WELDED STAINLESS STEEL PIPE FROM MALAYSIA

Determination of the Commission in Investigation No. 731-TA-644 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Anita Miller, Economist
Marshall Wade, Accountant
Elizabeth Rose, Attorney

George Deyman, Supervisory Investigator

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

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DETERMINATION AND VIEWS OF THE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-644 (Preliminary)

WELDED STAINLESS STEEL PIPE FROM MALAYSIA

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Malaysia of welded stainless steel pipe, provided for in subheadings 7306.40.10 and 7306.40.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On February 16, 1993, a petition was filed with the Commission and the Department of Commerce by Avesta Sheffield Pipe, Schaumburg, IL; Bristol Metals, Bristol, TN; Damascus Tube Division of the Nes Bishop Tube Co., Greenville, PA; Trent Tube Division of Crucible Materials Corp., East Troy, WI; and the United Steelworkers of America, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of welded stainless steel pipe from Malaysia. Accordingly, effective February 16, 1993, the Commission instituted antidumping investigation No. 731-TA-644 (Preliminary).

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

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of February 24, 1993 (58 F.R. 11247). The conference was held in Washington, DC, on March 9, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

Based on the record in this preliminary investigation, we unanimously determine that there is a reasonable indication that the industry in the United States producing welded stainless steel pipe and pressure tube is materially injured by reason of imports of welded austenitic stainless steel pipe from Malaysia that allegedly are sold in the United States at less than fair value (LTFV).[1]

I. THE LEGAL STANDARD FOR PRELIMINARY DETERMINATIONS

The legal standard in preliminary antidumping duty investigations requires the Commission to determine, based upon the best information available at the time of the preliminary determination, whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of the allegedly LTFV imports.[2] In applying this standard, the Commission may weigh the evidence to determine whether "(1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of material injury; and (2) no likelihood exists that any contrary evidence will arise in a final investigation."[3] The U.S. Court of Appeals for the Federal Circuit has held that this interpretation of the standard "accords with clearly discernible legislative intent and is sufficiently reasonable."[4]

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[1] 19 U.S.C. § 1673b(a). Whether the establishment of an industry in the United States is materially retarded is not an issue in this investigation.
[2] 19 U.S.C. § 1673b(a). See also, American Lamb Co. v. United States, 785 F.2d 994 (Fed. Cir. 1986); Calabrian Corp. v. United States, 794 F. Supp. 377, 386 (CIT 1992).
[3] American Lamb, 785 F.2d at 1001. See also, Torrington Co. v. United States, 790 F. Supp. 1161, 1165 (CIT 1992).
[4] American Lamb, 785 F.2d 994 at 1004.

II. LIKE PRODUCT

A. In General

In determining whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of the allegedly LTFV imports, the Commission must first define the "like product" and the "industry." Section 771(4)(A) of the Tariff Act of 1930 (the "Act") defines the relevant industry as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major portion of the total domestic production of that product[.]"[5] In turn, the Act defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation[.]"[6]

The Department of Commerce ("Commerce") has identified the articles subject to this investigation as:

> welded austenitic stainless steel pipe of circular cross section . . . produced according to standards and specifications set forth by the American Society for Testing and Materials (ASTM) . . . [including, but]

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[5] 19 U.S.C. § 1677(4)(A).

[6] 19 U.S.C. § 1677(10). The Commission's determination of what is the appropriate like product or products is a factual determination, and the Commission applies the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. In analyzing like product issues, the Commission considers a number of factors, including: (1) physical characteristics and uses; (2) interchangeability of the products; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) the use of common manufacturing facilities and production employees; and (6) where appropriate, price. Calabrian Corp. v. United States, 794 F. Supp. at 382, n.4 (CIT 1992). No single factor is dispositive, and the Commission may consider other factors relevant to its like product determination in a particular investigation. The Commission looks for clear dividing lines among possible like products, and disregards minor variations. See e.g., S. Rep. No. 249, 96th Cong. 1st Sess. 90-91 (1979); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (CIT 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991).

not limited to, ASTM A-312, ASTM A-358, ASTM A-409, and ASTM A-778.[7]

The imported articles subject to investigation are welded austenitic (chromium-nickel) stainless steel pipe ("WSS pipe").[8] WSS pipe has the following major applications: digester lines; blow lines; pharmaceutical lines; petrochemical stock lines; brewery process and transport lines; general food processing lines; automotive paint lines; and paper processing machines.

The scope of Commerce's investigation in this case is broader than in recent cases which covered only imports of A-312 pipe from the Republic of Korea and Taiwan.[9] There, the Commission concluded that the product like the imports subject to those investigations consisted of all welded austenitic stainless steel pipe and pressure tube.[10] The scope of Commerce's

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[7] See 58 Fed. Reg. 13742 (March 15, 1993) and Report at I-3, n.1. ASTM A-409 products should not be confused with grade 409 tube excluded from the like product in the Commission's determination in Certain Welded Stainless Steel Pipes from the Republic of Korea and Taiwan, Inv. Nos. 731-TA-540-541 (Final), USITC Pub. 2585 (December 1992)(hereinafter "Korea/Taiwan Final"). "Grade 409" tubing is ferritic stainless steel whereas ASTM A-409 pipe, along with A-358 and A-778, are austenitic. See Report at I-5, n.8.

[8] Stainless steel pipe can be sold in either seamless or welded form. Commerce did not include seamless pipe in the scope of this investigation. In previous findings, the Commission has determined that welded and seamless pipe and tube are separate like products. See e.g., Stainless Steel Pipes and Tubes from Sweden, Inv. No. 731-TA-354 (Final), USITC Pub. 2033 (November 1987). None of the parties in this investigation have challenged these previous determinations and no new facts have come to light in this investigation to suggest that the Commission should reconsider its previous finding on this point.

[9] Korea/Taiwan Final at A-5 and A-18.

[10] In the Korea/Taiwan final, the Commission determined that mechanical/ornamental tubing, ASTM A-554, was not included in the like product. It is of a lower quality than pressure tubing and, as a result, cannot serve the same function as pressure tubing. The Commission also excluded grade 409 tubing (different from ASTM A-409 pipe) from the like product in those investigations. Korea/Taiwan Final at 7-8. Grade 409 is ferritic, not austenitic, stainless steel. Grade 409 is considered to be lower quality, contains less chromium than austenitic stainless steel pipes, is used primarily in automotive exhaust systems, is produced primarily by a distinct group of companies with a less complex process, and is primarily a captively consumed product. See Report at I-5, n.8, for further discussion.

(continued...)

investigation here includes all welded austenitic stainless steel pipe, but not tube.[11]

B. Like Product Analysis

Petitioners have urged the Commission to define the like product more narrowly than in prior determinations -- i.e., as only welded austenitic stainless steel pipe, excluding pressure tube.[12] Petitioners do not, however, present new arguments nor is there new evidence to support this like product definition.[13] Respondents make no like product argument.

Although there are some differences between pipe and pressure tube in physical dimensions and end uses, the products share similarities in physical characteristics, production processes, machinery, and employees.[14] In considering this issue in the Korea/Taiwan final, the Commission concluded that pressure tube is like the imported A-312 pipe subject to those investigations.[15] Further, the Commission has never determined that pipe and tube constitute separate like products. No new facts or arguments have been presented in this investigation which would warrant a different conclusion. For the reasons stated in our recent determination,[16] we determine that the

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[10](...continued)
No party has argued that the Commission should reach a different conclusion in this case, and no new facts have come to light which would lead us to reconsider our determination on this issue.

[11] Although the scope of this investigation is not limited to A-312 pipe, according to petitioners, A-312 WSS pipe is the only allegedly LTFV pipe product being imported from Malaysia. Antidumping Petition, Welded Stainless Steel Pipe from Malaysia (February 16, 1993) at 15 (hereinafter "Petition").

[12] Petition at 25.

[13] The Court of International Trade has stated that "the Commission is not obligated to follow its prior decisions if new arguments or facts are presented that support a different conclusion . . . ." Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1088 (CIT 1988).

[14] Report at I-5.

[15] Korea/Taiwan Final at 13.

[16] Korea/Taiwan Final at 7-8.

like product consists of all welded austenitic stainless steel pipe and austenitic pressure tube ("WSS pipe and pressure tube").[17]

III. DOMESTIC INDUSTRY AND RELATED PARTIES

A. Domestic Industry

As noted previously, the domestic industry consists of the "domestic producers" of a "like product."[18] In light of the definition of the like product, the domestic industry consists of the domestic producers of welded austenitic stainless steel pipe and pressure tube.[19]

B. Related Parties

Under section 771(4)(B) of the Act, producers who are related to exporters or importers, or who are themselves importers of allegedly dumped or subsidized merchandise, may be excluded from the domestic industry in appropriate circumstances.[20] The rationale for the related parties provision is the concern that domestic producers who are related parties may be in a position to be shielded from any injury that might be caused by the imports. Including related parties within the domestic industry could distort the analysis of the condition of the domestic industry.[21] Exclusion of a related party is within the Commission's discretion based upon the facts presented in each case.[22]

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[17] Unless otherwise noted, all further references to "WSS pipe and pressure tube" refers to welded austenitic stainless steel pipe and austenitic pressure tube and not ferritic or martensitic stainless steel products.
[18] 19 U.S.C. § 1677(4)(A).
[19] See Report at I-8 and Table 1.
[20] 19 U.S.C. § 1677(4)(B).
[21] See Sandvik, 721 F. Supp. at 1331-32 (related party appeared to benefit from the dumped imports); Certain Carbon Steel Butt-Weld Pipe Fittings from China and Thailand, Inv. Nos. 731-TA-520-521 (Final), USITC Pub. 2528 (June 1992).
[22] See e.g. Torrington Co. v. United States, 790 CIT 1162 (1992); Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (CIT 1989), aff'd without opinion

(continued...)

One of the domestic producers imports the subject product from Malaysia. Its imports are small relative to its domestic production and its performance does not indicate that it has been shielded from the effects of the allegedly dumped imports. Furthermore, no party has argued that any company should be excluded from the domestic industry as a related party. We do not believe that appropriate circumstances exist to exclude this producer from the domestic industry.

IV. CONDITION OF THE INDUSTRY

In determining whether there is material injury to a domestic industry by reason of the LTFV imports, the Commission is directed to consider "all relevant economic factors that have a bearing on the state of the industry in the United States[.]"[23] These include production, consumption, shipments, inventories, capacity utilization, market share, employment, wages, productivity, financial performance, capital expenditures, and research and development.[24] No single factor is determinative, and the Commission considers all relevant factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[25]

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[22](...continued)
904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348,1352 (CIT 1987). The factors the Commission has examined include:

> (1) the percentage of domestic production attributable to related producers;
> (2) the reasons why the domestic producers have chosen to import the product under investigation -- to benefit from the unfair trade practice, or to enable them to continue production and compete in the domestic market; and
> (3) the position of the related producers vis-a-vis the rest of the domestic industry, i.e., whether inclusion or exclusion of the related party will skew the data for the rest of the industry.

See Torrington Co. v. United States, 790 F. Supp. 1161 (CIT 1992).

[23] 19 U.S.C. § 1677(7)(C)(iii).

[24] Id.

[25] Id.

With respect to the conditions of competition distinctive to the industry producing welded stainless steel pipe and pressure tube, we first note that U.S. consumption of pipe and tube is driven by the demand in the downstream industries (e.g., the chemical industry, the pulp/paper industry, and the energy industry).[26] Demand in these industries has generally been declining. Another factor affecting competition was declines in the prices of nickel and ferrochromium, which are important raw materials used in the production of austenitic pipe and tube.[27] Institution of the Korea and Taiwan investigations in November 1991 and suspension of liquidation in June 1992 also affected competition.[28]

Apparent U.S. consumption declined at an increasing rate during the period of investigation (1990-92), falling from 94,851 short tons (tons) in 1990 to 93,000 tons in 1991, and to 88,368 tons in 1992.[29] Consumption declined more substantially in terms of value, reflecting the steady decline in the unit value of consumption during the period.[30]

The U.S. producers lost market share in 1991. But, after the initiation of the Korea and Taiwan investigations, the domestic industry gained market share in 1992, for an overall gain in market share of 3.0 percentage points over the period of investigation.[31] The U.S. market share by value was slightly higher in each year during the period due to the higher average unit

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[26] Report at I-28.
[27] See Respondent's postconference brief at 17-18. Nickel and ferrochromium costs represent a substantial portion of the cost of raw materials in producing austenitic stainless steel pipe and tube.
[28] Imports from Korea and Taiwan declined significantly during 1992. Report at Table 16.
[29] Report at Table 16. These declines in consumption (in terms of quantity) were 2.0 and 5.0 percent, respectively.
[30] Id.
[31] Id.

values of the domestic product compared with those of imports.[32]

The U.S. average-of-period productive capacity remained unchanged during the period of investigation at 127,931 tons.[33] Production, however, declined by 1.0 percent in each successive year during the period of investigation, falling from 73,730 tons in 1990 to 72,224 tons in 1992.[34] Capacity utilization, as a result, also declined marginally, from 57.6 percent in 1990 to 56.5 percent in 1992.[35]

U.S. shipments, which accounted for the vast majority of total shipments by U.S. producers, declined overall in volume, value, and unit value during the period of investigation. The volume of shipments fell from 72,806 tons in 1990 to 68,469 tons in 1991,[36] a 6.0-percent drop. In 1992, shipments totalled 70,483 tons,[37] up 2.9 percent from 1991, but still 3.2 percent below the 1990 level. The value of U.S. shipments fell steadily over the period, from $311 million in 1990 to $270 million in 1991, and to $259 million in 1992, for an overall decline of 16,5 percent.[38] The unit value of U.S. shipments also fell steadily, from $4,269 per ton in 1990 to $3,681 per ton in 1992, a drop of 13.8 percent.[39]

The greater declines in shipments relative to production are reflected in changing inventory levels. End-of-period inventories rose sharply from 6,303 tons in 1990 to 8,916 tons in 1991 and then fell somewhat to 8,509 tons in 1992.[40] The ratio of inventories-to-shipments followed a similar trend,

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[32] Id.
[33] Report at Table 2.
[34] Id.
[35] Id.
[36] Report at Table 3.
[37] Id.
[38] Id.
[39] Id.
[40] Report at Table 4.

rising from 8.7 percent in 1990 to 13.0 percent in 1991, and declining to 11.8 percent in 1992.[41]

The number of production and related workers, their hours worked, and total wages and compensation paid all declined steadily during the period of investigation.[42] Employment fell overall by 15.7 percent, hours worked by 20.6 percent, and total compensation by 20.5 percent. Hourly total compensation rose overall by only 0.1 percent. Productivity rates rose steadily and significantly during the period.[43]

The financial performance of the industry deteriorated steadily from 1990 to 1992, as shown by key financial indicators. The apparent reason for this decrease was that per-unit revenue declines consistently outpaced per-unit cost declines.[44] Net sales fell from $306 million in 1990 to $270 million in 1991, and to $261 million in 1992.[45] This represents an overall decline of 14.8 percent. Costs of goods sold per ton also declined steadily, but at lesser rates; gross profit margins, therefore, also fell steadily, from 14.6 percent of sales in 1990 to 12.2 percent in 1991, and to 9.6 percent in 1992.[46] Gross profit per ton dropped overall from $570 in 1990 to $346 in 1992, a decline of nearly 40 percent.[47]

Selling, general, and administrative expenses, as a percent of net sales, were relatively stable during the period. As a result, changes in the operating margin did not differ substantially from that for the gross profit

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[41] Id.
[42] Report at Table 5.
[43] Id.
[44] Report at I-15 through I-23.
[45] Report at Table 9.
[46] Id.
[47] Id.

margin.[48] The industry realized operating profits of 5.4 percent of net sales in 1990, 2.4 percent in 1991, and 0.8 percent in 1992.[49] On a per-ton basis, operating income fell from $221 in 1990 to $41 in 1992 -- down more than 80 percent. Cash flow fell by more than 50 percent from 1990 to 1991, from $18.3 million to $9.1 million, and dropped by more than 40 percent in 1992 to $5.2 million.[50]

The value of total assets of the domestic industry producing the like product declined steadily during the period of investigation, falling overall by 11.9 percent.[51] Capital expenditures by U.S. producers also fell steadily, with an overall decline of one-third.[52] Most producers reported no research and development expenses.[53] [54]

V. CUMULATION[55]

In determining whether there is material injury by reason of the allegedly LTFV imports, the Commission is required to assess cumulatively "the volume and effect of imports from two or more countries of like products

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[48] Id.
[49] Id.
[50] Id.
[51] Report at Table 13.
[52] Report at Table 11.
[53] Report at Table 12.
[54] Based on the declines in production and shipments and the substantial declines in net sales, operating income, and employment, Chairman Newquist and Commissioner Rohr determine that there is a reasonable indication that the domestic industry is materially injured.
[55] Chairman Newquist does not join this discussion concerning cumulation. Chairman Newquist determines that there is a reasonable indication that allegedly unfair imports of welded austenitic stainless steel pipe from Malaysia, by themselves, are a cause of material injury to the domestic industry. As such, Chairman Newquist believes that a cumulation analysis is unnecessary. If, however, there were no reasonable indication of material injury by reason of the allegedly unfair imports from Malaysia alone, Chairman Newquist would then proceed to a cumulation analysis. However, his analysis and conclusion probably would have differed from his colleagues' discussion presented here.

subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market."[56] In addition, Congress also intended "that the marketing of imports that are [cumulated] be reasonably coincident."[57]

We considered whether to cumulate imports from Malaysia with imports from Korea and Taiwan that are currently subject to antidumping orders issued on December 30, 1992.[58] Since imports of WSS pipe from Korea and Taiwan are now subject to antidumping duty orders, however, they are no longer "subject to investigation." Nonetheless, if the statutory requirements for cumulation are otherwise met, the Commission may, at its discretion, cumulate imports subject to an ongoing investigation with imports that entered the United States prior to the issuance of recent antidumping or countervailing duty orders.[59]

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[56] 19 U.S.C. § 1677(7)(C)(iv)(I).

[57] H.R. Conf. Rep. No. 1156, 98th Cong., 2d Sess. 173 (1984); Chaparral Steel Co. v. United States, 901 F.2d 1097, 1101 (Fed. Cir. 1990).

[58] Amended Final Determination and Antidumping Order; Certain Welded Stainless Steel Pipe From Taiwan, 57 Fed. Reg. 62300 (Dec. 30, 1992); Antidumping Duty Order and Clarification of Final Determination; Certain Welded Stainless Steel Pipes From Korea, 57 Fed. Reg. 62301 (Dec. 30, 1992). The Commission determined in the Korea/Taiwan final that cumulation of imports from Sweden was not required. Korea/Taiwan Final at 21, n.85. No party has argued otherwise in this investigation, and no facts have been adduced that would warrant a different conclusion here.

[59] See, e.g., Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Final), USITC Pub. 2376 (April 1991) at 30; Forged Steel Crankshafts from Brazil, USITC Pub. 2038 at 7; Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers from Italy and Yugoslavia, Inv. Nos. 731-TA-342 and 346 (Final), USITC Pub. 1999 (Aug. 1987) at 16. As noted in Gray Portland Cement and Cement Clinker from Japan:

> The issue in such cases is whether the final order is sufficiently "recent" that the unfairly traded imports which resulted in imposition of the order are continuing to have an effect on the domestic industry, or whether the order is sufficiently removed in time that LTFV imports entered prior to date of the order no longer have a continuing injurious impact on the

(continued...)

In exercising our discretion, we consider whether the final order is sufficiently "recent" that the unfairly traded imports which resulted in imposition of the order are continuing to have an effect on the domestic industry, or whether the order is sufficiently removed in time that LTFV imports entered prior to the date of the order no longer have a continuing injurious impact on the domestic industry.[60] Although the Commission has never established a specific time limit for cumulation in such cases, the Commission has cumulated imports entered prior to the issuance of orders that were up to eight months old.[61] The imports from Taiwan and Korea became subject to antidumping duty orders in December 1992.

Petitioners have requested that the Commission not cumulate imports from Korea and Taiwan in this investigation because those imports began declining shortly after the cases against them were initiated in November 1991. Petitioners further allege that imports from Malaysia surged in 1992 specifically to take advantage of the reduction in imports from Korea and

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[59](...continued)
domestic industry.
USITC Pub. 2376 at 30. See also H.R. Rep. No. 40, 100th Cong., 1st Sess. 130 (1986).

[60] Chaparral Steel Co. v. United States, 901 F.2d 1097 (Fed. Cir. 1990); Industrial Nitrocellulose from Yugoslavia, Inv. No. 731-TA-445 (Final), USITC Pub. 2324 (Oct. 1990). The Commission has cumulated imports subject to investigation with imports subject to antidumping orders in numerous other investigations. See, e.g., Gray Portland Cement and Cement Clinker from Japan, Inv. No. 731-TA-461 (Final), USITC Pub. 2376 (April 1991)(Mexican imports subject to an August 1990 order were cumulated with Japanese imports); and Tapered Roller Bearings and Parts Thereof, and Certain Housing Incorporating Tapered Rollers from Italy and Yugoslavia, Invs. Nos. 731-TA-342-346 (Final), USITC Pub. 1999 (August 1987)(cumulatively assessed with imports subject to a June 1987 final order against Hungary, the People's Republic of China, and Romania).

[61] Chaparral Steel Co. v. United States, 901 F.2d 1097 (Fed. Cir. 1990); Oil Country Tubular Goods from Israel, Inv. No. 731-TA-318 (Final), USITC Pub. 1952 (Feb. 1987); Certain Welded Carbon Steel Pipes and Tubes from the Philippines and Singapore, Inv. Nos. 731-TA-293, 294, & 296 (Final), USITC Pub. 1907 (Nov. 1986).

Taiwan and that allegedly LTFV imports from Malaysia have merely replaced LTFV Korea and Taiwan imports.[62] Petitioners argue that a cumulative analysis would wrongly mask the surge in the allegedly dumped imports from Malaysia.[63] Respondents made no arguments relevant to our decision whether to cumulate.[64]

Cumulation with imports entered prior to recent final orders is not mandatory under the statute, but is within the Commission's discretion. The Commission recognizes the fact that simultaneous unfairly traded imports from several countries often have a hammering effect on the domestic industry which may not be adequately addressed in injury analysis if the impact of the imports is analyzed separately on the basis of the country of origin.[65] [66] Prior to the initiation of investigations of imports from Korea and Taiwan in November 1991, imports from Malaysia were virtually nonexistent.[67] Imports from Korea and Taiwan dropped significantly during the first six months of 1992 and for the full year,[68] and inventories of imports also declined considerably.[69] It was only at this time that imports from Malaysia gained a

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[62] Petitioner's postconference brief at 5.
[63] Petitioner's postconference brief at 8-10.
[64] Respondents did, however, assert that cumulated imports could not have caused any injury suffered by the U.S. industry because such imports declined over 37 percent in 1992 and the cumulated market share also declined over the same period. Respondent's postconference brief at 3, 21-22.
[65] See H.R. Rep. 40, Part I, 100th Cong., 1st Sess. 130 (1987) ("The cumulation requirement is thus an effort to make the application of the injury analysis more realistic in terms of recognizing the actual effects of unfair import competition.").
[66] Vice Chairman Watson notes that a cumulative analysis of the volume of imports from Korea, Taiwan, and Malaysia would show declining imports, masking the surge in imports from Malaysia. Thus, rather than allowing the Commission to consider the "hammering effect" of imports from different sources, cumulation in the circumstances of this preliminary investigation would mask the effect of allegedly LTFV imports from Malaysia. Such a result is not in accordance with legislative intent.
[67] Report at Table 15.
[68] Id. and Korea/Taiwan Final at I-28.
[69] Korea/Taiwan Final at I-28.

significant presence in the domestic market. In view of the declines in imports from Korea and Taiwan, we find that those imports do not have a continuing injurious impact on the domestic industry and we determine not to cumulate.[70]

VI. REASONABLE INDICATION OF MATERIAL INJURY BY REASON OF ALLEGEDLY LTFV IMPORTS

In determining whether there is a reasonable indication that the domestic industry in the United States is materially injured by reason of the imports under investigation, the statute directs the Commission to consider:

> (I) the volume of imports of the merchandise which is the subject of the investigation;
>
> (II) the effect of imports of that merchandise on prices in the United States for like products;[71] and
>
> (III) the impact of imports of such merchandise on domestic producers of like products,[72] but only in the context of

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[70] Vice Chairman Watson finds that cumulation would distort the data considered by the Commission. As he determines here, subject imports from Malaysia by themselves demonstrate a reasonable indication of injury. If, however, the subject imports were cumulated with imports from Taiwan and Korea, the Commission might well have reached the opposite conclusion with the addition of the 1992 data which shows a sharp decline in the imports from Taiwan and Korea. That decline results, at least in part, from the filing of the earlier case and Commerce's preliminary affirmative determination in it. It would be anomalous to make a negative determination in this preliminary investigation on such a basis, especially in light of the fact that the Commission made an affirmative determination in regard to imports from Korea and Taiwan just three months ago.

[71] In evaluating the price effect of subject imports, the statute states that the Commission shall consider whether --

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

19 U.S.C. § 1677(7)(C)(ii).

[72] In examining the impact of imports on the domestic producers of like products, the statute states:

> The Commission shall evaluate all relevant economic factors which have a

(continued...)

production operations within the United States.[73]

In evaluating the volume of imports of merchandise, the statute directs that the Commission "shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[74] The Commission may consider other factors it deems relevant, but must explain why they are relevant.[75]

Although we may consider information that indicates that injury to the industry is caused by factors other than LTFV imports, we do not weigh causes.[76] [77] [78] The Commission may take into account the departures from an

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[72](...continued)
bearing on the state of the industry in the United States, including, but not limited to --
(I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,
(II) factors affecting domestic prices,
(III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and
(IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.
The Commission shall evaluate all relevant economic factors described in this clause within the context of the business cycle and conditions of competition that are distinctive to the affected industry. 19 U.S.C. § 1677(7)(C)(iii).

[73] 19 U.S.C. § 1677(7)(B)(i).

[74] 19 U.S.C. § 1677(7)(C)(i).

[75] 19 U.S.C. § 1677(7)(B).

[76] Chairman Newquist, Commissioner Rohr, and Commissioner Nuzum note that the Commission need not determine that imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249, 96th Cong., 1st Sess. 57 and 74 (1979). Rather, a finding that imports are a cause of material injury is sufficient. See, e.g., Metallverken Nederland, B.V. v. United States, 728 F. Supp. 730, 741 (CIT 1989); Citrosuco Paulista S.A. v. United States, 704 F. Supp. 1075, 1101 (CIT 1988).

[77] Vice Chairman Watson notes that the courts have interpreted the statutory requirement that the Commission consider whether there is material injury "by reason of" the subject imports in a number of different ways. Compare, e.g., (continued...)

industry or the unique circumstances of individual companies, but ultimately must assess the condition of the industry as a whole, and not on a company-by-company basis.[79]

The volume of imports from Malaysia surged from 150 short tons in 1991

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[77](...continued)
United Engineering & Forging v. United States, 779 F. Supp. 1375, 1391 (CIT 1991)("rather it must determine whether unfairly-traded imports are contributing to such injury to the domestic industry. Such imports, therefore need not be the only cause of harm to the domestic industry" (citations omitted)); Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (CIT 1989)(affirming a determination by two Commissioners that "the imports were a cause of material injury"); USX Corporation v. United States, 682 F. Supp. 60, 67 (CIT 1988)("any causation analysis must have at its core, the issue of whether the imports at issue cause, in a non de minimis manner, the material injury to the industry[.]")

Accordingly, Vice Chairman Watson has decided to adhere to the standard articulated by Congress in the legislative history of the pertinent provisions, which states that the Commission must satisfy itself that, in light of all the information presented, there is a "sufficient causal link between the less-than-fair-value imports and the requisite injury." S. Rep. No. 249, 96th Cong., 1st Sess. 75 (1979).

[78] Commissioner Brunsdale and Commissioner Crawford note that the statute requires that the Commission determine whether a domestic industry is "materially injured by reason of" the allegedly LTFV imports. Many, if not most, domestic industries are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently is causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than the less-than-fair-value imports." S. Rep. No. 249 at 75. However, the legislative history makes it clear that the Commission is not to weigh or rank the factors that are independently causing material injury. Id. at 74; H.R. Rep. No. 317 at 47. The Commission is not to determine if the allegedly LTFV imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249 at 74. Rather, it is to determine whether any injury "by reason of" the allegedly LTFV imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No. 71, 100th Cong., 1st Sess. 116 (1987) (emphasis supplied).

[79] See Metallverken Nederland, 728 F. Supp. at 735. Thus, while we recognize that the aggregate information regarding the performance of the domestic industry is significantly affected by the performance of one producer, we nevertheless base our determination on the industry as a whole. See Encon Industries, Inc. v. United States, Slip op. 92-164 (CIT 1992) at 5.

to 3,553 short tons in 1992.[80] [81] As a share of apparent U.S. consumption, imports from Malaysia increased from 0.2 percent in 1991 to almost 6 percent in 1992.[82] The total value of imports from Malaysia also increased significantly, while the unit value of those imports decreased by 4.5 percent.[83] The U.S. producers' market share increased somewhat as a result of the withdrawal of imports from Korea and Taiwan from the market following suspension of liquidation in June 1992. The rapid and substantial increase of lower-priced imports from Malaysia provides a reasonable indication that those imports had a significant adverse effect on the condition of the domestic industry.[84]

The prices of both the domestic product and the Malaysia imports decreased substantially during the period of investigation.[85] The Malaysia imports consistently undersold the domestic like product, and by increasing margins.[86] In light of the fungible nature of the product, there is a reasonable indication that the increased low-priced imports from Malaysia have depressed domestic prices, and adversely affected the domestic industry's sales volumes and revenues. The increased volume of imports from Malaysia limited increases in domestic sales volume. Furthermore, although the industry's cost of goods sold declined, the sales revenues of the domestic

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[80] Report at Table 16.
[81] Commissioners Brunsdale and Crawford do not join the following two paragraphs.
[82] Report at Table 16.
[83] Report at Tables 9 and C-1.
[84] Vice Chairman Watson finds that the record in this preliminary investigation supports the conclusion that the lower-priced subject imports captured market share vacated by imports from Korea and Taiwan at the expense of the domestic industry. In reaching that conclusion, he notes the consistently lower prices of the subject imports and the high degree of substitutability between the subject imports and the domestic product.
[85] Report at Tables 17, 18, and 19.
[86] Report at Tables 17, 18, and 19.

industry declined more rapidly resulting in declines in the industry's financial performance.[87] The adverse effects of imports from Malaysia on prices received by the U.S. producers are also reflected in the decline in sales revenues despite relatively stable shipment volumes.

Based on the foregoing, Chairman Newquist, Vice Chairman Watson, Commissioner Rohr, and Commissioner Nuzum find that there is a reasonable indication that the domestic industry producing welded austenitic stainless steel pipe and pressure tube is materially injured by reason of allegedly LTFV imports of welded stainless steel pipes from Malaysia.

Vice Chairman Watson, Commissioner Brunsdale, and Commissioner Crawford believe the information in this investigation is deficient regarding certain matters relevant to their determinations. For example, the record contains no information concerning one of the two Malaysian producers of the subject imports.[88] In addition, in the event of a final investigation, further information regarding non-price factors affecting the substitutability of the domestic and imported product will be sought.[89] [90] After weighing the available evidence, and in light of the deficiencies noted above, they do not find that (1) the record as a whole contains clear and convincing evidence that there is no material injury or threat of such injury; and (2) no

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[87] Report at Table 9.

[88] Commissioner Brunsdale and Commissioner Crawford believe that data relating to the second producer's production, production capacity, and capacity utilization are fundamental to a determination that the record as a whole contains clear and convincing evidence that there is no threat of material injury.

[89] They note that following the initiation of the case on imports from Korea and Taiwan the domestic market has been in transition. Thus, complete information on the imports from Malaysia is particularly relevant.

[90] Vice Chairman Watson finds the information in the record regarding the substitutability of the subject imports and the domestic product to be sufficient.

likelihood exists that any contrary evidence will arise in a final investigation. Thus, they determine that there is a reasonable indication that the domestic industry is materially injured by reason of allegedly LTFV imports of welded austenitic stainless steel pipe from Malaysia.

INFORMATION OBTAINED IN THE INVESTIGATION

INTRODUCTION

On February 16, 1993, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce by counsel on behalf of Avesta Sheffield Pipe, Schaumburg, IL (owned by Avesta Sandvik Tube AB, Fagersta, Sweden); Bristol Metals, Bristol, TN (owned by Synalloy Corp., Spartanburg, SC); Damascus Tube Division of the Nes Bishop Tube Co., Greenville, PA (owned by Marcegaglia, SpA, Mantova, Italy); Trent Tube Division of Crucible Materials Corp., East Troy, WI; and the United Steelworkers of America, alleging that imports of welded stainless steel pipe[1] from Malaysia are being sold in the United States at less than fair value (LTFV) and that an industry in the United States is materially injured and threatened with material injury by reason of such imports. Accordingly, effective February 16, 1993, the Commission instituted antidumping investigation No. 731-TA-644 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was posted in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and published in the Federal Register on February 24, 1993 (58 F.R. 11247).[2] The public conference was held in Washington, DC, on March 9, 1993.[3] The statutory deadline for the Commission to transmit its determination to the Secretary of Commerce in this investigation is April 2, 1993.

PREVIOUS COMMISSION ANTIDUMPING AND COUNTERVAILING DUTY INVESTIGATIONS CONCERNING WELDED STAINLESS STEEL PIPE

The Commission has conducted four other antidumping investigations concerning welded stainless steel pipe. The first investigation, No. AA1921-180,[4] covered imports of welded stainless steel pipe and tube from Japan, and

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[1] For the purposes of this investigation, welded stainless steel pipe consists of any welded pipe, of circular cross section, that is made of austenitic (chromium-nickel) stainless steel. This type of pipe is manufactured to meet the standards and specifications set forth by the American Society for Testing and Materials (ASTM) product designations that include, but are not limited to, A-312, A-358, A-409, and A-778. Major applications for welded stainless steel pipe include digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines, and paper process machines. Welded stainless steel pipe is provided for in subheadings 7306.40.10 and 7306.40.50 of the Harmonized Tariff Schedule of the United States (HTS).

[2] Copies of cited Federal Register notices are presented in app. A.

[3] A list of witnesses who attended the conference is presented in app. B.

[4] Welded Stainless Steel Pipe and Tube from Japan, USITC Pub. 899, July 1978.

resulted in a negative determination by the Commission in July 1978. The second investigation, No. 731-TA-354 (Final), covered imports of welded stainless steel pipe and tube from Sweden and, following a court remand, resulted in an affirmative determination.[5] The third and fourth investigations, Nos. 731-TA-540 and 541 (Final),[6] covered imports of welded stainless steel ASTM A-312 pipe from the Republic of Korea and Taiwan, and resulted in affirmative determinations. Antidumping duty orders were implemented on such imports in December 1992 (57 F.R. 62300, December 30, 1992), with the following dumping margins (in percent):

Korea

Sammi Metal Products Co., Ltd.....	7.75
Pusan Steel Pipe Co., Ltd.....	2.55
All other exporters/producers.....	6.83

Taiwan

Jaung Yuann Enterprise Co., Ltd.....	31.90
Ta Chen Stainless Pipe Co., Ltd.....	3.51
Yeun Chyang Industrial Co., Ltd.....	31.90
All other exporters/producers.....	19.94

The Commission also conducted a countervailing duty investigation (No. 701-TA-281 (Final)), on stainless steel pipe and tube from Sweden, and reached a negative determination in that investigation.[7]

NATURE AND EXTENT OF ALLEGED SALES AT LTFV

There is no information relating to the nature and extent of the alleged LTFV sales other than the allegations of the petitioner. The petitioner identified one Malaysian producer, Kanzen Tetsu Sdn. Bhd. (owned by Kanzen, Bhd., Kuala Lumpur, Malaysia), which manufactures and exports welded stainless steel pipe to the United States. Using U.S. sales, offers, or bids in comparison to home market prices by Kanzen Tetsu, alleged LTFV margins ranged from 4 to 44 percent, with an average of 18 percent ad valorem.

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[5] Stainless Steel Pipe and Tube from Sweden, USITC Pub. 2033, November 1987. This investigation also involved seamless stainless steel pipe and tube for which the Commission's original final determination was affirmative. The original negative determination with respect to welded stainless steel pipe and tube was appealed to the U.S. Court of International Trade and remanded to the Commission for further consideration. On remand, the Commission determined that an industry in the United States was materially injured by reason of imports of welded stainless steel pipe and tube from Sweden found by Commerce to have been sold in the United States at LTFV. Welded Stainless Steel Pipe and Tube from Sweden, USITC Pub. 2304, August 1990. The case was appealed to the U.S. Court of Appeals for the Federal Circuit, which affirmed the Commission's affirmative remand determination. Trent Tube Div., Crucible Materials Corp. v. United States, No. 91-1173 (Fed. Cir. July 27, 1992).

[6] Certain Welded Stainless Steel Pipes from the Republic of Korea and Taiwan, USITC Pub. 2585, December 1992.

[7] Stainless Steel Pipe and Tube from Sweden, USITC Pub. 1966, April 1987.

THE PRODUCT

Description

The welded stainless steel pipe from Malaysia that is the subject of this investigation is produced according to standards and specifications set forth by the ASTM in product designations A-312, A-358, A-409, and A-778. These designations cover both seamless and welded austenitic (chromium-nickel) pipe; however, only the welded product is subject to this investigation. Because welded stainless steel pipe must meet particular specifications regarding raw material usage, method of manufacture, tolerances, and dimension, the imported and domestic products are essentially fungible.

In its most recent investigations covering imports of ASTM A-312 pipe from the Republic of Korea and Taiwan, the Commission determined that the like product consisted of all welded austenitic stainless steel pipe and welded austenitic stainless steel pressure tube (ASTM A-249, A-269, A-270, and A-688 tubing).[8] Accordingly, data on both products were collected in this investigation and are presented in this report.

In this investigation, petitioners assert that only welded austenitic stainless steel pipe constitutes the product that is "like" the imported product. According to petitioners, pressure tube should not be included within the like product definition.

Although there are differences between pipe and pressure tube in terms of physical dimensions and end uses, the products share a number of similarities in production processes, machinery, and employees. Certain industry officials indicated that the choice of the term "pipe" or "tube" is often a matter of semantics rather than a specific reference to the

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[8] The Commission determined that mechanical/ornamental tubing, ASTM A-554, was not included in the like product. It is of a lower quality than pressure tubing and as a result cannot serve the same function as pressure tubing. Mechanical/ornamental tubing is much thinner and lighter than welded stainless steel pipe, and in some instances is not round like pipe. These different physical characteristics of mechanical/ornamental tubing reflect the different end uses served. Mechanical/ornamental tubing is used either for structural or ornamental purposes, such as furniture and hand railings. The production process mechanical/ornamental tubing must undergo is much simpler than that of welded stainless steel pipe, given the less sophisticated nature of that type of tubing. Mechanical/ornamental tubing is generally not annealed. The weld bead is not smooth and flush. It may not even be straightened subsequent to the forming and welding process.

The Commission also excluded grade 409 tubing (different from ASTM A-409 pipe) from the like product in its recent investigations. Grade 409 tubing is an example of ferritic (containing chromium but no nickel) tubing and is used principally for automotive exhaust systems. It is not pressure tested and it cannot be used in any applications that require austenitic tubing. Grade 409 tubing producers tend to be limited to a discrete group of companies that manufacture Grade 409 tube products in many instances for captive consumption, and do not generally manufacture pipe.

characteristics of a particular type of tubular product; no tariff distinction is made on this basis.

Pipe generally has thicker walls, standard diameters and lengths, and is produced in high volumes. Pressure tube generally has thinner walls, a wide variety of dimensions, and is produced in small quantities. However, there is some overlap in physical characteristics, and while pipe is generally distinguishable from pressure tube, there are no absolutes when attempting to define these products.

Pipe tends to be used as a conduit to transmit liquids or gases. In contrast, pressure tube generally is manufactured to exact dimensions and other physical characteristics specified by the customer, and is generally used in heating and cooling applications.

Pipe and pressure tube are generally made with similar production processes (at least through the welding stage), sometimes on the same production lines. Pipe and pressure tube producers can generally produce either product on their mills, with die changes for different diameter specifications. The critical factor is the diameter of the product, not whether it is a pipe or a pressure tube. However, it is generally more cost effective to keep pipe production lines dedicated due to higher-volume orders for pipe than for pressure tube. The generally higher price of pressure tube compared with pipe is attributable in part to the lower-volume production lots and in part to value added by additional production steps, including cold drawing, cold working, and further annealing.

Within the different ASTM pipe categories, there are differences in physical characteristics and overlaps in production resources. For example, A-312 pipe is welded using no filler material, and is annealed (heat treated) and hydrostatically tested. A-778 pipe is welded using filler material and is not annealed or hydrostatically tested. In general, A-312 pipe can withstand greater pressure and consequently has heavier walls than A-778 pipe. Both are sometimes produced on the same machinery and equipment.

Among the various pressure tube products, there are similar production methods and different physical specifications. A-249 and A-269 pressure tube are generally produced on the same production machinery (in fact many tubes are produced to both specifications), with A-249 tube undergoing additional processes designed for greater pressure applications.

As used in this report, the terms "pipe" and "tube" refer to welded austenitic stainless steel pipe and welded austenitic stainless steel pressure tube unless otherwise specified.

Manufacturing Processes

There are three primary methods for producing welded tubular products: the continuous-mill process, the press-brake process, and the spiral-weld process. Both pipe and tube are made using these production methods. The ASTM sets forth specific requirements regarding the materials, method of manufacture, finishing operations, and testing to which welded pipe must conform to meet certain production and performance standards; accordingly,

domestic and foreign production processes for this product are believed to be essentially the same.

The continuous-mill process, which is the principal method of producing welded stainless steel pipe and pressure tube, begins with coils of cold-rolled sheet, strip, or plate. The coil has been annealed and pickled and produced to the dimensional, physical, and metallurgical limits specified by the pipe and/or tube producer. The coil is guided through a series of paired forming rolls. As it progresses through these rolls, its cross-sectional profile is changed into a tubular shape with the butted edges ready for welding.

Following the welding process, pipe is generally annealed (A-778 pipe is not), then cut to random length, pickled, tested hydrostatically, and stenciled. For some pipe products, the removal or smoothing of the interior weld bead prior to annealing is required.

The continuous-mill production process for welded stainless steel pressure tubing is fundamentally the same as that for welded pipe up through the welding process, although the equipment required to produce each product sometimes differs in size and in tooling. Welded tubing and some smaller diameter pipe generally undergo additional processes and refinements including cold drawing, cold working, and further annealing.

Another method of manufacturing welded stainless pipe and pressure tube is the press-brake process, in which a steel coil is cut to length and scored, or marked, in specified increments along the coil's end. A hammer press is manually placed on the coil at each score, gradually bending the sheet into a cylindrical shape. The resulting pipe or tubular product is subsequently welded (with filler material) and can also be annealed. The press-brake process is labor-intensive, but conforms more easily to the production of a broader range of sizes and smaller-volume orders than the continuous-mill method.

A third method of welded pipe and tubular product manufacture is the infrequently used spiral-weld process, in which a steel strip is spiraled and welded along the spiral. This process can be used to produce products of any size diameter, but the looped weld running throughout the product, rather than along a single longitudinal weld, is reportedly a disadvantage in terms of weld refinement and potential end use.

Uses

Welded stainless steel pipe, both domestic and imported, is generally used as a conduit to transport liquids and gases from one process to another in a process industry facility. Major uses for A-312 pipe include digester lines, pharmaceutical production lines, petrochemical stock lines, automotive paint lines, and various processing lines such as those in breweries, paper mills, and general food facilities. Other types of austenitic pipe appear to be less broadly used: for example, A-358 pipe, a specialized heavier-wall product category, is used primarily in highly critical applications such as nuclear power plants and liquified natural gas facilities, and A-778 pipe is used in less demanding pressure applications and is generally categorized as paper mill pipe.

Pressure tube, on the other hand, has a wider range of applications than pipe, ranging from less demanding structural uses to more critical applications. Pressure tube is often used to transform products from one product form to another as in chemical processing. A-249 and A-269 tube are used primarily in heating and cooling apparatus such as heat exchangers, condensers, boilers, and feed water heaters.

Substitute Products

There are a few instances in which pipe made of substitute materials such as plastics and other advanced materials can be used in the same applications as welded stainless steel pipe.[9] Properties imparted to the pipe by stainless steel, such as corrosion resistance, strength (e.g., ability to withstand pressure), and temperature resistance, generally are not imparted by the use of plastics. Similarly, carbon steel pipe and other relatively lower-priced steel pipe are not functional substitutes for stainless steel pipe.

Although there is some overlap in the end uses for welded and seamless stainless pipe and tube, the two types of tubular products are generally not commercially interchangeable, principally because of price and technical differences. Seamless tube tends to be more expensive to produce and is more commonly used in demanding applications that require exceptional strength, high-pressure containment, and a great degree of reliability.

U.S. Tariff Treatment

Imports of welded stainless steel pipe from Malaysia are classified for tariff purposes in subheadings 7306.40.10 and 7306.40.50 of the Harmonized Tariff Schedule of the United States (HTS), covering tubes, pipes, and hollow profiles, of stainless steel, and of circular cross section.

The column 1-general (most-favored-nation) rate of duty for the subject stainless steel pipe, applicable to products of Malaysia, is 7.6 percent ad valorem for pipe having a wall thickness of less than 1.65mm and 5 percent ad valorem for pipe having a wall thickness of 1.65mm or more.

U.S. PRODUCERS

There are 19 known producers of welded stainless steel pipe and tube in the United States. Thirteen firms, accounting for 78 percent of estimated 1992 total austenitic pipe and tube production, and 84 percent of estimated 1992 total austenitic pipe production, responded with usable data to the Commission questionnaire. Data coverage in this report includes all 13 firms unless otherwise noted. Responding producers' plant locations, product lines, production shares, and positions regarding the petition are presented in table 1.

Of the 13 responding firms, 3 produce only pipe, 3 produce only tube, and 7 produce both pipe and tube. The pipe and tube producers are capable of

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[9] Although plastic, such as reinforced fiberglass plastic, can be used for selected applications, it is not generally interchangeable with stainless material. Conference transcript, testimony of Joseph Avento, p. 42.

Table 1
Welded stainless steel pipe and pressure tube: Producers' product lines, shares of reported 1992 production of pipe and tube, plant locations, and position on the petition, by firms

Firm	Product produced	Outside diameter sizes	Share of 1992 rep. pipe & tube prod.	Share of 1992 reported pipe production	Plant location	Position on petition
		Inches	Percent	Percent		
Pipe producers:						
Alaskan.....	B	2.0-120.0	***	***	Seattle, WA	***
Bristol.....	A,B	0.5-48.0	***	***	Bristol, TN	Petitioner
Davis Pipe...	A,B	2.0-36.0	***	***	Blountville, TN	***
Pipe & tube producers:						
Avesta.....	A,C,D	0.5-36.0	***	***	Wildwood, FL	Petitioner
Damascus.....	A,B,D	0.3-8.0	***	***	Greenville, PA	Petitioner
LTV Steel....	A,D	0.1-6.6	***	***	Cleveland, OH	***
Swepco.....	A,B,D	5.0-48.0	***	***	Clifton, NJ	***
Trent.....	A,D	0.1-90.0	***	***	East Troy, WI	Petitioner
United.....	A,D	0.3-4.0	***	***	Beloit, WI	***
Webco.....	A,D	0.3-1.3	***	***	Mannford, OK	***
Tube producers:						
Allegheny....	D	0.6-3.0	***	***	Claremore, OK	***
Greenville...	D	0.1-1.4	***	***	Greenville, PA	***
Plymouth.....	D	0.1-1.5	***	***	West Monroe, LA	***

A: A-312 pipe.
B: A-778 pipe.
C: A-358 pipe.
D: A-249 and A-269 tube.

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

handling larger diameter pipe and tube than the firms producing only tube; most of the pipe and tube producers are capable of producing small diameter pipe and tube down to 1/2 inch; some tube producers only manufacture miniature instrumentation tubing of 1/8 to 1/2 inch in diameter. The pipe and tube producers all have some degree of overlap in the production machinery and personnel used to produce pipe and tube. The four petitioners accounted for *** percent of reported 1992 pipe and tube production, and *** percent of reported 1992 pipe production. Producers supporting the petition accounted for 88 percent of reported 1992 pipe and tube production, and those taking no position accounted for 12 percent.[10]

One producer, ***, imported pipe from Malaysia. Its 1992 imports from Malaysia totaled ***.

U.S. IMPORTERS

There are 12 known importers of pipe from Malaysia. Six importers, accounting for 51 percent of imports from Malaysia, responded to the Commission questionnaire with usable data. (Of these six, four also imported from Korea and/or Taiwan.) Data coverage in this report include all six responding firms unless otherwise noted.

CHANNELS OF DISTRIBUTION

Information obtained in response to the Commission's questionnaires on the channels of distribution of pipe and tube in 1992 is presented in the following tabulation (in percent based on quantity):

Item	U.S. producers' sales to--		U.S. importers' sales to--	
	Distributors	End users	Distributors	End users
Pipe.....	90.4	9.6	***	***
Pressure tube.....	36.8	63.2	***	***
Pipe and tube.....	69.5	30.5	***	***

The channels of distribution differ somewhat between pipe and pressure tube. U.S. manufacturers and importers of Malaysian product sell the great majority of their pipe to distributors, who then resell to end users in process industries. Due to the specialized nature of tubing products, a majority of tubing is sold directly to end users.

Both pipe and pressure tube are used in initial construction or in the replacement of existing facilities. Consequently, the market is characterized by end users that purchase small quantities of pipe and/or tube for their purposes as needed. Distributors usually maintain inventories of the most frequently used sizes and schedules (denoting wall thickness) of pipe, generally less than 6 inches in diameter and schedule 40 and lower, and order from importers and domestic manufacturers those sizes and schedules that are less common. Some distributors also inventory the more common sizes of pressure tube, but in smaller quantities than pipe.

[10] One producer, ***, opposed the petition.

CONSIDERATION OF ALLEGED MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES[11]

U.S. Producers' Capacity, Production, and Capacity Utilization

Data for U.S. production, capacity, and capacity utilization for pipe and tube are summarized in table 2. Although capacity for pipe and tube remained unchanged from 1990 to 1992, production declined by 2 percent, resulting in a slight decline in capacity utilization.

Table 2
Welded stainless steel pipe and pressure tube: U.S. capacity, production, and capacity utilization, by products, 1990-92

Item	1990	1991	1992
	Average-of-period capacity (short tons)		
Pipe	72,286	72,286	72,286
Pipe and pressure tube	127,931	127,931	127,931
	Production (short tons)		
Pipe	46,631	44,027	45,915
Pipe and pressure tube	73,730	72,971	72,224
	Capacity utilization (percent)		
Pipe	64.5	60.9	63.5
Pipe and pressure tube	57.6	57.0	56.5

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

U.S. Producers' Shipments

U.S. producers' shipments of pipe and tube are presented in table 3. The quantity of U.S. shipments of pipe and tube decreased by 6 percent from 1990 to 1991, then increased by 3 percent between 1991 and 1992, resulting in an overall decrease of 3 percent during 1990-92. The value of these shipments declined by 17 percent during 1990-92, as unit values decreased by 14 percent during the same period.

[11] Summary data for this section of the report are presented in app. C.

Table 3
Welded stainless steel pipe and pressure tube: Shipments by U.S. producers, by products and by types, 1990-92

Item	1990	1991	1992
	Quantity (short tons)		
Pipe:			
Company transfers	***	***	***
Domestic shipments	***	***	***
Subtotal	45,843	41,344	44,087
Exports	***	***	***
Total	***	***	***
Pipe and pressure tube:			
Company transfers	***	***	***
Domestic shipments	***	***	***
Subtotal	72,806	68,469	70,483
Exports	1,212	1,945	2,486
Total	74,018	70,414	72,969
	Value (1,000 dollars)		
Pipe:			
Company transfers	***	***	***
Domestic shipments	***	***	***
Subtotal	192,905	153,049	150,547
Exports	***	***	***
Total	***	***	***
Pipe and pressure tube:			
Company transfers	***	***	***
Domestic shipments	***	***	***
Subtotal	310,788	270,479	259,427
Exports	6,359	9,717	9,602
Total	317,147	280,196	269,029
	Unit value (per short ton)		
Pipe:			
Company transfers	$***	$***	$***
Domestic shipments	***	***	***
Average	4,208	3,702	3,415
Exports	***	***	***
Average	***	***	***
Pipe and pressure tube:			
Company transfers	***	***	***
Domestic shipments	***	***	***
Average	4,269	3,950	3,681
Exports	5,247	4,996	3,862
Average	4,285	3,979	3,687

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

U.S. Producers' Inventories

Data on U.S. producers' end-of-period inventories of pipe and tube are presented in table 4. Inventories of pipe and tube increased by 42 percent from 1990 to 1991, then decreased by 5 percent between 1991 and 1992, for an overall increase of 35 percent during 1990-92.

Table 4
Welded stainless steel pipe and pressure tube: End-of-period inventories of U.S. producers, by products, 1990-92

Item	1990	1991	1992
	Quantity (short tons)		
Pipe	4,585	6,539	6,768
Pipe and pressure tube	6,303	8,916	8,509
	Ratio to production (percent)		
Pipe	9.8	14.9	14.7
Pipe and pressure tube	8.5	12.2	11.8
	Ratio to U.S. shipments (percent)		
Pipe	10.0	15.8	14.9
Pipe and pressure tube	8.7	13.0	11.8

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

U.S. Employment, Compensation, and Productivity

Data on employment and productivity are shown in table 5. The number of production workers producing pipe and tube declined by 16 percent during 1990-92. Hours worked and hourly wages decreased significantly, and productivity increased substantially during the same period.

Table 5
Average number of U.S. production and related workers producing welded stainless steel pipe and pressure tube, hours worked, 1/ wages and total compensation paid to such employees, and hourly wages, productivity, and unit labor costs, 2/ by products, 1990-92

Item	1990	1991	1992
	Number of production and related workers (PRWs)		
Pipe	716	621	628
Pipe and pressure tube	1,418	1,329	1,196
	Hours worked by PRWs (1,000 hours)		
Pipe	1,309	1,250	1,098
Pipe and pressure tube	2,816	2,663	2,237
	Wages paid to PRWs (1,000 dollars)		
Pipe	19,393	16,965	14,484
Pipe and pressure tube	37,837	34,820	28,977
	Total compensation paid to PRWs (1,000 dollars)		
Pipe	24,042	21,200	19,051
Pipe and pressure tube	46,840	43,315	37,244
	Hourly wages paid to PRWs		
Pipe	$14.82	$13.57	$13.19
Pipe and pressure tube	13.44	13.08	12.95
	Hourly total compensation paid to PRWs		
Pipe	$18.37	$16.96	$17.35
Pipe and pressure tube	16.63	16.27	16.65
	Productivity (short tons per 1,000 hours)		
Pipe	35.6	35.2	41.8
Pipe and pressure tube	26.2	27.4	32.3
	Unit labor costs (per short ton)		
Pipe	$515.58	$481.52	$414.92
Pipe and pressure tube	635.29	593.59	515.67

1/ Consists of hours worked plus hours of paid leave time.
2/ On the basis of total compensation paid.

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

Financial Experience of U.S. Producers

Twelve producers,[12] representing *** percent of reported U.S. welded stainless steel pipe and pressure tube production in 1992, submitted usable financial data on welded stainless steel pipe and tube.

Operations on Overall Establishments

Overall establishment income-and-loss data for the producers are shown in table 6. The downward trends in overall establishment net sales revenues, operating income, and net income before income taxes, correspond to similar trends for welded stainless steel pipe and pressure tube, both individually and combined, although net sales revenues for welded stainless steel pipe were essentially unchanged from 1991 to 1992. Establishment products produced (other than welded stainless steel pipe and pressure tube) include seamless pipe and tube, nickel alloy pipe and tube, and mechanical tubing. As a share of 1992 establishment net sales revenues, welded stainless steel pipe and pressure tube net sales were 73 percent.

Operations on Welded Stainless Steel Pipe

Income-and-loss data for the producers of welded stainless steel pipe are shown in table 7. Although there was an improvement in 1992 quantities sold compared to the 1990 level (after the low point for net sales revenues and quantities sold in 1991), the reporting companies in the aggregate experienced their worst operating results in 1992. The deterioration of profit margins between 1990 and 1992 appears to be the consequence of average net prices decreasing at a greater rate than costs. On an average per-ton basis, net sales declined from $4,026 in 1990 to $3,369 in 1992, or by 16 percent during the period. Cost of goods sold on an average per-unit basis also decreased, but at a lower rate, from $3,500 per ton in 1990 to $3,146 per ton in 1992, or by 10 percent.[13]

Raw material costs for purchased (except ***, which manufactures its own) cold-rolled stainless steel sheet, strip, and plate, represent the major component of cost of goods sold for the producers of welded stainless steel pipe. Costs of the basic purchased materials are evidently decreasing as the suppliers are passing on savings from reduced mineral surcharges and increased supply of domestic alloy scrap and ferrochromium refining capacity. Apparently, either by reduced prices or increased manufacturing efficiencies, the producers have been able to steadily reduce their per-unit raw material costs as shown in the following tabulation for cost-of-goods-sold component costs for raw materials, direct labor, and factory overhead (per ton):

---

[12] The companies are ***.

[13] Product mix changes may yield results different from those had the product mix been constant throughout the period.

Table 6
Income-and-loss experience of U.S. producers 1/ on the overall operations of their establishments wherein welded stainless steel pipe and pressure tube are produced, fiscal years 1990-92

Item	1990	1991	1992
	Value (1,000 dollars)		
Net sales	412,637	362,216	355,596
Cost of goods sold	349,682	314,473	316,234
Gross profit	62,955	47,743	39,362
Selling, general, and administrative expenses	38,760	36,231	33,006
Operating income or (loss)	24,195	11,512	6,356
Interest expense	5,468	4,390	4,583
Other income or (loss), net	391	(520)	192
Net income or (loss) before income taxes	19,118	6,602	1,965
Depreciation and amortization included above	7,559	8,164	8,587
Cash flow 2/	26,677	14,766	10,552
	Ratio to net sales (percent)		
Cost of goods sold	84.7	86.8	88.9
Gross profit	15.3	13.2	11.1
Selling, general, and administrative expenses	9.4	10.0	9.3
Operating income or (loss)	5.9	3.2	1.8
Net income or (loss) before income taxes	4.6	1.8	0.6
	Number of firms reporting		
Operating losses	***	***	***
Net losses	***	***	***
Data	***	***	***

1/ The companies are ***.
2/ Cash flow is defined as net income or loss plus depreciation and amortization.

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

Table 7
Income-and-loss experience of U.S. producers 1/ on their welded stainless steel pipe operations, fiscal years 1990-92

Item	1990	1991	1992
	Quantity (tons)		
Net sales	39,675	35,385	39,934
	Value (1,000 dollars)		
Net sales	182,764	149,337	150,664
Cost of goods sold	155,189	134,183	139,592
Gross profit	27,575	15,154	11,072
Selling, general, and administrative expenses	16,738	14,608	13,502
Operating income or (loss)	10,837	546	(2,430)
Interest expense	1,728	1,062	966
Other income or (loss), net	508	92	54
Net income or (loss) before income taxes	9,617	(424)	(3,342)
Depreciation and amortization included above	2,965	3,105	3,127
Cash flow 2/	12,582	2,681	(215)
	Ratio to net sales (percent)		
Cost of goods sold	84.9	89.9	92.7
Gross profit	15.1	10.1	7.3
Selling, general, and administrative expenses	9.2	9.8	9.0
Operating income or (loss)	5.9	0.4	(1.6)
Net income or (loss) before income taxes	5.3	(0.3)	(2.2)
	Value (per ton) 3/		
Net sales	$4,026	$3,637	$3,369
Cost of goods sold	3,500	3,313	3,146
Gross profit	526	324	222
Selling, general, and administrative expenses	299	296	266
Operating income or (loss)	227	29	(44)
Net income or (loss) before income taxes	196	1	(67)
	Number of firms reporting		
Operating losses	***	***	***
Net losses	***	***	***
Data	***	***	***

1/ The companies are ***.
2/ Cash flow is defined as net income or loss plus depreciation and amortization.
3/ Because of rounding and one company *** not providing quantities with its data, figures may not be derivable from data shown.

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

Item	1990	1991	1992
Cost of goods sold:[1]			
Raw materials	$2,546	$2,399	$2,295
Direct labor	292	317	286
Other factory costs	662	597	566
Total cost of goods sold	3,500	3,313	3,146

[1] Calculated on the basis of *** producers of welded stainless steel pipe that provided quantities with their data.

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

Raw material, direct labor, and factory overhead costs as a percentage of cost of goods sold are shown in the following tabulation:

Item	1990	1991	1992
Cost of goods sold:[1]			
Raw materials	72.4	71.5	72.1
Direct labor	8.3	9.3	8.9
Other factory costs	19.3	19.2	19.0
Total cost of goods sold	100.0	100.0	100.0

[1] Calculated on the basis of *** producers of welded stainless steel pipe that provided cost of goods sold by component.

Net sales revenues, operating income (loss), and operating income (loss) margins for welded stainless steel pipe, by firm, are presented in table 8. *** companies experienced lower net sales revenues in 1992 than in 1991 and 1990, and *** companies realized improved net sales revenues in 1992 compared to 1991. *** companies experienced lower net sales revenues in 1991 compared to 1990. *** companies experienced lower operating income margins in 1992 compared to 1990. *** was the only company to reverse the trend in 1992 with an improvement in operating income compared to 1991. In fact, only *** were able to experience positive operating margins in 1992.

Operations on Welded Stainless Steel Pipe and Pressure Tube

Income-and-loss data for the producers' operations on welded stainless steel pipe and pressure tube are shown in table 9. In 1992, stainless steel pipe accounted for 58 percent of aggregate sales but, because of higher costs, only 44 percent of gross profits and all operating/net losses (operating income margins for pressure tube operations alone were 4.7 percent in 1990, 5.0 percent in 1991, and 4.1 percent in 1992). The differences are largely accounted for by the fact that the three producers of pressure tube only were much more profitable, on average, than the other producers (operating margins of 7.6 percent and (0.5) percent, respectively, in 1992). Net sales values and profit margins for the combined operations decreased during 1990-92, much the same as for the welded stainless steel pipe operations. Similar to those operations, the deterioration of profit margins for the combined operations of welded stainless steel pipe and pressure tube are due to decreasing average unit prices at a greater rate than decreasing average unit costs. Although 1992 quantities sold were at the 1990 level, the 1992 operating income was just 12 percent of the 1990 operating income.

Table 8
Income-and-loss experience of U.S. producers on their welded stainless steel pipe operations, by firms, fiscal years 1990-92

Item	1990	1991	1992
	Value (1,000 dollars)		
Net sales:			
* * * * * * *			
Total	182,764	149,337	150,664
Operating income (loss):			
* * * * * * *			
Total	10,837	546	(2,430)
	Share of net sales (percent)		
Operating income (loss):			
* * * * * * *			
Average	5.9	0.4	(1.6)

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

Table 9
Income-and-loss experience of the U.S. producers 1/ on their operations producing welded stainless steel pipe and pressure tube, fiscal years 1990-92

Item	1990	1991	1992
	Quantity (tons)		
Net sales	66,807	62,630	66,465
	Value (1,000 dollars)		
Net sales	306,246	269,520	260,978
Cost of goods sold	261,456	236,644	235,801
Gross profit	44,790	32,876	25,177
Selling, general, and administrative expenses	28,179	26,319	23,125
Operating income or (loss)	16,611	6,557	2,052
Interest expense	4,875	3,855	4,069
Other income or (loss), net	27	(626)	20
Net income or (loss) before income taxes	11,763	2,076	(1,997)
Depreciation and amortization included above	6,507	6,986	7,224
Cash flow 2/	18,270	9,062	5,227
	Ratio to net sales (percent)		
Cost of goods sold	85.4	87.8	90.4
Gross profit	14.6	12.2	9.6
Selling, general, and administrative expenses	9.2	9.8	8.9
Operating income or (loss)	5.4	2.4	0.8
Net income or (loss) before income taxes	3.8	0.8	(0.8)
	Value (per ton) 3/		
Net sales	$4,239	$3,974	$3,684
Cost of goods sold	3,670	3,508	3,338
Gross profit	570	466	346
Selling, general, and administrative expenses	349	354	305
Operating income or (loss)	221	112	41
Net income or (loss) before income taxes	148	40	(20)
	Number of firms reporting		
Operating losses	***	***	***
Net losses	***	***	***
Data	***	***	***

1/ The companies are ***.

2/ Cash flow is defined as net income or loss plus depreciation and amortization.

3/ Because of rounding and one company *** not providing quantities with its data, figures may not be derivable from data shown.

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

Net sales revenues, operating income, and operating income as a ratio to net sales revenues, by firm, are presented in table 10. Except for ***, *** of the producers exhibited net sales revenues in 1992 greater than the 1990 level, although *** experienced increases in net sales revenues in 1992 compared to 1991. Analogous to the trends in net sales revenues, operating incomes were lower in 1992 than in 1990 (with the exception of ***), but *** were able to show improvement from 1991 to 1992.

Table 10
Income-and-loss experience of U.S. producers on their welded stainless steel pipe and pressure tube operations, by firms, fiscal years 1990-92

Item	1990	1991	1992
	Value (1,000 dollars)		
Net sales:			
* * * * * * *			
Total	306,246	269,520	260,978
Operating income (loss):			
* * * * * * *			
Total	16,611	6,557	2,052
	Ratio to net sales (percent)		
Operating income (loss):			
* * * * * * *			
Average	5.4	2.4	0.8

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

As with welded stainless steel pipe, raw material costs (*** manufacture their own raw material) represent the major component of cost of goods sold. Cost of goods sold showing per-unit costs for raw materials, direct labor, and factory overhead is shown in the following tabulation (per ton):

Item	1990	1991	1992
Cost of goods sold:[1]			
Raw materials	$2,454	$2,351	$2,252
Direct labor	341	381	345
Other factory costs	875	776	740
Total cost of goods sold	3,670	3,508	3,338

[1] Calculated on the basis of *** producers of welded stainless steel pipe and/or tube that provided quantities with their data.

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

The respective percentages for raw materials, direct labor, and factory overhead are shown in the following tabulation:

Item	1990	1991	1992
Cost of goods sold:[1]			
Raw materials	67.1	66.9	67.3
Direct labor	9.2	10.6	10.2
Other factory costs	23.8	22.5	22.5
Total cost of goods sold	100.0	100.0	100.0

[1] Calculated on the basis of 12 producers of welded stainless steel pipe and/or tube that provided cost of goods sold by component.

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

Capital Expenditures

Capital expenditures provided by the producers[14] for welded stainless steel pipe and pressure tube are shown in table 11. The expenditures are almost entirely for machinery and equipment.

Table 11
Welded stainless steel pipe and pressure tube: Capital expenditures by U.S. producers, by products, fiscal years 1990-92

(In thousands of dollars)

Item	1990	1991	1992
All products of establishments	7,447	6,684	4,359
Stainless steel pipe	2,604	3,955	3,221
Stainless steel pipe and pressure tube	5,824	5,746	3,922

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

Research and Development Expenses

*** research and development expenses for welded stainless steel pipe and pressure tube operations as presented in table 12.

Table 12
Welded stainless steel pipe and pressure tube: Research and development expenses of U.S. producers, by products, fiscal years 1990-92

* * * * * * *

[14] ***.

Investment in Productive Facilities

The investments in productive facilities for the producers are presented in table 13 for operations on their welded stainless steel pipe and/or pressure tube.

Impact of Imports on Capital and Investment

The Commission requested the U.S. producers to describe any actual or potential negative effects of imports of stainless steel pipe from Malaysia on their growth, development and production efforts, investment, and ability to raise capital (including efforts to develop a derivative or improved version of the product). Their comments are presented in appendix D.

CONSIDERATION OF THE QUESTION OF THREAT OF MATERIAL INJURY

Section 771(7)(F)(i) of the Tariff Act of 1930 (19 U.S.C. § 1677(7)(F)(i)) provides that--

> In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant economic factors[15]--
>
> > (I) If a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),
> >
> > (II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,
> >
> > (III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,
> >
> > (IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,
> >
> > (V) any substantial increase in inventories of the merchandise in the United States,

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[15] Section 771(7)(F)(ii) of the act (19 U.S.C. § 1677(7)(F)(ii)) provides that "Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition."

Table 13
Welded stainless pipe and pressure tube: Value of assets 1/ of U.S. producers, by products, fiscal years 1990-92

(In thousands of dollars)

Item	As of the end of fiscal year-- 1990	1991	1992
All products of establishments:			
Fixed assets:			
Original cost	90,335	88,036	90,903
Book value	54,444	52,083	49,260
Total assets 2/	144,067	131,064	128,722
Stainless steel pipe:			
Fixed assets:			
Original cost	42,105	39,512	41,106
Book value	22,881	23,083	22,648
Total assets 2/	65,998	59,174	59,117
Stainless steel pipe and pressure tube:			
Fixed assets:			
Original cost	83,495	80,381	81,549
Book value	50,612	48,112	44,477
Total assets 2/	137,874	124,964	121,489
	Return on total assets (percent)		
All products of establishments:			
Operating return 3/	13.6	7.5	4.8
Net return 4/	9.8	3.9	1.5
Stainless steel pipe:			
Operating return 3/	12.6	1.1	(2.2)
Net return 4/	9.8	(0.9)	(4.0)
Stainless steel pipe and pressure tube:			
Operating return 3/	9.5	4.5	2.4
Net return 4/	5.7	0.9	(1.0)

1/ *** did not provide total assets. *** did not provide fixed assets. ***.

2/ Defined as book value of fixed assets plus current and noncurrent assets. Total establishment assets were apportioned by firm to product groups on the basis of the ratios of the respective book values of fixed assets.

3/ Defined as operating income or (loss) divided by segment total assets.

4/ Defined as net income or (loss) divided by segment total assets.

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

> (VI) the presence of underutilized capacity for producing the merchandise in the exporting country,
>
> (VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury,
>
> (VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to final orders under section 736, are also used to produce the merchandise under investigation,
>
> (IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and
>
> (X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.[16]

Items (I) and (IX) are not relevant to this investigation. Information on the volume, U.S. market penetration, and pricing of imports of the subject merchandise (items (III) and (IV) above) is presented in the section entitled "Consideration of the causal relationship between imports of the subject merchandise and alleged material injury," and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts (item (X)) is presented in the section entitled "Consideration of alleged material injury to an industry in the United States." Available information on U.S. inventories of the subject products (item (V)); foreign producers' operations, including the potential for "product-shifting" (items (II), (VI), and (VIII) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets, follows.

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[16] Section 771(7)(F)(iii) of the act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

U.S. Importers' Inventories

U.S. importers reported no inventories of imports of pipe from Malaysia in 1990 or 1991. In 1992, inventories totaled 679 tons, amounting to 38 percent of reported imports and 82 percent of reported shipments of imports.

Ability of Foreign Producers to Generate Exports and the Availability of Export Markets Other than the United States

According to the official government sources, there are two producers of welded stainless steel pipe in Malaysia: Kanzen Tetsu Sdn. Bhd., a producer and exporter to the United States, and Amalgamated Stainless Steel Mill Bhd., which currently exports very little of its production to the United States and currently produces only about 60 tons per year.[17] Counsel representing Kanzen Tetsu supplied data concerning its production, inventories, and shipments, as shown in table 14.

Kanzen Tetsu's capacity, production, shipments, and inventories *** from 1990 to 1992, and all but inventories are expected to *** during 1993. There is *** to produce the subject product. Exports to the United States are ***.

Table 14
Welded stainless steel pipe: Kanzen Tetsu's capacity, production, inventories, and shipments, 1990-92, and projected 1993

* * * * * * *

CONSIDERATION OF THE CAUSAL RELATIONSHIP BETWEEN IMPORTS OF THE SUBJECT MERCHANDISE AND ALLEGED MATERIAL INJURY

U.S. Imports

The Commission received import data in response to its questionnaire to U.S. importers, but the resulting data coverage was incomplete, accounting for approximately 51 percent of total U.S. imports from Malaysia in 1992. Accordingly, the import data presented in table 15 consist of official U.S. import statistics of the U.S. Department of Commerce. However, even these data have some limitations. For example, the official statistics encompass not only pipe, but also include unknown quantities of tube. For the purposes of this investigation it is assumed that welded austenitic stainless steel pipe accounts for 100 percent of U.S. imports under the HTS subheadings reserved for welded stainless steel pipe and tube; although this may somewhat overstate the amount of imports of subject pipe, it is believed that imports

[17] U.S. Department of State telegram, ref. tel. 1882, U.S. embassy in Kuala Lumpur, March 11, 1993. The petition (exhibit 5, p. 1) claims that Amalgamated produced an estimated 1,800 tons of welded stainless steel pipe and tube in 1992. The petition did not indicate the amount of Amalgamated's estimated production that is attributable to the subject product.

Table 15
Welded stainless steel pipe: U.S. imports, by products and by sources, 1990-92

Source	1990	1991	1992
	Quantity (short tons)		
Malaysia	0	150	3,553
Korea	3,328	5,074	1,385
Taiwan	7,979	9,197	4,158
Subtotal	11,307	14,421	9,095
Other sources	10,738	10,110	8,790
Total	22,045	24,531	17,885
	Value (1,000 dollars)		
Malaysia	0	437	9,896
Korea	9,906	15,172	3,719
Taiwan	26,531	29,305	12,196
Subtotal	36,437	44,914	25,811
Other sources	40,271	33,035	38,336
Total	76,708	77,949	64,147
	Unit value (per short ton)		
Malaysia	1/	$2,915	$2,785
Korea	$2,977	2,990	2,686
Taiwan	3,325	3,186	2,934
Average	3,223	3,114	2,838
Other sources	3,750	3,267	4,361
Average	3,480	3,178	3,587

1/ Not applicable.

Note.--Because of rounding, figures may not add to the totals shown; unit values are calculated from unrounded figures.

Source: Compiled from official statistics of the U.S. Department of Commerce.

of other pipe and tube are quite small.[18] Imports of pipe from Malaysia began in late 1991 and increased dramatically in 1992. There are recent (December 1992) antidumping duty orders against imports of ASTM A-312 pipe from the Republic of Korea and Taiwan. Accordingly, imports from these countries are also included in table 15.[19]

Apparent Consumption and Market Penetration of LTFV Imports

Table 16 presents data on apparent U.S. consumption of pipe and tube, and imports of pipe from Malaysia, Korea, Taiwan, and all other countries as a share of apparent consumption. From 1990 to 1991, consumption of pipe and tube decreased in quantity and value, although the decline in value was greater, reflecting a decrease in average unit values during that period. From 1991 to 1992, consumption again decreased in quantity, value, and average unit values. The quantity of imports of subject pipe from Malaysia increased as a share of consumption of pipe and pressure tube from less than 1 percent in 1991 to 4 percent in 1992. Aggregate imports from Malaysia, Korea, and Taiwan initially gained market share from 1990 to 1991, then lost market share between 1991 and 1992, for an overall loss of market share of about 2 percentage points during 1990-92. U.S. producers' market share of pipe and pressure tube experienced an early erosion from 1990 to 1991, but grew in 1992, for an overall increase of 3 percentage points during 1990-92.

Prices and Market Characteristics

Market Characteristics

The demand for welded stainless steel pipe depends on the level of industrial activity in process industries such as chemicals, pulp and paper, food and beverages, and pharmaceuticals, that require the transfer of corrosive liquids, solids, and gases. End users' purchases of pipe vary depending on the level of new and replacement construction at processing facilities. The majority of domestic producers and importers queried indicated decreasing demand for pipe during the most recent part of the period for which data were collected in this investigation.

Sales of U.S.-produced pipe are transacted on both an f.o.b. and delivered basis depending on the order size and supplier. Four of the

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[18] The HTS subheadings in the petition, in the Commission's notice of institution, and in Commerce's notice of initiation exclude certain welded stainless steel pipe and tube over 406.4 mm in outside diameter. Although pipe having an outside diameter over 406.4 mm is included within the scope of this investigation, imports of certain products over 406.6 mm are not included in the official statistics presented herein. However, imports of products over 406.4 mm are believed to be very small.

[19] A recent (November 1992) antidumping order was also issued against imports of stainless pipes and tubes from Sweden. However, the Commission determined in an earlier case that these imports were neglibible. Certain Welded Stainless Steel Pipes from the Republic of Korea and Taiwan, USITC Pub. 2585, December 1992, pp. 21-21, footnote 85.

Table 16
Welded stainless steel pipe and pressure tube: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, by products, 1990-92

Item	1990	1991	1992
	Quantity (short tons)		
Pipe:			
Producers' U.S. shipments..	45,843	41,344	44,087
U.S. imports from--			
Malaysia.....	0	150	3,553
Korea.....	3,328	5,074	1,385
Taiwan.....	7,979	9,197	4,158
Subtotal.....	11,307	14,421	9,095
Other sources.....	10,738	10,110	8,790
Total.....	22,045	24,531	17,885
Apparent consumption.....	67,888	65,875	61,972
Pipe and pressure tube:			
Producers' U.S. shipments..	72,806	68,469	70,483
U.S. imports of subject pipe from--			
Malaysia.....	0	150	3,553
Korea.....	3,328	5,074	1,385
Taiwan.....	7,979	9,197	4,158
Subtotal.....	11,307	14,421	9,095
Other sources.....	10,738	10,110	8,790
Total.....	22,045	24,531	17,885
Apparent consumption.....	94,851	93,000	88,368
	Value (1,000 dollars)		
Pipe:			
Producers' U.S. shipments..	192,905	153,049	150,547
U.S. imports from--			
Malaysia.....	0	437	9,896
Korea.....	9,906	15,172	3,719
Taiwan.....	26,531	29,305	12,196
Subtotal.....	36,437	44,914	25,811
Other sources.....	40,271	33,035	38,336
Total.....	76,708	77,949	64,147
Apparent consumption.....	269,613	230,998	214,694
Pipe and pressure tube:			
Producers' U.S. shipments..	310,788	270,479	259,427
U.S. imports of subject pipe from--			
Malaysia.....	0	437	9,896
Korea.....	9,906	15,172	3,719
Taiwan.....	26,531	29,305	12,196
Subtotal.....	36,437	44,914	25,811
Other sources.....	40,271	33,035	38,336
Total.....	76,708	77,949	64,147
Apparent consumption.....	387,496	348,428	323,574

Table continued on next page.

Table 16--Continued
Welded stainless steel pipe and pressure tube: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, by products, 1990-92

Item	1990	1991	1992
	Share of the quantity of U.S. consumption (percent)		
Pipe:			
Producers' U.S. shipments..	67.5	62.8	71.1
U.S. imports from--			
Malaysia.....	0	.2	5.7
Korea.....	4.9	7.7	2.2
Taiwan.....	11.8	14.0	6.7
Subtotal.....	16.7	21.9	14.7
Other sources.....	15.8	15.3	14.2
Total.....	32.5	37.2	28.9
Pipe and pressure tube:			
Producers' U.S. shipments..	76.8	73.6	79.8
U.S. imports of subject pipe from--			
Malaysia.....	0	.2	4.0
Korea.....	3.5	5.5	1.6
Taiwan.....	8.4	9.9	4.7
Subtotal.....	11.9	15.5	10.3
Other sources.....	11.3	10.9	9.9
Total.....	23.2	26.4	20.2
	Share of the value of U.S. consumption (percent)		
Pipe:			
Producers' U.S. shipments..	71.5	66.3	70.1
U.S. imports from--			
Malaysia.....	0	.2	4.6
Korea.....	3.7	6.6	1.7
Taiwan.....	9.8	12.7	5.7
Subtotal.....	13.5	19.4	12.0
Other sources.....	14.9	14.3	17.9
Total.....	28.5	33.7	29.9
Pipe and pressure tube:			
Producers' U.S. shipments..	80.2	77.6	80.2
U.S. imports of subject pipe from--			
Malaysia.....	0	.1	3.1
Korea.....	2.6	4.4	1.1
Taiwan.....	6.8	8.4	3.8
Subtotal.....	9.4	12.9	8.0
Other sources.....	10.4	9.5	11.8
Total.....	19.8	22.4	19.8

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

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

responding U.S. producers sell pipe mainly on an f.o.b. mill basis, while six producers commonly sell on both an f.o.b. and a delivered basis depending on the quantities involved. For example, *** sells on an f.o.b. basis for quantities up to 5,000 lbs and on a delivered basis for quantities over 5,000 lbs. *** reported that orders under 15,000 lbs are sold on an f.o.b. basis. Three of the five responding importers sell on an f.o.b. U.S. port or dock basis, while two importers sell on both an f.o.b. and delivered basis.

Price lists for pipe in most instances function as a basis to determine discounts based on quantity purchased and current market prices. Six of ten producers reported publishing price lists and most reported that each typically discounts from these lists; one producer, *** reported that discount levels have increased from *** percent in 1990 to *** percent in 1992. No importers reported publishing price lists although one indicated that it uses U.S. industry price sheets as a basis for establishing discounts, provided the prices permit realization of profit goals. Other importers indicated basing quotes on the value of the transaction and competitive circumstances.

U.S. producers of pipe sell on a spot basis, although two large producers (***) sell respectively approximately *** and *** percent on contract. Response time between order and delivery to a customer ranges from 3-5 days to 4 weeks for shipments from inventory and from 2 to 12 weeks for shipments of orders that cannot be filled through existing inventory. Most importers sell exclusively on a spot basis. Response time for pipe orders ranges from less than a week for shipments from inventory to 1-5 months for deliveries from Malaysian producers.

All producers and importers conduct a nationwide business and evidence obtained indicates that prices do not vary regionally to any significant extent. Reported transportation costs in the United States account for only a small percentage of the total delivered cost of pipe, ranging from less than 1 percent to 5 percent for the majority of importers and producers.

Questionnaire responses indicate demand for welded stainless steel pipe is relatively price-sensitive; purchasers may choose from a variety of pipe products at the distributor level and are likely to buy on the basis of price. For this reason, one domestic producer reports ***. When asked specifically about quality, eight out of nine responding producers and four out of five importers stated that quality differences between the U.S. product and imports were not a major factor affecting domestic sales. One importer indicated that differences in quality between the Malaysian and the U.S.-produced product were a significant factor in sales. The firm stated that the quality of the Malaysian pipe is perceived as not altogether uniform for certain critical usage applications. All U.S. producers and the majority of importers of the subject product, however, reported that U.S. and Malaysian pipe can be used interchangeably in virtually all applications.

Price Data

The Commission requested U.S. producers and importers to report net f.o.b. selling prices for sales of specified welded stainless steel pipe to unrelated U.S. distributors, as well as the total quantity shipped and the total net f.o.b. value shipped in each quarter to all unrelated distributors.

The price data were requested for the largest single sale and for total sales of the products specified, by quarters, from January 1990 through December 1992. Importers were also requested to report separately for each product imported from Malaysia. The products for which pricing data were requested are as follows:

PRODUCT 1: ASTM-A-312, welded, grade AISI 304 pipe, 1-inch schedule 40

PRODUCT 2: ASTM-A-312, welded, grade AISI 304 pipe, 2-inch schedule 40

PRODUCT 3: ASTM-A-312, welded, grade AISI 316L pipe, 2-inch schedule 40

Six domestic producers and four importers provided pricing data for sales of the three requested products in the U.S. market, although not necessarily for all three products or all quarters over the period examined (January-March 1990 to October-December 1992). Prices of the Malaysian products were only reported for the quarters beginning April-June 1992 for product 1, and October-December 1991 for products 2 and 3.

Domestic Prices

Domestic weighted-average prices for the specified welded austenitic stainless steel products initially trended downward during 1990 and 1991. Data in tables 17 and 18 show that in the case of products 1 and 2, domestic prices decreased from *** and *** per hundred feet in January-March 1990 to respective lows of *** and *** per hundred feet in October-December 1991 before increasing unevenly to *** and *** per hundred feet in the fourth quarter of 1992. Domestic prices of product 3 reached a low of *** per hundred feet in April-June 1992, before recovering to a price of *** per hundred feet in the fourth quarter of 1992 (table 19).

Table 17
Product 1: Weighted-average net f.o.b. prices and quantities for sales to distributors reported by U.S. producers and importers, and margins of underselling, by quarters, January 1990-December 1992

* * * * * * *

Table 18
Product 2: Weighted-average net f.o.b. prices and quantities for sales to distributors reported by U.S. producers and importers, and margins of underselling, by quarters, January 1990-December 1992

* * * * * * *

Table 19
Product 3: Weighted-average net f.o.b. prices and quantities for sales to distributors reported by U.S. producers and importers, and margins of underselling, by quarters, January 1990-December 1992

* * * * * * *

Malaysian Prices

Four importers of Malaysian welded austenitic stainless steel pipe provided limited price data. For this reason, it is difficult to determine a Malaysian price trend, and few price comparisons were possible. The prices of products 1 and 2 fell over the three quarters of 1992 for which there are data. During April-December 1992 products 1 and 2 were sold for between *** and *** per hundred feet and *** and *** per hundred feet, respectively. The Malaysian product was lower-priced than the domestic by respective margins ranging from *** to *** percent and *** to *** percent. The one price reported for product 2 from Malaysia in 1991 was *** percent below the domestic price. The price of product 3 from Malaysia reached a low of *** in April-June 1992, before rebounding to a price of *** per hundred feet in the fourth quarter of 1992. The Malaysian product undersold the equivalent domestic product by margins ranging from *** to *** percent.

Lost Sales and Lost Revenues

U.S. producers identified no specific instances of lost sales or revenues. Producers' questionnaire responses indicate that pipe products are sold to distributors where the product often loses its traceability, making it difficult to determine the source of imports responsible for possible lost sales and/or revenues.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that during January-March 1990 through October-December 1992 the nominal value of the Malaysian ringgit fluctuated slightly, appreciating 3.6 percent overall relative to the U.S. dollar (table 20).[20] Adjusted for movements in producer price indexes in the United States and Malaysia, the real value of the Malaysian currency showed an overall appreciation of 2.2 percent for the period January-March 1990 through the third quarter of 1991, the most recent period for which official price data are available.

[20] International Financial Statistics, February 1993.

Table 20
Exchange rates:[1] Indexes of nominal and real exchange rates of the Malaysian ringgit, and indexes of producer prices in the United States and Malaysia,[2] by quarters, January 1990-December 1992

Period	U.S. producer price index	Malaysian producer price index	Nominal exchange rate index	Real exchange rate index[3]
1990:				
January-March.....	100.0	100.0	100.0	100.0
April-June.....	99.8	100.4	99.8	100.4
July-September.....	101.6	102.1	100.3	100.8
October-December....	104.7	108.2	100.3	103.7
1991:				
January-March.....	102.5	108.0	99.6	104.9
April-June.....	101.5	106.2	98.0	102.5
July-September.....	101.4	106.2	97.6	102.2
October-December....	101.5	(4)	98.7	(4)
1992:				
January-March.....	101.3	(4)	103.2	(4)
April-June.....	102.3	(4)	107.0	(4)
July-September.....	102.8	(4)	108.3	(4)
October-December....	103.1[5]	(4)	103.6	(4)

[1] Exchange rates expressed in U.S. dollars per Malaysian ringgit.
[2] Producer price indexes--intended to measure final product prices--are based on period-average quarterly indexes presented in line 63 of the International Financial Statistics.
[3] The real exchange rate is derived from the nominal rate adjusted for relative movements in producer prices in the United States and Malaysia.
[4] Not available.
[5] Derived from U.S. price data reported for October-November only.

Note.--January-March 1990 = 100.

Source: International Monetary Fund, International Financial Statistics, February 1993.

APPENDIX A

FEDERAL REGISTER NOTICES

[Investigation No. 731-TA-644 (Preliminary)]

Welded Stainless Steel Pipe From Malaysia

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-644 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) 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 Malaysia of welded stainless steel pipe of circular cross section, provided for in subheadings 7306.40.10 and 7306.40.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by April 2, 1993.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: February 16, 1993.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa Hand (202-205-3182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on February 16, 1993, by Avesta Sheffield Pipe, Schaumburg, IL; Bristol Metals, Bristol, TN; Damascus Tubular Products, Greenville, PA; Trent Tube Division, Crucible Materials Corp., East Troy, WI; and the United Steelworkers of America.

Participation in the Investigation and Public Service List

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

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

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on March 9, 1993, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Olympia DeRosa Hand (202-205-3182) not later than March 5, 1993, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before March 12, 1993, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a

certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules.

Issued: February 18, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93-4281 Filed 2-23-93; 8:45 am]

BILLING CODE 7020-02-M

[A-557-807]

Initiation of Antidumping Duty Investigation: Welded Stainless Steel Pipe From Malaysia

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

EFFECTIVE DATE: March 15, 1993.

FOR FURTHER INFORMATION CONTACT: Kate Johnson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC. 20230; telephone (202) 482-4929.

INITIATION OF INVESTIGATION:

The Petition

On February 16, 1993, we received a petition filed in proper form by Avesta Sheffield Pipe (formerly Avesta Sandvik Tube), Bristol Metals, Damascus Tubular Products, Trent Tube Division of the Crucible Materials Corporation, and the United Steelworkers of America, filing on behalf of the domestic welded stainless steel pipe industry (WSSP) (petitioners). Supplements to the petition were received on February 26 and March 5, 1993. In accordance with 19 CFR 353.12 (1992), the petitioners allege that WSSP from Malaysia is, or is likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as Amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

The petitioners have stated that they have standing to file the petition because they are interested parties, as defined under section 771(9)(C) and (D) of the Act, and because the petition was filed on behalf of the U.S. industry producing the product subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, these petitions, it should file a written notification with the Assistant Secretary for Import Administration.

Scope of Investigation

The product covered by this investigation is welded austenitic stainless steel pipe of circular cross section. WSSP is produced according to standards and specifications set forth by the American Society for Testing and Materials (ASTM). The designations for this product include, but are not limited to, ASTM A-312, ASTM A-358, ASTM A-409, and ASTM A-778. Welded

pipes are generally used as conduits to transmit liquids or gases. The major applications for WSSP are: Digester lines; blow lines; pharmaceutical lines; petrochemical stock lines; brewery process and transport lines; general food processing lines; automotive paint lines; and paper process machines.

This product is classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.40.1000; 7306.40.5005; 7306.40.5015; 7306.40.5045; 7306.40.5060; and 7306.40.5075. These subheadings are defined to encompass welded stainless steel tube as well as WSSP, however, the only product subject to this investigation is WSSP. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

United States Price and Foreign Market Value

Petitioners based United States Price (USP) for WSSP on (1) FOB export prices obtained from a foreign market research report and (2) various offers for sale to U.S. purchasers, duty paid and delivered, by U.S.-based broker/traders. Petitioners made deductions, where appropriate, to the U.S. prices for ocean freight and insurance, U.S. merchandise processing and harbor maintenance fees, U.S. duties, foreign inland freight, and U.S. inland freight. Petitioners also deducted credit, rebates and promotions, and warranties and guarantees. Petitioners added an amount for duty drawback to USP. Petitioners also added to USP the amount of sales tax that would have been collected had the exported merchandise been taxed.

Petitioners based foreign market value (FMV) for WSSP on domestic prices obtained by a foreign market research firm. Deductions were made for Malaysian inland freight, rebates and promotions, advertising, warranties and guarantees, and credit. Petitioners also made a circumstance-of-sale adjustment for the difference between the sales tax on home market sales and that which would have been collected on U.S. sales if the export sale had been taxed.

Based on petitioners' calculations, dumping margins range from 3.6 percent to 43.8 percent. For purposes of this initiation, no adjustments were made to petitioners' calculations.

Initiation of Investigation

We have examined the petition on welded stainless steel pipe from Malaysia and have found that the petition meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of welded stainless steel pipe from Malaysia are being, or are likely to be, sold in the United States at less than fair value.

International Trade Commission (ITC) Notification

Section 732(d) of the Act requires us to notify the ITC of these actions and we have done so.

Preliminary Determination by the ITC

The ITC will determine by April 2, 1993, whether there is a reasonable indication that imports of welded stainless steel pipe from Malaysia are materially injuring, or threaten material injury to, a U.S. industry. A negative ITC determination will result in a termination of the investigation; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c) of the Act and 19 CFR 353.13(b).

Dated: March 8, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration

[FR Doc. 93-5785 Filed 3-12-93; 8:45 am]

BILLING CODE 3510-DS-P

APPENDIX B

LIST OF WITNESSES

LIST OF WITNESSES

Investigation No. 731-TA-644 (Preliminary)

Those listed below appeared at the United States International Trade Commission conference held in connection with the subject investigation on March 9, 1993.

In support of the imposition of antidumping duties:

Collier, Shannon, Rill & Scott
Washington, DC
on behalf of

Avesta Sheffield Pipe, Schaumburg, IL
Michael Rinker, President

Bristol Metals, Bristol, TN
Joseph N. Avento, President

Damascus Tubular Division of the Nes Bishop Tube Co., Greenville, PA

Trent Tube Division of Crucible Materials Corp., East Troy, WI

Clarisse Morgan, Assistant Director,
Georgetown Economic Services

David Hartquist)
Jeffrey Beckington)--OF COUNSEL
Kathleen Cannon)

In opposition to the imposition of antidumping duties:

Willkie, Farr & Gallagher
Washington, DC
on behalf of

Kanzen Tetsu Sdn. Bhd., Kuala Lumpur, Malaysia

Walter Spak)
Vincent Bowen)--OF COUNSEL

APPENDIX C

SUMMARY TABLES

Table C-1
Welded stainless steel pipe: Summary data concerning the U.S. market, 1990-92

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

Item	Reported data			Period changes		
	1990	1991	1992	1990-92	1990-91	1991-92
U.S. consumption quantity:						
Amount	67,888	65,875	61,972	-8.7	-3.0	-5.9
Producers' share 1/	67.5	62.8	71.1	+3.6	-4.8	+8.4
Importers' share: 1/						
Malaysia	0	0.2	5.7	+5.7	+0.2	+5.5
Korea	4.9	7.7	2.2	-2.7	+2.8	-5.5
Taiwan	11.8	14.0	6.7	-5.0	+2.2	-7.3
Subtotal	16.7	21.9	14.7	-2.0	+5.2	-7.2
Other sources	15.8	15.3	14.2	-1.6	-0.5	-1.2
Total	32.5	37.2	28.9	-3.6	+4.8	-8.4
U.S. consumption value:						
Amount	269,613	230,998	214,694	-20.4	-14.3	-7.1
Producers' share 1/	71.5	66.3	70.1	-1.4	-5.3	+3.9
Importers' share: 1/						
Malaysia	0	0.2	4.6	+4.6	+0.2	+4.4
Korea	3.7	6.6	1.7	-1.9	+2.9	-4.8
Taiwan	9.8	12.7	5.7	-4.2	+2.8	-7.0
Subtotal	13.5	19.4	12.0	-1.5	+5.9	-7.4
Other sources	14.9	14.3	17.9	+2.9	-0.6	+3.6
Total	28.5	33.7	29.9	+1.4	+5.3	-3.9
U.S. importers' imports from--						
Malaysia:						
Imports quantity	0	150	3,553	2/	2/	3/
Imports value	0	437	9,896	2/	2/	3/
Unit value	2/	$2,915	$2,785	2/	2/	-4.5
Ending inventory qty	0	0	679	2/	0	2/
Korea:						
Imports quantity	3,328	5,074	1,385	-58.4	+52.5	-72.7
Imports value	9,906	15,172	3,719	-62.5	+53.2	-75.5
Unit value	$2,977	$2,990	$2,686	-9.8	+0.4	-10.2
Taiwan:						
Imports quantity	7,979	9,197	4,158	-47.9	+15.3	-54.8
Imports value	26,531	29,305	12,196	-54.0	+10.5	-58.4
Unit value	$3,325	$3,186	$2,934	-11.8	-4.2	-7.9
Subject sources:						
Imports quantity	11,307	14,421	9,095	-19.6	+27.5	-36.9
Imports value	36,437	44,914	25,811	-29.2	+23.3	-42.5
Unit value	$3,223	$3,114	$2,838	-11.9	-3.4	-8.9
Other sources:						
Imports quantity	10,738	10,110	8,790	-18.1	-5.8	-13.1
Imports value	40,271	33,035	38,336	-4.8	-18.0	+16.0
Unit value	$3,750	$3,267	$4,361	+16.3	-12.9	+33.5
All sources:						
Imports quantity	22,045	24,531	17,885	-18.9	+11.3	-27.1
Imports value	76,708	77,949	64,147	-16.4	+1.6	-17.7
Unit value	$3,480	$3,178	$3,587	+3.1	-8.7	+12.9

See footnotes at end of table.

Table C-1--Continued
Welded stainless steel pipe: Summary data concerning the U.S. market, 1990-92

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

Item	Reported data			Period changes		
	1990	1991	1992	1990-92	1990-91	1991-92
U.S. producers'--						
Average capacity quantity..	72,286	72,286	72,286	0	0	0
Production quantity.....	46,631	44,027	45,915	-1.5	-5.6	+4.3
Capacity utilization 1/....	64.5	60.9	63.5	-1.0	-3.6	+2.6
U.S. shipments:						
Quantity.....	45,843	41,344	44,087	-3.8	-9.8	+6.6
Value.....	192,905	153,049	150,547	-22.0	-20.7	-1.6
Unit value.....	$4,208	$3,702	$3,415	-18.8	-12.0	-7.8
Export shipments:						
Quantity.....	***	***	***	***	***	***
Exports/shipments 1/.....	***	***	***	***	***	***
Value.....	***	***	***	***	***	***
Unit value.....	$***	$***	$***	***	***	***
Ending inventory quantity..	4,585	6,539	6,768	+47.6	+42.6	+3.5
Inventory/US shipments 1/..	10.0	15.8	14.9	+4.9	+5.8	-0.9
Production workers.....	716	621	628	-12.3	-13.3	+1.1
Hours worked (1,000s).....	1,309	1,250	1,098	-16.1	-4.5	-12.2
Total comp. ($1,000).....	24,042	21,200	19,051	-20.8	-11.8	-10.1
Hourly total compensation..	$18.37	$16.96	$17.35	-5.5	-7.7	+2.3
Productivity (short tons/ 1,000 hours).....	35.6	35.2	41.8	+17.4	-1.1	+18.7
Unit labor costs.....	$515.58	$481.52	$414.92	-19.5	-6.6	-13.8
Net sales value.....	182,764	149,337	150,664	-17.6	-18.3	+0.9
COGS/sales 1/.....	84.9	89.9	92.7	+7.7	+4.9	+2.8
Operating income (loss)....	10,837	546	(2,430)	-122.4	-95.0	545.1
Op. income (loss)/sales 1/.	5.9	0.4	(1.6)	-7.5	-5.5	2.0

1/ "Reported data" are in percent and "period changes" are in percentage points.
2/ Not applicable.
3/ An increase of 1,000 percent or more.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

Table C-2
Welded stainless steel pipe and pressure tube: Summary data concerning the U.S. market, 1990-92

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

Item	Reported data			Period changes		
	1990	1991	1992	1990-92	1990-91	1991-92
U.S. consumption quantity:						
Amount	94,851	93,000	88,368	-6.8	-2.0	-5.0
Producers' share 1/	76.8	73.6	79.8	+3.0	-3.1	+6.1
Importers' share: 1/						
Malaysia, subject	0	0.2	4.0	+4.0	+0.2	+3.9
Korea, subject	3.5	5.5	1.6	-1.9	+1.9	-3.9
Taiwan, subject	8.4	9.9	4.7	-3.7	+1.5	-5.2
Subtotal, subject	11.9	15.5	10.3	-1.6	+3.6	-5.2
Other sources	11.3	10.9	9.9	-1.4	-0.4	-0.9
Total	23.2	26.4	20.2	-3.0	+3.1	-6.1
U.S. consumption value:						
Amount	387,496	348,428	323,574	-16.5	-10.1	-7.1
Producers' share 1/	80.2	77.6	80.2	2/	-2.6	+2.5
Importers' share: 1/						
Malaysia, subject	0	0.1	3.1	+3.1	+0.1	+2.9
Korea, subject	2.6	4.4	1.1	-1.4	+1.8	-3.2
Taiwan, subject	6.8	8.4	3.8	-3.1	+1.6	-4.6
Subtotal, subject	9.4	12.9	8.0	-1.4	+3.5	-4.9
Other sources	10.4	9.5	11.8	+1.5	-0.9	+2.4
Total	19.8	22.4	19.8	3/	+2.6	-2.5
U.S. importers' imports from--						
Malaysia, subject:						
Imports quantity	0	150	3,553	4/	4/	5/
Imports value	0	437	9,896	4/	4/	5/
Unit value	4/	$2,915	$2,785	4/	4/	-4.5
Ending inventory qty	0	0	679	4/	0	4/
Korea, subject:						
Imports quantity	3,328	5,074	1,385	-58.4	+52.5	-72.7
Imports value	9,906	15,172	3.719	-62.5	+53.2	-75.5
Unit value	$2,977	$2,990	$2,686	-9.8	+0.4	-10.2
Taiwan, subject:						
Imports quantity	7,979	9,197	4,158	-47.9	+15.3	-54.8
Imports value	26,531	29,305	12,196	-54.0	+10.5	-58.4
Unit value	$3,325	$3,186	$2,934	-11.8	-4.2	-7.9
Subject sources:						
Imports quantity	11,307	14,421	9,095	-19.6	+27.5	-36.9
Imports value	36,437	44,914	25,811	-29.2	+23.3	-42.5
Unit value	$3,223	$3,114	$2,838	-11.9	-3.4	-8.9
Other sources:						
Imports quantity	10,738	10,110	8,790	-18.1	-5.8	-13.1
Imports value	40,271	33,035	38,336	-4.8	-18.0	+16.0
Unit value	$3,750	$3,267	$4,361	+16.3	-12.9	+33.5
All sources:						
Imports quantity	22,045	24,531	17,885	-18.9	+11.3	-27.1
Imports value	76,708	77,949	64,147	-16.4	+1.6	-17.7
Unit value	$3,480	$3,178	$3,587	+3.1	-8.7	+12.9

See footnotes at end of table.

Table C-2--Continued
Welded stainless steel pipe and pressure tube: Summary data concerning the U.S. market, 1990-92

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

Item	Reported data			Period changes		
	1990	1991	1992	1990-92	1990-91	1991-92
U.S. producers'--						
Average capacity quantity..	127,931	127,931	127,931	0	0	0
Production quantity.....	73,730	72,971	72,224	-2.0	-1.0	-1.0
Capacity utilization 1/....	57.6	57.0	56.5	-1.2	-0.6	-0.6
U.S. shipments:						
Quantity.....	72,806	68,469	70,483	-3.2	-6.0	+2.9
Value.....	310,788	270,479	259,427	-16.5	-13.0	-4.1
Unit value.....	$4,269	$3,950	$3,681	-13.8	-7.5	-6.8
Export shipments:						
Quantity.....	1,212	1,945	2,486	+105.1	+60.5	+27.8
Exports/shipments 1/.....	1.6	2.8	3.4	+1.8	+1.1	+0.6
Value.....	6,359	9,717	9,602	+51.0	+52.8	-1.2
Unit value.....	$5,247	$4,996	$3,862	-26.4	-4.8	-22.7
Ending inventory quantity..	6,303	8,916	8,509	+35.0	+41.5	-4.6
Inventory/US shipments 1/..	8.7	13.0	11.8	+3.2	+4.4	-1.2
Production workers.....	1,418	1,329	1,196	-15.7	-6.3	-10.0
Hours worked (1,000s).....	2,816	2,663	2,237	-20.6	-5.4	-16.0
Total comp. ($1,000).....	46,840	43,315	37,244	-20.5	-7.5	-14.0
Hourly total compensation..	$16.63	$16.27	$16.65	+0.1	-2.2	+2.4
Productivity (short tons/ 1,000 hours).....	26.2	27.4	32.3	+23.3	+4.7	+17.8
Unit labor costs.....	$635.29	$593.59	$515.67	-18.8	-6.6	-13.1
Net sales value.....	306,246	269,520	260,978	-14.8	-12.0	3.2
COGS/sales 1/.....	85.4	87.8	90.4	+5.0	+2.4	+2.6
Operating income (loss)....	16,611	6,557	2,052	-87.6	-60.5	68.7
Op. income (loss)/sales 1/.	5.4	2.4	0.8	-4.6	-3.0	1.6

1/ "Reported data" are in percent and "period changes" are in percentage points.
2/ A decrease of less than 0.05 percentage points.
3/ An increase of less than 0.05 percentage points.
4/ Not applicable.
5/ An increase of 1,000 percent or more.

Note.--Period changes are derived from the unrounded data. Because of rounding, figures may not add to the totals shown. Unit values and other ratios are calculated using data of firms supplying both numerator and denominator information. Part-year inventory ratios are annualized.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

APPENDIX D

COMMENTS RECEIVED FROM PRODUCERS ON THE IMPACT OF IMPORTS OF WELDED STAINLESS STEEL PIPE FROM MALAYSIA ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, AND DEVELOPMENT AND PRODUCTION EFFORTS

The Commission requested the U.S. producers to describe and explain the actual and anticipated negative effects, if any, of imports of welded stainless steel pipe from Malaysia on their growth, investment, ability to raise capital, and development and production efforts (including efforts to develop a derivative or improved version of the product). Their responses are shown below.

Actual Negative Effects

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