing duty law applies to the PRC in this investigation. *See* Petition, Volume III, at page 2 (citing *CFS Investigation*, 72 FR 17484, 17486; and Memorandum for David M. Spooner, Assistant Secretary for Import Administration, entitled ''Countervailing Duty Investigation of Coated Free Sheet Paper from The People's Republic of China - Whether the Analytic Elements of the Georgetown Steel Opinion are Applicable to China's Present–Day Economy,'' (March 29, 2007) (citing *Georgetown Steel Corp. v. United States*, 801 F.2d 1308 (Fed. Cir. 1986) (''*Georgetown Steel*'') (''*Georgetown Steel Memorandum*'')).

The Department has treated the PRC as a non–market economy (''NME'') country in all past antidumping duty investigations and administrative reviews. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, (''TRBs'') From the People's Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500, 7500–1 (February 14, 2003), unchanged in *TRBs from the People's Republic of China: Final Results of 2001–2002 Administrative Review*, 68 FR 70488, 70488–89 (December 18, 2003). In the *CFS Investigation*, the Department preliminarily determined that the current nature of China's economy does not create obstacles to applying the necessary criteria in the CVD law. As such, the Department determined that the policy that gave rise to the *Georgetown Steel* litigation does not prevent us from concluding that the PRC government has bestowed a countervailable subsidy upon a Chinese producer. *See Georgetown Steel* Memorandum. Therefore, because petitioners have provided sufficient allegations and support for their allegations to meet the statutory criteria for initiating a countervailing duty investigation of LWR pipe and tube from the PRC, we continue to find that *Georgetown Steel* does not preclude us from initiating this investigation. For further information, see *China Initiation Checklist*.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petition has been provided to the Government of the PRC. As soon as and to the extent practicable, we will attempt to provide a copy of the public version of the petition to each exporter named in the petition, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of the initiation, whether there is a reasonable indication that imports of subsidized LWR pipe and tube from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: July 17, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–14277 Filed 7–19–07; 8:45 am]

BILLING CODE 3510–DS–S

from Mexico is correct and remains unchanged.

This correction is issued and published in accordance with section 777(i) of the Tariff Act of 1930, as amended.

Dated: August 8, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–16019 Filed 8–14–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–836]

Notice of Correction to Initiation of Antidumping Duty Investigation: Light–Walled Rectangular Pipe and Tube from Mexico

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

EFFECTIVE DATE: August 15, 2007.

FOR FURTHER INFORMATION CONTACT: John Drury or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0195 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

CORRECTION:

On July 24, 2007, the Department of Commerce (''the Department'') published its initiation of investigations on light–walled rectangular pipe and tube (''LWR'') for a number of countries. *See Initiation of Antidumping Duty Investigations: Light–Walled Rectangular Pipe and Tube from Republic of Korea, Mexico, Turkey, and the People's Republic of China*, 72 FR 40274 (July 24, 2007). Subsequent to the publication of the initiation of investigations, we identified an inadvertent error in the **Federal Register**. The case number associated with the LWR investigation for Mexico is incorrect. The correct case number is A–201–836. This notice is to serve as a correction to the case number. The initiation of the investigation of LWR

APPENDIX B

CONFERENCE CALENDAR

CALENDAR OF THE PUBLIC CONFERENCE

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

Subject: Light-Walled Rectangular ("LWR") Pipe and Tube from China, Korea, Mexico, and Turkey

Inv. Nos.: 701-TA-449 and 731-TA-1118-1121 (Preliminary)

Date and Time: July 18, 2007 - 9:30 a.m.

Sessions took place in the Commission's Main Hearing (Room 101), 500 E Street, SW, Washington, D.C.

Opening Remarks:

Petitioners (Roger Schagrin, Schagrin Associates)
Respondents (Yohai Baisburd, White & Case, LLP)

In Support of the Imposition of Antidumping and Countervailing Duties:

Schagrin Associates
Washington, DC
on behalf of

thirteen U.S. producers[1] of LWR pipe and tube

David Klima, Vice President of Finance, Leavitt Tube Company

Glenn Baker, Vice President of Sales & Marketing, Searing Industries

Ed Kurasz, Vice President & General Manager of the Mechanical Tube Divison, Allied Tube & Conduit

Roger Schagrin) – OF COUNSEL

[1] Allied Tube and Conduit, Atlas Tube, Bull Moose Tube Company, California Steel and Tube, Ex-L-Tube, Hannibal Industries, Leavitt Tube Corporation, Maruichi American Corporation, Searing Industries, Southland Tube, Vest Inc., Welded Tube, and Western Tube and Conduit.

In Opposition to the Imposition of Antidumping and Countervailing Duties:

White & Case, LLP
Washington, DC
on behalf of

six Mexican producers or exporters[2] of LWR pipe and tube

Jean-Marie Diederichs, President, Prolamsa, Inc.

Laura M. Baughman, President, The Trade Partnership

Salvador Behar, Legal Counsel for International Trade, Secretaria de Economia, Trade and NAFTA Office, Embassy of Mexico

Yohai Baisburd) – OF COUNSEL

Closing Remarks:

Petitioners (Roger Schagrin, Schagrin Associates)
Respondents (Yohai Baisburd, White & Case, LLP)

[2] Hylsa (now Ternium), Maquilacero, Nacional de Acero, Perfiles y Herrajes, Productos Laminados de Monterrey (and it U.S. affiliate Prolamsa (USA), Inc.), and Regiomontana de Perfiles y Tubos.

APPENDIX C

SUMMARY DATA

Table C-1
LWR pipe and tube: Summary data concerning the U.S. market, 2004-06, January-March 2006, and January-March 2007

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

	Reported data					Period changes			
				January-March					Jan.-Mar.
Item	2004	2005	2006	2006	2007	2004-06	2004-05	2005-06	2006-07
U.S. consumption quantity:									
Amount	945,340	997,872	1,069,326	253,094	241,268	13.1	5.6	7.2	-4.7
Producers' share (1)	70.7	66.2	62.2	70.7	66.7	-8.5	-4.5	-4.0	-4.0
Importers' share (1):									
China	0.9	4.1	7.8	2.9	10.3	6.8	3.2	3.7	7.3
Korea	2.9	2.3	2.9	3.8	2.0	0.0	-0.6	0.6	-1.8
Mexico	14.0	15.7	13.6	12.1	12.7	-0.4	1.7	-2.1	0.6
Turkey	1.3	3.1	5.2	1.7	2.4	4.0	1.8	2.2	0.7
Subtotal	19.1	25.1	29.5	20.5	27.3	10.4	6.0	4.4	6.8
All other sources	10.2	8.7	8.3	8.8	6.0	-1.9	-1.4	-0.4	-2.8
Total imports	29.3	33.8	37.8	29.3	33.3	8.5	4.5	4.0	4.0
U.S. consumption value:									
Amount	803,478	864,490	911,691	216,679	196,427	13.5	7.6	5.5	-9.3
Producers' share (1)	73.8	69.1	67.3	73.8	71.3	-6.5	-4.7	-1.8	-2.5
Importers' share (1):									
China	0.7	3.3	5.5	2.2	7.3	4.8	2.5	2.2	5.1
Korea	2.1	1.8	2.3	2.9	1.7	0.2	-0.2	0.4	-1.2
Mexico	12.2	14.1	12.5	10.3	10.9	0.3	1.9	-1.7	0.6
Turkey	1.2	2.7	3.9	1.8	1.9	2.7	1.5	1.2	0.1
Subtotal	16.2	21.9	24.1	17.2	21.9	8.0	5.8	2.2	4.7
All other sources	10.1	9.0	8.6	9.0	6.8	-1.5	-1.1	-0.4	-2.1
Total imports	26.2	30.9	32.7	26.2	28.7	6.5	4.7	1.8	2.5
U.S. imports from:									
China:									
Quantity	8,859	40,801	83,259	7,446	24,745	839.8	360.5	104.1	232.3
Value	5,849	28,293	50,182	4,775	14,389	758.0	383.8	77.4	201.4
Unit value	$660	$693	$603	$641	$582	-8.7	5.0	-13.1	-9.3
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Korea:									
Quantity	27,389	22,733	31,167	9,542	4,817	13.8	-17.0	37.1	-49.5
Value	16,478	15,738	20,541	6,338	3,434	24.7	-4.5	30.5	-45.8
Unit value	$602	$692	$659	$664	$713	9.5	15.1	-4.8	7.3
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Mexico:									
Quantity	132,369	156,262	144,924	30,682	30,588	9.5	18.1	-7.3	-0.3
Value	98,041	122,203	113,714	22,377	21,494	16.0	24.6	-6.9	-3.9
Unit value	$741	$782	$785	$729	$703	5.9	5.6	0.3	-3.7
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Turkey:									
Quantity	12,102	30,517	55,952	4,289	5,787	362.3	152.2	83.3	34.9
Value	9,479	23,264	35,584	3,815	3,670	275.4	145.4	53.0	-3.8
Unit value	$783	$762	$636	$890	$634	-18.8	-2.7	-16.6	-28.7
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Subtotal:									
Quantity	180,719	250,312	315,302	51,959	65,937	74.5	38.5	26.0	26.9
Value	129,846	189,498	220,021	37,306	42,988	69.4	45.9	16.1	15.2
Unit value	$718	$757	$698	$718	$652	-2.9	5.4	-7.8	-9.2
Ending inventory quantity	4,441	2,774	6,896	1,758	4,557	55.3	-37.5	148.6	159.2
All other sources:									
Quantity	96,388	87,288	89,175	22,280	14,506	-7.5	-9.4	2.2	-34.9
Value	80,952	77,598	78,437	19,427	13,396	-3.1	-4.1	1.1	-31.0
Unit value	$840	$889	$880	$872	$923	4.7	5.9	-1.1	5.9
Ending inventory quantity	***	***	***	***	***	***	***	***	***
All sources:									
Quantity	277,108	337,600	404,477	74,239	80,444	46.0	21.8	19.8	8.4
Value	210,798	267,095	298,458	56,733	56,384	41.6	26.7	11.7	-0.6
Unit value	$761	$791	$738	$764	$701	-3.0	4.0	-6.7	-8.3
Ending inventory quantity	***	***	***	***	***	***	***	***	***

Table continued on next page.

Table C-1--Continued
LWR pipe and tube: Summary data concerning the U.S. market, 2004-06, January-March 2006, and January-March 2007

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

	Reported data					Period changes			
				January-March					Jan.-Mar.
Item	2004	2005	2006	2006	2007	2004-06	2004-05	2005-06	2006-07
U.S. producers':									
Average capacity quantity	1,157,452	1,157,204	1,159,650	292,117	316,012	0.2	-0.0	0.2	8.2
Production quantity	675,178	660,754	672,016	176,915	167,537	-0.5	-2.1	1.7	-5.3
Capacity utilization (1)	58.3	57.1	57.9	60.6	53.0	-0.4	-1.2	0.9	-7.5
U.S. shipments:									
Quantity	668,232	660,272	664,849	178,855	160,824	-0.5	-1.2	0.7	-10.1
Value	592,681	597,395	613,234	159,946	140,043	3.5	0.8	2.7	-12.4
Unit value	$887	$905	$922	$894	$871	4.0	2.0	1.9	-2.6
Export shipments:									
Quantity	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	75,343	71,536	71,781	67,272	76,582	-4.7	-5.1	0.3	13.8
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***
Production workers	676	662	651	630	627	-3.7	-2.1	-1.7	-0.5
Hours worked (1,000s)	1,581	1,544	1,521	397	387	-3.8	-2.4	-1.5	-2.5
Wages paid ($1,000s)	27,682	27,511	28,513	6,998	6,913	3.0	-0.6	3.6	-1.2
Hourly wages	$17.51	$17.82	$18.75	$17.61	$17.85	7.1	1.8	5.2	1.4
Productivity (tons/1,000 hours)	397.2	402.0	418.0	420.7	406.1	5.2	1.2	4.0	-3.5
Unit labor costs	$44.08	$44.33	$44.85	$41.86	$43.96	1.8	0.6	1.2	5.0
Net sales:									
Quantity	642,103	618,469	621,612	169,013	149,701	-3.2	-3.7	0.5	-11.4
Value	579,981	571,975	586,997	153,595	133,660	1.2	-1.4	2.6	-13.0
Unit value	$903	$925	$944	$909	$893	4.5	2.4	2.1	-1.8
Cost of goods sold (COGS)	445,462	475,751	474,502	124,494	115,773	6.5	6.8	-0.3	-7.0
Gross profit or (loss)	134,519	96,224	112,495	29,101	17,887	-16.4	-28.5	16.9	-38.5
SG&A expenses	41,129	35,351	40,846	11,840	9,985	-0.7	-14.0	15.5	-15.7
Operating income or (loss)	93,390	60,873	71,649	17,261	7,902	-23.3	-34.8	17.7	-54.2
Capital expenditures	9,817	10,923	24,005	3,114	10,650	144.5	11.3	119.8	242.0
Unit COGS	$694	$769	$763	$737	$773	10.0	10.9	-0.8	5.0
Unit SG&A expenses	$64	$57	$66	$70	$67	2.6	-10.8	15.0	-4.8
Unit operating income or (loss)	$145	$98	$115	$102	$53	-20.8	-32.3	17.1	-48.3
COGS/sales (1)	76.8	83.2	80.8	81.1	86.6	4.0	6.4	-2.3	5.6
Operating income or (loss)/ sales (1)	16.1	10.6	12.2	11.2	5.9	-3.9	-5.5	1.6	-5.3

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

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

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

APPENDIX D

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

Responses of U.S. producers to the following questions:

1. Since January 1, 2004 has your firm experienced any actual negative effects on its return on investment or its growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of circular welded pipe from China, Korea, Mexico, or Turkey?

* * * * * * *

2. Does your firm anticipate any negative impact of imports of circular welded pipe from China, Korea, Mexico, or Turkey?

* * * * * * *