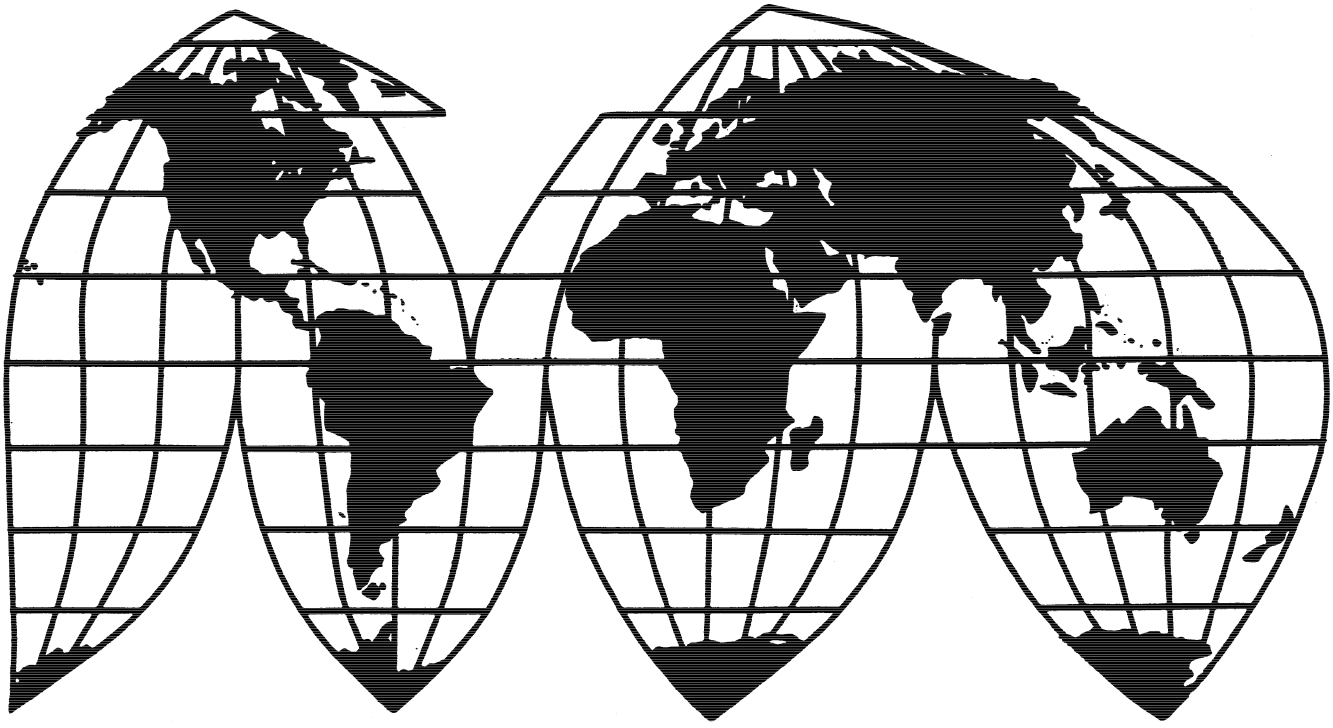
Welded Stainless Steel Pipe From Malaysia

Investigation No. 731-TA-644 (Final)

Publication 2744 **March 1994**

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Don E. Newquist, Chairman
Peter S. Watson, Vice Chairman
David B. Rohr
Anne E. Brunsdale
Carol T. Crawford
Janet A. Nuzum

Robert A. Rogowsky
Director of Operations

Staff assigned:

Olympia DeRosa Hand, Investigator
Peggy MacKnight, Commodity-Industry Analyst
Anita Miller, Economist
Marshall Wade, Accountant
Elizabeth Rose, Attorney

Vera Libeau, Supervisory Investigator

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

U.S. International Trade Commission

Washington, DC 20436

Welded Stainless Steel Pipe From Malaysia

Publication 2744

March 1994

CONTENTS

CONTENTS

Figures

Tables

CONTENTS

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

PART I

DETERMINATION AND VIEWS OF THE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-644 (Final)

WELDED STAINLESS STEEL PIPE FROM MALAYSIA

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Malaysia of welded austenitic stainless steel pipe, provided for in subheadings 7306.40.10 and 7306.40.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective September 1, 1993, following a preliminary determination by the Department of Commerce that imports of welded stainless steel pipe from Malaysia were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of September 22, 1993 (58 F.R. 49317). The hearing was held in Washington, DC, on January 27, 1994, and all persons who requested the opportunity were permitted to appear in person or by counsel.

---

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

[2] Chairman Newquist and Commissioner Rohr dissenting.

VIEWS OF THE COMMISSION[1]

Based on the record in this final investigation, we determine that an industry in the United States is neither materially injured nor threatened with material injury by reason of imports of welded austenitic stainless steel pipe from Malaysia that have been found to have been sold at less than fair value (LTFV).[2]

I. LIKE PRODUCT

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of the subject 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 proportion of the total domestic production of that product . . ."[3] 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 . . ."[4]

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

> welded austenitic stainless steel pipe of circular cross section (WSSP). 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.[5] [6]

---

[1] Chairman Newquist and Commissioner Rohr concur only with respect to like product, the domestic industry and related parties. See Dissenting Views of Chairman Newquist and Commissioner Rohr.

[2] Material retardation of the establishment of an industry is not an issue in this investigation and will not be discussed further.

[3] 19 U.S.C. § 1677(4)(A).

[4] 19 U.S.C. § 1677(10). The Commission's like product determinations are factual, and the Commission applies the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis. E.g., Torrington v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991).

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. 377, 382 n.4 (Ct. Int'l Trade 1992). No single factor is dispositive, and the Commission may consider other factors relevant to 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, 747 F. Supp. at 748-49.

[5] See 59 Fed. Reg. 4023, 4024 (January 28, 1994) and Confidential Report ("CR") at A-6, Public Report ("PR") at A-6. Commerce further notes that "[t]his product is classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 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." Id.

[6] See 58 Fed. Reg. 13742 (March 15, 1993) and Report at II-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, Invs. Nos. 731-TA-540-541 (Final), (continued...)

Welded stainless steel pipes ("WSS pipe") are generally used as conduits to transmit liquids or gases.[7] The major applications for WSSP are: digester lines; blow lines; pharmaceutical lines; petrochemical lines; general food processing lines; automotive lines; and paper processing machines.[8]

The scope of Commerce's investigation in this case is broader than the scope in the pair of antidumping investigations 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 investigation here includes all welded austenitic stainless steel pipe, including, but not limited to A-312 pipe, but not tube.[11]

B. Like Product Issues

In our preliminary determination, we defined the like product to be all welded austenitic stainless steel pipe and austenitic pressure tube ("WSS pipe and pressure tube").[12] In this final investigation, petitioners reassert the position made in their petition that the like product should be defined more narrowly than in prior determinations -- i.e., as only welded austenitic stainless steel pipe, and not pressure tube, but make no persuasive new arguments and provide no new information on this point.[13] [14] Instead, they rely on the arguments regarding differences in physical dimensions and end uses that were rejected by the Commission in the preliminary investigation. Respondent concurs with the Commission's like product determination from the preliminary determination.[15]

Information gathered in this investigation relevant to like product is consistent with the record in the preliminary investigation. Although there are differences between WSS pipe and pressure tube in terms of physical dimensions and end uses, the products share a number of similarities in

---

[6] (...continued)
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 CR at I-6 n.8, PR at II-5 n.8.

[7] 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.

[8] 59 Fed. Reg. 4023, 4024 (January 28, 1994); CR at A-6, PR at A-6.

[9] Korea/Taiwan Final at A-5 and A-18. The petition in these investigations was filed on November 18, 1991, and the Commission made its preliminary determinations in January 1992.

[10] See CR at I-6, n.8, PR at II-5, n.8, for further discussion.

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

[12] See Welded Stainless Steel Pipe from Malaysia, Inv. No. 731-TA-644 (Preliminary), USITC Pub. 2620 at 8-9 (April 1993) (hereinafter "Malaysian Pipe Preliminary").

[13] See Petition at 25; Petitioners' Pre-Hearing Brief at 2-6; Petitioners' Post-Hearing Brief at exhibit 2 (we note that petitioners attached their Pre-Hearing Brief in the Korea/Taiwan Final to this exhibit). 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 (Ct. Int'l Trade 1988).

[14] Commissioner Nuzum appreciates petitioners' response in their Post-Hearing Brief to the questions she raised during the public hearing concerning the like product. See Petitioners' Post-Hearing Brief at Attachment 2. She was not persuaded, however, by petitioners' analogy to the Commission's like product analysis in the preliminary determinations on Flat-Rolled Carbon Steel Products. Welded stainless steel pipe and tube can be produced on the same production lines. See CR at I-8, PR at 6. By contrast, hot-rolled steel is produced in a strip mill, which cannot produce cold-rolled steel. Cold-rolled steel, in turn, is hot-rolled steel that proceeds through a cold-reduction mill.

[15] Respondent's Pre-Hearing Brief at 4 n.1.

production processes, machinery, and employees.[16] In considering this issue in the final investigations of WSS pipe from Korea and Taiwan, the Commission concluded that pressure tube is like the imported A-312 pipe subject to those investigations.[17] Further, the Commission has previously rejected arguments that welded stainless steel pipe and pressure tube constitute separate like products.[18] No new facts or arguments have been presented in this investigation which warrant a different conclusion. Accordingly, we reaffirm our preliminary determination that the like product is welded austenitic stainless steel pipe and pressure tube.

II. DOMESTIC INDUSTRY AND RELATED PARTIES

A. Domestic Producers

In light of our like product determination, we reaffirm our determination in the preliminary investigation that there is a single domestic industry comprised of the domestic producers of welded austenitic stainless steel pipe and pressure tube.

In this investigation, the Commission received information from seventeen of the twenty-one known domestic producers of WSS pipe and pressure tube, accounting for 95.4 percent of total domestic production. Of the seventeen responding firms, five produce only WSS pipe, four produce only WSS pressure tube, and eight produce both WSS pipe and pressure tube. The eight producers of both WSS pipe and pressure tube all have some degree of overlap in the production machinery and personnel used to produce WSS pipe and tube.[19]

B. Related Parties

In the preliminary determination, we determined that appropriate circumstances did not exist to exclude one domestic producer who imports the subject product from Malaysia. Petitioners have argued that this domestic producer should be excluded from the definition of the domestic industry.[20]

Under section 771(4)(B) of the Act, producers who are related to exporters or importers, or who are themselves importers of dumped or subsidized merchandise are considered related parties and may be excluded from the domestic industry in "appropriate circumstances."[21] [22] The rationale

---

[16] The existence of common essential characteristics between WSS pipe and pressure tube is further confirmed by the fact that WSS pipe and pressure tube are generally produced by a similar process through the welding stage, sometimes on the same production lines. In fact, pipe and pressure tube producers can usually produce either product on their mills, with die changes for different diameter specifications. The typically higher price of pressure tube compared with that of pipe is attributable in part to the lower-volume production lots and in part to value added by additional production steps. CR at I-7-8, PR at II-5-6.

[17] Korea/Taiwan Final at 13.

[18] See Malaysian Pipe Preliminary at 8.

[19] CR at I-12-14, PR at II-7-8.

[20] Petitioners' Pre-Hearing Brief at 6-8.

[21] 19 U.S.C. § 1677(4)(B). Exclusion of a related party is within the Commission's discretion based upon the facts presented in each case. See e.g., Torrington Co. v. United States, 790 F. Supp. 1162 (Ct. Int'l Trade 1992); Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), aff'd without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

[22] The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude related parties 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

(continued...)

for excluding related parties is the concern that the overall industry data may be skewed by inclusion of the related parties who are shielded from any injury that might be caused by the subject imports. Exclusion of a related party is within the Commission's discretion based upon the facts presented in each case.[23]

The indicators on which we based our preliminary determination not to exclude this domestic producer as a related party have remained essentially unchanged. Thus, they do not indicate that this producer was shielded from the effects of unfairly traded imports. Inclusion of such data would not have a skewing effect on the industry's aggregate data.[24] In view of these facts, we do not believe that appropriate circumstances exist to exclude this producer from the domestic industry.

III. NO MATERIAL INJURY BY REASON OF LTFV IMPORTS

A. LEGAL STANDARD

The Commission is required to make a final determination of whether an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports.[25] In making our determination, the Act provides that the Commission:

(i) shall 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, and

(III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States; and

(ii) may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.[26]

The Commission may consider alternative causes of injury, but it is not to weigh causes.[27]

---

[22] (...continued)
(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, 790 F. Supp. 1161 (Ct. Int'l Trade 1992).

[23] See e.g., Torrington, 790 F. Supp. 1162 (Ct. Int'l Trade 1992).

[24] See Table 1, CR at I-13, I-14, PR at II-8.

[25] 19 U.S.C. § 1673d(b). We decline to cumulate imports from Malaysia with imports from Korea and Taiwan, which are subject to antidumping orders, for the reasons cited in our preliminary determination. See Malaysian Pipe Preliminary at 14-18. We note that imports from Korea and Taiwan no longer were unfairly traded after they became subject to antidumping orders in late December 1992; those orders are now fourteen months old. 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).

[26] 19 U.S.C. § 1677(7)(B). The statute also indicates that the presence or absence of any factor pertaining to volume, price effects, or impact "shall not necessarily give decisive guidance" to the Commission's determination. See 19 U.S.C. § 1677(7)(E)(ii).

[27] See e.g., Citrosuco Paulista, S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988). Alternative causes may include the following:

(continued...)

The statutory language regarding causation of material injury by reason of LTFV imports has, in the past, been interpreted differently by different Commissioners.[28]

B. BACKGROUND

The Act requires the Commission to consider all relevant economic factors which have a bearing on the state of the industry[29] and to consider these factors within the context of the business cycle and conditions of competition distinctive to the affected industry.[30] Regarding the conditions of competition distinctive to the industry producing WSS pipe and pressure tube, we first note that WSS pipe and tube are inputs into downstream products. Therefore, U.S. consumption of WSS pipe and pressure tube is driven by demand from downstream industries, which include the chemical, pulp and paper, and energy industries.[31] The greater the demand for the downstream products, the greater the demand for pipe and tube. When inputs represent a small percentage of the value of the downstream product, then changes in the price of the input are less likely to lead to significant changes in the quantity demanded. This responsiveness of quantity demanded following price changes is measured by the price elasticity of demand. The record indicates that demand for pipe and tube is characterized by low price elasticity.[32] Given these demand characteristics, consumption of pipe and tube is less likely to be affected by price changes and more likely to be affected by demand for downstream products that use pipe and tube as an input.

We also note that the cost of raw materials, which represents a major component of cost of goods sold, declined throughout the period of investigation.[33] In that connection, we note that the unit cost of goods sold declined more rapidly in interim 1993 as compared to the full year periods during the period of investigation. Further, the declines in unit cost of goods sold were greater than declines in unit prices for WSS pipe and pressure tube in interim 1993.[34]

Another condition affecting competition was the institution of the Korea and Taiwan investigations in November 1991 and the subsequent suspension of liquidation in those investigations in June 1992.[35] The overlap of the period examined in the Korea/Taiwan investigations with the period examined here complicates our analysis because we must be careful not to attribute to the subject imports from Malaysia adverse effects that were actually caused by the unfair imports from

---

[27] (...continued)

> the volume and prices of imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology, and the export performance and productivity of the domestic industry.

S. Rep. 249, 96th Cong., 1st Sess. 74 (1979). Similar language is contained in the House Report. H.R. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).

[28] See Defrost Timers from Japan, Inv. No, 731-TA-643 (Final), USITC Pub. 2740 at 17 nn.47, 48 & 49 (February 1994).

[29] In making our determination, we consider the impact of the imports on the industry "as a whole." See e.g., United Engineering & Forging v. United States, 779 F. Supp. 1375 (Ct. Int'l Trade 1991). However, we are not prevented from focusing on appropriate market segments. See Iwatsu Electric Co. v. United States, 758 F.Supp. 1506, 1511 n.7 (Ct. Int'l Trade 1991); Gifford-Hill Cement Co. v. United States, 615 F. Supp. 577, 582-584 (Ct. Int'l Trade 1985). See also Copperweld Corp. v. United States, 682 F. Supp. 552, 566 (Ct. Int'l Trade 1988).

[30] See 19 U.S.C. § 1677(7)(C).

[31] CR at I-43, PR at II-7.

[32] See Memorandum EC-R-020 at 17-18 (February 22, 1994).

[33] CR at I-28, PR at II-19.

[34] CR at I-28, PR at II-19.

[35] Imports from Korea and Taiwan declined significantly during 1992. See Malaysian Pipe Preliminary at I-29.

Korea and Taiwan in 1992. As discussed below, we do not find that the subject imports from Malaysia simply replaced unfair imports from Korea and Taiwan.

C. VOLUME

In determining whether there is material injury by reason of LTFV imports, the statute directs the Commission to 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."[36]

In 1990, there were no subject imports from Malaysia.[37] In 1991, imports from Malaysia were commercially insignificant at 150 tons, constituting 0.1 percent of the domestic WSS pipe and pressure tube market. By 1992, imports from Malaysia reached a commercially more significant volume of 3,553 tons, but still constituted only 3.4 percent of the domestic WSS pipe and pressure tube market by quantity.[38] Imports from Malaysia rose slightly, from 2,197 tons in interim 1992 to 2,397 tons in interim 1993, accounting for 2.8 percent and 2.9 percent of the domestic pipe and tube market by quantity, respectively, and 2.1 percent and 2.2 percent of the domestic pipe and tube market by value, respectively.[39]

As noted above, the subject imports from Malaysia were increasing in 1992 and interim 1993 at the same time that imports from Korea and Taiwan, which were subject to previous antidumping investigations and subsequent suspensions of liquidation, were declining. Petitioners argue, in essence, that imports from Malaysia rushed in to fill the vacuum left by the elimination of unfairly traded imports from Korea and Taiwan.[40]

In our view, the petitioners overstate the importance of the increase in imports from Malaysia during this time period. We note that as subject imports from Malaysia increased from 0.1 percent market share in 1991 to 3.4 percent by volume in 1992,[41] and the cumulated unfairly traded imports from Korea and Taiwan declined from 13.3 percent of the market to 5.3 percent by volume during the same time period,[42] the domestic industry's market share by volume increased from an already substantial 77.1 percent to 82.9 percent.[43] During this same period, imports from other sources declined from 9.4 percent to 8.1 percent.[44] As for interim 1993, we note that while the domestic industry's market share declined 1.9 percentage points as compared to interim 1992, the increase in the Malaysian products' market share was very small -- from 2.8 percent in interim 1992 to 2.9 percent in interim 1993.[45] Imports from Korea and Taiwan, which became subject to antidumping duties at the end of 1992, declined from 5.4 percent in interim 1992 to 5.1 percent in interim 1993 in terms of market share.[46] Imports from other sources, by contrast, increased from 7.6 percent of the market in interim 1992 to 9.6 percent in interim 1993, with about three quarters of that increase attributable to imports from Canada.[47]

---

[36] 19 U.S.C. § 1677(7)(C)(i).
[37] See Table 16, CR at I-41-42, PR at II-26-27.
[38] In 1992, the subject imports constituted 2.5 percent of the domestic WSS pipe and pressure tube market by value. See Table 16, CR at I-41-42, PR at II-26-27.
[39] See Table 16, CR at I-41-42, PR at II-26-27.
[40] See Petition at 27.
[41] See Table 16, CR at I-41-42, PR at II-26-27.
[42] See Memorandum INV-R-028 (February 24, 1994).
[43] See Table 16, CR at I-41-42, PR at II-26-27.
[44] See Memorandum INV-R-028 (February 24, 1994).
[45] See Table 16, CR at I-41-42, PR at II-26-27.
[46] See Memorandum INV-R-028 (February 24, 1994).
[47] See Memorandum INV-R-028 (February 24, 1994). We note that 38 percent of Canadian imports in interim 1993 were pressure tube. See Petitioners' Pre-Hearing Brief at 25-26 and Table 9C.

Contrary to petitioners' arguments, it is not at all clear that the Malaysian products displaced domestic product.[48] To the extent that such displacement may have occurred, the increase in the volume of subject imports from Malaysia, both in absolute terms and in relation to domestic production or consumption, was not significant.[49] Rather, the domestic industry appeared to capture the major share of the market vacated by the unfairly traded imports from Korea and Taiwan in 1992, and then lose some market share to imports from sources other than Malaysia in interim 1993. Notwithstanding the domestic industry's market share decline between the interim periods, domestic shipments increased by 1,291 tons from interim 1992 to interim 1993,[50] as compared to a 200-ton increase for the Malaysian producer,[51] and a 1,953-ton increase for imports from other countries.[52]

We therefore do not find the volume or increase in volume of LTFV imports to be significant.

D. PRICE EFFECTS

In evaluating the effect of LTFV imports on prices, the Commission considers whether there has been significant price underselling[53] by the subject imports and whether the subject imports depress prices to a significant degree or prevent price increases that otherwise would have occurred, to a significant degree.[54] A number of factors are relevant to our determination as to price depression or suppression, including the degree of substitutability between domestic and subject imported WSS pipe, the availability of domestic supply and non-subject imports, the size of the weighted average dumping margin, and the size of the market share held by subject imports.[55] [56] The more substitutable the products, the more likely that potential purchasers will make their purchasing decisions largely based upon price differences between the products. Conversely, when products are less substitutable, relative prices are less likely to be a determining factor in purchasing decisions. For example, when there is a high degree of product differentiation, relative prices may matter less.

Regarding the substitutability of pipe, both petitioners and respondent agree that WSS pipe meeting American Society for Testing and Materials (ASTM) specifications is highly fungible -- a perception confirmed by distributor questionnaire responses.[57] Most purchasers reported that quality and speed of delivery were in some cases important in their purchasing decisions, but only when price differentials were minor.[58] We conclude that domestically-produced A-312 pipe is highly substitutable with pipe from Malaysia.[59]

Another important factor affecting price is the availability of domestic supply. If domestic producers have the ability to easily increase their shipments in response to the elimination of LTFV

---

[48] See Petition at 27.

[49] See Table 16, CR at I-41-42, PR at II-26-27.

[50] See Table 16, CR at I-41-42, PR at II-26-27.

[51] See Table 16, CR at I-41-42, PR at II-26-27.

[52] The 1,953-ton value excludes Korea and Taiwan, which saw declines of 30 tons and 90 tons, respectively. See Memorandum INV-R-028 (February 24, 1994).

[53] Commissioner Brunsdale and Commissioner Crawford do not rely on underselling data in this case, and they do not join any discussion based on these direct price comparisons. They note that it is not clear that comparing the largest sale in each period gives an accurate account of overall price differences. CR at I-46-54; PR at II-29-30.

[54] 19 U.S.C. § 1677 (7)(C)(ii).

[55] In this investigation, Commissioner Nuzum has taken these factors into account, but not by means of any formulaic or econometric approach.

[56] Vice Chairman Watson believes that in some cases the record is sufficient to allow a consideration of the dumping margins, which although not required by the Act, can be relevant.

[57] Hearing Transcript (January 27, 1994) (hereinafter "Tr.") at 29, 49-50, 52-53, 124; CR at I-45-46, PR at II-28-29.

[58] CR at I-45-46, PR at II-28-29.

[59] See Memorandum EC-R-020 at 14-17 (February 22, 1994).

imports and there is competition in the marketplace, then such elimination will not necessarily lead to a significant increase in prices. In this investigation, the domestic industry has sufficient unused capacity to easily supply any increase in demand for WSS pipe.[60] Staff estimates that the supply elasticity of domestic producers is high.[61] Thus, domestic shipments would likely change quickly in response to small changes in price. Under these conditions, it would be difficult to raise prices.

Domestic price increases are also limited by the availability of non-subject imports in the market that substitute for domestic WSS pipe and subject imports. The greater the substitutability between non-subject imports and domestic product and the higher the elasticity of supply of non-subject imports, the more unlikely it is that domestic prices will increase following the elimination of LTFV imports.

In light of the high availability of domestic supply and non-subject imports, any adverse effects of subject imports would be expected to be reflected primarily in lost sales volume and market share by the domestic industry, rather than in price effects. As discussed above, however, we found that the subject imports from Malaysia did not have significant adverse volume effects.

Domestic producers' prices of WSS pipe decreased sharply during 1990 and 1991, before the subject products from Malaysia were present in the U.S. market in commercially significant amounts. Although domestic prices continued to decline from 1991 to 1992, and from interim 1992 to 1993, the declines were neither steady nor nearly as dramatic as they were from 1990 to 1991.[62] Depending upon the product, prices showed upward fluctuations throughout the latter portion of the period examined.

Prices for Malaysian products tended to show an overall decline when compared to their prices during their initial entry into the domestic market. However, prices did not move steadily downward, but rather showed upward fluctuations as well, again depending upon the product examined.[63]

In interim 1993, domestic product prices decreased and then increased; prices for the Malaysian products, by contrast, first increased and then decreased.[64] Thus, prices for the domestic product and subject imports did not display similar movements. To the extent that Malaysian prices did decline, the significance of those declines is mitigated by the increases in domestic producers' shipments, which were far greater than the increases in imports from Malaysia during this period.[65] The significance of Malaysian product price declines is also mitigated by the increase in imports from other, non-subject sources.[66]

With respect to underselling, the margins of underselling ranged from very small to relatively large margins. We note, however, that the larger margins of underselling by the Malaysian products generally corresponded to smaller volume sales, while larger volume sales tended to have smaller margins of underselling.[67] Thus, although underselling was consistent throughout the period of investigation, we do not find the underselling to be significant. Domestic consumption of WSS pipe and pressure tube declined during 1991 and 1992,[68] as did the unit cost of goods sold.[69] Under these market conditions, one would not expect prices to increase, especially considering the excess domestic production capacity available[70] and numerous sources of supply from non-subject

---

[60] See Tr. at 120; Table 2, CR at I-16, PR at II-10; see generally Memorandum EC-R-020 (February 22, 1994); Memorandum INV-R-028 (February 24, 1994).
[61] Memorandum EC-R-020 at 12 (February 22, 1994).
[62] See Tables 17-19, Figures 1-2, CR at I-49-53, PR at II-30.
[63] See Tables 17-19, Figures 1-2, CR at I-49-53, PR at II-30.
[64] See Tables 17-19, Figures 1-2, CR at I-49-53, PR at II-30.
[65] See Table 3, CR at I-17, PR at II-11.
[66] See Table 16, CR at I-41-42, PR at II-26-27.
[67] See Tables 17-19, Figures 1-2, CR at I-49-53, PR at II-30.
[68] See Table 16, CR at I-41-42, PR at II-26-27.
[69] CR at I-28, PR at II-19.
[70] See Table 16, CR at I-41-42, PR at II-26-27.

countries.[71] Although domestic producers' prices declined somewhat,[72] these producers also increased their shipments[73] and market share during that period.[74] Moreover, during the 1993 interim period, declines in unit cost of goods sold[75] exceeded declines in unit prices.[76]

Price declines in the market were much greater before the Malaysian products entered the market than they were afterwards.[77] In fact, relative to 1990 and 1991, prices in 1992 and interim 1993 have generally stabilized.[78] Petitioners contend, however, that the subject imports from Malaysia nevertheless had significant adverse price effects because they prevented domestic producers from raising their prices as much as they should have been able to in light of the decline of imports from Korea and Taiwan.[79] Given the availability of supply and the market conditions discussed above, we are not persuaded that the subject imports from Malaysia had a significant depressing or suppressing effect on domestic prices.[80] [81]

Finally, since any injury to the domestic industry must be by reason of the dumped imports, we have considered the effect of dumped imports compared with the effect those imports would have had had they been fairly traded, this being an economic factor which is relevant to the present injury determination.[82] In general, the less the difference between the dumped price of imports and their price at fair value, the less the impact that dumping will have on sales of the subject imports and, in turn, on the domestic industry's volume of sales and domestic prices.

The weighted average dumping margin in this case was 9.13 percent.[83] If Malaysian imports had been fairly traded, demand for domestic WSS pipe would not have increased significantly.[84] Malaysian imports had only a limited market share relative to the domestic product. Therefore, any reduction in import market share would have a proportionately smaller impact on sales of the domestic product. Thus, we believe that any increase in demand for the domestic product would have been limited. Because of the small Malaysian market share and the ready availability of domestic supply, it is unlikely that the elimination of LTFV imports would lead to significant price increases.[85] Therefore, it is unlikely that LTFV imports resulted in significant price suppression or in a significant decrease in the volume of domestic sales.

On the basis of the above discussion, we conclude that the LTFV imports from Malaysia have not had significant adverse price effects.

E. IMPACT ON THE DOMESTIC INDUSTRY

In assessing whether the domestic industry is materially injured by reason of the LTFV imports, the Commission considers all relevant economic factors which have a bearing on the state of

---

[71] Memorandum INV-R-028 (February 24, 1994).
[72] See Tables 17-19, Figures 1-2, CR at I-49-53, PR at II-30.
[73] See Table 3, CR at I-17, PR at II-11.
[74] See Table 16, CR at I-41-42, PR at II-26-27.
[75] CR at I-28, PR at II-19.
[76] See Table 3, CR at I-17, PR at II-11.
[77] See Tables 17-19, Figures 1-2, CR at I-49-53, PR at II-30.
[78] See Tables 17-19, Figures 1-2, CR at I-49-53, PR at II-30. Due to more complete data provided by producers and importers, we place greater emphasis on their pricing data than on that of purchasers. See CR at I-54, PR at II-30.
[79] Petitioners' Post-Hearing Brief at 9 and Attachment 3 at 1.
[80] Commissioner Nuzum does not join in the discussion in the remainder of this section on price effects.
[81] Consistent with his views articulated in footnote 56, Vice Chairman Watson also does not join in the following discussion of dumping margins.
[82] See 19 U.S.C. § 1677(7)(B)(ii); Copperweld Corp. v. United States, 682 F. Supp. 552, 560-564 (Ct. Int'l Trade 1988).
[83] See 59 Fed. Reg. 4023, 4029 (January 28, 1994).
[84] Malaysian WSS pipe, if sold at fair value, would have been on average 9.13 percent more expensive. See 59 Fed. Reg. 4023, 4029 (January, 28, 1994); Memorandum EC-R-020 at 3 (February 22, 1994).
[85] See Memorandum EC-R-020 (February 22, 1994).

the industry in the United States. These factors include output, capacity utilization, sales, inventories, market share, employment, wages, productivity, profits, return on investment, cash flow, ability to raise capital, and research and development.[86] No single factor is determinative, and we consider all relevant factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[87] In this case, due to the lack of significant volume or price effects of the Malaysian imports, we do not find a sufficient impact by the LTFV imports on the domestic industry to warrant an affirmative determination.

The condition of the domestic industry was mixed between 1990 and 1992, but generally improved in interim 1993 as compared with interim 1992. U.S. consumption of WSS pipe and pressure tube declined 3.0 percent between 1990 and 1992, falling from 108,037 tons in 1990 to 104,819 tons in 1992.[88] In the 1993 interim period, however, consumption rose 4.3 percent.[89]

Despite declining demand from 1990 to 1992, U.S. producers' average capacity increased from 140,348 tons in 1990 to 144,981 tons in 1992, a gain of 3.3 percent. Capacity also increased 2.5 percent in interim 1993 as compared with interim 1992, rising to 114,830 tons from 112,044 tons, respectively.[90] Capacity utilization was relatively low in 1990 at 62.0 percent, but remained stable throughout the period of investigation as capacity increased.[91]

Production rose from 87,033 tons in 1990 to 89,317 tons in 1992, an increase of 2.6 percent, and increased 1.5 percent in the interim period, rising from 67,606 tons in interim 1992 to 68,596 tons in interim 1993.[92] The quantity of U.S. shipments of WSS pipe and pressure tube increased from 85,992 tons to 86,934 tons between 1990 and 1992. Shipments increased further in the interim period, rising from 65,661 tons in interim 1992, as compared with 66,952 tons in interim 1993.[93] Furthermore, although domestic inventories increased 15.1 percent between 1990 and 1992, they decreased 11.8 percent in interim 1993 as compared with interim 1992.[94]

As discussed previously, despite declining demand from 1990 to 1992, the domestic producers increased their share of the U.S. WSS pipe and pressure tube market, gaining 3.3 percent by quantity and 0.7 percent by value. Although the domestic industry lost 1.9 percent of the U.S. market by quantity and 1.6 percent by value in the interim period, the Malaysian share increased only 0.1 percent in both quantity and value by comparison.[95]

The number of production workers fell throughout the period of investigation, dropping from 1,602 in 1990 to 1,436 in 1992, a decline of 10.4 percent, but leveled off in interim 1993.[96] Conversely, production and shipments increased.[97] The decline in production workers was accompanied by an increase in productivity.[98]

The value of net sales declined from $348.9 million in 1990 to $313.7 million in 1991, and $305.7 million in 1992. Net sales declined slightly more in the interim period, from $233.4 million in interim 1992 to $232.9 million in interim 1993.[99] These declines in net sales appear to reflect the decline in prices discussed previously.

---

[86] The Commission received information concerning research and development expenditures from only one domestic producer. See Table 12, CR at I-32, PR at II-20. We have not, therefore, attributed much significance to the information concerning this factor.

[87] See 19 U.S.C. § 1677(7)(C)(iii).

[88] See Table 16, CR at I-41-42, PR at II-26-27.

[89] See Table 16, CR at I-41-42, PR at II-26-27.

[90] See Table 2, CR at I-16, PR at II-10.

[91] See Table 2, CR at I-16, PR at II-10.

[92] See Table 2, CR at I-16, PR at II-10.

[93] See Table 3, CR at I-17, PR at II-11.

[94] See Table 4, CR at I-18, PR at II-12.

[95] See Table 16, CR at I-41-42, PR at II-26-27.

[96] See Table 5, CR at I-19, PR at II-13.

[97] See Table 2, CR at I-16, PR at II-10; Table 3, CR at I-17, PR at II-11.

[98] Productivity rose 23.0 percent between 1990 and 1992. See Table 5, CR at I-19, PR at II-13.

[99] See Table 9, CR at I-27, PR at II-18.

Operating income experienced its largest decline from 1990 to 1991, when subject imports had only 0.1 percent of the domestic market.[100] In 1992, when subject imports had their greatest presence in the U.S. market, the decline in domestic producers' operating income was much less significant.[101] Even at this 1992 level of subject import penetration, the domestic industry remained relatively profitable.[102] Operating income increased 5.2 percent in the interim period, rising from $9 million in interim 1992 to $10 million in interim 1993.[103] Operating income as a percentage of net sales displayed a similar trend, declining from 7.2 percent in 1990 to 3.6 percent in 1992, but increasing to 4.3 percent in interim 1993 as compared with 4.1 percent in interim 1992.[104] Thus, the declining trend in operating income appears to have been reversed in interim 1993 as compared with interim 1992, notwithstanding the slight decline in net sales that occurred during that period.

One factor that appears to have contributed to the industry's profitability is the decline in unit cost of goods sold. The unit cost of goods sold declined steadily over the period of investigation, including interim 1993 as compared with interim 1992.[105] [106]

Many indicators of the industry's performance showed improvement in 1992, the first year in which Malaysian imports entered the United States in commercially significant quantities, overlapping in time with imports from Korea and Taiwan. Some of the improvement likely was due to the suspension of liquidation of imports from Korea and Taiwan that occurred in July 1992, and the imposition of antidumping orders in December 1992.

Nevertheless, the trends in several key indicators do not reveal any significant negative impact on the domestic industry that is attributable to imports from Malaysia.[107] While demand declined from 1990 to 1992 by 3.0 percent, the domestic producers' market share increased by 3.3 percent.[108] Simultaneous with the entry of Malaysian imports, the domestic industry experienced improvement in production, shipments, productivity, and capital expenditures, and had declining selling, general and administrative expenses and production costs.[109] To the extent that some financial indicators continued to decline in 1992, they declined more slowly than during 1990 to 1991, and the decline occurred at a time of the largest decrease in demand during the period examined.

In addition to continued profitability and an increase in market share, there were other favorable indicators in interim 1993. As noted, the quantity and value of U.S. consumption increased in interim 1993 as compared with interim 1992.[110] The quantity and value of U.S. shipments similarly increased.[111] Accordingly, we see no nexus between stable or slightly increased subject imports in interim 1993 and any adverse impact on the domestic industry.

---

[100] In 1991, operating income declined 41.2 percent. See Table C-2, CR at C-5-6, PR at C-5-6.

[101] In 1992, operating income declined 25.4 percent. See Table C-2, CR at C-5-6, PR at C-5-6.

[102] From 1990 to 1992, operating income declined from $25 million to $11 million. See Table 9, CR at I-27, PR at II-18.

[103] See Table 9, CR at I-27, PR at II-18.

[104] See Table 9, CR at I-27, PR at II-18.

[105] See Table 9, CR at I-27, PR at II-18; CR at I-28, PR at II-19.

[106] For purposes of cost trends analysis, we find that unit cost of goods sold is a more useful indicator than total cost of goods sold, which often masks true cost trends with changes in sales quantities. Unit cost of goods sold takes such changes into account.

[107] Commissioner Brunsdale and Commissioner Crawford do not join in the discussion in this and the following paragraph as they do not engage in any analysis of trends.

[108] See Table 16, CR at I-41-42, PR at II-26-27.

[109] See Table C-2, CR at C-5-6, PR at C-5-6. We also note that capital expenditures increased 101.6 percent from 1990 to 1992, rising from about $6 million in 1990 to about $12 million in 1992. Capital expenditures declined 47.7 percent in interim 1993 as compared with interim 1992. See Table 11, CR at I-31, PR at II-20.

[110] The quantity and value of U.S. consumption increased 4.3 percent in quantity and 3.7 percent in value in interim 1993 as compared with interim 1992. See Table 16, CR at I-41-42, PR at II-26-27.

[111] The quantity and value of U.S. shipments increased 2.0 percent and 1.8 percent, respectively. See Table 3, CR at I-17, PR at II-11.

With declining demand and costs of production, low capacity utilization, and high substitutability between subject and domestic products, it is difficult for domestic producers to raise prices without being undercut by competitors.[112] Thus, the competitiveness of the domestic market may have constrained profitability.

An economic analysis of the effect of dumped LTFV Malaysian imports estimates that revenue suppression due to unfair pricing of subject imports was insignificant.[113] [114] Despite the high substitutability of the domestic and Malaysian product discussed above, the Malaysian product is not present in the U.S. market in sufficient quantities to have a significant suppressing or depressing effect on the price of the domestic product.

Based on our analysis of the factors discussed above, including the small market share held by the subject imports and the availability of domestic supply, we find a lack of causal nexus between the performance of the domestic industry and the LTFV imports. We conclude, therefore, that the domestic WSS pipe and tube industry is not materially injured by reason of the LTFV imports from Malaysia.

IV. NO THREAT OF MATERIAL INJURY BY REASON OF LESS THAN FAIR VALUE IMPORTS

We further determine that there is no threat of material injury by reason of LTFV imports from Malaysia. Under the statute, the Commission is required to consider ten factors in its threat analysis,[115] only six of which are factually relevant to this investigation. In making our determination, we considered whether increases in production capacity or existing unused capacity in the exporting country are likely to result in a significant increase in imports of the merchandise to the United States; whether there were rapid increases in United States market penetration and the likelihood that the penetration will increase to an injurious level; the probability that subject imports will enter the United States at prices that will have a depressing or suppressing effect on domestic prices; whether there has been a substantial increase in inventories of the subject merchandise in the United States; whether there is underutilized capacity for producing the merchandise in the exporting country; and whether there are any other demonstrable adverse trends that indicate the probability that importation of the merchandise will be the cause of actual injury.[116]

In applying these criteria, we do not make a finding of threat of material injury unless evidence of threat is real and actual injury is imminent. A finding of threat of material injury also cannot be based on "mere conjecture or speculation."[117]

We note that, with respect to threat, evidence from the most recent portion of the period of investigation provides the point of departure for our analysis. It is the latest reflection of the condition of the industry and nature of market conditions which are essential to a meaningful analysis of threat. As discussed previously, the evidence from the interim period showed a slight upturn in

---

[112] Commissioner Nuzum does not join in this paragraph.

[113] Memorandum EC-R-020 at 3 (February 22, 1994).

[114] Vice Chairman Watson and Commissioner Nuzum do not join in the discussion in this paragraph.

[115] See 19 U.S.C. § 1677(7)(F)(i).

[116] 19 U.S.C. §1677(7)(F)(II), (III), (IV), (V), (VI), and (VII). Since this investigation does not involve a subsidy or an agricultural product, Factors I and IX are not applicable. Product shifting, Factor VII, is not an issue because there is no evidence that foreign manufacturers of WSS pipe and pressure tube produce any other products currently under investigation or subject to an order. Factor X is not significant in this investigation, because the WSS pipe and pressure tube industry is a mature industry with little, if any, development and production or derivative products. In addition, we must consider whether dumping findings or antidumping remedies in markets of foreign countries against the same class or kind of merchandise suggest a threat of material injury to the domestic industry. See 19 U.S.C. § 1677(7)(F). There is no evidence of such dumping findings or remedies concerning WSS pipe from Malaysia.

[117] See 19 U.S.C. § 1677(7)(F)(ii).

the domestic industry's profitability after three years of declines. Consumption of WSS pipe and tube products also showed an upturn in the interim period after three years of declines.

We note first that Malaysian production capacity increased rapidly from 1990 to 1992 and was projected to increase somewhat more in 1993.[118] The significance of this increase as well as the extent of existing unused capacity for purposes of a threat analysis, however, must be assessed in the context of trends in consumption and the performance of the domestic industry. Viewed in that context, we do not believe that existing unused Malaysian capacity is significant. Were the Malaysian producer to fully utilize existing capacity to increase exports to the United States, it is not clear that subject imports would increase to injurious levels, given the substantial market share held by the domestic industry, the small market share held by the Malaysian producer, and the evidence of increasing consumption for WSS pipe and tube in the United States, as well as imports of WSS pipe from a significant number of other, non-subject sources.[119] Thus, an increase in capacity or capacity utilization does not necessarily mean that all additional production will be shipped to the United States.

In view of the fact that there were no imports from Malaysia until late 1991, the increase in those imports from 0.1 percent market share in 1991 to 3.4 percent in 1992, could arguably be characterized as a "rapid increase."[120] [121] Several factors mitigate against this increase as constituting evidence of a threat of material injury, however. While the increase may have been rapid, it nonetheless resulted in a small market share relative to domestic consumption and production, and a volume that we found was not significant. We also do not find substantial evidence that imports from Malaysia are likely to continue to increase at that same rate in the near future. More recent data indicate that the Malaysian producer's U.S. market share remained relatively flat in interim 1993.[122]

We also do not find substantial evidence indicating a sufficient probability that imports from Malaysia will enter the United States at prices that will have suppressing or depressing effects on domestic prices. As discussed earlier, we did not find evidence of significant adverse price effects caused by the Malaysian products during the period of investigation. We find no evidence indicative of a likely significant change in pricing effects attributable to the Malaysian products in the near future.

We also note that end-of-period inventories of subject imports in the United States decreased from 1991 to 1992, and also declined in interim 1993.[123] Further, even at their highest level, the inventories were very small relative to domestic consumption or production.[124]

Finally, we find no evidence of other demonstrable adverse trends that indicate the probability that imports from Malaysia will be the cause of actual injury. To the contrary, we find evidence of demonstrable positive trends, such as increasing consumption and improving profitability

---

[118] See Tables 14, 16, CR I-37, I-41-42, PR at II-24, II-26-27. Although Respondent asserts that it intends to move existing production capacity elsewhere, thereby decreasing production capacity, we discount this evidence as inconclusive. See Tr. at 139; Respondent's Pre-hearing Brief at 24-25; Respondent's Post-hearing Brief at 10-15; see also Memorandum INV-R-029 (February 24, 1994).

[119] [**********]

[120] See Table 16, CR at I-41-42, PR at II-26-27.

[121] The percentage increase in subject imports may be large, but this is a function of the small base from which the percentage figures were calculated. Therefore, in this investigation, we decline to place much weight on the *percentage increase* in subject imports.

[122] We recognize that the subject imports were likely affected by suspension of liquidation, which occurred towards the end of the period of investigation. However, given the other evidence concerning the growth in apparent consumption and the domestic industry's improving performance, we are not persuaded that the subject imports would have increased to injurious levels in the absence of suspension of liquidation.

[123] See Table 4, CR at I-18, PR at II-12.

[124] See Table 2, CR at I-16, PR at II-10; Table 16, CR at I-41-42, PR at II-26-27.

in the domestic industry.[125] Accordingly, we conclude that the domestic industry is not threatened with material injury by reason of the dumped imports from Malaysia.

CONCLUSION

In view of the small volume of subject imports, the absence of significant adverse price effects, and the improving condition of the domestic industry, among other reasons, we find that the domestic industry producing welded stainless steel pipe and pressure tube is neither materially injured nor threatened with material injury by reason of LTFV imports from Malaysia.

[125] See Table 9, CR at I-27, PR at II-18; Table 16, CR at I-41-42, PR at II-26-27.

ADDITIONAL VIEWS OF COMMISSIONER JANET A. NUZUM

In this final investigation, I make a negative determination and concur for the most part with the views set forth in the majority opinion. These Additional Views provide additional insight into my analysis, particularly on the issue of threat.

In order to reach an affirmative determination, there must be positive evidence on the record that the domestic industry is materially injured or threatened with material injury by reason of the imports subject to investigation. For the reasons discussed in the majority opinion, I conclude that the domestic industry is not experiencing present material injury by reason of the subject imports from Malaysia. The issue of threat, frankly, was more difficult.

An affirmative determination based on threat of material injury requires finding that the threat of injury is real and that actual injury is imminent. The Commission may not speculate about the future impact of unfair imports on the domestic industry. Theories and hypotheses about the effects of the subject imports, however plausible they may be, are not a sufficient basis by themselves for making a determination. Accordingly, I look for information in the record about the abilities of the foreign producer or producers to maintain or increase their exports to the United States at prices that have depressing or suppressing effects, and the incentives for the foreign producer or producers to do so. I then consider whether this information indicates that there is a sufficiently reasonable likelihood that the subject imports will cause actual injury in the near future.

I view the evidence from the most recent portion of the period of investigation as the point of departure for the analysis of threat. In this record, that means the information relating to the first three quarters of 1993 ("interim 1993") was the most probative. This portion of the record provides the most current information on the condition of the industry, trends in the market, and the position of subject imports, that helps form the basis for concluding what will likely happen in the near future.[1]

As petitioners acknowledge, the domestic industry showed improvement in several key factors during 1991-1992 and the first three quarters of 1993. Specifically, the industry's production and shipments of welded stainless steel pipe and tube increased steadily during this period.[2] Indeed, the industry showed relatively sizeable increases in shipments in 1992 at the same time that consumption was at its lowest level during the period examined.[3] Further, several other key factors also showed improvement, including inventories, productivity and unit cost of goods sold.[4]

Several of these factors continued to show improvement in interim 1993, including production, shipments, inventories and unit cost of goods sold.[5] In addition, the trend in operating income, which had been declining throughout the period of investigation, reversed, albeit marginally.[6] Importantly, these improvements occurred at a time of growing consumption, which also occurred for the first time during the period examined. The record thus paints a picture of an industry whose vulnerability to the adverse effects of unfair imports, by interim 1993, is reduced. With these factors in mind, I turn to assess the likely effects of the subject imports from Malaysia.

Malaysian capacity, production and shipments of the subject merchandise all increased from small levels to levels that remain smaller than the U.S. industry.[7] The rate of these increases was,

---

[1] I have also taken into account that the volume of subject imports may be affected in the most recent part of the period examined by the antidumping investigation itself. In this particular investigation, suspension of liquidation for the subject imports occurred in September 1993.

[2] See Tables 2 and 3, CR at I-16, I-17, PR at II-10, II-11.

[3] See Table 3, CR at I-17, PR at II-11.

[4] See Tables 4, 5, 9, CR at I-18, I-19, I-27; PR at II-12, II-13, II-18.

[5] See Tables 2, 3, 4, 9, CR at I-16, I-17, I-18, I-27; PR at II-10, II-11, II-12, II-18.

[6] See Table 9, CR at I-27, PR at II-18.

[7] See Table 14, CR at I-37, PR at II-24.

however, quite rapid. By 1992, a significant proportion of the shipments was directed to the United States.[8]

In presenting their arguments concerning threat, petitioners pointed to the Malaysian producer's demonstrated ability to "flood" the U.S. market with low-priced pipe, as evidenced by the increase in import volume during 1991-1992. Petitioners stated in their posthearing brief, "Under these circumstances, the historical behavior of Kanzen and common sense leave no doubt that Kanzen could and would again immediately inundate the U.S. market with its pipe were suspension of liquidation ended."[9] As discussed in the majority's views, however, neither the volume of imports nor the impact of those imports on domestic prices was significant. Since I was not persuaded that the domestic industry is currently materially injured by the level of imports from Malaysia in 1992 and interim 1993, evidence of the likelihood of a return by those imports to those same levels would not be sufficient, by itself, to constitute a threat of material injury.

Thus, I carefully examined other information in the record to see if it supported an affirmative determination of threat. Although the Malaysian producer has the capability to increase its exports to the United States above levels recorded during the period examined, it is not clear that those possibly higher levels would be injurious to the domestic industry, given the increase in consumption and improvement in the domestic industry in interim 1993.

Nor is it clear that all additional production, if any, will result in increased exports to the United States. The record concerning the Malaysian producer's shipments to its home market and to third country markets, as well as to the United States, does not support an affirmative finding of threat.[10]

Respondent also noted its plans to move some portion of its current production capacity out of Malaysia.[11] The record is inconclusive as to the firmness of these plans and I suspect that the motivations underlying those plans are tied to the developments in this investigation. Nevertheless, it does appear that there have been relatively extensive and detailed discussions concerning these plans. I have not placed significant weight on this evidence, but note that there also is no evidence to the contrary. In sum, the record concerning the respondent's ability to increase significantly its capacity, production and exports of WSS pipe to the United States is mixed, but does not indicate a sufficient likelihood that any such increases will result in actual injury to the domestic industry. My assessment is based not only on the improvement in the condition of the domestic industry and increase in consumption, but also on the fact that the subject imports that did enter the United States during the period examined did not have significant adverse volume or price effects. If, however, in a future investigation, the record shows different trends, I might reach a different conclusion. Based on this record in this investigation, however, I cannot conclude that the foreign producer's capacity, production and shipments are likely to increase to injurious levels without engaging in speculation. The statute expressly prohibits such speculation and conjecture. Accordingly, I make a negative determination.

---

[8] Id.
[9] Petitioner's Post-hearing Br. at 13.
[10] See Table 14, CR at I-37, PR at II-24.
[11] See Respondent's Prehearing Br. at 24-25; Post-hearing Br. at Exhibit 4.

DISSENTING VIEWS OF CHAIRMAN NEWQUIST AND COMMISSIONER ROHR

We find that the domestic industry producing welded stainless steel pipe and pressure tube is materially injured by reason of imports of pipe and tube from Malaysia which the Department of Commerce has determined to be sold in the United States at less than fair value ("LTFV").

As a preliminary matter, we note that, in our view, an affirmative determination here is consistent with the Commission's affirmative determinations in Certain Welded Stainless Steel Pipes from the Republic of Korea and Taiwan.[1] The condition of the domestic industry is virtually the same today as it was at the time of those determinations, and imports from Malaysia are as much a cause of injury now as imports from Korea and Taiwan were then.

We concur with the majority's discussion concerning like product and domestic industry. As the majority is silent on the condition of the domestic industry, we begin these dissenting views with our discussion of the condition of the domestic industry.

I. CONDITION OF THE INDUSTRY

In determining whether there is material injury to a domestic industry by reason of the LTFV imports, we are directed to consider "all relevant economic factors that have a bearing on the state of the industry in the United States[.]"[2] These include production, consumption, shipments, inventories, capacity utilization, market share, employment, wages, productivity, financial performance, capital expenditures, and research and development.[3] No single factor is determinative, and we consider all relevant factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[4]

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).[5] Demand in these industries has generally declined during the period of investigation. Raw material prices are another factor affecting competition in this market. During the period of investigation, declines occurred in the prices of raw materials used in the production of pipe and tube.[6] Institution of the Korea and Taiwan investigations in November 1991, suspension of liquidation in June 1992, and the Commission's final affirmative determinations in those investigations in December 1992 also affected competition.[7]

Apparent U.S. consumption declined at an increasing rate during the period of investigation (1990-92), falling from 108,037 short tons (tons) in 1990 to 107,179 tons in 1991, and to 104,819 tons in 1992, or by 3.0 percent overall.[8] Consumption declined more substantially in terms of value, by 12.7 percent, reflecting the steady decline in the unit value during the period.[9] Comparing the interim periods, January-September 1992 to January-September 1993, consumption increased 4.3 percent by volume, and 3.7 percent by value.

---

[1] Invs. Nos. 731-TA-540 and 541 (Final), USITC Pub. 2585 (December 1992).
[2] 19 U.S.C. § 1677(7)(C)(iii).
[3] Id.
[4] Id.
[5] Confidential Report ("CR") at I-43; Public Report ("PR") at II-27.
[6] CR at I-28; PR at II-19. Nickel and ferrochromium costs represent a substantial portion of the cost of raw materials in producing austenitic stainless steel pipe and tube.
[7] Certain Welded Stainless Steel Pipes from the Republic of Korea and Taiwan, Invs. Nos. 731-TA-540 and 541 (Final), USITC Pub. 2585 (December 1992). Imports from Korea and Taiwan accounted for nearly 60 percent of all imports and 13.3 percent of domestic consumption in 1991; in 1992, imports from Korea and Taiwan accounted for just 30 percent of all imports and 5.2 percent of domestic consumption. Report at Table 16; INV-R-028 (February 24, 1994).
[8] Report at Table 16.
[9] Id.

Following the initiation of the Korea and Taiwan investigations, the domestic industry gained market share in 1992, for an overall gain in market share of 3.3 percentage points over the period of investigation.[10] The U.S. market share by value was slightly higher in each year during the period due to the higher average unit values of the domestic product compared with those of imports.[11] The U.S. producers' market share in interim 1993 fell by 1.9 percent, by volume, and also fell 1.6 percent by value, compared to interim 1992.

The U.S. average-of-period productive capacity increased marginally during the period of investigation, from 140,348 tons in 1990 to 144,981 tons in 1992, or by 3.3 percent.[12] The U.S. industry's productive capacity continued to increase in interim 1993, by 2.5 percent. Production declined slightly from 1990 to 1991, falling from 87,033 tons to 86,735 tons, before rising in 1992, to 89,317 tons, an overall increase of 2.6 percent.[13] In interim 1993, U.S. production increased slightly compared to interim 1992, by 1.4 percent. Capacity utilization also declined marginally during the period, from 62.0 percent in 1990 to 61.6 percent in 1992. Interim 1993 capacity utilization was 59.7 percent, a decrease of 0.6 percentage points compared to interim 1992.[14]

U.S. shipments, which accounted for the vast majority of total shipments by U.S. producers, increased marginally by volume during 1990-1992, from 85,992 tons to 86,934 tons, or by 1.1 percent.[15] The value and unit value of U.S. shipments, however, declined during the period. The value of U.S. shipments fell steadily over the period, from $374 million in 1990 to $334 million in 1991, and to $329 million in 1992, for an overall decline of 12.0 percent. The value of U.S. shipments increased slightly in interim 1993 compared to interim 1992, from $246 million to $250 million, or by 1.8 percent.[16] The unit value of U.S. shipments also fell steadily, from $4,345 per ton in 1990 to $3,784 per ton in 1992, a drop of 12.9 percent. Unit values in interim 1993 also declined when compared to interim 1992, from $3,746 per ton to $3,739 per ton, or by 0.2 percent.[17]

The greater declines in shipments relative to production are reflected in changing inventory levels. End-of-period inventories rose sharply from 9,913 tons in 1990 to 11,658 tons in 1991 and then fell somewhat to 11,405 tons in 1992. Inventory levels in interim 1993 fell by 11.8 percent compared to levels in 1992, from 12,066 tons to 10,644 tons.[18] The ratio of inventories-to-shipments followed a similar trend, rising from 11.5 percent in 1990 to 14.1 percent in 1991, and declining to 13.1 percent in 1992. This trend continued in interim 1993, falling to 11.9 percent, compared to a ratio of 13.8 percent in interim 1992.[19]

The number of production and related workers, their hours worked, and total wages and compensation paid, all declined steadily during the period of investigation.[20] Employment fell overall by 10.4 percent, hours worked by 19.0 percent, and total compensation by 16.7 percent. Hourly total compensation rose overall by only 1.9 percent. Productivity rates rose steadily and significantly during 1990-92, by 23.0 percent. The comparison between interim 1993 and interim 1992 data for these indicators shows nominal improvement. In the interim period, hours worked, total compensation, and hourly total compensation increased, by 0.3 percent, 3.1 percent, and 1.7 percent

---

[10] Id.
[11] Id.
[12] Report at Table 2.
[13] Id.
[14] Id.
[15] Report at Table 3.
[16] Id.
[17] Id.
[18] Report at Table 4.
[19] Id.
[20] Report at Table 5.

respectively. Employment continued to decline, however, falling by 0.4 percent in the interim period.[21]

The financial performance of the industry deteriorated steadily from 1990 to 1992. At least in part, this decrease was due to per-unit revenue declines which consistently outpaced per-unit cost declines. Although the domestic industry showed some recovery in interim 1993, compared to 1992, increases were generally quite small.[22] Net sales fell from $349 million in 1990 to $314 million in 1991, and to $306 million in 1992, an overall decline of 12.4 percent.[23] Net sales in interim 1993 fell slightly compared to interim 1992, by less than 1 percent.

Costs of goods sold per ton also declined steadily, but at lesser rates; gross profit margins, therefore, also fell steadily, from 15.5 percent of sales in 1990 to 13.6 percent in 1991, and to 12.3 percent in 1992. Interim 1993 gross profit margins rose less than 0.5 percent compared to interim 1992.[24] Gross profit per ton dropped overall from $642 in 1990 to $464 in 1992, a decline of nearly 28 percent. Interim 1993 gross profit per ton rose slightly over the 1992 interim rate, from $450 per ton in 1992 to $466 per ton in 1993, an increase of less than 4 percent.[25]

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 generally tracked changes in the gross profit margin.[26] The industry realized operating profits of 7.2 percent of net sales in 1990, 4.7 percent in 1991, and 3.6 percent in 1992. Interim 1993 operating profits were 4.3 percent of net sales, compared to 4.1 percent in interim 1992.[27] On a per-ton basis, operating income fell from $298 in 1990 to $135 in 1992 -- down almost 55 percent. Operating income per ton in interim 1993 was $160, only slightly higher than the interim 1992 rate of $153. Cash flow fell by more than 39 percent from 1990 to 1991, from $23.3 million to $14.1 million, and dropped by nearly 22 percent in 1992 to $11.0 million. Interim 1993 cash flow was $10.2 million compared to the interim 1992 cash flow of $8.7 million.[28]

The value of total assets of the domestic industry producing the like product declined steadily during the period of investigation, falling by 5.4 percent between 1990 and 1992.[29] Most producers reported no research and development expenses.[30]

Based on the declines in production and shipments and the substantial declines in net sales, operating income, and employment, we determine that the domestic industry is materially injured.

II. MATERIAL INJURY BY REASON OF LTFV IMPORTS

In determining whether the domestic industry is materially injured by reason of the subject imports, the statute requires that we 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; and

---

[21] Id.
[22] CR at I-26 through I-33; PR at II-17 through II-21.
[23] Report at Table 9.
[24] Id.
[25] Id.
[26] Id.
[27] Id.
[28] Id.
[29] Report at Table 13.
[30] Report at Table 12.

(III) the impact of the imports of such merchandise on domestic producers of like products, but only in the context of production operations in the United States.[31]

In making this determination, the statute permits us to consider "such other factors as are relevant to the determination . . . ," including those within the conditions of competition that are distinctive to the affected industry.[32] We are not required to determine that LTFV imports are "the principal, a substantial or a significant cause of material injury."[33] Rather, a finding that LTFV imports are a cause of material injury is sufficient.[34] As discussed above, one factor particularly important to our affirmative determination is that this industry "has long been battered by unfair import competition [such that] very small additional quantities of unfair imports may be more than negligible."[35] Although this legislative history is directed to the negligibility exception to cumulation of imports from more than one subject country,[36] the underlying rationale provides equally relevant guidance here, namely: slightly more than a year ago, a majority of the Commission determined that imports of welded stainless steel pipes and tubes from the Republic of Korea and Taiwan were a cause of material injury to the domestic industry.[37] Thus, while cumulating imports from Malaysia with those from the Republic of Korea and Taiwan which are subject to an antidumping duty order might not be appropriate,[38] the continuing adverse effects of those imports are an important condition of trade as those imports significantly hindered the industry's ability to withstand additional unfair imports from Malaysia.

Imports of welded stainless steel pipe and tube from Malaysia increased throughout the period of investigation, from zero imports in 1990 to 150 tons in 1991; between 1991-92 the imports rose dramatically to 3,553 tons.[39] Interim 1993 (January to September) imports were approximately 2,400 tons compared to 2,200 tons in interim 1992.[40] By value, imports from Malaysia followed a similar trend, increasing from $0 in 1990 to $437,000 in 1991, then increasing significantly to nearly $10 million in 1992.[41] The value of imports from Malaysia in interim 1993 was more than $400,000 greater than for the same period in 1992.[42]

Imports from Malaysia accounted for an increasing share of domestic consumption of pipe and tube throughout the period of investigation, from 0 percent in 1990 to just 0.1 percent in 1991,

---

[31] 19 U.S.C. § 1677(7)(B)(i).

[32] 19 U.S.C. §§ 1677(7)(B)(ii), 1677(7)(C).

[33] S. Rep. No. 249, 96th Cong., 1st Sess. 57 and 74 (1979).

[34] See, e.g., Metallverken Nederland, B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista S.A. v. United States, 704 F. Supp. 1075, 1101 (Ct. Int'l Trade 1988).

[35] H.R. Rep. 40, 100th Cong., 1st Sess. 130, 131 (Part I, 1987).

[36] 19 U.S.C. § 1677(7)(C)(v).

[37] Certain Welded Stainless Steel Pipes from the Republic of Korea and Taiwan, Invs. Nos. 731-TA-540 and 541 (Final), USITC Pub. 2585 (December 1992).

[38] Chairman Newquist does not assess whether cumulation is appropriate here since he finds that imports from Malaysia alone are a cause of material injury. In the absence of such a finding, Chairman Newquist would consider cumulating imports from Malaysia with those from the Republic of Korea and Taiwan.

Commissioner Rohr has considered whether to cumulate the subject imports with those from Korea and Taiwan. The statute requires that to be appropriate candidates for cumulation, the imports must be subject to investigation. The investigations on Korea and Taiwan were filed in November 1991, and concluded in December 1992. These imports are thus no longer subject to investigation, and have not been for more than one year. While the Commission has considered cumulating imports on which orders have already been issued, it has done so in only limited circumstances. In particular, it has not done so when the order was issued as long as one year ago, as is the case here. Commissioner Rohr declines to cumulate the subject imports from Malaysia with the imports already subject to antidumping duties from Korea and Taiwan.

[39] Report at Table 16.

[40] Id. In fact, in 1992, imports from Malaysia were more than two and one-half times greater than imports from Korea, and only 605 tons less than imports from Taiwan. INV-R-028 (February 24, 1994).

[41] Report at Table 16.

[42] Id.

then rising substantially to 3.4 percent in 1992.[43] The subject import's share of domestic consumption in interim 1993 was 2.9 percent compared to 2.8 percent in interim 1992.[44]

We find the rapid increase in volume, value and market share of imports from Malaysia between 1990 and 1992 significant, particularly in light of declining total consumption during the period.[45]

Both producers and importers agree that the domestic product and the subject imports are wholly interchangeable.[46] Moreover, there are virtually no substitute products for welded stainless steel pipe and tube.[47] As demand for pipe and tube is derived by demand in the downstream industries, demand is relatively price inelastic. In other words, changes in pipe and tube prices have little effect on the quantities demanded by the downstream industries. Rather, an increase in the volume of unfairly priced imports results in the downstream industries shifting from suppliers of domestic pipe and tube to suppliers of the lower priced, unfair imports from Malaysia.

Unit value per ton of the subject imports declined throughout the period of investigation, falling from $2,915 in 1991 to $2,785 in 1992.[48] Interim 1993 unit value was $2,726 compared to $2,784 in interim 1992.[49] These unit values were between 26-28 percent lower than the unit values of the domestic product, which similarly declined during the period.[50]

The Commission collected sales price data for three types of pipes and pressure tubes. For all three products, the subject imports undersold the domestic like product in every available price comparison.[51] There was no discernible trend in the selling prices of the Malaysian products -- they fluctuated upward and downward from quarter to quarter.[52] In contrast, although there were irregular increases in the domestic selling prices between quarters, over the entire period of investigation, domestic prices for all three products declined.[53]

We find that in light of the price sensitive nature of the market, the subject import's lower unit value and consistent underselling depressed and suppressed domestic prices to a significant degree as manifested by the domestic product's falling unit values and sales prices.

III. CONCLUSION

Based on the foregoing, we determine that the domestic industry producing welded stainless steel pipe and pressure tube is materially injured by reason of imports of such pipe and tube from Malaysia which are sold in the United States at less than fair value.

---

[43] Id.
[44] Id.
[45] Although the volume and value of total domestic consumption increased slightly between the interim periods, the domestic share of both the volume and value of consumption actually declined. Report at Table 16.
[46] CR at I-45; PR at II-28.
[47] CR at I-11; PR at II-7.
[48] Report at Table 15.
[49] Id.
[50] Report at Tables 7, 15.
[51] Report at Tables 17-19.
[52] Id.
[53] Id.

PART II

INFORMATION OBTAINED IN THE INVESTIGATION

INTRODUCTION

Following a preliminary determination by the U.S. Department of Commerce (Commerce) that imports of welded stainless steel pipe[1] from Malaysia are being sold in the United States at less than fair value (LTFV) (58 F.R. 47120), the U.S. International Trade Commission (the Commission), effective September 1, 1993, instituted investigation No. 731-TA-644 (Final) under section 733(a) of the Tariff Act of 1930 (the Act) (19 U.S.C. § 1673b(a)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Notice of the institution of the Commission's investigation and of a public hearing 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 September 22, 1993 (58 F.R. 49317).[2] The hearing was held in Washington, DC, on January 27, 1994.[3] Commerce's final LTFV determination was made on January 28, 1994. The applicable statute directs that the Commission make its final injury determination within 45 days after the final determination by Commerce.

This investigation results from a petition filed by 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, on February 16, 1993, alleging that imports of welded stainless steel pipe 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. In response to that petition the Commission instituted investigation No. 731-TA-644 (Preliminary) under section 733(a) of the Act (19 U.S.C. § 1673b(a)) and, on April 2, 1993, determined that there was a reasonable indication of such injury. A summary of the data collected in this investigation is presented in appendix C.

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 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

---

[1] For the purposes of this investigation, welded stainless steel pipe consists of any welded pipe, of circular cross section, that is made from austenitic stainless steel. This type of pipe is produced according to the 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, A-312, A-358, A-409, and A-778. Welded pipes are generally used as conduits to transmit liquids or gases. Major applications for welded stainless steel pipes include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical lines, brewery process and transport lines, general food processing lines, automotive lines, and paper processing machines. Welded stainless steel pipes are covered by statistical reporting numbers 7306.40.1000, 7306.40.5005, 7306.40.5015, 7306.40.5045, 7306.40.5060, and 7306.40.5075 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 appeared at the hearing is presented in app. B.

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

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 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).

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 SALES AT LTFV

Commerce's affirmative final determination in this case was based primarily on respondent's (Kanzen Tetsu Sdn. Bhd.) data. U.S. price was based on purchase price calculations, and foreign market value was derived from home market sales data and constructed value. The final dumping margin was 9.13 percent for Kanzen Tetsu and for all other producers/exporters.

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 dimensions, the imported and domestic products are essentially fungible.

In its most recent investigations covering imports of ASTM A-312 pipe from 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-

---

[5] *Stainless Steel Pipe and Tube from Sweden*, USITC Pub. 2033, Nov. 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, Aug. 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, Dec. 1992.

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

688 tubing).[8] Accordingly, data on both pipe and tube 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.[9]

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 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.[10] 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 that of 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 has heavier walls than A-778 pipe and, consequently, can withstand greater pressure. Both are sometimes produced on the same machinery and equipment.

---

[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, which is a large-diameter austenitic 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, but do not generally manufacture pipe.

[9] Petitioners' prehearing brief, pp. 2-5.

[10] Virtually all pipe is sold in standard 21-foot lengths according to petitioners, whereas pressure tubing varies considerably in length, depending on the application. Hearing transcript, pp. 70-71.

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 its 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, respectively, 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. Each 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 length, pickled, tested hydrostatically, and stenciled. For some pipe products, the removal or smoothing of the interior weld bead is required prior to annealing.

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 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 lines, petrochemical lines, automotive 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, A-269, and A-688 tube are used primarily in heating and cooling apparatus such as heat exchangers, condensers, boilers, and feed water heaters. A-270 tube has a special finish and is intended for use in the dairy and food industry.

Substitute Products

There are few, if any, instances in which pipe made of substitute materials such as plastics and advanced materials can be used in the same applications as welded stainless steel pipe.[11] Properties imparted to the pipe by the use of 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 HTS, covering welded 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 (HTS subheading 7306.40.10) and 5 percent ad valorem for pipe having a wall thickness of 1.65mm or more (HTS subheading 7306.40.50).

U.S. PRODUCERS

There are 21 known producers of welded stainless steel pipe and tube in the United States.[12] Seventeen firms, accounting for 95.4 percent of estimated 1992 total austenitic pipe and tube production, and 93.8 percent of estimated 1992 total austenitic pipe production, responded to the Commission questionnaire. Data coverage in this report includes all 17 firms unless otherwise noted. Responding producers' plant locations, product lines, production shares, and positions regarding the petition are presented in table 1.

Of the 17 responding firms, 5 produce only pipe, 4 produce only tube, and 8 produce both pipe and tube. The pipe and tube producers are capable of 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

---

[11] Although plastics, such as reinforced fiberglass plastics, can be used for selected applications, they are not generally interchangeable with stainless steel. Conference transcript, testimony of Joseph Avento, p. 42.

[12] Of those 21 firms, ***.

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 4 petitioners accounted for ***. Producers supporting the petition accounted for ***.[13]

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

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

* * * * * * *

U.S. IMPORTERS

There are 8 known importers of pipe from Malaysia. All 8 importers, accounting for 89.1 percent of 1992 imports from Malaysia as reported by Commerce, responded to the Commission questionnaire with usable data.[14] Importer data presented in this report include all 8 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):

* * * * * * *

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 which are less common. Some distributors also inventory the more common sizes of pressure tube, but in smaller quantities than pipe.

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

Section 771(7)(B) of the Act (19 U.S.C. § 1677(7)(B)) provides that in making its determination in this investigation the Commission--

---

[13] Two producers, ***, opposed the petition.

[14] There may be unidentified importers of Malaysian pipe accounting for the remaining 10.9 percent of 1992 Malaysian imports reported in Commerce official statistics. ***.

Shall 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, and (III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States; and

May consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

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

In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.

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

In examining the impact required to be considered under subparagraph (B)(iii), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to, (I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, 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.

Available information on the volume of imports (item (B)(I) above) is presented in the section of this report entitled "U.S. Imports." Information on the other factors specified is presented in this section, and (except as noted) is based on the questionnaire responses of 17 firms that accounted for 95.4 percent of U.S. production of autstenitic pipe and pressure tube during 1992.

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. From 1990 to 1992, pipe and tube capacity, production, and capacity utilization grew slightly. Between interim 1992 and interim 1993, capacity increased more than production, resulting in a small decline in capacity utilization.

Table 2
Welded stainless steel pipe and pressure tube: U.S. capacity, production, and capacity utilization, by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.-- 1992	1993
	Average-of-period capacity (*tons*)				
Pipe	75,356	75,156	77,006	57,192	57,942
Pipe and pressure tube	140,348	141,748	144,981	112,044	114,830
	Production (*tons*)				
Pipe	50,391	46,668	51,984	39,897	38,904
Pipe and pressure tube	87,033	86,735	89,317	67,606	68,596
	Capacity utilization (*percent*)				
Pipe	66.9	62.1	67.5	69.8	67.1
Pipe and pressure tube	62.0	61.2	61.6	60.3	59.7

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. From 1990 to 1992, U.S. shipments of pipe and tube increased in quantity by 1.1 percent and declined in average unit value by 12.9 percent, resulting in a substantial decrease of 12.0 percent in the total value of U.S. shipments. Between the interim periods, U.S. shipments rose slightly more in quantity than in value, reflecting a slight decline in average unit value.

Table 3
Welded stainless steel pipe and pressure tube: Shipments by U.S. producers, by products and by types, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.-- 1992	1993
	Quantity (*tons*)				
Pipe:					
Company transfers	***	***	***	***	***
Domestic shipments	***	***	***	***	***
Subtotal	49,767	45,123	50,040	38,225	39,025
Exports	463	737	1,604	1,112	983
Total	50,230	45,860	51,644	39,337	40,008
Pipe and pressure tube:					
Company transfers	***	***	***	***	***
Domestic shipments	***	***	***	***	***
Subtotal	85,992	82,648	86,934	65,661	66,952
Exports	1,618	2,423	2,974	2,003	2,619
Total	87,610	85,071	89,908	67,664	69,571
	Value (*1,000 dollars*)				
Pipe:					
Company transfers	***	***	***	***	***
Domestic shipments	***	***	***	***	***
Subtotal	213,461	170,884	175,152	132,604	130,997
Exports	2,242	3,153	6,158	4,153	3,619
Total	215,703	174,037	181,310	136,757	134,616
Pipe and pressure tube:					
Company transfers	***	***	***	***	***
Domestic shipments	***	***	***	***	***
Subtotal	373,654	333,916	328,953	245,969	250,365
Exports	8,000	11,651	12,552	8,316	11,678
Total	381,654	345,567	341,505	254,285	262,043
	Unit value (*per ton*)				
Pipe:					
Company transfers	$***	$***	$***	$***	$***
Domestic shipments	***	***	***	***	***
Average	4,289	3,787	3,500	3,469	3,357
Exports	4,842	4,278	3,839	3,735	3,682
Average	4,294	3,795	3,511	3,477	3,365
Pipe and pressure tube:					
Company transfers	***	***	***	***	***
Domestic shipments	***	***	***	***	***
Average	4,345	4,040	3,784	3,746	3,739
Exports	4,944	4,809	4,220	4,152	4,459
Average	4,356	4,062	3,798	3,758	3,767

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. Inventory levels were high and grew from 1990 to 1992. There was a substantial decline between the interim periods, although ending inventories in September 1993 were higher than in December 1990.

Table 4
Welded stainless steel pipe and pressure tube: End-of-period inventories of U.S. producers, by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.-- 1992	1993
	Quantity (*tons*)				
Pipe	7,750	8,591	8,931	9,346	7,791
Pipe and pressure tube	9,913	11,658	11,405	12,066	10,644
	Ratio to production (*percent*)				
Pipe	15.4	18.4	17.2	17.6	15.0
Pipe and pressure tube	11.4	13.4	12.8	13.4	11.6
	Ratio to U.S. shipments (*percent*)				
Pipe	15.6	19.0	17.8	18.3	15.0
Pipe and pressure tube	11.5	14.1	13.1	13.8	11.9

Note.--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.

U.S. Employment, Compensation, and Productivity

Data on employment, compensation, and productivity are shown in table 5. From 1990 to 1992, the number of production workers, hours worked, total compensation paid, and unit labor costs declined significantly, while hourly compensation rose slightly and productivity increased dramatically. Between interim 1992 and interim 1993, the number of production workers declined, while there were slight increases in unit labor costs, total hours worked, total compensation, and hourly compensation.

Table 5
Average number of total employees and production and related workers in U.S. establishments wherein welded stainless steel pipe and pressure tube are produced, hours worked,[1] total compensation paid to such employees, and hourly compensation, productivity, and unit production costs,[2] by products, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.-- 1992	Jan.-Sept.-- 1993
	Number of employees				
All products	2,674	2,513	2,351	2,339	2,402
	Number of production and related workers (PRWs)				
All products	2,093	2,012	1,849	1,855	1,921
Pipe	856	745	789	805	761
Pipe and pressure tube	1,602	1,511	1,436	1,433	1,427
	Hours worked by PRWs (*1,000 hours*)				
All products	4,095	3,920	3,422	2,645	2,706
Pipe	1,479	1,404	1,219	956	878
Pipe and pressure tube	3,195	3,040	2,587	1,987	1,993
	Total compensation paid to PRWs (*1,000 dollars*)				
All products	66,621	63,773	58,880	45,480	46,706
Pipe	26,134	23,297	21,089	15,732	15,800
Pipe and pressure tube	51,971	48,705	43,300	32,715	33,741
	Hourly total compensation paid to PRWs				
All products	$16.27	$16.27	$17.09	$17.10	$17.02
Pipe	17.67	16.59	16.96	16.19	17.27
Pipe and pressure tube	16.27	16.02	16.58	16.34	16.61
	Productivity (*tons per 1,000 hours*)				
Pipe	33.7	33.0	40.1	39.6	41.1
Pipe and pressure tube	27.1	28.4	33.3	33.0	33.0
	Unit labor costs (*per ton*)				
Pipe	$523.82	$503.52	$410.02	$398.56	$410.61
Pipe and pressure tube	600.59	564.14	487.79	486.97	494.95

[1] Includes hours worked plus hours of paid leave time.
[2] On the basis of total compensation paid.

Note.--Ratios are calculated using data of firms supplying both numerator and denominator information.

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

Financial Experience of U.S. Producers

Thirteen producers,[15] representing 90.8 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 of Overall Establishments

Overall establishment income-and-loss data for the producers are shown in table 6. The downward trend in overall establishment operating income and net income before income taxes corresponds to similar trends for welded stainless steel pipe and welded stainless steel pipe and pressure tube combined, although net income before taxes for pressure tube alone actually improved during 1990-92. 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 76 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 1991 level, 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 $3,997 in 1990 to $3,344 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 $3,411 per ton in 1990 to $3,090 per ton in 1992, or by 9 percent.[16]

Raw material costs for purchased (except LTV and Allegheny, which manufacture their 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. 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 of raw material, direct labor, and factory overhead costs (*per ton*):

Item	1990	1991	1992	Jan.-Sept.-- 1992	Jan.-Sept.-- 1993
Raw materials	$2,463	$2,333	$2,264	$2,281	$2,135
Direct labor	355	371	348	360	364
Other factory costs	593	521	478	515	462
Total cost of goods sold	3,411	3,225	3,090	3,155	2,960

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

---

[15] The companies are ***. *** companies have fiscal year ends of ***.

[16] 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 on the overall operations of their establishments wherein welded stainless steel pipe and pressure tube are produced, fiscal years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993[1]

Item	1990	1991	1992	Jan.-Sept.-- 1992	1993
	Value (*1,000 dollars*)				
Net sales	455,384	406,724	400,352	307,776	303,933
Cost of goods sold	382,945	349,108	350,375	269,699	263,255
Gross profit	72,439	57,616	49,977	38,077	40,678
Selling, general, and administrative expenses	40,526	37,931	36,573	25,755	25,561
Operating income	31,913	19,685	13,404	12,322	15,117
Interest expense	13,665	13,784	11,483	10,122	8,598
Other expense, net	1,136	337	526	352	665
Net income before income taxes	17,112	5,564	1,395	1,848	5,854
Depreciation and amortization	12,580	12,724	11,667	9,368	9,311
Cash flow[2]	29,692	18,288	13,062	11,216	15,165
	Ratio to net sales (*percent*)				
Cost of goods sold	84.1	85.8	87.5	87.6	86.6
Gross profit	15.9	14.2	12.5	12.4	13.4
Selling, general, and administrative expenses	8.9	9.3	9.1	8.4	8.4
Operating income	7.0	4.8	3.3	4.0	5.0
Net income before income taxes	3.8	1.4	0.3	0.6	1.9
	Number of firms reporting				
Operating losses	2	4	6	4	4
Net losses	3	6	6	7	7
Data	13	13	13	13	13

[1] The companies are ***. *** companies have fiscal year ends of ***.
[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 on their operations producing welded stainless steel pipe, fiscal years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993[1]

Item	1990	1991	1992	Jan.-Sept.-- 1992	1993
	Quantity (*tons*)				
Net sales	46,149	40,915	44,932	34,868	34,356
	Value (*1,000 dollars*)				
Net sales	184,467	147,634	150,297	120,248	111,558
Cost of goods sold	157,418	131,954	138,846	110,021	101,723
Gross profit	27,049	15,680	11,451	10,227	9,835
Selling, general, and administrative expenses	16,066	14,530	13,707	10,056	8,883
Operating income or (loss)	10,983	1,150	(2,256)	171	952
Interest expense	1,728	1,062	922	709	787
Other income or (expense), net	508	92	54	17	(97)
Net income or (loss) before income taxes	9,763	180	(3,124)	(521)	68
Depreciation and amortization	3,019	3,051	3,204	2,385	2,625
Cash flow[2]	12,782	3,231	80	1,864	2,693
	Ratio to net sales (*percent*)				
Cost of goods sold	85.3	89.4	92.4	91.5	91.2
Gross profit	14.7	10.6	7.6	8.5	8.8
Selling, general, and administrative expenses	8.7	9.8	9.1	8.4	8.0
Operating income or (loss)	6.0	0.8	(1.5)	0.1	0.9
Net income or (loss) before income taxes	5.3	0.1	(2.1)	(0.4)	0.1
	Value (*per ton*)[3]				
Net sales	$3,997	$3,608	$3,344	$3,448	$3,247
Cost of goods sold	3,411	3,225	3,090	3,155	2,960
Gross profit	586	383	254	293	286
Selling, general, and administrative expenses	348	355	305	288	258
Operating income or (loss)	238	28	(50)	4	27
	Number of firms reporting				
Operating losses	2	4	6	5	5
Net losses	2	4	5	5	6
Data	9	8	8	8	8

[1] The companies are ***. *** companies have fiscal year ends of ***.
[2] Cash flow is defined as net income or loss plus depreciation and amortization.
[3] Because of rounding, figures may not add to totals shown.

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

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	Jan.-Sept.-- 1992	Jan.-Sept.-- 1993
Raw materials	72.2	72.3	73.3	72.3	72.1
Direct labor	10.4	11.5	11.3	11.4	12.3
Other factory costs	17.4	16.2	15.5	16.3	15.6
Total cost of goods sold	100.0	100.0	100.0	100.0	100.0

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

Net sales revenues, operating income (loss), and operating income (loss) margins for welded stainless steel pipe, by firm, are presented in table 8. Four companies experienced lower net sales revenues in 1992 than in 1991 and 1990, and four companies realized improved net sales revenues in 1992 compared to 1991.[17] All nine reporting companies experienced lower net sales revenues in 1991 compared to 1990. All companies experienced lower operating income margins in 1992 compared to 1990. *** were the only companies to reverse the trend in 1992 with an improvement in operating income/loss margins compared to 1991. Only *** were able to experience positive operating margins in 1992.

Table 8
Income-and-loss experience of U.S. producers on their operations producing welded stainless steel pipe, by firms, fiscal years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

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 49 percent of aggregate sales but, because of higher costs and/or lower prices, only 31 percent of gross profits and all operating/net losses (average operating income margins were (1.5) and 8.5 in 1992 for stainless steel pipe and pressure tube, respectively). The differences are largely accounted for by the fact that the four producers[18] of pressure tube only were much more profitable than the other producers (weighted-average operating margins of 11.8 percent and 0.3 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 average unit prices decreasing at a greater rate than decreasing average unit costs. Although 1992 quantities sold improved from the 1991 level, the 1992 operating income was at its lowest level during 1990-92, and was just 44 percent of the 1990 operating income, the most profitable year during the period for which data were collected. The January-September 1993 experience indicated an improvement in profitability from the same period in 1992, largely as the result of reduced costs, since revenues did not differ significantly between the two periods.

[17] One producer, ***, reported sales of stainless steel pipe only in fiscal year 1990.
[18] ***.

Table 9
Income-and-loss experience of U.S. producers on their operations producing welded stainless steel pipe and pressure tube, fiscal years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993[1]

Item	1990	1991	1992	Jan.-Sept.-- 1992	1993
	Quantity (*tons*)				
Net sales	83,993	78,852	80,784	62,482	62,547
	Value (*1,000 dollars*)				
Net sales	348,872	313,733	305,734	233,406	232,893
Cost of goods sold	294,948	271,043	268,247	205,234	203,706
Gross profit	53,924	42,690	37,487	28,172	29,187
Selling, general, and administrative expenses	28,898	27,974	26,514	18,604	19,124
Operating income	25,026	14,716	10,973	9,568	10,063
Interest expense	12,081	12,040	9,865	8,922	7,706
Other expense, net	1,500	493	698	471	670
Net income before income taxes	11,445	2,183	410	175	1,687
Depreciation and amortization	11,902	11,940	10,631	8,529	8,514
Cash flow[2]	23,347	14,123	11,041	8,704	10,201
	Ratio to net sales (*percent*)				
Cost of goods sold	84.5	86.4	87.7	87.9	87.5
Gross profit	15.5	13.6	12.3	12.1	12.5
Selling, general, and administrative expenses	8.3	8.9	8.7	8.0	8.2
Operating income	7.2	4.7	3.6	4.1	4.3
Net income before income taxes	3.3	0.7	0.1	0.1	0.7
	Value (*per ton*)[3]				
Net sales	$4,153	$3,978	$3,784	$3,735	$3,723
Cost of goods sold	3,511	3,437	3,320	3,284	3,256
Gross profit	642	541	464	450	466
Selling, general, and administrative expenses	344	354	328	297	305
Operating income	298	186	135	153	160
	Number of firms reporting				
Operating losses	1	4	6	5	5
Net losses	3	6	6	7	7
Data	13	13	13	13	13

[1] The companies are ***. *** companies have fiscal year ends of ***.
[2] Cash flow is defined as net income or loss plus depreciation and amortization.
[3] Because of rounding, figures may not add to totals 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 ***, 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 ***. As with welded stainless steel pipe, raw material costs (Allegheny and LTV manufacture their own raw material) represent the major component of cost of goods sold. Unit costs for raw materials, direct labor, and factory overhead are shown in the following tabulation *(per ton)*:

Item	1990	1991	1992	Jan.-Sept.-- 1992	Jan.-Sept.-- 1993
Raw materials	$2,371	$2,329	$2,295	$2,246	$2,197
Direct labor	359	377	363	368	369
Other factory costs	782	731	663	671	690
Total cost of goods sold	3,511	3,437	3,320	3,284	3,256

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	Jan.-Sept.-- 1992	Jan.-Sept.-- 1993
Raw materials	67.5	67.8	69.1	68.4	67.5
Direct labor	10.2	11.0	10.9	11.2	11.3
Other factory costs	22.3	21.3	20.0	20.4	21.2
Total cost of goods sold	100.0	100.0	100.0	100.0	100.0

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

Table 10
Income-and-loss experience of U.S. producers on their operations producing welded stainless steel pipe and pressure tube, by firms, fiscal years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

Capital Expenditures

Capital expenditures provided by the producers[19] for welded stainless steel pipe and pressure tube are shown in table 11. The expenditures are almost entirely for machinery and equipment.

Research and Development Expenses

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

[19] ***.

Table 11
Capital expenditures by U.S. producers of welded stainless steel pipe and pressure tube, by products, fiscal years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

(1,000 dollars)

Item	1990	1991	1992	Jan.-Sept.-- 1992	1993
All products:					
Land and land improvements	33	0	10	10	0
Building and leasehold improvements	573	273	337	237	322
Machinery, equipment, and fixtures	6,915	7,445	11,944	9,427	5,203
Total	7,521	7,718	12,291	9,674	5,525
Pipe:					
Land and land improvements	13	0	5	5	0
Building and leasehold improvements	85	28	19	3	27
Machinery, equipment, and fixtures	2,555	3,878	3,150	2,522	1,682
Total	2,653	3,906	3,174	2,530	1,709
Pipe and pressure tube:					
Land and land improvements	33	0	10	10	0
Building and leasehold improvements	448	78	285	194	237
Machinery, equipment, and fixtures	5,417	6,702	11,597	9,018	4,582
Total	5,898	6,780	11,892	9,222	4,819

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

Table 12
Research and development expenses of U.S. producers of welded stainless steel pipe and pressure tube, by products, fiscal years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

* * * * * * *

Investment in Productive Facilities

The investments in productive facilities for the producers are presented in table 13 for their operations on 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.

Table 13
Value of assets and return on assets of U.S. producers' operations producing welded stainless steel pipe and pressure tube, by products, fiscal years 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993[1]

Item	As of the end of fiscal year-- 1990	1991	1992	As of Sept. 30-- 1992	1993
	Value (*1,000 dollars*)				
All products:					
Fixed assets:					
Original cost	125,586	125,766	127,716	127,009	138,095
Book value	76,808	74,008	71,234	72,398	77,148
Total assets[2]	190,862	182,008	181,608	162,813	164,002
Pipe:					
Fixed assets:					
Original cost	50,200	46,149	47,790	46,135	46,874
Book value	27,677	27,267	27,022	26,220	26,083
Total assets[2]	66,668	57,927	58,545	32,607	25,350
Pipe and pressure tube:					
Fixed assets:					
Original cost	106,343	103,522	104,439	100,262	115,897
Book value	68,051	65,322	62,190	60,969	69,723
Total assets[2]	184,669	175,908	175,020	150,927	156,267
	Return on total assets (*percent*)				
All products:					
Operating return[3]	14.3	9.9	7.3	(4)	(4)
Net return[5]	6.8	2.9	1.4	(4)	(4)
Pipe:					
Operating return[3]	12.7	2.2	(1.9)	(4)	(4)
Net return[5]	9.9	0.2	(3.7)	(4)	(4)
Pressure tube:					
Operating return[3]	11.1	10.7	11.1	(4)	(4)
Net return[5]	0.8	1.0	2.9	(4)	(4)
Pipe and pressure tube:					
Operating return[3]	11.7	7.9	6.8	(4)	(4)
Net return[5]	4.1	0.7	0.7	(4)	(4)

[1] *** did not provide total assets. *** did not provide product fixed assets, although *** did provide total establishment 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. Nine firms provided total assets for the annual periods and eight firms provided total assets for the interim periods.

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

[4] Not applicable.

[5] 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.

CONSIDERATION OF THE QUESTION OF THREAT OF MATERIAL INJURY

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

In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant economic factors[20]--

> (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,
>
> (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

---

[20] 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."

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.[21]

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.

U.S. Importers' Inventories

U.S. importers reported ***.

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

According to 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 exported very little of its production to the United States and currently produces only about 60 tons per year. The general manager of Amalgamated declined to provide company data, saying that the firm no longer exports to the United States.[22] Counsel representing Kanzen Tetsu supplied data concerning its production, inventories, and shipments, as shown in table 14.

Kanzen Tetsu's capacity, production, shipments, exports to the United States, and inventories *** from 1990 to 1992, and there was *** to produce the subject product. Exports to the United States are ***.[23]

---

[21] 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."

[22] Telegram from U.S. embassy in Kuala Lumpur (No. 9987), Dec. 22, 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 which is attributable to the subject product. ***.

[23] ***.

Table 14
Welded stainless steel pipe: Kanzen Tetsu's capacity, production, inventories, and shipments, 1990-92, Jan.-Sept. 1992-93, and projected 1993-94

* * * * * * *

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 89 percent of estimated total U.S. imports from Malaysia in 1992. Accordingly, the import data presented in table 15 consist of official U.S. import statistics 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

Table 15
Welded stainless steel pipe: U.S. imports, by sources, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.-- 1992	1993
	Quantity (*tons*)				
Malaysia	0	150	3,553	2,197	2,397
Other sources	22,045	24,382	14,332	10,165	11,998
Total	22,045	24,531	17,885	12,362	14,395
	Value (*1,000 dollars*)[1]				
Malaysia	0	437	9,896	6,116	6,535
Other sources	76,708	77,512	54,251	35,649	41,428
Total	76,708	77,949	64,147	41,765	47,963
	Unit value (*per ton*)				
Malaysia	[2]	$2,915	$2,785	$2,784	$2,726
Other sources	$3,480	3,179	3,785	3,507	3,453
Average	3,480	3,178	3,587	3,379	3,332

[1] Landed, duty-paid value.
[2] 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.

stainless steel pipe and tube; although this may somewhat overstate the amount of imports of subject pipe, it is believed that imports of other pipe and tube are quite small.[24] [25] Imports of pipe from Malaysia began in late 1991 and increased dramatically in 1992. There was a slight increase in imports from interim 1992 to interim 1993. Average unit values for imports from Malaysia declined steadily and were consistently well below domestic producers' average unit values during the period for which data were collected.

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 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 value. 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 3.4 percent in 1992. 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 over 3 percentage points during 1990-92. Between interim 1992 and interim 1993, consumption increased in quantity and value. Imports from Malaysia maintained market share while U.S. producers lost almost 2 percentage points of market share to imports from other countries.

Prices

Market Characteristics

The demand for welded austenitic 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, importers, and distributors queried indicated reduced or stable demand for pipe during the more recent part of the period for which data were collected in this investigation.

Sales of welded austenitic stainless steel pipe are transacted on both an f.o.b. and delivered basis, depending upon the supplier and the size of the order. Four of the 10 responding U.S. producers sell pipe mainly on an f.o.b. mill basis, while the remaining 6 commonly sell both ways, depending on the quantities involved.[26] Two of the eight responding importers sell on an f.o.b. U.S. port or dock basis, while the remaining six sell on both an f.o.b. and delivered basis. 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 most importers and producers.

---

[24] 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 406.4 mm are not included in the official statistics presented herein. However, imports of products over 406.4 mm are believed to be very small.

[25] ***.

[26] 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 all orders under 15,000 lbs east of the Rockies are sold on an f.o.b. basis, while all other sales are on a delivered basis.

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, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.-- 1992	1993
	Quantity (*tons*)				
Pipe:					
Producers' U.S. shipments	49,767	45,123	50,040	38,225	39,025
U.S. imports from--					
Malaysia	0	150	3,553	2,197	2,397
Other sources	22,045	24,382	14,332	10,165	11,998
Total	22,045	24,531	17,885	12,362	14,395
Apparent consumption	71,812	69,654	67,925	50,587	53,420
Pipe and pressure tube:					
Producers' U.S. shipments	85,992	82,648	86,934	65,661	66,952
U.S. imports from--					
Malaysia	0	150	3,553	2,197	2,397
Other sources	22,045	24,382	14,332	10,165	11,998
Total	22,045	24,531	17,885	12,362	14,395
Apparent consumption	108,037	107,179	104,819	78,023	81,347
	Value (*1,000 dollars*)				
Pipe:					
Producers' U.S. shipments	213,461	170,884	175,152	132,604	130,997
U.S. imports from--					
Malaysia	0	437	9,896	6,116	6,535
Other sources	76,708	77,512	54,251	35,649	41,428
Total	76,708	77,949	64,147	41,765	47,963
Apparent consumption	290,169	248,833	239,299	174,369	178,960
Pipe and pressure tube:					
Producers' U.S. shipments	373,654	333,916	328,953	245,969	250,365
U.S. imports from--					
Malaysia	0	437	9,896	6,116	6,535
Other sources	76,708	77,512	54,251	35,649	41,428
Total	76,708	77,949	64,147	41,765	47,963
Apparent consumption	450,362	411,865	393,100	287,734	298,328

Continued.

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, Jan.-Sept. 1992, and Jan.-Sept. 1993

Item	1990	1991	1992	Jan.-Sept.-- 1992	1993
	Share of the quantity of U.S. consumption (*percent*)				
Pipe:					
Producers' U.S. shipments	69.3	64.8	73.7	75.6	73.1
U.S. imports from--					
Malaysia	0	.2	5.2	4.3	4.5
Other sources	30.7	35.0	21.1	20.1	22.5
Total	30.7	35.2	26.3	24.4	26.9
Pipe and pressure tube:					
Producers' U.S. shipments	79.6	77.1	82.9	84.2	82.3
U.S. imports from--					
Malaysia	0	.1	3.4	2.8	2.9
Other sources	20.4	22.7	13.7	13.0	14.7
Total	20.4	22.9	17.1	15.8	17.7
	Share of the value of U.S. consumption (*percent*)				
Pipe:					
Producers' U.S. shipments	73.6	68.7	73.2	76.0	73.2
U.S. imports from--					
Malaysia	0	.2	4.1	3.5	3.7
Other sources	26.4	31.2	22.7	20.4	23.1
Total	26.4	31.3	26.8	24.0	26.8
Pipe and pressure tube:					
Producers' U.S. shipments	83.0	81.1	83.7	85.5	83.9
U.S. imports from--					
Malaysia	0	.1	2.5	2.1	2.2
Other sources	17.0	18.8	13.8	12.4	13.9
Total	17.0	18.9	16.3	14.5	16.1

Note.--Because of rounding, shares 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.

Use of price lists for pipe varies and, when used, lists typically function as a base from which discounts are offered, depending upon the quantity purchased and current market conditions.[27] Six of 10 U.S. producers reported publishing price lists and that they typically discount from these lists. One producer, ***, reported that average discounts have increased from *** percent in 1990 to *** percent in 1993. No importers reported publishing price lists, although one indicated that it uses U.S. industry price sheets as a basis for negotiating prices, provided the prices permit realization of profit

[27] Payment terms typically require the total balance within 30 days and offer a 2-percent reduction for prompt payment (10 days or less).

goals. Other importers indicated basing quotes on the value of the transaction and competitive circumstances. U.S. producers and purchasers were asked about standard minimum quantity requirements on sales. Ten out of 12 purchasers indicated no minimum quantity requirement for sales from domestic or international manufacturers. *** listed 20 tons (one truckload) as its minimum quantity requirement and *** cited no minimum quantity requirement.

Most U.S. producers of pipe sell only on a spot basis, although two large producers (***) sell approximately *** and *** percent on contract, respectively. 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.[28]

Product Comparisons

The majority of responding U.S. producers and all responding importers of the subject product reported that U.S. and Malaysian pipe can be used interchangeably in virtually all applications. When asked specifically about quality, 9 out of 10 responding producers and 7 out of 8 importers stated that quality differences between the U.S. product and imports were not a major factor affecting domestic sales. ***, the *** reporting U.S. manufacturer of welded and seamless pipe and tube products, indicated the finished condition of Malaysian pipe was unacceptable compared to its domestically-produced full-drawn equivalent. ***, accounting for 4 percent of reported 1992 imports and the only importer to purchase Malaysian pipe from ***, 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.

Twelve purchasers of pipe and tube products responded to the Commission's questionnaire with usable information. Only one, ***,[29] had first-hand experience with the Malaysian pipe[30] and generally purchases from both U.S. and Malaysian sources. They reported that the quality of the Malaysian pipe is equal to that produced in the United States. All responding purchasers indicated that the three major factors influencing their purchasing decisions were price, quality, and availability. Three, including ***,[31] ranked price above quality and delivery, and the remaining nine stipulated that the product, whether domestically- or internationally-produced, must be certified to U.S. standards and specifications before lower-priced items would be considered. Other factors cited as being important were shipping costs, reliability of the supplier, terms of sale, and the relationship with the supplier. Most of the purchasing directors of the responding firms reported that quality and speed of delivery were in some instances significant enough to override price differentials that they considered minor. The majority of responding purchasers reported that shipping costs account for less than 5 percent of the delivered price for most pipe products, and that they (the distributors) pay shipping costs.

---

[28] ***, a large importer of pipe products, reported that in 1992 the Malaysian manufacturer lost sales to other international producers because of late shipments of its product.

[29] ***.

[30] The Commission contacted all identified distributors of austenitic pipe, requesting each to provide views on various aspects of the market, including prices, channels of distribution, transportation costs, and quality considerations in the purchaser questionnaire.

[31] ***.

Price Data

The Commission requested U.S. producers and importers to report net f.o.b. selling prices for sales of specified welded austenitic 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. Quantity and value data were requested for the largest single sale and for total sales of the products specified, by quarters, from January 1990 through September 1993. Purchasers were requested to provide data on their net f.o.b. purchase prices from U.S. producers and importers for stainless steel pipe. The products for which pricing data were requested are as follows:

Product 1: ASTM-A-312, welded, grade AISI 304L pipe, 2-inch schedule 40
Product 2: ASTM-A-312, welded, grade AISI 304L pipe, 3/4-inch schedule 40
Product 3: ASTM-A-312, welded, grade AISI 316L pipe, 1/2-inch schedule 40

Seven domestic producers and four importers[32] provided pricing data for sales of the three requested products in the U.S. market, although not necessarily for all three products or for all quarters over the period examined (January-March 1990 to July-September 1993). Prices of the Malaysian product were reported beginning in October-December 1991 for product 1, July-September 1991 for product 2, and January-March 1992 for product 3.

Domestic selling prices

Domestic weighted-average prices for the specified welded austenitic stainless steel products during the period studied initially trended downward. Data in tables 17 and 18 show that, in the case of products 1 and 2, domestic prices decreased unevenly from *** and *** per hundred feet in January-March 1990 to respective lows of *** and *** per hundred feet in April-June 1993, before increasing to *** and *** per hundred feet in the third quarter of 1993. 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 third quarter of 1993 (table 19). Price data for the selected products are displayed graphically in figures 1 and 2.

Malaysian selling prices

Four importers of Malaysian welded austenitic stainless steel pipe provided price data. Because imports of Malaysian pipe began late in the period for which data were collected, it is difficult to determine a Malaysian price trend, and few price comparisons were possible for periods prior to 1992. The respective prices of products 1 and 2 fell unevenly over the intervals of the period for which there are data. During October 1991 through June 1993 and January 1992 through September 1993 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 product 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 fluctuated to a maximum of *** in October-December 1992, before decreasing to a price of *** per hundred feet in the third quarter of 1993. The Malaysian product undersold the equivalent domestic product by margins ranging from *** to *** percent.

---

[32] The seven U.S. manufacturers (***) accounted for *** of total reported 1992 shipments of pipe. Responding importers of the Malaysian product (***) accounted for a collective share equivalent to *** of reported imports in 1992.

Table 17
Weighted-average net f.o.b. prices and quantities for sales of product 1 to distributors reported by U.S. producers and importers, and margins of underselling, by quarters, Jan. 1990-Sept. 1993

* * * * * * *

Table 18
Weighted-average net f.o.b. prices and quantities for sales of product 2 to distributors reported by U.S. producers and importers, and margins of underselling, by quarters, Jan. 1990-Sept. 1993

* * * * * * *

Table 19
Weighted-average net f.o.b. prices and quantities for sales of product 3 to distributors reported by U.S. producers and importers, and margins of underselling, by quarters, Jan. 1990-Sept. 1993

* * * * * * *

Figure 1
Weighted-average net f.o.b. prices reported by U.S. producers and importers for sales of products 1 and 2 to distributors, by quarters, Jan. 1990-Sept. 1993

* * * * * * *

Figure 2
Weighted-average net f.o.b. prices reported by U.S. producers and importers for sales of product 3 to distributors, by quarters, Jan. 1990-Sept. 1993

* * * * * * *

Purchaser Price Data

Purchase prices for the domestically-produced and imported welded austenitic pipe from Malaysia were based on weighted-average net f.o.b. prices reported by distributors in questionnaire responses. Five distributors purchasing domestic and/or Malaysian-produced pipe provided usable price data for January 1991-September 1993, but data were sparse for products 1 and 2 and available only for 1992-93 for product 3. Weighted-average f.o.b. purchase prices for products 1-3 are shown in tables 20-22. Weighted-average purchase prices for U.S.-produced 2-inch schedule 40 pipe reported by distributors fluctuated between *** and *** per hundred feet, but decreased 16 percent over the period examined. Prices for 3/4-inch schedule 40 pipe and grade 316L, 1/2-inch pipe fluctuated but decreased by 8.8 and 17.8 percent, respectively, during the interval studied.

Very little data were received from purchasers for products 1 and 2 from Malaysia. The available prices show the Malaysian products to be lower in price than the domestic equivalents; product 1 undersold the domestic material by 10.2 percent, and product 2 was approximately 9 percent lower in price than the domestic item. The price of product 3 from Malaysia declined unevenly from April-June 1992 to April-June 1993, and was below that of the domestic material in the five quarters for which data were available. The margin of underselling ranged from 25.6 percent in July-September 1992 to 15.9 percent in April-June 1993.

Table 20
Weighted-average net f.o.b. prices and quantities for purchases of product 1 by distributors, and margins of underselling, by quarters, Jan. 1991-Sept. 1993

* * * * * * *

Table 21
Weighted-average net f.o.b. prices and quantities for purchases of product 2 by distributors, and margins of underselling, by quarters, Jan. 1991-Sept. 1993

* * * * * * *

Table 22
Weighted-average net f.o.b. prices and quantities for purchases of product 3 by distributors, and margins of underselling, by quarters, Jan. 1991-Sept. 1993

* * * * * * *

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that, during January-March 1990 through July-September 1993, the nominal value of the Malaysian ringgit fluctuated slightly, appreciating 5.9 percent overall relative to the U.S. dollar (table 23).[33] 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 13.8 percent for the period January-March 1990 through the fourth quarter of 1992, the most recent period for which official price data are available. Malaysian exchange rate data is displayed graphically in figure 3.

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.

[33] *International Financial Statistics*, Jan. 1994.

Table 23
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, Jan. 1990-Sept. 1993

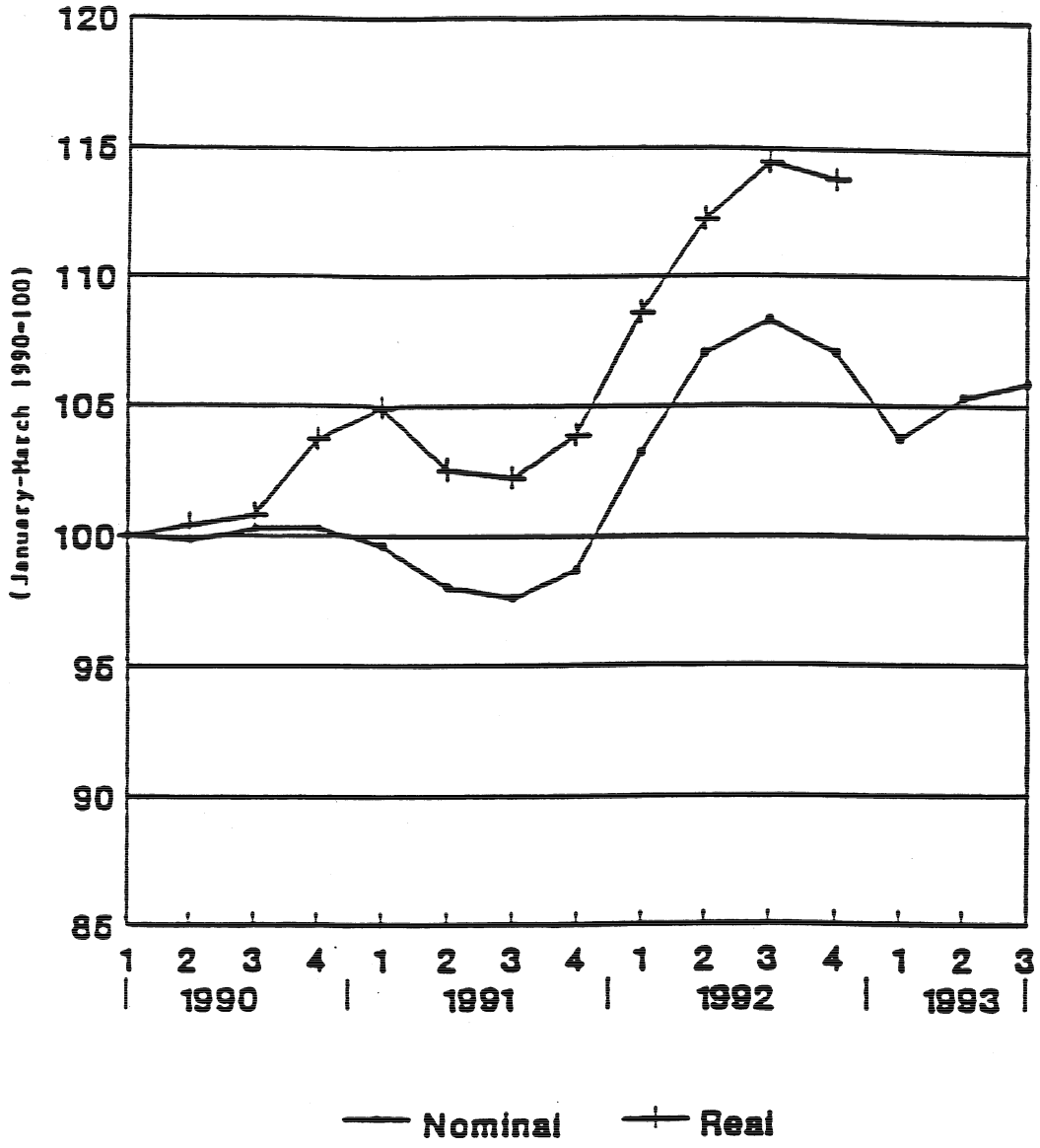
Period	U.S. producer price index	Malaysian producer price index	Nominal exchange rate index	Real exchange rate index[3]
1990:				
January-March	100.0	100.0	100.0	100.0
April-June	99.8	100.4	99.8	100.4
July-September	101.6	102.1	100.3	100.8
October-December . .	104.7	108.2	100.3	103.7
1991:				
January-March	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	106.9	98.7	103.9
1992:				
January-March	101.3	106.6	103.2	108.6
April-June	102.3	107.3	107.0	112.2
July-September	102.8	108.6	108.3	114.5
October-December . .	102.9	109.5	107.0	113.8
1993:				
January-March	103.3	(4)	103.7	(4)
April-June	104.4	(4)	105.3	(4)
July-September	103.9	(4)	105.9	(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.

Note.--January-March 1990 = 100.

Source: International Monetary Fund, *International Financial Statistics*, Jan. 1994.

Figure 3
Indexes of nominal and real exchange rates of the Malaysian ringgit in U.S. dollars, by quarters, Jan. 1990-Sept. 1993



Source: International Monetary Fund, *International Financial Statistics*, January 1994.

APPENDIX A

FEDERAL REGISTER NOTICES

[Investigation No. 731–TA–644 (Final)]

Welded Stainless Steel Pipe From Malaysia; Institution of Final Antidumping Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–644 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or 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. Pursuant to a request from respondent, Kanzen Tetsu, the Department of Commerce has extended

the date for its final determination in the antidumping investigation of the subject products. Accordingly, the Commission's schedule for its final investigation reflects Commerce's decision to extend its final determination until January 21, 1994.

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

EFFECTIVE DATE: September 1, 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 as a result of an affirmative preliminary determination by the Department of Commerce that imports of welded stainless steel pipe from Malaysia are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on 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 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 of the Commission's rules, not later than twenty-one (21) 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 section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) 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.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on January 13, 1994, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on January 27, 1994, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 20, 1994. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 24, 1994, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is January 21, 1994. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is February 4, 1994; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before February 4, 1994. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of § 201.6, 207.3, and 207.7 of the Commission's rules.

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 § 207.20 of the Commission's rules.

By order of the Commission.

Issued: September 16, 1993.

Donna R. Koehnke,

Secretary.

[FR Doc. 93–23226 Filed 9–21–93; 8:45 am]

BILLING CODE 7020–02–P

[A-557-807]

Final Determination of Sales at Less Than Fair Value: Welded Stainless Steel Pipe From Malaysia

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

EFFECTIVE DATE: January 28, 1994.

FOR FURTHER INFORMATION CONTACT: Pamela Ward or Shawn Thompson, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-1174 or (202) 482-3965, respectively.

FINAL DETERMINATION: We determine that welded stainless steel pipe from Malaysia is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of our affirmative preliminary determination on September 7, 1993 (58 FR 47120), the following events have occurred.

On September 7, 1993, the sole respondent in this investigation, Kanzen Tetsu Sdn. Bhd. (KT), requested a postponement of the final determination. We granted this request, and on September 9, 1993, we postponed the final determination until not later than January 21, 1994 (58 FR 48849, September 20, 1993).

On September 13, 1993, KT submitted a response to the Department's cost of production (COP) questionnaire. On September 27, 1993, we issued a supplemental COP questionnaire to KT. We received the response to this questionnaire on October 25, 1993.

From November 8 through November 12, 1993, we conducted our verification in Malaysia of KT's responses to the Department's sales questionnaires.

On November 8, 1993, petitioners submitted a letter requesting that the Department reject KT's October 25, 1993, COP response because KT failed to report product-specific production costs, as requested in the cost questionnaire.

On November 10, 1993, KT responded to petitioners' November 8, 1993, submission. Also on November 10 we informed KT that we had determined that the cost of manufacture (COM) information contained in the October 25, 1993, submission was not adequately product-specific to meet the Department's requirements, and that, accordingly, we would not verify that portion of the October 25, 1993, submission.

From November 22 through November 25, 1993, we conducted our verification in Malaysia of KT's response to the Department's September 13, 1993, COP questionnaire.

Both petitioners and respondent filed case briefs on December 20, 1993, and rebuttal briefs on December 28, 1993.

On December 23, 1993, KT submitted revised sales, COP, constructed value (CV), and concordance databases, correcting minor errors discovered at verification. On January 5, 1994, petitioners submitted a letter requesting that the Department reject this submission because it contained revisions to KT's data which were unsupported by the record of this investigation. On January 7, 1994, KT replaced its COP, CV, and concordance databases in order to correct clerical

errors made in its December 23, 1993, submission. We reviewed this submission and confirmed that it contained no new information.

Scope of Investigation

The product covered by this investigation is welded austenitic stainless steel pipe of circular cross section (WSSP). 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 lines; brewery process and transport lines; general food processing lines; automotive lines; and paper processing 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.

Period of Investigation

The period of investigation (POI) is September 1, 1992, through February 28, 1993.

Such or Similar Comparisons

We have determined that the product covered by this investigation comprises a single category of "such or similar" merchandise. We made similar merchandise comparisons on the basis of: (1) ASTM or equivalent specification, (2) grade of steel, (3) nominal size, (4) hot or cold finish, (5) wall thickness schedule, and (6) end finish, as described in Appendix V of the questionnaire. We made adjustments for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act.

Fair Value Comparisons

To determine whether sales of WSSP from Malaysia to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

We based USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation and because exporter's sales price methodology was not otherwise indicated.

After correcting the data used in our calculations for errors and omissions found at verification, we calculated purchase price based on packed F.O.B. prices to unrelated customers. In accordance with section 772(d)(2)(A) of the Act, we made deductions, where appropriate, for foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, and containerization expenses. Regarding marine insurance, KT paid an insurance premium plus a commission to one of its marine insurance suppliers. At verification, we found that KT had inconsistently reported its marine insurance expense for this supplier (*i.e.*, KT included the commission in one observation yet excluded it in another observation). KT explained that this commission was an intracompany service fee which its parent company charged KT for holding the group policy with the insurance company. However, KT could not substantiate at verification that it had properly excluded this commission. As a result, we resorted to the use of best information available (BIA), in accordance with section 776(c) of the Act. As BIA, we have made an adverse assumption and increased the amount reported for marine insurance to account for this commission for all transactions (except those we found at verification to be correct) by the amount of the commission.

Foreign Market Value

In order to determine whether there were sufficient sales of WSSP in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of WSSP to the volume of third country sales of the same product, in accordance with section 773(a)(1)(B) of the Act. KT had a viable home market with respect to sales of WSSP during the POI.

As stated in our preliminary determination, the Department initiated an investigation under section 773(b) of the Act to determine whether KT made home market sales at less than their COP.

If over 90 percent of respondent's sales of a given model were at prices above the COP, we did not disregard any below-cost sales because we determined that the below-cost sales were not made in substantial quantities. If between ten and 90 percent of the sales of a given model were made at prices below the COP, and such sales were made over an extended period of time, we discarded only the below-cost sales. Where we found that more than 90 percent of respondent's sales were at prices below the COP, and such sales were over an extended period of time, we disregarded all sales of that model and calculated FMV based on CV. No evidence was presented to indicate that below-COP prices would permit recovery of all costs within a reasonable period of time in the normal course of trade.

In order to determine that below-cost sales were made over an extended period of time, we performed the following analysis on a model-specific basis: (1) If respondent sold a model in only one month of the POI and there were sales in that month below the COP, or (2) if respondent sold a model during two months or more of the POI and there were sales below the COP during two or more of those months, then below-cost sales were considered to have been made over an extended period of time.

In order to determine whether home market prices were below the COP, we calculated the COP based on the sum of the respondent's cost of materials, fabrication, and general expenses. We corrected the reported COP and CV data for errors and omissions found at verification. We relied on the submitted COP and CV data, except in the following instances where the costs were not appropriately quantified or valued:

1. We increased KT's general and administrative expenses (G&A) to (1) account for G&A incurred by KT's parent company because KT was unable to demonstrate that it had included these expenses in its reported G&A, (2) account for the amortization of pre-operating expenses which were not included in the submission, and (3) adjust for a clerical error found at verification. (See, *Comment 5* in the "Interested Party Comments" section of this notice.)

2. We increased KT's cost of materials to offset the gain on foreign exchange reported by KT that was related to the acquisition of machinery used to produce non-subject merchandise. (See, *Comment 8*.)

In accordance with section 773(e)(1)(B)(i) of the Act, we included in CV the greater of respondent's reported general expenses, adjusted as detailed

above, or the statutory minimum of ten percent of the COM. For profit, we used the actual profit on home market sales because this amount was greater than the statutory minimum of eight percent of COM and general expenses. See, section 773(e)(1)(B)(ii) of the Act.

In cases where we made price-to CV comparisons, we made circumstances-of-sale adjustments, where appropriate, for bank charges and credit expenses. Regarding credit expenses, KT calculated both home market and U.S. credit expenses using its respective average short-term interest rates in Malaysian Ringitts during the POI. We recalculated home market credit expenses using the consolidated short-term interest rate of KT and its parent company, which was based upon KT and its parent company's borrowings denominated in Malaysian Ringitts. In addition, KT failed to deduct discounts from the gross unit price in its home market credit calculation. We made the appropriate deductions in our recalculation.

Regarding U.S. credit expenses, we recalculated KT's U.S. interest rate using the amounts of all U.S. dollar-denominated loans stated in U.S. dollars. (See, *Comment 13.*) We also recalculated the payment period for each transaction as the time between the date of shipment from KT's factory and the date of payment by the U.S. customer. (See, *Comment 14.*) We then recalculated U.S. credit expenses using the revised interest rate and payment period.

In cases where we made price-to price-comparisons, we compared U.S. sales to home market sales made at the same level of trade, where possible, in accordance with 19 CFR 353.58 (1993). In addition, we disregarded home market sales of odd-length merchandise because we determined that these sales were made outside the ordinary course of trade. We also disregarded certain sales to end user customers, because we found at verification that the dates of sale for these transactions were outside the POI.

We adjusted the reported home market data for errors and omissions found at verification. We then calculated FMV based on packed F.O.B. prices charged to unrelated customers in the home market. We made deductions, where appropriate, for discounts and rebates. We also made deductions, where appropriate, for inland freight. We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(1) of the Act.

Pursuant to 19 CFR 353.56(a)(1) and 19 CFR 353.56(a)(2), we made circumstance-of-sale adjustments, where appropriate, for differences in bank charges and credit expenses, adjusted as described above.

Currency Conversion

Because certified exchange rates from the Federal Reserve were not available, we made currency conversions based on the official monthly exchange rates in effect on the dates of the U.S. sales as certified by the International Monetary Fund.

Verification

As provided in section 776(b) of the Act, we verified information provided the respondent by using standard verification procedures, including the examination of relevant sales and financial records, and selection of original source documentation containing relevant sales information.

Critical Circumstances

Petitioners allege that "critical circumstances" exist with respect to imports of WSSP from Malaysia. Section 735(a)(3) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Regarding a history of dumping, petitioners have argued that the existence of U.S. antidumping orders on WSSP from Taiwan and Korea is sufficient for the Department to find a history of dumping in this case. However, the Department's practice in this area is to consider only those orders on subject merchandise from the country under investigation as sufficient evidence of a history of dumping. Consequently, because there have been no antidumping orders on WSSP from Malaysia, we find no history of dumping.

In determining whether any importer had knowledge of dumping, we normally consider margins of 25 percent or more sufficient to impute knowledge of dumping under section 735(a)(1)(A) of the Act when USP is based on purchase price. Because the final dumping margin for KT is less than 25 percent, we do not impute importer knowledge of sales at less than fair value, under section 735(a)(3)(A)(ii) of the Act. Since the criteria necessary to find the existence of critical circumstances under section 735(a)(3)(A) are not present, we do not need to determine whether imports of subject merchandise have been massive over a relatively short period, in accordance with section 735(a)(3)(B) of the Act.

Accordingly, we determine that critical circumstances do not exist with respect to imports of WSSP from Malaysia.

Interested Party Comments

Comment 1: Petitioners argue that KT was unable to substantiate its cost data at verification. As a result, petitioners contend that these data are unusable and the Department is required to reject KT's cost data completely and base the final determination on BIA. Petitioners maintain that, under the statute and the Department's regulations, the Department must use BIA to set antidumping duty margins whenever a respondent "refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation" (see, section 776(b) of the Act). Petitioners further assert that the Department must also use BIA if it is "unable to verify the accuracy of the information submitted" by a respondent (see, section 776(c) of the Act).

According to petitioners, the problems that the Department discovered during verification are significant and pervasive. (See, *Comment 2* through *Comment 8* for the specific issues raised by petitioners.) Petitioners contend that, because of the serious nature of the deficiencies in KT's cost data, the Department cannot, and should not, develop an alternative basis for constructing KT's production costs. Rather, petitioners argue that the Department should resort to total BIA. In selecting the BIA rate, petitioners assert that the Department should use the highest rate possible, which is the highest margin contained in the petition.

KT argues that the Department is authorized to use BIA if a party "refuses or is unable to produce information requested in a timely manner and in the form required," or if a party "significantly impedes an investigation." KT asserts that, in order for these conditions to be satisfied, the Department must have requested the information and the respondent must have either failed to supply the information or have been unable to

comply with the request. Furthermore, KT argues that, even where the Department has requested information, it is not authorized to use BIA unless it has provided respondent with a warning and an opportunity to correct any deficiencies. KT asserts that, since it (1) provided all of the information requested by the Department, (2) in no way impeded this investigation, and (3) did not have an opportunity to correct perceived deficiencies, there is no basis for the Department to resort to any form of BIA.

KT claims that if the Department determines that it is appropriate to use BIA for purposes of the final determination, it should use a non-punitive, partial BIA, to reallocate KT's fabrication costs. (See, *Comment 3*, below.) According to KT, since KT has fully cooperated with the Department throughout this investigation, there is no reason for the Department to completely disregard KT's entire cost submission.

DOC Position: We agree with KT. The Department has determined that KT reported the majority of its production cost with no material problems. (*See*, cost verification report, dated December 9, 1993.) Because we have determined the KT's cost submission is reliable, there is no reason to completely disregard KT's entire cost submission. (*See*, comments below for a discussion regarding specific issues of validity.)

Comment 2: KT contends that the Department should accept the material costs reported in its September 13, 1993, response. KT argues that the Department verified that KT accurately reported in this response its actual production quantities and actual material costs incurred during the POI. According to KT, since the submitted product-specific material costs are the result of actual material expenses divided by actual production quantities, there is no basis for suspecting that the reported per unit material costs are incorrect. KT also maintains that its calculation of steel coil costs on a grade-by-grade basis is appropriate because the cost of the coil did not vary based on gauge.

Additionally, KT maintains that, contrary to petitioners' assertions, product-specific material costs reported in its September 13 submission are different from product-specific material costs reported in its October 25 submission for a legitimate reason—because the methodologies used in each submission were different.

Finally, KT notes that although the weighted-average material expenses decreased slightly between the September and October responses, the percentage of the five most frequently sold home-market products that were sold at prices below the cost of production remained exactly the same, regardless of which response's material costs are used. Thus, KT maintains that the difference between the two submissions in material expenses does not materially affect the margin calculation.

According to petitioners, since KT did not submit actual costs on a product-specific basis, acceptance of its cost data would be improper and inconsistent with the Department's normal practice. Thus, petitioners contend that KT's cost submission should be rejected.

Moreover, petitioners claim that the calculation methodologies used to prepare KT's September and October responses were virtually identical. According to petitioners, for both the September and October responses, KT calculated its material costs by multiplying the average per-kilogram material cost by the nominal weight of the pipe. Petitioners assert that the nominal weights used for these calculations were identical because KT stated that the nominal weight of the pipe was determined according to ASTM A-312 specifications. Thus, petitioners contend that differences in the materials costs could only arise if KT used different average per kilogram materials costs for its September and October responses. Petitioners maintain that these per kilogram materials costs are different for no apparent reason and are therefore suspect.

Petitioners contend that KT is incorrect in its assertion that the difference in the material costs reported in the two cost responses is immaterial to whether home market sales were made at prices below KT's cost of production. According to petitioners, KT's analysis mistakenly assumes that the understatement of its costs can be corrected by merely using the costs in KT's unverified October response. Consequently, petitioners argue that the Department should reject both of KT's cost responses and use BIA to establish KT's final dumping margin.

DOC Position: We agree with KT. The Department verified that KT accurately reported its actual material expenses incurred during the POI. Although the Department noted at verification that KT did not break out material costs between specific dimensions of pipe within a particular grade for the verified submission, the record indicates that the company incurred the same per kilogram cost for differing gauges of coil within a particular grade of steel.

We find that a comparison of the methodologies used in September and October responses is irrelevant because we only verified the methodology used in the September response. Prior to verification, we determined that the costs contained in the October submission were not adequately product-specific to meet the Department's requirements; therefore, we informed KT that we would not verify the COM portion of that response. Rather, the Department verified the material costs used in the September submission.

Because the methodologies used to compile the data in the two submissions were different, the costs reported in the submissions also differed. Therefore, the fact that the September data differed from the October data does not provide sufficient grounds to reject these costs. Because we verified the reasonableness of the September costs, we have accepted them for purposes of the final determination.

Comment 3: Petitioners argue that the Department should reject the cost of production data contained in KT's original cost submission because the Department was unable to verify the reported fabrication costs. Specifically: (1) The fabrication costs reported by KT in its September 13, 1993, submission were allocated to cost centers based on budgeted usage rates which could not be reconciled to KT's actual POI experience; (2) KT's methodology of allocating fabrication costs between industrial and ornamental pipe yields a result which is inconsistent with its reported production process steps; and (3) total manufacturing costs for industrial pipe were allocated to each subject product based on the weight of production rather than machine time.

Petitioners note that, to the extent the Department resorted to weight-based allocations in a previous case involving WSSP (see, Final Determination of Sales at Less than Fair Value: Certain Welded Stainless Steel Pipe from Taiwan (58 FR 53705, November 12, 1992) (WSSP from Taiwan)), that case represents an aberration from the Department's usual practice and is clearly distinguishable from the facts in the present case. Petitioners maintain that in WSSP from Taiwan the Department accepted the Taiwanese respondent's allocation because it concluded that the allocation "did not materially affect the cost calculation because labor and overhead represented a small part of total cost of production." In this case, however, petitioners contend that KT's submitted data demonstrate that fabrication costs can hardly be considered immaterial in relation to the submitted total cost of production.

Thus, petitioners contend that KT's reliance on WSSP from Taiwan as a

basis for claiming that weight-based allocations are acceptable is misplaced. Alternatively, petitioners assert that the Department accepts allocation methodologies based on weight only when a respondent affirmatively shows that such allocations make sense in light of the specific fabrication process for the product under investigation and when allocations based on machine time cannot be performed. According to petitioners, neither criterion has been satisfied by KT, and thus the Department should reject KT's weight-based allocations in favor of BIA.

KT disagrees, claiming that the cost verification report clearly indicates that KT accurately reported all direct labor and factory overhead expenses incurred during the POI. Thus, KT contends that petitioners' claim that the Department was unable to verify KT's fabrication costs should be dismissed out of hand.

KT states that it allocated fabrication costs between industrial and ornamental pipe production based on the actual staffing for factory laborers, the actual usage of production equipment, the company's actual production experience and, for variable overhead expenses, budgeted usage rates. According to KT, the difference between fabrication expenses per kilogram for industrial and ornamental pipe reflects the fact that KT produces more industrial pipe than ornamental pipe.

Additionally, KT claims that the Department should accept its submission methodology of allocating fabrication costs on the basis of weight for three reasons. First, the methodology conforms with the way in which KT calculates the cost of goods sold in the normal course of business, and there is no evidence on the record that allocating fabrication expenses on the basis of weight is in fact distortive. Second, during the POI, KT did not track the information needed to allocate fabrication costs on the basis of machine time. Third, the Department has accepted weight-based allocations of these costs in past cases involving stainless steel pipe. Accordingly, KT argues that the Department should accept its allocation of fabrication expenses for purposes of the final determination.

DOC Position: At verification, we determined that KT accurately reported its aggregate fabrication costs during the POI. Therefore, we disagree with petitioners that KT's fabrication costs should be dismissed for purposes of the final determination.

In cases where machinery or processes were dedicated to the production of specific product types (*e.g.*, WSSP), KT assigned costs directly to these products without allocation. For example, KT assigned depreciation expenses on machinery dedicated to the production of WSSP directly to WSSP. Only in cases where KT incurred fabrication costs common to the production of both subject and non-subject merchandise did KT allocate these costs.

We recognize that KT's basis for the allocation of these costs to the subject merchandise used budgeted estimates which KT was unable to reconcile to its actual production experience during the POI. However, we found at verification that KT did not maintain the level of detailed records in its normal accounting system that permitted such a reconciliation. Moreover, the Department determined that these estimates are reasonable based on visual inspection of the production process and analysis of KT's documentation. Contrary to petitioners' assertions, during the POI KT did not maintain its records at a sufficient level of detail to perform a more product-specific allocation (e.g., records of machine time, etc.). Accordingly, we find that KT's allocation methodology is reasonable, in light of the specific circumstances of this case. Thus, we have accepted the use of KT's methodology in this case for purposes of the final determination.

Comment 4: Petitioners argue that KT calculated its production costs on the basis of theoretical production weights that overstate the weight of finished production, thus artificially lowering its submitted per unit production costs. Therefore, petitioners contend that the cost data in KT's September 13, 1993, submission is unusable and should be rejected by the Department.

KT contends that the use of theoretical weights does not affect the accuracy of its submitted production costs. According to KT, since KT used the same conversion factor for its calculation to convert (1) pipe production stated in feet to production stated in kilograms, and (2) production cost per kilogram to a production cost per foot, the conversion factors are uniformly over- or under-stated by the same amount.

DOC Position: We agree with KT. KT's calculation of theoretical production weights overstates the actual weight of production during the POI. However, as information on the record indicates, this same theoretical production weight was used to convert the production costs from a per kilogram cost to a per foot cost. Thus, the effect of overstating the weight of production is offset by the use of the same formula in converting the per kilogram cost back to a per foot cost. Accordingly, no adjustment is deemed necessary.

Comment 5: KT contends that it properly reported all expenses associated with management and financial services provided to KT by its parent as part of its submitted G&A. KT states that fees for these services are charged directly to KT and are reflected in the management fee amount KT's parent company received from its subsidiaries in FY 1993. According to KT, because all management fees that are properly allocable to KT are already charged directly to the company, there is no basis for charging any additional amount to KT.

Petitioners contend that KT understated its submitted G&A by not including a portion of its parent company's expenses incurred during 1992. Petitioners argue that, since KT's parent is principally an investment holding company, all G&A incurred by the parent directly relate to its investment holdings. Petitioners maintain that KT's claim that all management fees and financial services provided by its parent company to KT are accounted for in its submission is unverified and unsupported. According to petitioners, the Department has no way of knowing if KT's management fees were correctly calculated and reported. Additionally, petitioners claim that the Department should increase KT's submitted G&A by the omitted amortization of pre-operating expenses as noted at verification.

DOC Position: We agree with petitioners. In cases where a parent company is an investment holding company, it is the Department's practice to allocate a portion of G&A expenses incurred by the parent company to the respondent under the theory that the parent's G&A expenses are incurred on behalf of the parent's investment holdings. (See, e.g., Final Determination of Sales at Less Than Fair Value: Ferrosilicon from Venezuela (58 FR 27524, May 10, 1993).) Since there is no verified information on the record to support KT's claim that all G&A expenses incurred by KT's parent for the benefit of KT were already charged to KT and included in the submitted G&A calculation, we adjusted KT's G&A to include a proportional amount of its parent's administrative costs based on KT's parent's stock ownership of KT. Additionally, we revised KT's G&A expense computation to include the omitted amortization of pre-operating expenses as recorded on the company's financial statements, as well as to correct for a clerical error found at verification.

Comment 6: Petitioners claim that the production yields reported by KT are inaccurate and unrealistic and cannot be relied upon by the Department for its final determination.

KT argues that production yields are irrelevant because the costs used for the final determination are KT's actual material expenses, not standard costs. Thus, KT maintains that whether or not the production yield used under the standard cost system is accurate is irrelevant to the Department's analysis.

DOC Position: The apparent unrealistic production yields appear to be generated from KT's usage of theoretical production weights. Since this same theoretical weight was used to convert production costs from a unit of weight basis to a unit of length basis, the effect of the apparent unrealistic yield rate is offset. (See, Comment 4, above.) Therefore, no adjustment was deemed necessary for the final determination.

Comment 7: Petitioners contend that the stainless steel coil costs KT used in its original response were not consistent with information on the coil invoices obtained by the Department at verification and, moreover, were inconsistent with the coil costs reported by KT in its second cost questionnaire response. Petitioners argue that the Department, therefore, should reject the stainless steel coil costs reported by KT.

KT argues that petitioners' claim that KT reported inconsistent stainless steel costs is incorrect. KT asserts that petitioners are basing this claim on a comparison of non-comparable figures. Specifically, KT states that the figures taken from Exhibit 16 of its original cost response are net of all adjustments for work in process, exchange gains, and scrap expense and revenue, whereas the figures in the second response include these expenses.

DOC Position: We disagree with petitioners. The Department verified the accuracy of the coil costs contained only in the first submission. (See, the "Case History" section of this notice for further discussion.) Thus, any differences between the first and second responses are irrelevant. Moreover, it is not relevant that the weighted-average material costs reported in the first submission differ from selected invoices included as exhibits to the cost verification report. Specifically, the weighted-average prices are based on the entire population of invoices which comprise KT's raw material requisition values, while the invoices included as verification exhibits are only a selected portion of them. To the extent that the individual values are not identical, they should differ from the average value.

Comment 8: Petitioners argue that the exhibits to the cost verification report demonstrate that an exchange rate gain claimed by KT as an offset to foreign exchange losses does not relate to the merchandise under investigation and, accordingly, should not be included in KT's submitted cost of manufacturing.

DOC Position: We agree. Accordingly, we have not allowed an offset for this gain for purposes of the final determination.

Comment 9: Petitioners contend that the Department cannot rely on KT's second cost submission because it contains unverified data. Thus, petitioners maintain that the Department's conclusion in the cost verification report that material costs in the first submission are lower than material costs reported in the second cost submission does not, and should not, lend any credibility to the data in the first submission. According to petitioners, both submissions are flawed and should be rejected in their entirety.

DOC Position: We agree with petitioners that the material cost data contained in KT's second submission was not verified and should not be relied upon by the Department. Therefore, no conclusions were drawn as a result of comparing material costs contained in both the first and second submissions.

Comment 10: KT argues that the Department should accept its reported value for work in process. KT asserts that, although its opening and closing work in process for the POI are valued at standard cost, without any adjustment for the variance during the period, it is mathematically impossible for this to result in an understatement of KT's costs because KT had a negative variance for FY 1993.

DOC Position: We agree. Since KT had a negative variance during the relevant periods, the effect of valuing work-in-process at standard cost would be to overstate its costs. Therefore, no adjustment is deemed necessary.

Comment 11: KT reported an average home market packing labor expense for the POI based on the packing labor expenses incurred during each month of the period. Petitioners contend that the Department should use the monthly packing labor expenses in calculating KT's home market packing expenses instead of the POI average. Petitioners assert that the Department's longstanding policy is to use data that are as sales-specific as possible. According to petitioners, in this case the most specific data available are the monthly costs.

KT argues that using monthly packing labor costs would distort KT's per unit packing expenses. KT maintains that it is appropriate to spread packing labor expenses over the sales quantities during the entire six-month POI because of fluctuations in monthly sales volumes. KT asserts that this methodology yields a more representative per unit expense for the POI because packing labor is a fixed cost.

DOC Position: We agree with KT. Normally, the Department prefers respondents to report transaction-specific expenses under the theory that individual prices are set to cover individual (*i.e.*, transaction-specific) costs. In this case, however, the costs are not transaction-specific. Moreover, because KT's packing labor expenses are fixed, they do not vary by sales volume. Therefore, fluctuations in the monthly sales volumes create differences in the monthly average expense amounts. Because these fluctuations in sales expenses are not translated into changes in the per unit prices, they distort the margin calculation. We agree with KT that using the POI-average minimizes the effect of these fluctuations.

Therefore, we find that the POI average is more representative of KT's per unit packing labor costs. Accordingly, we have accepted this average for purposes of the final determination.

Comment 12: KT argues that the Department should affirm its preliminary determination that critical circumstances do not exist with respect to KT's exports of subject merchandise to the United States. KT maintains that there is no history of dumping of subject merchandise imported from Malaysia. In addition, KT claims that its exports were not massive.

DOC Position: We agree. See, the Critical Circumstances section of this notice for further discussion.

Comment 13: Both KT and petitioners contend that the Department should calculate KT's short-term interest rate on U.S. dollar-denominated loans using the interest expenses incurred and the principal outstanding denominated in U.S. dollars rather than U.S. dollar-amounts converted to Malaysian Ringitts. KT notes that calculating the interest rate in this way eliminates from the calculation the effect of exchange rate fluctuations.

DOC Position: We agree. At verification, we noted that KT had calculated its U.S. interest rate by converting U.S. dollar-denominated loans and interest payments to Malaysian Ringitts. We recalculated its interest rate based on the original currency of the loans and the interest payments (*i.e.*, U.S. dollars) and used

this revised rate in our U.S. credit calculation.

Comment 14: Respondent argues that the Department should calculate KT's U.S. credit period using the date of invoice, rather than date of shipment from the factory. Respondent states that the invoice date is same as the bill of lading date and is the date on which the merchandise is shipped from Malaysia. Respondent adds that because the bill of lading date is the date on which the merchandise leaves KT's possession, the Department would be overstating KT's credit expenses for its U.S. sales if it used an earlier date. However, KT contends that, should the Department find it necessary to use shipment dates, the Department should use the shipment dates in its October 29, 1993, submission. KT notes that these data were verified by the Department.

Petitioners argue that KT's proposed methodology of using bill of lading date in its U.S. credit calculation should not be used by the Department in the final determination. Petitioners assert that this methodology is contrary to the Department's longstanding policy as stated in the Preliminary Determination of Sale at Less than Fair Value: Welded Stainless Steel Pipe from Malaysia, 58 FR 47,120 (September 7, 1993). Petitioners maintain that the Department should use the shipment dates submitted by KT on October 29, 1993.

DOC Position: We agree with petitioners. As stated in our preliminary determination, it is the Department's practice to calculate credit expenses using the period between shipment of the merchandise from the factory and payment. (See, e.g., Final Determination of Sales at Less Than Fair Value: Ferrosilicon From Venezuela, 58 FR 27522 (May 10, 1993) and Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom, 58 FR 6207 (January 27, 1993).) Moreover, we note that using the date of shipment from the factory does not overstate KT's U.S. credit expense because, contrary to KT's assertion, KT's factory shipment date generally follows the date of invoicing.

Comment 15: Petitioners argue that the Department should not make a difference in merchandise (difmer) adjustment in any instance where such an adjustment would lower KT's FMV. Petitioners base their argument on the fact that the difmer adjustments are based on KT's cost data which petitioners claim is unreliable.

Respondent maintains that the Department should make difmer adjustments in cases where sales of non-identical merchandise are compared.

DOC Position: We agree with respondent. Because the Department has relied on KT's COP data, we have used this data to make our difmer adjustments.

Continuation of Suspension of Liquidation

We are directing the Customs Service to continue to suspend liquidation of all entries of WSSP that are entered, or withdrawn from warehouse, for consumption on or after September 7, 1993, the date of publication of our affirmative preliminary determination in the Federal Register. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated amount by which the FMV of the merchandise subject to this investigation exceeds the USP as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/manufacturer/exporter	Weighted-average margin percentage	Critical circumstances
Kanzen Tetsu Sdn. Bhd.	9.13	No.
All Others	9.13	No.

ITC Notification

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

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: January 21, 1994.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94-1987 Filed 1-27-94; 8:45 am]

BILLING CODE 3510-DS-P

APPENDIX B

LIST OF WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject	:	WELDED STAINLESS STEEL PIPE FROM MALAYSIA
Inv. No.	:	731-TA-644 (Final)
Date and Time	:	January 27, 1994 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main Hearing Room 101 of the United States International Trade Commission, 500 E St., S.W., Washington, D.C.

Opening Remarks

Petitioner

Respondents

In support of Imposition of
Antidumping Duties:

Collier, Shannon, Rill & Scott
Washington, D.C.
On behalf of

Avesta Sheffeld Pipe
Bristol Metals, Inc.
Damascus Tubular Products
Trent Tube Division, Crucible Materials Corp.
United Steelworkers of America

Joseph Avento, President, Bristol Metals, Inc.

George Werner, President, Damascus-Bishop Tube Co.

Clarisse A. Morgan, Assistant Director, Georgetown Economic Services

David A. Hartquist)
Jeffrey S. Beckington)--OF COUNSEL
Kathleen W. Cannon)

In Opposition to the Imposition of
Antidumping Duties:

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

Kanzen Tetsu, Sdn. Bhd.
(Malaysian Producer)

Kenneth R. Button, Vice President,
Economic Consulting Services, Inc.

Walter J. Spak)
)--OF COUNSEL
Vincent Bowen)

APPENDIX C

SUMMARY TABLES

Table C-1
Welded stainless steel pipe: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

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

Item	Reported data			Jan.-Sept.--		Period changes			
	1990	1991	1992	1992	1993	1990-92	1990-91	1991-92	Jan.-Sept. 1992-93
U.S. consumption quantity:									
Amount	71,812	69,654	67,925	50,587	53,420	-5.4	-3.0	-2.5	+5.6
Producers' share 1/	69.3	64.8	73.7	75.6	73.1	+4.4	-4.5	+8.9	-2.5
Importers' share: 1/									
Malaysia	0	0.2	5.2	4.3	4.5	+5.2	+0.2	+5.0	+0.1
Other sources	30.7	35.0	21.1	20.1	22.5	-9.6	+4.3	-13.9	+2.4
Total	30.7	35.2	26.3	24.4	26.9	-4.4	+4.5	-8.9	+2.5
U.S. consumption value:									
Amount	290,169	248,833	239,299	174,369	178,960	-17.5	-14.2	-3.8	+2.6
Producers' share 1/	73.6	68.7	73.2	76.0	73.2	-0.4	-4.9	+4.5	-2.8
Importers' share: 1/									
Malaysia	0	0.2	4.1	3.5	3.7	+4.1	+0.2	+4.0	+0.1
Other sources	26.4	31.2	22.7	20.4	23.1	-3.8	+4.7	-8.5	+2.7
Total	26.4	31.3	26.8	24.0	26.8	+0.4	+4.9	-4.5	+2.8
U.S. importers' imports from--									
Malaysia:									
Imports quantity	0	150	3,553	2,197	2,397	2/	2/	3/	+9.1
Imports value	0	437	9,896	6,116	6,535	2/	2/	3/	+6.9
Unit value	2/	$2,915	$2,785	$2,784	$2,726	2/	2/	-4.5	-2.1
Ending inventory qty	0	0	360	329	412	2/	0	2/	+25.2
Other sources:									
Imports quantity	22,045	24,382	14,332	10,165	11,998	-35.0	+10.6	-41.2	+18.0
Imports value	76,708	77,512	54,251	35,649	41,428	-29.3	+1.0	-30.0	+16.2
Unit value	$3,480	$3,179	$3,785	$3,507	$3,453	+8.8	-8.6	+19.1	-1.5
Ending inventory qty	2,781	2,501	1,506	1,534	1,121	-45.8	-10.1	-39.8	-26.9
All sources:									
Imports quantity	22,045	24,531	17,885	12,362	14,395	-18.9	+11.3	-27.1	+16.4
Imports value	76,708	77,949	64,147	41,765	47,963	-16.4	+1.6	-17.7	+14.8
Unit value	$3,480	$3,178	$3,587	$3,379	$3,332	+3.1	-8.7	+12.9	-1.4
U.S. producers'--									
Average capacity quantity	75,356	75,156	77,006	57,192	57,942	+2.2	-0.3	+2.5	+1.3
Production quantity	50,391	46,668	51,984	39,897	38,904	+3.2	-7.4	+11.4	-2.5
Capacity utilization 1/	66.9	62.1	67.5	69.8	67.1	+0.6	-4.8	+5.4	-2.6
U.S. shipments:									
Quantity	49,767	45,123	50,040	38,225	39,025	+0.5	-9.3	+10.9	+2.1
Value	213,461	170,884	175,152	132,604	130,997	-17.9	-19.9	+2.5	-1.2
Unit value	$4,289	$3,787	$3,500	$3,469	$3,357	-18.4	-11.7	-7.6	-3.2
Export shipments:									
Quantity	463	737	1,604	1,112	983	+246.4	+59.2	+117.6	-11.6
Exports/shipments 1/	0.9	1.6	3.1	2.8	2.5	+2.2	+0.7	+1.5	-0.4
Value	2,242	3,153	6,158	4,153	3,619	+174.7	+40.6	+95.3	-12.9
Unit value	$4,842	$4,278	$3,839	$3,735	$3,682	-20.7	-11.7	-10.3	-1.4
Ending inventory quantity	7,750	8,591	8,931	9,346	7,791	+15.2	+10.9	+4.0	-16.6
Inventory/US shipments 1/	15.6	19.0	17.8	18.3	15.0	+2.3	+3.5	-1.2	-3.4
Production workers	856	745	789	805	761	-7.8	-13.0	+5.9	-5.5
Hours worked (1,000s)	1,479	1,404	1,219	956	878	-17.6	-5.1	-13.2	-8.2
Total comp. ($1,000)	26,134	23,297	21,089	15,732	15,800	-19.3	-10.9	-9.5	+0.4
Hourly total compensation	$17.67	$16.59	$16.96	$16.19	$17.27	-4.0	-6.1	+2.2	+6.7
Productivity (tons/1,000 hours)	33.7	33.0	40.1	39.6	41.1	+18.9	-2.3	+21.7	+3.7
Unit labor costs	$523.82	$503.52	$410.02	$398.56	$410.61	-21.7	-3.9	-18.6	+3.0

Continued.

Table C-1--Continued
Welded stainless steel pipe: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

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

	Reported data					Period changes			
				Jan.-Sept.--					Jan.-Sept.
Item	1990	1991	1992	1992	1993	1990-92	1990-91	1991-92	1992-93
U.S. producers'--									
Net sales--									
Quantity	46,149	40,915	44,932	34,868	34,356	-2.6	-11.3	+9.8	-1.5
Value	184,467	147,634	150,297	120,248	111,558	-18.5	-20.0	+1.8	-7.2
Cost of goods sold (COGS)	157,418	131,954	138,846	110,021	101,723	-11.8	-16.2	+5.2	-7.5
Gross profit (loss)	27,049	15,680	11,451	10,227	9,835	-57.7	-42.0	-27.0	-3.8
SG&A expenses	16,066	14,530	13,707	10,056	8,883	-14.7	-9.6	-5.7	-11.7
Operating income (loss)	10,983	1,150	(2,256)	171	952	-120.5	-89.5	-296.2	+456.7
Capital expenditures	2,653	3,906	3,174	2,530	1,709	+19.6	+47.2	-18.7	-32.5
Unit COGS	$3,411	$3,225	$3,090	$3,155	$2,961	-9.4	-5.5	-4.2	-6.2
COGS/sales 1/	85.3	89.4	92.4	91.5	91.2	+7.0	+4.0	+3.0	-0.3
Op.income (loss)/sales 1/	6.0	0.8	(1.5)	0.1	0.9	-7.5	-5.2	-2.3	+0.7

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. 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.

Table C-2
Welded stainless steel pipe and pressure tube: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

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

	Reported data					Period changes			
				Jan.-Sept.--					Jan.-Sept.
Item	1990	1991	1992	1992	1993	1990-92	1990-91	1991-92	1992-93
U.S. consumption quantity:									
Amount	108,037	107,179	104,819	78,023	81,347	-3.0	-0.8	-2.2	+4.3
Producers' share 1/	79.6	77.1	82.9	84.2	82.3	+3.3	-2.5	+5.8	-1.9
Importers' share: 1/									
Malaysia	0	0.1	3.4	2.8	2.9	+3.4	+0.1	+3.2	+0.1
Other sources	20.4	22.7	13.7	13.0	14.7	-6.7	+2.3	-9.1	+1.7
Total	20.4	22.9	17.1	15.8	17.7	-3.3	+2.5	-5.8	+1.9
U.S. consumption value:									
Amount	450,362	411,865	393,100	287,734	298,328	-12.7	-8.5	-4.6	+3.7
Producers' share 1/	83.0	81.1	83.7	85.5	83.9	+0.7	-1.9	+2.6	-1.6
Importers' share: 1/									
Malaysia	0	0.1	2.5	2.1	2.2	+2.5	+0.1	+2.4	+0.1
Other sources	17.0	18.8	13.8	12.4	13.9	-3.2	+1.8	-5.0	+1.5
Total	17.0	18.9	16.3	14.5	16.1	-0.7	+1.9	-2.6	+1.6
U.S. importers' imports from--									
Malaysia:									
Imports quantity	0	150	3,553	2,197	2,397	2/	2/	3/	+9.1
Imports value	0	437	9,896	6,116	6,535	2/	2/	3/	+6.9
Unit value	2/	$2,915	$2,785	$2,784	$2,726	2/	2/	-4.5	-2.1
Ending inventory qty	0	0	360	329	412	2/	0	2/	+25.2
Other sources:									
Imports quantity	22,045	24,382	14,332	10,165	11,998	-35.0	+10.6	-41.2	+18.0
Imports value	76,708	77,512	54,251	35,649	41,428	-29.3	+1.0	-30.0	+16.2
Unit value	$3,480	$3,179	$3,785	$3,507	$3,453	+8.8	-8.6	+19.1	-1.5
Ending inventory qty	2,781	2,503	1,506	1,534	1,121	-45.8	-10.0	-39.8	-26.9
All sources:									
Imports quantity	22,045	24,531	17,885	12,362	14,395	-18.9	+11.3	-27.1	+16.4
Imports value	76,708	77,949	64,147	41,765	47,963	-16.4	+1.6	-17.7	+14.8
Unit value	$3,480	$3,178	$3,587	$3,379	$3,332	+3.1	-8.7	+12.9	-1.4
U.S. producers'--									
Average capacity quantity	140,348	141,748	144,981	112,044	114,830	+3.3	+1.0	+2.3	+2.5
Production quantity	87,033	86,735	89,317	67,606	68,596	+2.6	-0.3	+3.0	+1.5
Capacity utilization 1/	62.0	61.2	61.6	60.3	59.7	-0.4	-0.8	+0.4	-0.6
U.S. shipments:									
Quantity	85,992	82,648	86,934	65,661	66,952	+1.1	-3.9	+5.2	+2.0
Value	373,654	333,916	328,953	245,969	250,365	-12.0	-10.6	-1.5	+1.8
Unit value	$4,345	$4,040	$3,784	$3,746	$3,739	-12.9	-7.0	-6.3	-0.2
Export shipments:									
Quantity	1,618	2,423	2,974	2,003	2,619	+83.8	+49.8	+22.7	+30.8
Exports/shipments 1/	1.8	2.8	3.3	3.0	3.8	+1.5	+1.0	+0.5	+0.8
Value	8,000	11,651	12,552	8,316	11,678	+56.9	+45.6	+7.7	+40.4
Unit value	$4,944	$4,809	$4,220	$4,152	$4,459	-14.6	-2.7	-12.2	+7.4
Ending inventory quantity	9,913	11,658	11,405	12,066	10,644	+15.1	+17.6	-2.2	-11.8
Inventory/US shipments 1/	11.5	14.1	13.1	13.8	11.9	+1.6	+2.6	-1.0	-1.9
Production workers	1,602	1,511	1,436	1,433	1,427	-10.4	-5.7	-5.0	-0.4
Hours worked (1,000s)	3,195	3,040	2,587	1,987	1,993	-19.0	-4.9	-14.9	+0.3
Total comp. ($1,000)	51,971	48,705	43,300	32,715	33,741	-16.7	-6.3	-11.1	+3.1
Hourly total compensation	$16.27	$16.02	$16.58	$16.34	$16.61	+1.9	-1.5	+3.5	+1.7
Productivity (tons/1,000 hours)	27.1	28.4	33.3	33.0	33.0	+23.0	+4.9	+17.3	4/
Unit labor costs	$600.59	$564.14	$487.79	$486.97	$494.95	-18.8	-6.1	-13.5	+1.6

Continued.

Table C-2--Continued
Welded stainless steel pipe and pressure tube: Summary data concerning the U.S. market, 1990-92, Jan.-Sept. 1992, and Jan.-Sept. 1993

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

	Reported data					Period changes			
				Jan.-Sept.--					Jan.-Sept.
Item	1990	1991	1992	1992	1993	1990-92	1990-91	1991-92	1992-93
U.S. producers'--									
Net sales--									
Quantity	83,993	78,852	80,784	62,482	62,547	-3.8	-6.1	+2.5	+0.1
Value	348,872	313,733	305,734	233,406	232,893	-12.4	-10.1	-2.5	-0.2
Cost of goods sold (COGS)	294,948	271,043	268,247	205,234	203,706	-9.1	-8.1	-1.0	-0.7
Gross profit (loss)	53,924	42,690	37,487	28,172	29,187	-30.5	-20.8	-12.2	+3.6
SG&A expenses	28,898	27,974	26,514	18,604	19,124	-8.2	-3.2	-5.2	+2.8
Operating income (loss)	25,026	14,716	10,973	9,568	10,063	-56.2	-41.2	-25.4	+5.2
Capital expenditures	5,898	6,780	11,892	9,222	4,819	+101.6	+15.0	+75.4	-47.7
Unit COGS	$3,512	$3,437	$3,321	$3,285	$3,257	-5.4	-2.1	-3.4	-0.8
COGS/sales 1/	84.5	86.4	87.7	87.9	87.5	+3.2	+1.8	+1.3	-0.5
Op.income (loss)/sales 1/	7.2	4.7	3.6	4.1	4.3	-3.6	-2.5	-1.1	+0.2

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.
4/ A decrease of less than 0.05 percent.

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

ACTUAL NEGATIVE EFFECTS

* * * * * * *

ANTICIPATED NEGATIVE EFFECTS

* * * * * * *

INFLUENCE OF IMPORTS ON CAPITAL INVESTMENT

* * * * * * *