

PIPES AND TUBES OF IRON OR STEEL FROM JAPAN

**Determination of the Commission
in Investigation No. 731-TA-15
(Preliminary) Under the Tariff Act
of 1930, Together With the Information
Obtained in the Investigation**

USITC PUBLICATION 1058

APRIL 1980

UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report. Deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

PIPES AND TUBES OF IRON OR STEEL FROM JAPAN

Determination 1/

On the basis of the record in this investigation No. 731-TA-15 (Preliminary), the Commission determines---

- 1) that there is a reasonable indication that an industry in the United States is materially injured by reason of the importation from Japan of welded pipes of steel, provided for in item 610.3205 of the Tariff Schedules of the United States Annotated (TSUSA), which are allegedly sold or likely to be sold at less than fair value; and
- 2) that there is no 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 the importation from Japan of seamless pipes and tubes of steel, of circular cross section, provided for in TSUSA items 610.4920, 610.5210, 610.5215, or 610.5270, which are allegedly sold or likely to be sold at less than fair value.

Background

On February 28, 1980, the U.S. International Trade Commission and the Department of Commerce each received a petition from Babcock and Wilcox Co., Beaver Falls, Pa., alleging that the class or kind of merchandise described in the petition is being or is likely to be sold in the United States at less

1/ Chairman Bedell and Commissioner Moore find in the affirmative with regard to TSUSA item 610.3205 and in the negative with regard to the other items. Vice Chairman Alberger finds in the affirmative with regard to TSUSA items 610.5210 and 610.5215 and in the negative with regard to the other items. Commissioner Stern finds in the negative and Commissioner Calhoun in the affirmative. Consequently, there are three votes in the affirmative with regard to TSUSA item 610.3205. There are four votes in the negative regarding TSUSA items 610.4920 and 610.5270 and three votes in the negative regarding items 610.5210 and 610.5215.

than fair value. Accordingly, the Commission instituted a preliminary anti-dumping investigation under section 733(a) of the Tariff Act of 1930, as amended, to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of welded pipes and tubes of iron or steel provided for in TSUSA item 610.3205 and seamless pipes and tubes of iron or steel, of circular cross section, provided for in TSUSA items 610.4600, 610.4920, 610.5210, 610.5215, or 610.5270. ^{1/} The statute directs that the Commission make its determination within 45 days of its receipt of the petition, or in this case by April 14, 1980.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's New York office, and by publishing the notice in the Federal Register on March 12, 1980 (45 F.R. 16051). A public conference was held in Washington, D.C., on March 24, 1980.

In arriving at this preliminary determination, the Commission has given due consideration to the information provided by the administering authority, to all written submissions from interested parties, information adduced at the conference and obtained by the Commission's staff from questionnaires, documented personal interviews, and other sources, all of which have been placed on the administrative record of this preliminary investigation.

^{1/} On March 18, 1980, the Department of Commerce issued its notice of institution of investigation with respect to the subject articles. However, Commerce did not initiate an investigation with respect to seamless pipes and tubes of iron or steel, of circular cross section, provided for in TSUSA 610.4600. Thus, such articles are effectively excluded from the scope of the Commission's investigation, since there can be no finding of less than fair value sales on these articles at this time.

STATEMENT OF REASONS OF CHAIRMAN CATHERINE BEDELL
AND COMMISSIONER GEORGE MOORE

On the basis of the information available in investigation No. 731-TA-15

(Preliminary), we determine--

- (1) that there is a reasonable indication that an industry in the United States is materially injured by reason of the importation from Japan of welded pipes of steel, provided for in item 610.3205 of the Tariff Schedules of the United States Annotated (TSUSA), allegedly sold or likely to be sold at less than fair value; and
- (2) that there is no reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of seamless pipes and tubes of steel, of circular cross section, provided for in TSUSA items 610.4920, 610.5210, 610.5215, or 610.5270, allegedly sold or likely to be sold at less than fair value.

The following findings and conclusions, based on the record in this investigation, support our determination.

The domestic industry

On March 19, 1980, the administering authority commenced an investigation under section 731 of the Tariff Act of 1930 with respect to the following classes or kinds of merchandise:

- (1) welded carbon steel boiler tubes 0.375 inch and larger in diameter (TSUSA item 610.3205);
- (2) seamless carbon steel boiler tubes (TSUSA item 610.4920);
- (3) seamless stainless and heat-resisting steel boiler tubes and process pipes (TSUSA items 610.5210 and 610.5215); and
- (4) seamless alloy steel boiler tubes and process pipes (TSUSA item 610.5270).

Following the commencement of an investigation, the Commission is required by section 733 of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, 1/ by reason of imports of the merchandise which is the subject of the investigation by the administering authority. Thus, the Commission must initially determine the relevant industry with respect to which it will assess the impact of the imports allegedly sold at LTFV.

The Trade Agreements Act of 1979, which superseded the antidumping provisions of the Antidumping Act, 1921, set forth in section 771(4) the following definition of industry to be applied by the Commission in its antidumping determinations:

The term "industry" means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total production of that product.

Section 771(4) further states that--

The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producer's profits

In the instant investigation, the Commission obtained product-line data on U.S. producers' shipments and exports from five firms, accounting for approximately 90 percent of total U.S. production of articles like the imported article. 2/ In addition, petitioner Babcock & Wilcox Co. (B&W),

1/ Material retardation of the establishment of an industry is not an issue in this investigation and will not be discussed.

2/ See the accompanying report (hereinafter referred to as Report), p. A-8.

which accounts for more than half of total production, supplied the Commission with product-line profit-and-loss data on its operations regarding such articles. 1/ While such data are less than complete (employment and capacity data are absent), sufficient data are available for purposes of this preliminary investigation to make certain product-line assessments regarding the effect of the allegedly dumped imports.

One of the four types of pipe and tube subject to this investigation is welded; the others are seamless. Available data permit an analysis of the two types individually. The production processes for each type are substantially different--to such an extent that the two types are generally manufactured in different plants. 2/ Furthermore, certain firms produce the welded articles subject to this investigation but not the seamless, and vice versa. 3/ The three seamless products, however, are all produced by essentially the same production methods, on the same machinery, and by the same workers. 4/ For these reasons, we have assessed the effect of the allegedly dumped imports on the U.S. industry in relation to U.S. production of the one welded pipe and tube item, and in relation to the aggregate U.S. production of the three seamless pipe and tube items.

The question of reasonable indication of material injury

The Tariff Act of 1930 (sec. 703(a)) directs that the Commission "shall make a determination, based upon the best information available to it at the time of the determination" The act further specifies in section

1/ Report, pp. A-6 and A-16.

2/ Report, p. A-2.

3/ Report, p. A-6.

4/ Transcript of the conference, pp. 32-34.

71(7)(A), (B), and (C) that the Commission shall consider, among other factors, (i) the volume of imports of the merchandise which is the subject of this investigation, (ii) the effect of imports of that merchandise on prices in the United States for like products, and (iii) the impact of imports of such merchandise on domestic producers of like products. In light of these directives, we base our decision on the preliminary findings of fact and conclusions of law discussed below.

Reasonable indication of material injury by reason of imports of welded pipes (TSUSA item 610.3205)

U.S. imports of welded tubes from Japan almost doubled in 1978 from their 1977 level, and in 1979, they were 68 percent higher than in 1977. The ratio of imports from Japan to apparent U.S. consumption followed a similar trend, registering an overall increase of more than 10 percentage points during 1977-79. 1/ Import penetration levels are further pronounced if B&W's captive shipments are excluded from apparent consumption. 2/

The marked increase in U.S. imports of welded tubes from Japan occurred during a period in which the imported product was apparently underselling the domestically produced product. While definitive conclusions cannot be drawn from the limited price data obtained by the Commission, importers of the subject product have indicated that their product undersells the domestic product by 5 to 10 percent. 3/ Petitioner claims that the margin is approximately 16 percent. 4/

1/ Report, table 11, p. A-22.

2/ Report, table 12. p. A-23.

3/ Report, p. A-24.

4/ Petition, p. 64.

U.S. producers' shipments of welded tubes declined by about 9 percent during 1977-79, resulting in the substantial loss of market share noted above. 1/

--- Profit-and-loss data on U.S. producers' welded pipe operations relate solely to B&W; however, this firm accounts for the major share of U.S. production of such articles. The data show that profit for this portion of B&W's operations was considerably below levels considered generally acceptable throughout 1977-79. Furthermore, the data indicate that profitability was substantially lower in 1978, the year in which import penetration reached its highest level, than in 1977 or 1979. 2/

No reasonable indication of material injury by reason of imports of seamless pipes and tubes . . . (TSUSA items 610.4920, 610.5210, 610.5215, and 610.5270)

U.S. imports from Japan of seamless tubes and process pipes declined by 11 percent during 1977-79. Because U.S. producers' domestic shipments declined by a similar amount, the ratio of such imports to consumption remained relatively constant during the period. 3/

Although imports of seamless boiler tubes and process pipes reportedly undersold the domestic product during 1977-79, there is no evidence of price suppression. In contrast to their welded pipe operations, B&W reported significant increases in profitability on its seamless pipe and tube operations during 1977-79, a period in which it experienced declining sales in

1/ Report, table 11, p. A-22.

2/ Report, table 8, p. A-18.

3/ Report, table 11, p. A-22.

terms of quantity. Analyses show that B&W's profit improved primarily as the result of the implementation of substantial price increases. 1/

In summary, it is impossible to conclude that U.S. imports of seamless boiler tubes and process pipes from Japan had an injurious effect on the domestic industry. During 1977-79, the imports did not increase; in fact they declined appreciably. The imports did not increase significantly in terms of market share. Finally, the imports did not result in suppression of domestic prices.

Conclusion

On the basis of the information available to the Commission at this time, we believe that there is a reasonable indication of material injury to a domestic industry by reason of imports from Japan of welded pipes of steel provided for in TSUSA item 610.3205 and, therefore, that this proceeding should continue with respect to such articles.

However, with respect to the seamless pipes and tubes subject to this investigation, as provided for in TSUSA items 610.4920, 610.5210, 610.5215, and 610.5270, we believe that there is no reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded. Therefore, we believe that this proceeding should be terminated with respect to these articles.

1/ Report, table 8, p. A-18.

VIEWS OF COMMISSIONER ALBERGER

Determination and Conclusion of Law

On the basis of the record developed in Investigation No. 731-TA-15 (Preliminary), I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan of seamless stainless and heat-resisting boiler tubes and process pipes provided for in item numbers 610.5210 and 610.5215 of the Tariff Schedules of the United States Annotated (TSUSA), which are allegedly being sold at less than fair value (LTFV). In addition, I determine that there is no reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or the establishment of an industry is being materially retarded, by reason of imports from Japan of welded and seamless pipes and tubes provided for in item numbers 610.3205, 610.4920, and 610.5270 of the TSUSA, which are also allegedly being sold at LTFV.

Discussion

The most difficult issue presented in this investigation is whether there exists sufficient data for the Commission to assess the impact of the allegedly dumped imports along separate product lines.

Section 771(4)(D) of the Tariff Act of 1930 provides as follows:

"(D) PRODUCT LINES.--The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producers' profits. If the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the subsidized or dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided."

The clear intent of this subsection is to require the Commission to analyze the effect of the subject imports on the narrowest possible group of products. Congress left it to the Commission to determine, on a case-by-case basis, how much information it needs before it can make a responsible analysis on a given product line.

I am uncertain whether it is feasible for a product such as seamless stainless boiler tubes, one of the products alleged to be sold at less than fair value, to be analyzed as a separate "product line" as defined by Section 771(4)(D) of the Trade Agreements Act of 1979. The record contains some information that suggests there may be good reason to make a product line distinction among the three seamless products under investigation. Further investigation would provide a better indication. Specific data are available on shipments, exports, and imports for each of the three categories of seamless pipe and tube and the one welded pipe and tube product under investigation. Only the petitioner was able to provide profit and loss data on each of these four products. Other manufacturers were apparently unable to provide such data, due to difficulty in allocating profits between products made on essentially the same machinery by the same employees. Petitioner has the same problems, but nevertheless was able to make the allocation. It is important to note that petitioner accounts for a very substantial proportion of domestic production of each item.

In a preliminary investigation, it is often difficult to obtain complete data within the short time period allowed. In this case, the definitions of both the relevant industry and the product lines within the industry are most difficult to ascertain, and our problems are compounded by the limitations of the data obtained. Looking ahead to the potential of a final determination

(if the Department of Commerce were to issue an affirmative preliminary determination of LTFV sales, the Commission would then begin a final injury investigation), the availability of complete data on various products could be pivotal in deciding what product lines the impact of LTFV imports should be measured against. In looking at all of the various permutations of product lines, I have concluded that the uncertainty apparent on the record concerning the appropriate product lines dictates the finding I have made.

If all seamless pipes and tubes under investigation were to be examined in the aggregate, I would find no reasonable indication of material injury or threat thereof. Analysis of the welded tubes alone would lead to a similar negative determination. If all four products are combined, the result is the same. In fact, any combination of two or more products yields a negative finding. It is only when I look at seamless stainless pipe and tube alone that I find the following conditions present in the most recent period: increasing imports, declining profits (actually losses becoming more severe) and declining domestic shipments. There are indications of injury, and a causal relationship to alleged LTFV imports sufficient to meet the statutory standard.

Since three of my colleagues found the statutory criteria satisfied with respect to the welded product, and I did not, I want to make it clear why I disagree. While profits are low with respect to this product, they did increase in 1979 along with prices. At the same time, imports declined. Thus, the major relevant indicators that seem to be available for this product show positive trends.

Certain ordinarily significant indicators of injury are irrelevant in this investigation. For example, inventories are not maintained, since products are ordered to specifications. Capacity utilization data seem arbitrary and confusing, since many other products are made on the same equipment by the same employees. Likewise, employment is not useful here for the same reason.

Findings of Fact

The following findings of fact are relevant to my determination in the investigation. To the extent data is available, these findings contain my analysis of the statutory criteria required by section 771(7)(B) and (C) of the Tariff Act of 1930.

Volume of imports

1. Imports from Japan for each of the four categories (grouped according to TSUSA item numbers) of steel boiler and process pipes and tubes are presented in detail in Table 4 at page 12 of the Commission Staff's Report ("Report"). Total imports of the combined four products increased by 18 percent from 1977 to 1978, but then declined by 13 percent in 1979. The only product for which imports increased in 1979 was seamless stainless steel boiler tubes and process pipes, which rose by 43 percent from 1978 to 1979. Imports of seamless carbon steel and seamless alloy steel pipes and tubes actually decreased by 21 percent and 16 percent respectively over the three year period 1977-1979. (Report at pages 11 and 12; table 4).

2. In terms of dollar value, imports of the seamless stainless pipes and tubes rose by 84 percent from 1977 to 1979. In contrast, the other three product lines showed a decrease in dollar value of imports for 1979. (Report, table 4).

3. The ratio of imports of seamless stainless pipes and tubes to apparent U.S. consumption from 1978 to 1979 increased by 10 percentage points. In comparison, this ratio for seamless carbon steel pipes and tubes increased by only one percentage point for the same period. The ratio of imports to consumption for welded carbon and seamless alloy steel products actually declined by eight and seven percentage points, respectively in 1979. (Report at page 20, table 9).

The effect of imports on prices

4. Specific pricing data is not available on a comparable basis for the imported and domestic products under investigation, largely because these products are custom-made to order with a variety of options. There is evidence from the two major importers and three utility boiler manufacturers, however, that the price of the Japanese boiler tubes is approximately 5 to 10 percent below the price of the petitioner, Babcock and Wilcox Co. (B & W).

(Report at page 24)

5. There is no evidence to indicate that imports had the effect of suppressing or depressing prices in the U.S. market. While imports were increasing by 3 percent during the period 1977-79 and apparently underselling comparable domestically produced articles, B & W was able to increase the profitability of its boiler tube operations primarily through price increases. (Report at page 16, Table 7)

Impact on the affected industry

6. The production process differs for welded pipe and tube products compared to seamless products. In the manufacture of welded articles strip steel is formed into a tube by a gradual rolling or bending process and then welded in a continuous process along the length of the seam. Seamless pipe and tube is manufactured by a process of piercing a hole through a length of round steel bar. With each production process, however, there are other products besides those under investigation which are capable of being manufactured. Thus, a typical product mix at a seamless mill would include all three of the seamless products under investigation, as well as others outside the scope of our inquiry. (Conference transcript, pages 32-34)

7. For the period 1977-79, shipments of seamless stainless and heat resisting steel pipes and tubes rose by 23 percent. Other product lines' shipments dropped significantly, resulting in an overall drop in apparent U.S. consumption for all boiler tubes and process pipes. This drop in demand was caused primarily by a slowdown in the production of boilers used for commercial power generation. (Report at pages 5, 19; Table 9)

8. Since the steel boiler tubes and process pipes under investigation are only produced to order, there are virtually no end-of-period inventories of these products (except for work-in-progress inventories). The imported products are never warehoused by the importers, but are shipped directly to the U.S. buyer. (Report at page 11)

9. Profit and loss data by specific boiler tube product lines was only available to the Commission from the petitioner B & W. B & W accounts for more than half of total U.S. production of boiler tubes. Of the four product lines, only the seamless, stainless boiler tube line experienced net losses throughout the 1977-79 period. The other two seamless product lines both enjoyed increased profitability from 1977-79 despite declines in net tonnages sold. The fourth line, welded carbon steel boiler tubes, experienced a net loss in 1978, as net sales declined in terms of both quantity and value. B & W's welded carbon steel boiler tube operation rebounded in 1979, however, with increased net sales, which translated into a net profit. (Report at page 16; table 7).

10. The Commission received information on production capacity based on an alterable plant product mix of all steel mechanical and pressure pipes and tubes. This product mix necessarily includes products such as mechanical pipes and tubes that are excluded from the scope of the investigation. With this caveat in mind, the available data reveals an increase in U.S. capacity to produce steel mechanical and pressure pipe and tube from 2.5 billion pounds in 1977 to 2.9 billion pounds in 1979, or by 13 percent. Increased industry capacity largely reflects the opening of new piercing mills by B & W (Ambridge, Pa.) and by the Timken Co. (Canton, Oh.). (Report at page 8 ; table 2).

11. Capacity utilization for the production of all steel mechanical and pressure pipes and tubes increased from 67 percent in 1977 to 69 percent in 1978, but returned to 67 percent in 1979. (Report at page 8 ; table 2)..

12. Employment data could not be obtained for specific product lines. The average number of production and related workers engaged in the manufacture of mechanical and pressure pipes and tubes increased slightly from 7,970 workers in 1977 to 8,064 workers in 1979. Man-hours worked by such workers increased at a slightly higher rate of 5 percent during the 1977-79 period. (Report at page 13; Table 5)

13. The Commission did not receive meaningful information with respect to the impact of LTFV imports on wages, investment, return on investment and cash flow.

Views of Commissioner Paula Stern

On the basis of the best information available in this investigation, No. 731-TA-15 (Preliminary), I determine, pursuant to Section 735(a) of the Tariff Act of 1930 (19 U.S.C. 1673d(a)), that there is no reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded by reason of imports of steel pipes and tubes from Japan, which are allegedly sold at less than fair value.^{1/}

The Domestic Industry

In this investigation, one of the most important issues to be evaluated by the Commission is the scope of the domestic industry allegedly impacted by imports sold at less than fair value.

Both under the previous antidumping act^{2/} and under the new law, Title VII of the Tariff Act of 1930,^{3/} the Commission must rely on its judgment in defining the domestic industry for the purposes of investigating material injury. The House Report states that:

In general, "industry" as used in this Title Title VII preserves present practice, and generally means all the domestic producers, taken as a whole, who produce products like the product subject to the investigation, or if no like product exists, the products most nearly similar, in characteristics and in use, to the imported product.^{4/}

^{1/} The Petition alleges that dumping margins ranged from 2 to 21 percent (see Report of the Commission, p. A-3, for individual margins) and LTFV sales have occurred from 1974 to present.

^{2/} 19 U.S.C. 160.

^{3/} 19 U.S.C. Section 1671 et seq.

^{4/} Report of the Committee on Ways and Means, House of Representatives, accompanying H.R. 4537, p. 73.

Imports which are the subject of this investigation and thus the products for which like products must be defined, enter the United States under the following categories:

- (1) Welded, carbon steel boiler tubes 0.375 inches and larger in diameter (TSUSA 610.3205);
- (2) Seamless, carbon steel boiler tubes (TSUSA 610.4920);
- (3) Seamless, stainless and heat-resisting steel boiler tubes and process pipes (TSUSA 610.5210 and 610.5215); and
- (4) Seamless, alloy steel boiler tubes and process pipes (TSUSA 610.5270).

Each of these items is produced domestically.

At issue in this investigation is whether these four product lines constitute four separate industries or whether the Commission's evaluation must turn on some broader range of items which includes these four categories of goods. Section 771(4) discusses the relationship between product line assessment and the definition of industry:

(D) Product Lines --

The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process of the producers' profits. If the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the subsidized or dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided. (Emphasis added) 1/

1/ 19 U.S.C. 1677(4)(D).

The Commission must determine what the value of the information is for the purpose of its assessment, not merely whether data exists. The Commission is not to make its decision mechanically or in a vacuum. The profit data and production data specified above must be evaluated in the light of all other information obtained in an investigation in order for the Commission to judge whether the impact of allegedly dumped imports can be assessed on the basis of product lines with separate identities or whether there is no separate identity to these product lines.

In this case, the Commission obtained certain discreet information for each of the four product lines, including shipment data from five firms whose collective output is thought to comprise 90 percent of total production of the like articles and separate profit information from the petitioner, by far the major producer, for each product line.^{1/}

However, the ability of this data to stand on its own is clouded by certain fundamental characteristics of production and of the marketplace. Firstly, the machinery and workers employed in making the four articles under investigation also produce other articles which are not "like products." The ability of producers to vary product mix considerably and with relative ease can cause significant changes in volume of production, capacity utilization, employment and profitability. This same argument holds true even when the four product lines are grouped in only two main categories, seamless and welded pipe and tube. Workers, for example, who perform the piercing operation on the three seamless articles subject to this investigation

^{1/} Report to the Commission (hereinafter "Report"), pp. A-5,6,16,17.

actually perform this operation for the more comprehensive category of all seamless pipe and tube. Likewise, the production process used in making welded pipe, although different from seamless operations, is used in the manufacture of a number of other "unlike" articles.^{1/}

Secondly, while Babcox & Wilcox Co. (B&W), the petitioner, supplied discreet profit information for its production of each of these articles, B&W's unique position in the marketplace must be noted: B&W accounts for over half of total domestic production of these articles, but the major portion of its own production is consumed internally, as B&W is vertically integrated and also produces boilers; in addition, no other domestic firm produces as wide a range of boiler tubes as the petitioner.^{2/} B&W presumably has considerable flexibility in altering product mix and in allocating resources and profits among individual pipe and tube articles.

This assumption seems to be corroborated by employment information on B&W operations and the inability of other producers to separate data by product line. From 1977-79, manhours spent producing boiler tubes and process pipes in B&W's boiler operations declined. However, the fact that total employment and manhours worked in B&W plants where these products are produced remained relatively stable probably reflects the flexibility B&W has to alter its product mix when desirable.^{3/} Several other producers

^{1/} Report, p. A-2,13.

^{2/} Ibid., p. A-6.

^{3/} Babcock & Wilcox Co. petition, pp. 62-63.

have stated that it would be extremely difficult or impossible to supply the necessary profit data on the basis of individual product lines.^{1/}

Lastly, there is no clear distinction between demand markets for the four items. The bulk of the items under investigation are boiler tubes,^{2/} and their aggregated consumption is largely a result of the variation in the demand for boilers, rather than distinctly separate demand which varies independently for each tube.

This analysis of the "like product" as four separate items can be contrasted with that of "boiler tubes and process pipes," the next larger product grouping for which the Commission has information. This category of products can be distinguished not only by the unified demand market noted above, but also by the fact that these products are marketed by the same sales personnel and through the same channels of distribution.^{3/} However, the problem of analyzing indices of production, capacity utilization, employment and profits in the face of production processes which are common to both the "like product" (boiler tubes and process pipe in the aggregate) and articles not subject to this investigation also plagues the Commission's evaluation of available data at this level. It is evident that when defined uniquely in terms of production facilities, the production of boiler tubes and process pipes is a subset of a yet larger category of goods.

^{1/} Staff briefing before the Commission, April 8, 1980

^{2/} The remainder are process pipe, which account for a very small amount of the import volume.

^{3/} Report, p. A-11.

Commission questionnaires collected data for "all steel mechanical and pressure pipe and tubes," a still larger product grouping. However, boiler tubes and process pipes constitute only a very small portion of this category, 160 million pounds out of 1.9 billion pounds of annual ^{1/} production in this larger category, reported in responses to Commission questionnaires. Furthermore, producers responding to Commission questionnaires on this basis account for only 14 percent of total U.S. production of all steel mechanical and pressure pipe and tubes. ^{2/}

In this case, where there is no absolutely clear answer to the question of scope of the domestic industry impacted by imports, it is my judgment that the information on the record in this investigation does not permit assessment by separate and identifiable product lines. Therefore, guided by the law's directive to make my findings on the basis of the best information available to the Commission at this time, ^{3/} I have determined that reasonable indication of injury to the domestic industry must be assessed with respect to boiler tubes and process pipes.

So defined, the industry consists of five major U.S. producers, which together account for approximately 90 percent of total U.S. production of boiler tubes. As noted above, the petitioner, B&W, manufactures over half of total domestic production and supplies nearly half of the commercial market for these products. B&W captively consumes over half of its own production.

^{1/} Report, pp. A-19.

^{2/} Ibid., p. A-14.

^{3/} 19 U.S.C. 1673b.

No Reasonable Indication

Section 771(7)(A)(B) and (C) direct the Commission to consider, among other factors, (i) the volume of imports; (ii) the effect of these imports on prices of like products in the United States; and (iii) the impact of the imports on domestic producers of like products.

The increase in imports of boiler tubes and process pipes over the period from 1977-79 was slight, three percent in quantity terms. From 1978 to 1979, imports actually declined by thirteen percent.^{1/} As a share of consumption, imports rose only a few percentage points during these three years. That portion of the commercial market captured by imports from Japan increased from six percentage points from 1977 to 1979. When B&W's captive shipments are included in consumption figures, the increase in import penetration is even more insignificant, rising only four percentage points during 1977-79.^{2/}

The Commission was able to draw only limited conclusions from price comparisons made for standard or comparable products during this investigation, since virtually each tube is ordered to individual specifications. However, even if the petitioner's allegations of price undercutting ranging from about ten to sixteen percent were accepted as valid, it is evident that underselling did not result in price suppression. The record shows that B&W was able to implement sizeable price increases over the course of the entire period for each of the three specific products examined by the Commission.^{3/}

^{1/} Report, pp. A-11,12.

^{2/} Ibid., pp. A-20,21.

^{3/} Ibid., pp. A-24,26.

Similarly, average unit values for B&W boiler tubes sales increased each year. These increases occurred in the face of slight declines in the costs of goods sold as a share of net sales on B&W's boiler tubes operations.^{1/}

Most significant are the indications of the contributions that these price increases made to B&W's profitability. Although consumption of boiler tubes declined by 8 percent^{2/} (largely due to reduced production of utility boilers in the United States), shipments fell by 17 percent (only 14 percent in the commercial market)^{3/} during 1977-79, and sales declined in terms of value, B&W was continually able to achieve substantial increases in net profits as a share of net sales.^{4/} Profit data were obtained only for B&W operations, but, as noted above, B&W's production account for a major and significant share of the industry's production.

Finally, the Commission was unable to confirm any of the several allegations of specific sales lost to the subject imports.^{5/}

Most of the data gathered in this investigation, pertaining to employment, capacity and capacity utilization, and production do not lead to any meaningful conclusions for the reasons discussed above. Inventories of these products are not maintained because each boiler tube is ordered to certain variable specifications. No information was obtained on return on investments, cash flow, wages, growth, ability to raise capital or investment.

^{1/} Report, p. A-17.

^{2/} Consumption of boiler tubes and process pipes declined from 272 million pounds in 1977 to 250 million pounds in 1979.

^{3/} Report, pp. A-20,21.

^{4/} Ibid., p. A-19.

^{5/} Ibid., p. A-24.

Conclusion

The law gives the Commission discretion in interpreting the information it obtains. The role of the Commission is, therefore, to apply its judgment on a case-by-case basis in light of the statutes themselves and the corresponding legislative comment.

For the purposes of this preliminary investigation, I find that the best information available to me at this time substantiates that there is no reasonable indication of injury to a domestic industry producing boiler tube and process pipes. The record indicates that this industry has experienced increasing profitability in a declining market, that the increase in import penetration has not been significant and that lost sales could not be confirmed.

Based on these conclusions and on information also drawn from the record, I have, therefore, determined in the negative.

OPINION OF COMMISSIONER MICHAEL CALHOUN

On the basis of the information on the record in this investigation, No. 731-TA-15 (Preliminary), I determine that there is a reasonable indication that an industry in the United States is materially injured, by reason of the importation from Japan of steel pipes and tubes which are allegedly sold at less than fair value.

Under Section 733 of the Trade Agreements Act of 1979,¹ the Commission must "make a preliminary determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable indication that" an industry in the United States is materially injured, threatened with material injury, or the establishment of an industry is materially retarded by reason of allegedly dumped imports. Furthermore, the statute requires this preliminary investigation be completed within 45 days of either receipt of a petition or receipt of notice from the Department of Commerce that a petition has been filed.

"Industry" is defined under Section 771(4)(A)² as,

The term 'industry' means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.

And Section 771(4)(D),³ regarding product lines, requires that,

The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producer's profits. If the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the subsidized or dumped imports shall be assessed by the range of products, which includes a like product, for which the necessary information can be provided.

1 19 U.S.C. §1673(b) (1979).

2 19 U.S.C. §1677 (1979).

3 Ibid.

In requiring preliminary determinations within 45 days, Congress realized that such a strict time frame necessarily limits the ability of the Commission to conduct a complete investigation in reaching its determination. The House Ways and Means Committee observed that,

[T]he time limit provided in the bill for an ITC preliminary determination, although longer than that under present law, is still quite brief. It is therefore intended that the ITC will investigate the allegations in the petition in as thorough a manner as possible using the information available within that time period...¹

The Senate Finance Committee stated that,

While the committee recognizes that the ITC cannot conduct a full-scale investigation in 45 days, it expects the Commission to make every effort to conduct a thorough inquiry during that period. The nature of the inquiry may vary from case to case depending on the nature of the information available and the complexity of the issues.²

This case is just such an instance in which the shortness of time has limited our ability to conduct as complete an investigation as we would like. In turn, such a limited investigation in this case creates some difficulty in undertaking an appropriate application of Section 771(4)(D).

While section 773(a) requires that preliminary determinations be made with regard to an industry, section 771(4)(D) requires that "the effect of subsidized or dumped imports shall be assessed in relation to the production of a like product" or "the narrowest group or range of products, which includes a like product..."³ Read together, the provisions seem to require that the measure of whether an industry is materially injured, either as a preliminary or final matter, is the effect of the LTFV imports on domestic "like products" or "the narrowest group" of domestic products including the like product.

¹ Trade Agreements Act of 1979: Report of the Committee on Ways and Means . . . , H. Rept. No. 96-317 (96th Cong, 1st Sess.) 1979, p. 61 [Hereinafter House Report].

² Trade Agreements Act of 1979: Report of the Committee on Finance . . . , S. Rept. No. 96-249 (96th Cong. 1st Sess.) 1979, p. 66 [Hereinafter Senate Report].

³ 19 U.S.C. §1677 (1979).

In applying such a reading to this case, a problem exists as to sufficiency of data relating to the identification of production process and producer's profits under section 771(4)(D). The discussion in the Commission Report of injury to the domestic industry is based on responses to questionnaires by domestic producers of pressure and mechanical steel pipe and tube, accounting for an estimated 90 percent of domestic boiler tube and process pipe shipments. The responses provided data regarding capacity, production, capacity utilization, employment, and profit and loss experience of these domestic producers. In responding to the questionnaire, the petitioner, Babcock and Wilcox, was able to submit data based on the separate consideration of four distinct categories of steel pipe and tube. That the petitioner was able to supply data on four separate products implies the possibility of four distinct product lines against which the Commission must apply section 771(4)(D). In the time available, however, none of the other domestic producers was able to provide similar disaggregated data. This inability of the other domestic producers to provide similar disaggregated data results in confusion as to the precise character of the industry.

As an additional matter, petitioner has testified at Conference¹ that the facilities used in production of the products in question can also be used for other purposes. However, the ease with which production is, in fact, interchangeable, remains a question. Thus, where the fact of interchangeability is established on the Record, evidence is limited going to the practical extent to which it is actually interchangeable.

1 Conference Transcript, pp. 33-34.

Thus, not only is it difficult to identify the appropriate product against which to apply section 771(4)(D), it is also difficult to evaluate production process and producer's profits in this regard. So, because of the particular problem of incomplete and confusing information on the record thus far established in this case, taking into account the Senate view that the petitioner bears the burden of proof in section 773(a) cases,¹ and considering that a negative determination will close to the petitioner an opportunity for a more detailed inquiry as well as an opportunity for relief, the most prudent application of the relevant provisions is to undertake a best case analysis to reach a finding on reasonable indication of material injury to a domestic industry. In such an approach, we should apply the information on the record to find a reasonable division of appropriate product lines, then apply the relevant information as prescribed under section 771(4)(D).

My colleagues Chairman Bedell and Commissioner Moore as well as Vice Chairman Alberger have undertaken just such an analysis.² I differ from my colleague's findings, however, in one important respect. Their conclusions as to a reasonable indication of material injury to the industry are limited to the products they have isolated. My view is that where the data is as confusing and as incomplete as it is in this case, I prefer to take an affirmative finding, based upon the analysis described above, as a

1 Senate Report, supra, p. 66.

2 The way in which my colleagues, including Commissioner Stern, differ on findings regarding the products in question is evidence of the insufficiency of the record and permits reasonable minds to significantly differ as to the appropriate application of section 771(4)(D).

reasonable indication of material injury to an industry without regard to specific products.

The upshot of such an approach is to permit a full investigation to go forward with regard to all products where the affirmative section 771(4)(D) assessment was only with respect to one product. While this is not a desirable procedure in most cases, where the brevity of the preliminary investigation particularly ill-affords sufficient evidence to apply section 771(4)(D)¹ with adequate precision, and where there is a reasonable indication of material injury the public interest seems better served by going forward with fact finding on all matters. Such procedure reserves findings on the close questions of product lines and impact on specific products for a complete development of the facts.

Consequently, while I am not able, at this time, to reach a finding on the basis of specific TSUSA items, I do, for the reasons stated by my colleagues, the Chairman, Commissioner Moore, and the Vice Chairman, find that there is a reasonable indication of material injury to the domestic industry.

¹ 19 U.S.C. §1677 (1979).

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On February 28, 1980, the U.S. International Trade Commission and the U.S. Department of Commerce received a petition from counsel representing Babcock & Wilcox Co., Beaver Falls, Pa., alleging that the class or kind of merchandise described in the petition is being, or is likely to be, sold in the United States at less than fair value (LTFV). Accordingly, on March 5, 1980, the Commission instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of welded pipes and tubes of iron or steel provided for in item 610.3205 of the Tariff Schedules of the United States Annotated (TSUSA) and seamless pipes and tubes of iron or steel, of circular cross section, provided for in TSUSA items 610.4600, 610.4920, 610.5210, 610.5215, or 610.5270, allegedly sold or likely to be sold at less than fair value. 1/ The statute directs that the Commission make its determination within 45 days of its receipt of the petition, in this case by April 14, 1980.

Notice of the institution of the Commission's investigation and public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and the Commission's office in New York City, and by publishing the notice in the Federal Register on March 12, 1980 (45 F.R. 16051). 2/ A public conference was held in Washington, D.C., on March 24, 1980.

Description and Uses

The pipes and tubes which are the subject of this investigation are as follows:

- (1) welded carbon steel boiler tubes 0.375 inch and larger in diameter (TSUSA item 610.3205);

1/ On Mar. 18, 1980, the Department of Commerce issued its notice of institution of investigation (presented in app. A) with respect to the subject articles. However, the notice excluded seamless steel pipes and tubes for bearings, provided for in TSUSA item 610.4600. Thus, such articles are effectively excluded from the scope of the Commission's investigation, since there can be no finding of less-than-fair-value sales of these articles at this time.

2/ A copy of the Commission's notice of investigation and conference is presented in app. B.

- (2) seamless carbon steel boiler tubes (TSUSA item 610.4920);
- (3) seamless stainless and heat-resisting steel boiler tubes and process pipes (TSUSA item 610.5210 and 610.5215); and
- (4) seamless alloy steel boiler tubes and process pipes (TSUSA item 610.5270).

Pipes are tubular articles manufactured to meet certain dimensional standards; they are generally sold from stock. Tubes include all tubular steel products not qualifying as pipes; usually tubes are special-order items. Pipes and tubes are divided into two categories based on the method of manufacture--welded or seamless. The manufacturing process for welded pipes and tubes involves shaping strip or sheet into a tubular configuration, which is then welded along the joint axis. Seamless manufacture of pipes and tubes involves forming an initial central cavity in round steel stock, which is then worked further until the desired dimensions are attained. Welded and seamless pipes and tubes are available in a wide range of chemical compositions, diameters, wall thicknesses, and surface treatments. However, the seamless variety is basically stronger, more expensive, and is produced in a wider range of wall thicknesses. All the pipes and tubes covered herein, except those covered by TSUSA item 610.3205, are seamless.

While the investigation covers a wide variety of seamless and welded steel pipes and tubes, Babcock & Wilcox's petition concentrated on carbon, stainless, and alloy steel boiler tubes. Boiler tubes are used primarily in the manufacture and repair of fossil fuel utility boilers, which generate electrical power. They are used to a lesser extent in commercial, industrial, and marine boilers. A small number of boiler tubes are purchased by fabricating mills which "re-draw" (reduce the diameter of) the tubes for other commercial uses. Process pipes are primarily used in the petroleum-refining and petrochemical industries to convey liquids or gases. 1/

A key element in the pipe and tube industry is quality control. Boiler pipes and tubes are often subject to extremely high temperatures and pressures, and product failure can result in disastrous consequences. According to one domestic boiler manufacturer, 2/ the imported Japanese product is of a higher quality than the domestic product and is almost never rejected as defective. The petitioner maintains that there are no qualitative differences between the domestic and imported product.

1/ Bearing tubes, which were excluded from the scope of the investigation by the Department of Commerce, are used as starting stock in the manufacture of bearings. The bearing tubes are cut into shorter lengths and then machined to specification. While bearing tubes' main end use is in the production of antifriction bearings, they are also used in the automotive and general industrial equipment industries.

2/ This firm, * * * also stated that less than 1 percent of the domestic product was rejected because of imperfections during 1977 and 1978.

U.S. Tariff Treatment

The various pipes and tubes of iron or steel which are the subject of this investigation are classified under four provisions of the Tariff Schedules of the United States (TSUS). Table 1 lists the applicable TSUS provisions and the column 1 rates of duty applicable thereto during 1979-87. The rates shown for 1979 have been in effect since January 1, 1972, or earlier. The duty reductions listed in the table for 1980-87 were agreed to as part of the recently concluded Tokyo round of Multilateral Trade Negotiations. These items have not been designated as eligible articles under either the Generalized System of Preferences or the least developed developing country provision.

Trigger Prices

In March 1978, trigger prices were established for certain imported steel tubular products, including two types covered by the present investigation. One variety is electric resistance welded carbon steel pressure tubing for use in boilers, heat exchangers, or condensers (TSUSA item 610.3205). The other item is seamless carbon steel pressure tubing, cold finish, suitable for use in boilers, superheaters, heat exchangers, condensers, or refining furnaces (TSUSA item 610.4920).

Nature and Extent of Alleged Sales at Less than Fair Value

On February 28, 1980, the Department of Commerce received advice from counsel acting on behalf of Babcock & Wilcox Co. (B&W) that welded pipes and tubes of iron or steel provided for in TSUSA item 610.3205 and seamless pipes and tubes of iron or steel, of circular cross section, provided for in items 610.4600, 610.4920, 610.5210, 610.5215, and 610.5270 from Japan were being, or were likely to be, sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930. According to the petition there are six Japanese manufacturers of the pipe and tube products: Nippon Steel Corp.; Kawasaki Steel Corp.; Kobe Steel, Ltd.; Nippon Kokan Kaisha; Sanyo Special Steel Co., Ltd.; and Sumitomo Metals Industries, Ltd. The alleged dumping margins range from 2 to 21 percent. The petition also alleges that sales at less than fair value have continued from 1974 to the present. The ranges of the alleged dumping margins for each tariff item are as follows:

<u>TSUSA item</u> <u>No.</u>	<u>Number of</u> <u>specific sub-</u> <u>products cited</u> <u>1/</u>	<u>Range of</u> <u>LTFV margins</u> <u>1/</u> <u>(percent)</u>
610.3205	3	11.9-20.6
610.4920	1	1.7
610.5225 <u>2/</u>	3	5.5-21.4
610.5270	9	10.0-12.4

1/ These figures are based on data contained in the petition.

2/ On Jan. 1, 1980, TSUSA item 610.5225 was divided into 2 separate items, 610.5210 and 610.5215.

Table 1.--Pipes and tubes of iron or steel (TSUSA items 610.3205, 610.4600, 610.4920, 610.5210, 610.5225, and 610.5270): Staging of tariff concessions resulting from the Tokyo round of Multilateral Trade Negotiations

TSUS item No.	(Cents per pound; percent ad valorem, except as noted)									
	Jan. 1--									
	1979 1/	1980	1981	1982	1983	1984	1985	1986	1987	
610.32 2/-	0.3¢	0.3¢	0.3¢	1.9%	1.9%	1.9%	1.9%	1.9%	1.9%	
610.46	13.0% + additional: duties 3/	13.0% + addi- tional duties 3/	13.0% + addi- tional duties 3/	12.0% + addi- tional duties 3/	10.9% + addi- tional duties 3/	9.9% + addi- tional duties 3/	8.8% + addi- tional duties 3/	7.8% + addi- tional duties 3/	6.7% + addi- tional duties 3/	
610.49	10.5%	10.5%	10.5%	10.1%	9.7%	9.3%	8.8%	8.4%	8.0%	
610.52	13.0% + additional: duties 3/	13.0% + addi- tional duties 3/	13.0% + addi- tional duties 3/	12.1% + addi- tional duties 3/	11.2% + addi- tional duties 3/	10.3% + addi- tional duties 3/	9.3% + addi- tional duties 3/	8.4% + addi- tional duties 3/	7.5% + addi- tional duties 3/	
Additional duties: 3/		3/	3/	3/	3/	3/	3/	3/	3/	
607.01 4/-	0.75¢ on chromium content in excess of 0.2 percent	-	-	-	-	-	-	-	-	
606.00 4/-	-	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	
607.02 5/-	17.5¢ on molyb- denum content in excess of 0.1 percent	-	-	-	-	-	-	-	-	
606.02 5/-	-	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	0.3%	
606.03 6/-	25¢ on tungsten content in excess of 0.3 percent	-	-	-	-	-	-	-	-	
606.04 6/-	-	0.4%	0.4%	0.4%	0.4%	0.4%	0.4%	0.4%	0.4%	
607.04 7/-	20¢ on vanadium content in excess of 0.1 percent	-	-	-	-	-	-	-	-	
606.06 7/-	-	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%	

1/ These rates of duty have been in effect since Jan. 1, 1972, for items 610.46, 610.52, 607.01, 607.02, 607.03, and 607.04; since Aug. 31, 1963, for item 610.49; and since June 30, 1958, for item 610.32.

2/ No tariff concession has been made on these articles; the rate of duty is merely scheduled to be converted to an ad valorem equivalent on Jan. 1, 1982.

3/ The additional-duty items cited were renumbered and converted from specific rates of duty to ad valorem equivalents on Jan. 1, 1980, and are scheduled to remain unchanged during 1980-87. They apply to iron or steel products which contain, by weight, 1 or more of the following elements in the quantity, by weight, indicated:

- over 0.2 percent of chromium, or
- over 0.1 percent of molybdenum, or
- over 0.3 percent of tungsten, or
- over 0.1 percent of vanadium.

Such products are subject to additional cumulative duties as provided for in items 606.00, 606.02, 606.04, and 606.06.

4/ Item 606.00 replaced item 607.01 on Jan. 1, 1980.

5/ Item 606.02 replaced item 607.02 on Jan. 1, 1980.

6/ Item 606.04 replaced item 607.03 on Jan. 1, 1980.

7/ Item 606.06 replaced item 607.04 on Jan. 1, 1980.

Source: Federal Register, Presidential Proclamation No. 4707, Dec. 13, 1979, and Tariff Schedules of the United States Annotated (1980).

As noted earlier, Commerce's notice of institution excluded seamless steel pipes and tubes for bearings (TSUSA item 610.4600). According to the notice, bearing tubes were excluded because of a lack of specific LTFV pricing information.

U.S. Market

The combined U.S. market for steel boiler tubes and process pipes, the products subject to this investigation, consists primarily of boiler tubes. Such tubes account for virtually all of the combined imports and the bulk of U.S. production. Furthermore, B&W's allegations of injury were directed almost exclusively to the boiler tube market.

As shown in the following tabulation, apparent U.S. consumption of boiler tubes and process pipes declined from 272 million pounds in 1977 to 250 million pounds in 1979, or by 8 percent:

	Apparent U.S. consumption (1,000 pounds)
1977-----	271,636
1978-----	266,640
1979-----	250,342

This decline in apparent U.S. consumption was primarily due to a decline in the production of boilers used for commercial power generation, which was partially the result of the uncertainties regarding the long-term feasibility of fossil fuel as opposed to nuclear power systems. Another reason was the recent decline in the growth rate for U.S. electrical power consumption.

U.S. producers

There are currently five major U.S. producers of boiler tubes, which together account for roughly 90 percent of total U.S. production of boiler tubes. Their names and the locations of their production facilities are as follows:

- (1) Babcock & Wilcox Co.:
Alliance, Ohio
Ambridge, Pa.
Beaver Falls, Pa.
Milwaukee, Wis.
- (2) Quanex Corp.:
Rosenberg, Tex.
South Lyon, Mich.

(3) Armco, Inc.:
Ambridge, Pa.

(4) Al Tech Specialty Steel Corp.:
Watervliet, N. Y.

(5) Republic Steel Corp.:
Cleveland, Ohio.

B&W, by far the largest U.S. producer of the articles under investigation, accounts for * * * percent of U.S. production of boiler tubes and captively consumes approximately * * * percent of total U.S. production in its own boiler-manufacturing and repair operations. It is the only domestic producer of both boiler tubes and boilers. B&W has informed the Commission that its boiler-manufacturing and repair operations are * * *.

After B&W, Republic Steel Corp. and Quanax Corp. (formerly Michigan Seamless) are the most significant U.S. producers of boiler tubes. However, neither firm produces as wide a range of boiler tubes as B&W. According to several U.S. boiler manufacturers, these firms' inability (or unwillingness) to produce a full range of boiler tubes is, from a purchaser's perspective, a major drawback. Furthermore, an official of Quanax has informed the Commission that * * *. Armco and Al Tech, which produce only one of the four types of products under investigation, have informed the Commission that * * *.

U.S. importers

While there are numerous importers of Japanese boiler tubes and process pipes, two firms dominate the market--Sumitomo Corp. of America and Mitsubishi International Corp. Sumitomo and Mitsubishi, both of which are wholly owned subsidiaries of Japanese trading companies, together account for approximately * * * percent of annual imports from Japan of the merchandise under investigation. Sumitomo entered the boiler tube market in the late 1960's and by 1970 was the largest supplier of boiler tubes to * * *. * * *.

Mitsubishi became a significant importer in 1974, when * * *. Mitsubishi's entrance in 1974 coincided with U.S. Steel Corp.'s exit from the boiler tube market and a general worldwide steel shortage, which led to delivery allocations in many product areas, including boiler tubes. Officials of * * * informed the Commission that U.S. Steel's departure significantly enhanced B&W's dominant position, which was of great concern since B&W was * * *. * * *.

Counsel for Sumitomo and Mitsubishi have contended that Japanese producers of boiler tubes are unable to compete in the U.S. market for minor boiler maintenance and emergency repair supplies because of the short delivery lead times required and that "therefore, boiler tubes imported from Japan are limited for practical purposes to those used in the manufacture and major overhaul of fossil fuel utility boilers". ^{1/} It is also contended that a portion of new utility boiler contracts include "Buy American" provisions which stipulate that only U.S.-made products can be used; this also limits the market for Japanese boiler tubes. The Commission staff was unable to ascertain the proportion of total boiler contracts in the United States subject to such provisions.

U.S. boiler manufacturers

There are four utility boiler manufacturers in the United States follows:

- (1) Babcock & Wilcox Co., Barberton, Ohio;
- (2) Combustion Engineering Corp., Hartford, Conn.;
- (3) Foster Wheeler Energy Corp., Livingston, N.J.; and
- (4) Riley Stoker Corp., Worcester, Mass.

Combustion Engineering and B&W are the largest utility boiler manufacturers, supplying approximately * * * percent of the U.S. boiler market. Foster Wheeler is third in the boiler industry with an approximate share of * * * percent; Riley Stoker * * *.

The boiler market consists primarily of boilers used for commercial power generation and involves contracts awarded for new boiler construction, major repairs, and emergency repairs. New boiler construction and, to a lesser extent, major repairs can take from 2 to 3 years to complete, but emergency repairs must be completed in much shorter periods. Contracts for emergency repairs entail such strict time constraints that imported boiler tubes cannot be considered for such repairs, since no inventories are maintained in the United States owing to the unstandardized nature of the product and transoceanic shipments require long lead times.

All three of B&W's boiler competitors have gone on record as opposing the B&W petition. The basic thrust of their opposition is that B&W is the only fossil fuel boiler manufacturer which produces its own boiler tubes. Therefore, while competing with the other three boiler manufacturers for utility boiler contracts, B&W is the largest domestic supplier of boiler tubes to its competitors. The three fossil boiler manufacturers contend that if they are forced to buy boiler tubes exclusively from their major competitor, they will be placed in a highly vulnerable position.

^{1/} Report by Booz-Allen, & Hamilton, Inc., p. 3.

Channels of Distribution

Sales of domestically produced pipe and tube are generally made through the regional sales offices of U.S. producers. Once the sales order agreement is finalized, production of the items being purchased is scheduled. Price lists in effect on the date of delivery dictate the purchase price of the product. After the item is manufactured, it is shipped by either rail or truck according to customer preference.

Japanese pipes and tubes are generally imported by the U.S. subsidiaries of Japanese trading companies; actual sales are handled by regional offices. When a purchase inquiry is received by the sales office, the U.S. subsidiary contacts the parent trading company, which in turn contacts a Japanese tube manufacturer. A proposed delivery date and range of prices are then relayed back to the potential customer. Like U.S. producers, the Japanese importers do not establish a firm purchase price on the sales order agreement. Rather, the purchaser receives a price range, and the date of shipment governs the exact purchase price of the product. If a sales order agreement is made, the product is then produced and shipped to the purchaser through the Japanese trading company and entered by the U.S. subsidiary. All U.S. boiler producers, with the exception of B&W, * * *.

Consideration of Injury or Likelihood Thereof

The Commission obtained questionnaire responses from eight ^{1/} domestic producers of pressure and mechanical steel pipes and tubes. It is estimated that these firms accounted for roughly 90 percent of domestic shipments of the boiler tube and process pipe products cited in B&W's petition. Unless otherwise noted, figures cited in this report as describing the entire industry are those derived from the questionnaire returns.

U.S. capacity, production, and capacity utilization

At the Commission's conference, the petitioner stated that boiler tubes and process pipes are produced on machines that are also used in the production of other pipe and tube products. ^{2/} Since machinery used in producing boiler tubes and process pipes is also frequently used in the manufacture of other types of pipes and tubes, the Commission requested production capacity based on an alterable plant product mix of all steel mechanical and pressure pipes and tubes. ^{3/}

^{1/} Two U.S. producers manufactured only mechanical pipes and tubes, which were excluded from the scope of the investigation by the Department of Commerce.

^{2/} Transcript of the conference, pp. 33-34.

^{3/} In its questionnaire, the Commission requested that producers provide capacity, employment, and profit-and-loss data on their entire mechanical and pressure pipe and tube operations. Since the only type of mechanical pipes and tubes contained in the petition was subsequently excluded from the scope of the investigation, the data shown for these sections partially reflect company operations extraneous to the relevant injury considerations.

U.S. capacity to produce steel mechanical and pressure pipes and tubes increased from 2.5 billion pounds in 1977 to 2.9 billion pounds in 1979, or by 13 percent (table 2). Increased industry capacity largely reflects the opening of new piercing mills by B&W (Ambridge, Pa.) and by Timken Co. (Canton, Ohio). U.S. production also increased by 13 percent, from 1.7 billion pounds in 1977 to 1.9 billion pounds in 1979.

Capacity utilization increased from 67 percent in 1977 to 69 percent in 1978, but returned to 67 percent in 1979.

U.S. producers' shipments and exports

As shown in the following tabulation, U.S. producers' shipments of steel boiler tubes and process pipes declined from * * * million pounds in 1977 to * * * million pounds in 1979, or by 17 percent:

	<u>U.S. producers'</u> <u>shipments</u> <u>(1,000 pounds)</u>	<u>U.S. exports</u> <u>(1,000 pounds)</u>
1977-----	* * *	* * *
1978-----	* * *	* * *
1979-----	* * *	* * *

In the same period, total U.S. exports declined at a steeper rate, from * * * million pounds in 1977 to * * * million pounds in 1979--or by 57 percent. The decline in producers' shipments and exports was partially due to the decline in domestic production of boilers used for commercial power generation discussed earlier.

As shown in following tabulation, commercial shipments (excluding captive shipments) declined irregularly from * * * million pounds in 1977 to * * * million pounds in 1979, or by 14 percent:

	<u>U.S. commercial</u> <u>shipments</u> <u>(1,000 pounds)</u>	<u>Commercial</u> <u>exports</u> <u>(1,000 pounds)</u>
1977 -----	* * *	* * *
1978 -----	* * *	* * *
1979 -----	* * *	* * *

U.S. commercial exports (excluding captive exports) increased, however, from * * * million pounds in 1977 to * * * million pounds in 1979, or by 112 percent.

Table 2.--Steel mechanical and pressure pipes and tubes: U.S. capacity, production, and capacity utilization, by firms, 1977-79

Year and firm	Capacity	Production	Capacity utilization
	1,000 pounds	1,000 pounds	Percent
1977:			
Al Tech-----	***	***	***
Armco-----	***	***	***
Babcock & Wilcox-----	***	***	***
Copperweld-----	***	***	***
Quanex-----	***	***	***
Republic Steel-----	***	***	***
Timken-----	***	***	***
Total-----	2,530,280	1,696,905	67.1
1978:			
Al Tech-----	***	***	***
Armco-----	***	***	***
Babcock & Wilcox-----	***	***	***
Copperweld-----	***	***	***
Quanex-----	1/ ***	***	***
Republic Steel-----	***	***	***
Timken-----	***	***	***
Total-----	2,679,900	1,844,370	68.8
1979:			
Al Tech-----	***	***	***
Armco-----	***	***	***
Babcock & Wilcox-----	***	***	***
Copperweld-----	***	***	***
Quanex-----	1/ ***	***	***
Republic Steel-----	***	***	***
Timken-----	***	***	***
Total-----	2,855,428	1,924,154	67.4
1/ ***.			

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

B&W, the only vertically integrated U.S. producer of boiler tubes, captively consumes approximately * * * percent of its boiler tube production (table 3).

Table 3.--Steel boiler tubes and process pipes: B&W's captive domestic shipments, captive exports, commercial shipments, and commercial exports, 1977-79

Year	Domestic shipments		Exports		Ratio of captive shipments and exports to total
	Captive	Commercial	Captive ^{1/}	Commercial	
	1,000 pounds				Percent
1977-----	* * *	* * *	* * *	* * *	* * *
1978-----	* * *	* * *	* * *	* * *	* * *
1979-----	* * *	* * *	* * *	* * *	* * *

^{1/} * * *.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

U.S. imports

The vast majority of U.S. imports of steel boiler tubes and process pipes are from Japan. The Commission received questionnaires from nine importers, accounting for 80 percent of U.S. imports from Japan of the products under investigation.

Imports of Japanese boiler tubes and process pipes increased irregularly from * * * million pounds in 1977 to * * * million pounds in 1978, but then declined to * * * million pounds in 1979 (table 4). However, import trends varied markedly by product group. Imports of welded carbon steel boiler tubes increased by 68 percent in 1977-79, and imports of seamless stainless steel boiler tubes increased by 31 percent in the same period. In contrast, imports of seamless carbon steel boiler tubes declined by 21 percent during 1977-79, and imports of seamless alloy steel boiler tubes fluctuated considerably.

Inventories

Since the steel boiler tubes and process pipes under investigation are only produced to order, there are virtually no end-of-period inventories of these products (except for work-in-progress inventories). The imported product is never warehoused by the importers; it is shipped directly to the U.S. customer.

Table 4.--Steel boiler tubes and process pipes: U.S. imports
for consumption, from Japan, by types, 1977-79
(Quantity in thousands of pounds; value in thousands of dollars)

Type	1977	1978	1979	Percentage change, 1979 from 1977
Quantity				
Welded carbon steel boiler tubes 0.375 inch and larger in diameter (TSUSA item 610.3205)-----	***	***	***	68.4
Seamless carbon steel boiler tubes (TSUSA item 610.4920)-----	***	***	***	-20.8
Seamless stainless and heat-resisting: steel boiler tubes and process pipes (TSUSA item 610.5225) 1/-----	***	***	***	30.6
Seamless alloy steel boiler tubes and process pipes (TSUSA item 610.5270)-----	***	***	***	-16.3
Total-----	***	***	***	2.8
Value				
Welded carbon steel boiler tubes 0.375 inch and larger in diameter (TSUSA item 610.3205)-----	***	***	***	43.0
Seamless carbon steel boiler tubes (TSUSA item 610.4920)-----	***	***	***	-20.8
Seamless stainless and heat-resisting: steel boiler tubes and process pipes (TSUSA item 610.5225) 1/-----	***	***	***	30.6
Seamless alloy steel boiler tubes and process pipes (TSUSA item 610.5270)-----	***	***	***	-16.3
Total-----	***	***	***	19.9

1/ On Jan. 1, 1980, TSUSA item 610.5225 was divided into item 610.5210 (seamless stainless steel tubes) and item 610.5215 (seamless heat-resisting tubes).

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Employment

As previously stated, the production machinery for boiler tubes is in many instances not separate and identifiable from that used to manufacture the other types of mechanical and pressure pipes and tubes produced by the eight reporting domestic producers. Therefore, the employment data presented herein pertain to all steel mechanical and pressure pipe and tube operations.

As shown in table 5, the average number of production and related workers engaged in the manufacture of mechanical and pressure pipes and tubes increased slightly from 7,970 workers in 1977 to 8,064 workers in 1979. Man-hours worked by such workers increased at a slightly higher rate of 5 percent during 1977-79.

Table 5.--Average number of production and related workers and man-hours worked by them in U.S. facilities producing steel mechanical and pressure pipes and tubes, 1977-79

Item	1977	1978	1979
Production and related workers engaged in the production of--			
All products of the establishment--	12,327	12,820	12,772
Steel mechanical and pressure pipes and tubes-----	7,970	8,127	8,064
Man-hours worked by all production and related workers engaged in the production of steel mechanical and pressure pipes and tubes-----	14,918	15,928	15,699

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

The Department of Labor initiated an investigation on November 19, 1979, in response to a worker petition on behalf of workers and former workers producing steel tubing and fittings at the Beaver Falls, Ambridge, and Koppel plants of B&W. 1/ Labor determined on February 6, 1980, that the workers of the Beaver Falls Works of the Tubular Products Division of B&W were not eligible to apply for adjustment assistance because the following criterion had not been met: 2/

That increases of imports of articles like or directly competitive with articles produced by the firm or

1/ Tubes produced at the Ambridge and Beaver Falls plants include the specific articles subject to this investigation.

2/ A copy of the Department of Labor's notice of determination as published in the Federal Register on Feb. 12, 1980 (45 F.R. 9399) is presented in app. C.

appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

On March 21, 1980, the Department of Labor issued notice that it would reconsider its determination. 1/

Profit-and-loss experience of domestic producers

All steel mechanical and pressure pipes and tubes.--The Commission requested profit-and-loss data from eight producers on their operations for all steel mechanical and pressure pipes and tubes. Usable data were received from six producers. Of these six producers, two--* * * and * * * --were excluded from the aggregated data because their production of pressure pipes and tubes is insignificant. The remaining four firms accounted for approximately * * * percent of total U.S. production of steel mechanical and pressure pipes and tubes during 1977-79, but they accounted for more than * * * percent of U.S. production of boiler tubes and process pipes, the items under investigation.

As shown in table 6, total sales by the four companies increased 42 percent from \$564 million in 1977 to \$809 million in 1979. Aggregate net operating profit soared from a very low base of \$3.2 million in 1977 to \$42.6 million in 1979, representing an increase of more than 1,200 percent. In the same period, the ratio of net operating profit to net sales jumped from 0.6 percent to 5.3 percent. The increases in net sales and net operating income were accompanied by price increases, higher sales volume, and changes in the firms' product mix.

During 1977-79, B&W's net sales increased from * * * .

While Republic Steel and Quanex * * * .

1/ A copy of the Department of Labor's notice is presented in app. D.

Table 6.--Profit-and-loss experience of 4 U.S. producers on their steel mechanical and pressure pipe and tube operations, by firms, 1977-79

Year and company	Net sales	Cost of goods sold	Gross profit	General, selling, and administrative expenses	Net operating profit or (loss)	Ratio of cost of goods sold to net sales	Ratio of net operating profit (loss) to net sales
				1,000 dollars		Percent	
1977:							
Babcock & Wilcox-----	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Armco, Inc-----	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Republic Steel Corp-----	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Quanex Corp-----	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Total or average-----	564,220	536,277	27,943	24,778	3,165	95.0	.6
1978:							
Babcock & Wilcox-----	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Armco, Inc-----	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Republic Steel Corp-----	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Quanex Corp-----	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Total or average-----	686,919	635,025	51,894	29,658	22,236	92.4	3.2
1979:							
Babcock & Wilcox-----	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Armco, Inc-----	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Republic Steel Corp-----	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Quanex Corp-----	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Total or average-----	802,660	727,108	* * *	32,989	42,563	90.6	5.3

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Boiler tubes.--B&W submitted profit-and-loss data on its specific boiler tube product lines, as shown in table 7. Aggregate net sales for all such product lines declined from * * * in 1977 to * * in 1978, but in 1979 * * * . However, net profit did not have the same "see-saw" experience. * * *.

Of the four boiler tube product lines, * * * .

Profit-and-loss data on B&W boiler tube operations, separated on the basis of welded versus seamless tubes, are shown in table 8.

Table 7.--Profit-and-loss experience of Babcock & Wilcox Co.
on its boiler tube operations, 1977-79

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Table 8.--Profit-and-loss experience of Babcock & Wilcox Co. on its
boiler tube operations, 1977-79

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Consideration of the Causal Relationship Between Alleged
LTFV Imports and the Alleged Injury

Market penetration of alleged LTFV imports

U.S. imports of steel boiler tubes and process pipes from Japan captured a larger share of a declining U.S. market during 1977-79. Such imports increased as a share of the U.S. aggregate market (including B&W's captive shipments) from * * * percent in 1977 to * * * percent in 1978, but then declined to * * * percent in 1979 (table 9). Imports from Japan increased their share of the U.S. commercial market, which excludes B&W's captive shipments, from * * * percent in 1977 to * * * percent in 1979 (table 10). Again, 1978 was the zenith of Japanese penetration of the U.S. commercial market.

It should be noted that both aggregate and commercial apparent U.S. consumption declined more than 7 percent during 1977-79. U.S. shipments bore the brunt of the decline, falling by 17 percent in the aggregate market and 14 percent in the commercial market. Imports from Japan actually increased and were thus able to gain a greater share of these markets. The market penetration of imports from Japan by product lines is also shown in tables 9 (aggregate market) and 10 (commercial market).

In the aggregate U.S. market, imports of welded carbon steel boiler tubes and seamless stainless and heat-resisting steel boiler tubes from Japan were the only imports to actually increase in 1977-79; imports of the welded product increased by 68 percent and imports of the seamless stainless product, by 31 percent. Profit-and-loss data submitted by B&W show * * *. On the other hand, B&W's seamless carbon steel boiler product and the seamless alloy steel boiler products became increasingly profitable while imports of these products were declining during 1977-79.

As shown in table 10, Japanese exports of steel boiler tubes and process pipes enjoy a prominent position in the U.S. commercial market. In three of the four product categories, Japanese imports account for more than half of the U.S. commercial market. In the seamless carbon steel boiler tube market, imports from Japan accounted for * * * percent of the market in 1979, marking an increase of 5 percentage points from 1977. In the two categories that include process pipes, items 610.5225 and 610.5270, imports from Japan accounted for * * * percent of the U.S. commercial market in 1979, respectively. The one area of the commercial U.S. market that was not dominated by imports from Japan in 1977 was welded carbon steel boiler tubes; this category showed the greatest fluctuations in the quantity of imports during 1977-79. It should be noted that in 1978, when imports of welded carbon steel boiler tubes from Japan increased almost 100 percent from the previous year, B&W's welded boiler tube line * * *. When imports of the welded product declined from the 1978 level, the B&W welded product line * * *.

Data on U.S. producers' shipments, exports, imports from Japan, and apparent U.S. consumption, separated on the basis of welded versus seamless boiler tubes, are shown in tables 11 (aggregate market) and 12 (commercial market).

Table 9.-- Steel boiler tubes and process pipes: U.S. producers' shipments, exports, imports from Japan, and apparent U.S. consumption, by types, 1977-79

Year and type	Producers' shipments	Exports	Imports from Japan	Apparent U.S. consumption ^{1/}	Ratio of imports to consumption
1977:					
Welded carbon steel boiler tubes 0.375 inch and larger in diameter (TSUSA item 610.3205)-----	***	***	***	81,377	***
Seamless carbon steel boiler tubes (TSUSA item 610.4920)-----	***	***	***	89,383	***
Seamless stainless and heat-resisting steel boiler tubes and process pipes (TSUSA item 610.5225) 2/-----	***	***	***	23,406	***
Seamless alloy steel boiler tubes and process pipes (TSUSA item 610.5270)-----	***	***	***	77,470	***
Total-----	***	***	***	271,636	***
1978:					
Welded carbon steel boiler tubes 0.37 inch and larger in diameter (TSUS item 610.3205)-----	***	***	***	81,182	***
Seamless carbon steel boiler tubes (TSUSA item 610.4920)-----	***	***	***	79,802	***
Seamless stainless and heat-resisting steel boiler tubes and process pipes (TSUSA item 610.5225) 2/-----	***	***	***	25,015	***
Seamless alloy steel boiler tubes and process pipes (TSUSA item 610.5270)-----	***	***	***	80,641	***
Total-----	***	***	***	266,640	***
1979:					
Welded carbon steel boiler tubes 0.375 inch and larger in diameter (TSUSA item 610.3205)-----	***	***	***	87,580	***
Seamless carbon steel boiler tubes (TSUSA item 610.4920)-----	***	***	***	68,437	***
Seamless stainless and heat-resisting steel boiler tubes and process pipes (TSUSA item 610.5225) 2/-----	***	***	***	29,815	***
Seamless alloy steel boiler tubes and process pipes (TSUSA item 610.5270)-----	***	***	***	64,510	***
Total-----	***	***	***	250,342	***

^{1/} Data reported for apparent U.S. consumption do not include U.S. imports from countries other than Japan; such imports are believed to be negligible, however.

^{2/} On Jan. 1, 1980, TSUSA item 610.5225 was divided into item 610.5210 (seamless stainless steel tubes) and item 610.5215 (seamless heat-resisting tubes).

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 10.—Steel boiler tubes and process pipes: U.S. producers' commercial shipments, commercial exports, imports from Japan, and apparent U.S. consumption, by types, 1977-79

Year and type	Producers' commercial shipments	Commercial exports	Imports from Japan	Apparent U.S. consumption 1/	Ratio of imports to consumption
1977:					
		1,000 pounds			Percent
Welded carbon steel boiler tubes 0.375 inch and larger in diameter (TSUSA item 610.3205)-----	***	***	***	51,551	***
Seamless carbon steel boiler tubes (TSUSA item 610.4920)-----	***	***	***	62,447	***
Seamless stainless and heat-resisting steel boiler tubes and process pipes (TSUSA item 610.5225) 2/----	***	***	***	22,720	***
Seamless alloy steel boiler tubes and process pipes (TSUSA item 610.5270)-----	***	***	***	50,806	***
Total-----	***	***	***	187,524	***
1978:					
Welded carbon steel boiler tubes 0.37 inch and larger in diameter (TSUS item 610.3205)-----	***	***	***	58,188	***
Seamless carbon steel boiler tubes (TSUSA item 610.4920)-----	***	***	***	55,114	***
Seamless stainless and heat-resisting steel boiler tubes and process pipes (TSUSA item 610.5225) 2/----	***	***	***	23,481	***
Seamless alloy steel boiler tubes and process pipes (TSUSA item 610.5270)-----	***	***	***	51,693	***
Total-----	***	***	***	188,476	***
1979:					
Welded carbon steel boiler tubes 0.375 inch and larger in diameter (TSUSA item 610.3205)-----	***	***	***	64,692	***
Seamless carbon steel boiler tubes (TSUSA item 610.4920)-----	***	***	***	44,547	***
Seamless stainless and heat-resisting steel boiler tubes and process pipes (TSUSA item 610.5225) 2/----	***	***	***	28,536	***
Seamless alloy steel boiler tubes and process pipes (TSUSA item 610.5270)-----	***	***	***	36,182	***
Total-----	***	***	***	173,796	***

1/ Data reported for apparent U.S. consumption do not include U.S. imports from countries other than Japan; such imports are believed to be negligible, however.

2/ On Jan. 1, 1980, the TSUSA item 610.5225 was divided into item 610.5210 (seamless stainless steel tubes) and item 610.5215 (seamless heat-resisting tubes).

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 11.—Steel boiler tubes and process pipes: U.S. producers' shipments, exports, imports from Japan, and apparent U.S. consumption, by types, 1977-79

Item and year	Producers' shipments	Exports	Imports from Japan	Apparent U.S. consumption 1/	Ratio of imports to consumption
			1,000 pounds		Percent
Older boiler tubes:					
1977-----	***	***	***	51,551	***
1978-----	***	***	***	58,188	***
1979-----	***	***	***	64,692	***
Seamless boiler tubes and process pipes:					
1977-----	***	***	***	135,973	***
1978-----	***	***	***	130,288	***
1979-----	***	***	***	109,104	***

1/ Data reported for apparent U.S. consumption do not include U.S. imports from countries other than Japan; such imports are believed to be negligible, however.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 12.—Steel boiler tubes and process pipes: U.S. producers' commercial shipments, commercial exports, imports from Japan, and apparent U.S. consumption, by types, 1977-79

Item and year	:Producers' :commercial :shipments	: Commercial : exports	: Imports : from : Japan	: Apparent : U.S. : consumption 1/	: Ratio : of imports : of imports : consumpti
	:	:	:	:	:
	-----1,000 pounds-----			:	: <u>Percent</u>
	:	:	:	:	:
Welded boiler tubes:	:	:	:	:	:
1977-----	: * * * :	: * * * :	: * * * :	: 51,551 :	: *
1978-----	: * * * :	: * * * :	: * * * :	: 58,188 :	: *
1979-----	: * * * :	: * * * :	: * * * :	: 64,692 :	: *
	:	:	:	:	:
Seamless boiler tubes and process pipes:	:	:	:	:	:
1977-----	: * * * :	: * * * :	: * * * :	: 135,973 :	: *
1978-----	: * * * :	: * * * :	: * * * :	: 130,288 :	: *
1979-----	: * * * :	: * * * :	: * * * :	: 109,104 :	: *
	:	:	:	:	:

1/ Data reported for apparent U.S. consumption do not include U.S. imports from countries other than Japan; such imports are believed to be negligible, however.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Lost sales

B&W was the only producer to provide the Commission with a list of firms to which it allegedly lost sales of steel boiler tubes because such firms purchased LTFV imports from Japan. Two of the five firms specified--* * * and * * *--are steel fabricators that buy steel tubes or hollows and re-draw the tubes or hollows into a finished product. Counsel for B&W submitted alleged lost sales data for these two firms in a letter to the Commission dated March 14, 1980. Subsequent inquiry by the Commission staff revealed that all the lost sales alleged for * * * and four of the seven items specified for * * * involved items not subject to the present investigation. Despite staff attempts to clarify the three remaining items cited for * * * did not satisfactorily establish that those products were of the type covered by this investigation.

* * *: Riley Stoker Corp., Foster Wheeler Energy Corp., and Combustion Engineering, Inc. Table 13 shows buying histories supplied by these firms for the period 1970-79. * * *. Japan has been the main supplier of boiler tubes for the three companies as a whole since 1976.

Prices

Comparable pricing data for domestic and imported boiler tubes are currently unavailable. Price information was requested on three specific types of boiler tube: a welded carbon steel boiler tube (item 610.3205), a seamless carbon steel boiler tube (item 610.4920), and a seamless alloy steel boiler tube (item 610.5270), all three of which were cited in B&W's LTFV section of the petition. However, subsequent inquiries revealed that there are such a large number of product options available on any given tube variety (e.g., surface treatments, standard or nonstandard quantity lots, random or uniform lengths) that each sale and corresponding sales price are unique. A base price is used as a starting point, but the various product options requested can obscure the picture considerably.

The pricing information shown in table 14 consists of base prices, average sale prices, and actual sale prices for selected imported and domestic boiler tubes. The pricing data seem to indicate that prices for domestic and Japanese boiler tubing are both steadily increasing, and it appears that domestic prices have not been depressed in absolute terms.

However, it should be noted that the two major importers and the three utility boiler manufacturers informed the Commission staff that the Japanese boiler tubes were being sold at 5 to 10 percent below B&W's prices. In fact, officials of these firms indicated that the import price was pegged to B&W's price--when B&W raised its prices, the Japanese producers raised their prices in direct proportion to B&W's increase.

Table 13. —Steel boiler tubes: U.S. boiler manufacturers' purchases of boiler tubes from domestic and foreign sources, by firms, 1970-79

* * * * *

Table 14.--Steel boiler tubes: Price data for selected items, by quarters,
1977-79

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APPENDIX A

DEPARTMENT OF COMMERCE'S NOTICE OF INITIATION OF
ANTIDUMPING INVESTIGATION

total at least 50,000 regardless of the jurisdictional situation.

The following revisions are being proposed for the 1980 census:

1. The major change is the deletion of the requirement that there be a primary incorporated place of a specified population size (item 1a and 1b in the current criteria). This modification is being made in order to eliminate the inequities caused by the use of corporate limits. Laws and practices governing incorporation and annexation, which affect the population size of a city, vary significantly between the States. For example, while cities in New England have generally maintained stable corporate boundaries regardless of population growth in adjacent areas, in many other States, adjacent areas are annexed to cities as quickly as they undergo urban development. Many instances also exist where a municipality cannot annex because the surrounding areas are already under the jurisdiction of some other governmental unit.

These differences have resulted in some urban areas having nearly all of the dense population cluster included within the jurisdiction of a single city, while in other areas, the largest city has a relatively small population in relation to the total built-up area. Deletion of the population size requirement for the primary incorporated place eliminates this inequity. Considering this from another viewpoint, if one were to fly over two types of areas, one which has a city with restricted corporate boundaries and a large adjacent built-up area and the other with approximately the same size population but corporate boundaries encompassing most of the built-up community, one would not be able to distinguish between the two.

Depending on the population results of the 1980 census, it is estimated that up to 24 additional areas may qualify under the proposed new criteria than would do so under the current criteria. It also should be noted that in order to qualify under the new SMSA (MSA) criteria, there must be an urbanized area as defined by the Census Bureau. The county(s) in which the urbanized area is located and which qualifies for the MSA definition must also have a minimum population of 100,000. Since total county population is not a relevant criterion for the existence of an urbanized area, if the proposed UA criteria are approved, there will be UA's outside of MSA's for the first time.

2. Undevelopable areas, such as rivers, bays, and floodpaths, will no longer be considered barriers to extending the urbanized area, as long as the gap created by these undevelopable

areas does not exceed 5 miles (i.e., between the main body of the urbanized area and the outlying area) and there is a transportation link (e.g., a bridge) between the two.

This modification is being made in order to permit the inclusion of a concentration of population that appears to be part of a UA, but the territory separating the population concentration from the main body of the UA could never be developed. Two examples of this situation are:

a. Evansville, Indiana-Kentucky—approximately 4 miles across the Ohio River and its floodplain, from Evansville to Henderson.

b. Memphis, Tennessee-Arkansas-Mississippi—approximately 2.7 miles across the Mississippi River and its floodplain, from Memphis to West Memphis.

3. The stipulation that all places or areas within an urbanized area must be connected by road is not really a change in the current criteria; rather it is a written expression of a practice which was followed in past censuses but which was not stated previously within the body of the criteria. Because of the number of questions that had been raised over this point in the past decade, we believe that it should now be stated explicitly in the criteria.

4. Large concentrations of nonresidential urban land use that do not have population but are at the fringe of the urbanized area will be included in the UA if at least one quarter of their boundary is contiguous to the urbanized area. These additions will be restricted to such land uses as industrial plants, office complexes, and major airports; that is, areas that are considered an integral part of the urban landscape.

5. Even though the criteria permits up to three names in the title, the recommended change:

b. Those with a population of 15,000 to 250,000 provided that they are at least one-half the population of the largest place in the urbanized area.

is intended to reduce the complexity and length of UA titles by reducing the number of additional incorporated place names.

Persons wishing to comment or obtain additional information should contact Mr. Jacob Silver, Chief, Geography Division, Bureau of the Census, U.S. Department of Commerce, Washington, D.C. 20233.

Comments submitted on or before June 23, 1980 will receive consideration in developing the final criteria.

Dated: March 20, 1980.

Vincent P. Barabba,
Director, Bureau of the Census.

[FR Doc. 80-8978 Filed 3-24-80; 8:45 am]
BILLING CODE 3510-07-M

International Trade Administration

Certain Steel Pipe and Tubing From Japan; Initiation of Antidumping Investigation

AGENCY: U.S. Department of Commerce.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that the Department of Commerce has determined that a formal antidumping investigation is warranted for the purpose of determining whether imports of certain steel pipe and tubing from Japan are being, or are likely to be sold at less than fair value. The International Trade Commission is being notified of this action so that it may, in accordance with the Tariff Act of 1930, as amended, make a determination, within 45 days of notification, of whether there is a reasonable indication of material injury by reason of imports of this merchandise.

EFFECTIVE DATE: March 25, 1980.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Investigations, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-566-5492).

SUPPLEMENTARY INFORMATION: On February 28, 1980, a petition in proper form was received from counsel on behalf of Babcock and Wilcox Company, Tubular Products Division, Beaver Falls, Pennsylvania, alleging that certain steel pipe and tubing are being, or are likely to be, sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (91 Stat. 162, 19 U.S.C. 1673) (hereinafter referred to as "the Act").

For purposes of this investigation, the term "certain steel pipe and tubing" means welded pipes of steel provided for in item numbers 610.3205 of the Tariff Schedules of the United States Annotated (TSUSA) and seamless pipes and tubes of steel, of circular cross section, provided for in TSUSA items 610.4920, 610.5210, 610.5215 or 610.5270.

Although included in the petition, mechanical tubing provided for in TSUSA item 610.4600 will not be covered by this investigation. Insufficient information has been supplied to support the allegations of less than fair value sales of this particular product.

Based on petitioner's information on home market prices and prices for export to the U.S., margins appear to exist on certain items ranging from a low of approximately 2 per cent to a high of approximately 21 per cent.

There is evidence on the record concerning material injury or likelihood of material injury as a result of imports of certain steel pipe and tubing from Japan. The evidence is based primarily on the reduced profitability, declining sales, reduced capacity utilization, unemployment and underemployment experienced solely by the petitioner, because the petitioner claims that industry-wide data on these factors can not be provided.

In accordance with section 732(c) of the Act (93 Stat. 162, 19 U.S.C. 1673a(c)), I hereby determine an investigation should be initiated to determine whether imports of steel pipe and tubing from Japan are being, or are likely to be sold at less than fair value.

Pursuant to section 732(d) of the Act (93 Stat. 163, 19 U.S.C. 1673a(d)), the U.S. International Trade Commission ("U.S.I.T.C.") is being notified of this determination. A copy of the information upon which the investigation is being initiated is being delivered to the U.S.I.T.C. All nonprivileged and nonconfidential information in the files of the International Trade Administration is being made available to the U.S.I.T.C., and all privileged and confidential information in the files will be made available upon confirmation that the confidentiality of such information will be maintained and that it will not be disclosed, either publicly or under an administrative protective order, without the express written consent of the Assistant Secretary for Trade Administration.

In accordance with section 733(a) of the Act (93 Stat. 163, 19 U.S.C. 1673b(a)), the U.S.I.T.C. will make a determination within 45 days after the date on which the petition was filed (February 28, 1980) as to 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 certain steel pipe and tubing from Japan. If that determination is negative, this investigation will be deemed terminated and no further notice will be published by the International Trade Administration. Otherwise, the investigation will continue to conclusion.

Pursuant to section 733 of the Act and § 353.39 of the Commerce Regulations (19 CFR 353.39, 45 FR 8200), the International Trade Administration

normally is required to issue a preliminary determination as to whether or not there is a reasonable basis to believe or suspect that merchandise which is the subject of this investigation is being sold or is likely to be sold at less than fair value within 160 days after the date on which the petition was filed. Pursuant to section 735 of the Act and section 353.44 of the Commerce Regulations (19 CFR 353.44, 45 FR 8203), a final decision normally is required within 75 days after the preliminary determination. Therefore, a preliminary determination on this petition will be made no later than August 5, 1980, as to whether certain steel pipe and tubing from Japan is being sold or is likely to be sold at less than fair value within the meaning of the Act. A final determination will be issued no later than October 20, 1980.

If the time periods for making these decisions are extended pursuant to sections 733 and 735 of the Act and §§ 353.39 and 353.44 of the Commerce Regulations, (19 CFR 353.39 and 353.44, 45 FR 8200, 8203), a preliminary determination will be made not later than September 24, 1980 and a final determination not later than January 28, 1981.

This notice is published pursuant to section 732 of the Act and § 353.37(b) of the Commerce Regulations, (19 CFR 353.37(b), 45 FR 8199).

Stanley J. Marcusa,

Acting Assistant Secretary for Trade Administration

March 19, 1980.

[FR Doc. 80-0008 Filed 3-24-80; 8:45 am]

BILLING CODE 3510-22-M

University of Utah; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-851, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 668-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79-00398. Applicant: University of Utah, Room 136 South Biology, Salt Lake City, Utah 84112. Article: Co. Infrared Gas Analyzer and Accessories. Manufacturer: Analytical Development Co., United Kingdom. Intended use of article: The article is intended to be used for photosynthetic

studies of desert plants. These studies are to be conducted in the field under natural environmental conditions. Planned experiments include measurements of net photosynthesis as function of irradiance and water stress as well as diurnal measurements of net photosynthesis. The article will also be used in the course, "Plant Adaptation," Biology No. 586 which includes a laboratory where field measurements of plant physiological processes are taught.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides accurate measurement (1% full scale reading) from zero to 1000 ppm carbon dioxide and accuracy when operated on variable frequency (60±3 Hertz using an internal frequency standard) portable generator power sources. The Department of Health, Education, and Welfare advises in its memorandum dated January 2, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-0702 Filed 3-24-80; 8:45 am]

BILLING CODE 3510-25-M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-851, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially § 301.11(e)).

A copy of the record pertaining to each of the applications in this consolidated decision is available for

APPENDIX B

COMMISSION'S NOTICE OF INVESTIGATION
AND CONFERENCE

Investigation No.	Product/country	Prehearing report to parties	Deadline for prehearing statements from parties	Hearing date	Hearing location	Contact person
701-TA-52	Certain nonquota cheese ¹ from Belgium	Apr. 28, 1980	May 13, 1980	May 21, 1980	ITC Building, Washington, D.C.	Robert Eninger (202) 523-0312
701-TA-53	Certain nonquota cheese ¹ from Denmark	do	do	do	do	Do.
701-TA-54	Certain nonquota cheese ¹ from the Federal Republic of Germany	do	do	do	do	Do.
701-TA-55	Certain nonquota cheese ¹ from France	do	do	do	do	Do.
701-TA-56	Certain nonquota cheese ¹ from Ireland	do	do	do	do	Do.
701-TA-57	Certain nonquota cheese ¹ from Italy	do	do	do	do	Do.
701-TA-58	Certain nonquota cheese ¹ from Luxembourg	do	do	do	do	Do.
701-TA-59	Certain nonquota cheese ¹ from the Netherlands	do	do	do	do	Do.
701-TA-60	Certain nonquota cheese ¹ from the United Kingdom	do	do	do	do	Do.
701-TA-61	Certain nonquota cheese ¹ from Norway	do	do	do	do	Do.

¹ Fiore Sardo and Pecorino cheeses, made from sheep's milk, not grated or powdered, of a fat content, by weight, not exceeding 40%, and a water content, by weight, of the non-fat matter not exceeding 47%, provided for in TSUS items 117.65, 117.67, or 117.70; and Feui cheese, made from goat's or sheep's milk, not grated or powdered, of a fat content, by weight, not exceeding 40%, a water content, by weight, of the non-fat matter exceeding 62% but not exceeding 72%, and with a fat content, by weight, of the dry matter of 39% or more, all the foregoing in containers holding brine, provided for in TSUS items 117.70, 117.75, or 117.88.

² Gjetost cheeses provided for in TSUS items 117.30, or 117.35; Gammeost cheeses provided for in TSUS item 117.60; and Nokkelost cheeses, with a fat content, by weight, of the dry matter of 30%, or of 45%, provided for in TSUS item 117.60.

FOR FURTHER INFORMATION CONTACT:
Robert Eninger, Investigative Staff, U.S. International Trade Commission, (202) 523-0312.

Issued: March 6, 1980.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-7668 Filed 3-11-80; 8:45 am]
BILLING 7020-02-M

[731-TA-15 (Preliminary)]

Pipes and Tubes of Iron or Steel From Japan; Institution of Preliminary Antidumping Investigation and Scheduling of Conference

Investigation instituted. Following receipt of a petition on February 28, 1980, filed by counsel representing Babcock and Wilcox Co., Beaver Falls, Pa., a domestic producer of steel, the United States International Trade Commission on March 5, 1980, instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of "welded pipes and tubes of iron or steel provided for in item 610.3205 of the Tariff Schedules of the United States Annotated (TSUSA) and seamless pipes and tubes of iron or steel, of circular cross section, provided for in TSUSA items 610.4600, 610.4920, 610.5210, 610.5215, or 610.5270," allegedly sold or likely to be sold at less than fair value. This investigation will be subject to the provisions of Part 207 of the Commission's *Rules of Practice and Procedure* (19 CFR 207, 44 FR 78457) and, particularly, Subpart B thereof, effective January 1, 1980.

Written submissions. Any person may submit to the Commission on or before March 27, 1980, a written statement of information pertinent to the subject matter of the investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions much conform with the requirements of § 201.6 of the *Commission Rules of Practice and Procedure* (19 CFR 201.6). All the written submissions, except for confidential business data, will be available for public inspection.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with the investigation for 10:00 a.m., e.s.t., on Monday, March 24, 1980, at the U.S. International Trade Commission Building, 701 E. Street, Washington, D.C. Parties wishing to participate in the conference should contact the senior investigator for the investigation, Mr. Thomas St. Maxens (202-5233-0339). It is anticipated that parties in support of the petition for antidumping duties and parties opposed to such petition will each be collectively allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the senior investigator.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission, and at the New York City Office of the U.S. International Trade Commission located at 6 World Trade Center.

Issued: March 5, 1980.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-7672 Filed 3-11-80; 8:45 am]
BILLING CODE 7020-02-M

Review of Certain Countervailing Duty Orders

Section 104(b) of the Trade Agreements Act of 1979 in pertinent part provides:

(b) *Other Countervailing Duty Orders.*—

(1) **REVIEW BY COMMISSION UPON REQUEST.**—In the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303)—

(A) Which is not a countervailing duty order to which subsection (a) applies,

(B) Which applies to merchandise which is the product of a country under the Agreement, and

(C) Which is in effect on January 1, 1980, or which is issued pursuant to court order in an action brought under section 516(d) of that Act before that date.

The Commission, upon the request of the government of such a country or of exporters accounting for a significant proportion of exports to the United States of merchandise which is covered by the order, submitted within 3 years after the effective date of title VII of the Tariff Act of 1930 shall make a determination under paragraph (2) of this subsection.

(2) **Determination by the Commission.**—In a case described in paragraph (1) with respect to which it has received a request for review, the Commission shall commence an investigation to determine whether—

(A) An industry in the United States—

(i) Would be materially injured, or

(ii) Would be threatened with material injury, or

(B) The establishment of an industry in the United States would be materially retarded.

By reason of imports of the merchandise covered by the countervailing duty if the order were to be revoked.

It is the intention of the Commission to establish a schedule on or about April 30, 1980, for the conduct of investigations pursuant to section 104(b) encompassing requests for such

APPENDIX C

DEPARTMENT OF LABOR'S NEGATIVE DETERMINATION REGARDING ELIGIBILITY
TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE, BEAVER FALLS WORKS
OF THE TUBULAR PRODUCTS DIVISION OF BABCOCK & WILCOX

[TA-W-6391, 6392, and 6393]

Babcock & Wilcox; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on November 19, 1979 in response to a worker petition received on November 2, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel tubing and fittings at the Beaver Falls, Ambridge, and Koppel, Pennsylvania plants of Babcock and Wilcox. The investigation revealed that those three plants operate as an integrated production facility and comprise the Beaver Falls Works of the Tubular Products Division of Babcock and Wilcox. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

-Imports of both seamless carbon and seamless stainless steel pipe and tubing decreased absolutely and relative to domestic shipments in the first nine months of 1979 compared with the same period of 1978.

Sales and production of seamless steel tubing and fittings at the Beaver Falls Works increased in 1978 compared to 1977, and in 1979 compared to 1978.

A Department survey of customers of

most respondents purchased no imported steel tubing or fittings in 1978 or 1979. Firms which reported decreased purchases from the Beaver Falls Works and increased purchases of imports in 1979 compared with 1978 represented an insignificant proportion of total sales at the Beaver Falls Works.

Conclusion

After careful review, I determine that all workers of the Beaver Falls Works of the Tubular Products Division of Babcock and Wilcox, Beaver Falls, Ambridge, and Koppel, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 6th day of February 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-4493 Filed 2-11-80; 8:45 a.m.]

BILLING CODE 4510-29-M

APPENDIX D

DEPARMTNET OF LABOR'S NOTICE OF AFFIRMATIVE DETERMINATION REGARDING
APPLICATION FOR RECONSIDERATION

DEPARTMENT OF LABOR

Office of the Secretary

TA-W-6391, 6392 and 6393

BABCOCK AND WILCOX
TUBULAR PRODUCTS DIVISION
BEAVER FALLS WORKS
BEAVER FALLS, PENNSYLVANIA
AMBRIDGE, PENNSYLVANIA
KOPPEL, PENNSYLVANIA

Notice of Affirmative Determination
Regarding Application for Reconsideration

On February 29, 1980, the petitioner supported by the company requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers producing steel tubing and fittings at the Beaver Falls, Ambridge and Koppel, Pennsylvania, plants of Babcock and Wilcox. This determination was published in the Federal Register on February 12, 1980, (45 FR 9399).

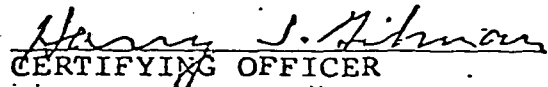
The petitioner and company officials, in a meeting in Washington, D.C., on March 20, 1980, provided the Department with tables showing increased imports of the products which the Beaver Works produces since they claim that the Department's import data did not represent their products. The company officials also supplied a new list of customers that they think are importing.

- 2 -

Conclusion

After review of the application, I conclude that the claim of the petitioner is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 21st day of March 1980.


CERTIFYING OFFICER
HARRY J. GILMAN
Supervisory International
Economist, Office of
Foreign Economic Research

Library Cataloging Data

United States. International Trade
Commission.

Pipes and tubes of iron or steel from
Japan : determination of the Commission
in investigation no. 731-TA-15 (prelim-
inary) under the Tariff act of 1930,
together with the information obtained
in the investigation / USITC. -- Washing-
ton : USITC, 1980.

29, A 37 p. : ill. ; 28 cm. -- (USITC
publication ; 1058)

"Prepared principally by William Schechter
and James J. Lukes."

1. Pipe. 2. Tubes. I. Schechter, William.
II. Lukes, James J. III. Title. •

UNITED STATES
INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C. 20436

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