Certain Seamless Carbon and Alloy Standard, Line, and Pressure Steel Pipe from Argentina, Brazil, Germany, and Italy

Investigations Nos. 701-TA-362 and 731-TA-707 through 710 (Final)

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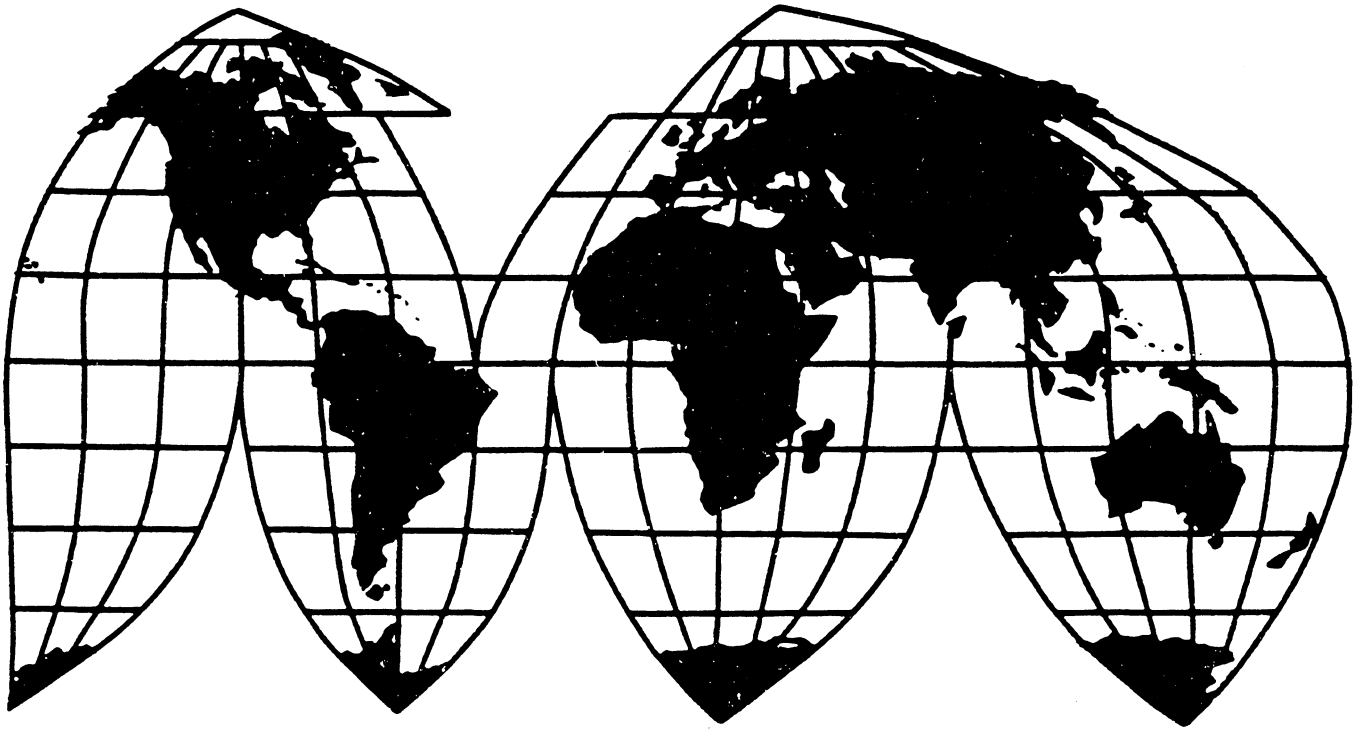
U.S. International Trade Commission



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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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

PART I

DETERMINATIONS AND VIEWS OF THE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigations Nos. 701-TA-362 (Final) and 731-TA-707 through 710 (Final)

CERTAIN SEAMLESS CARBON AND ALLOY STANDARD, LINE, AND PRESSURE STEEL PIPE FROM ARGENTINA, BRAZIL, GERMANY, AND ITALY

Determinations

On the basis of the record[1] developed in the subject investigations, the Commission unanimously determines, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (the Act) (19 U.S.C. §§ 1671d(b) and 1673d(b), respectively), that an industry in the United States is materially injured by reason of imports from Italy of certain seamless carbon and alloy standard, line, and pressure steel pipe and redraw hollows[2] that are subsidized by the Government of Italy, and by reason of imports from Argentina, Brazil, Germany, and Italy that are sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective December 23, 1994, and January 27, 1995, following preliminary determinations by the Department of Commerce that imports of certain seamless carbon and alloy standard, line, and pressure steel pipe and redraw hollows from Italy were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)), and that imports of such pipe from Argentina, Brazil, Germany and Italy[3] were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). The petition underlying these investigations was filed on June 23, 1994, prior to the effective date of the Uruguay Round Agreements Act.[4] Thus, these investigations were subject to the substantive and procedural rules of the Act, the pre-existing law.

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

[2] Imports are currently reported under Harmonized Tariff Schedule statistical numbers 7304.10.1020, 7304.10.5020, 7304.31.6050, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.51.5005, 7304.51.5060, 7304.59.6000, 7304.59.8010, 7304.59.8015, 7304.59.8020, and 7304.59.8025.

[3] Commerce's preliminary determination of sales at LTFV regarding Italy was negative. Following Commerce's final affirmative determination of sales at LTFV, the Commission instituted its final antidumping investigation concerning Italy, effective June 14, 1995.

[4] See P.L. 103-465, approved Dec. 8, 1994, 108 Stat. 4809, at § 291.

Notices of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the *Federal Register* of January 12, 1995, March 1, 1995, and June 23, 1995 (60 FR 2984, 60 FR 11110, and 60 FR 32709). The hearing was held in Washington, DC, on June 20, 1995, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

Based on the record in these final investigations, we determine that an industry in the United States is materially injured by reason of imports of certain seamless carbon and alloy steel standard, line and pressure pipe from Argentina, Brazil, Germany, and Italy that are sold in the United States at less than fair value ("LTFV"). We also determine that an industry in the United States is materially injured by reason of subsidized imports of certain seamless carbon and alloy steel standard, line and pressure pipe from Italy.[1]

I. THE LIKE PRODUCT AND THE DOMESTIC INDUSTRY

In determining whether an industry in the United States is materially injured 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."[2] 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."[3]

A. The Like Product

The Commission's decision regarding the appropriate like product(s) in an investigation is essentially a factual determination, and the Commission applies the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[4]

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[1]Whether the establishment of an industry in the United States is materially retarded is not an issue in these investigations.

The petition in these investigations was filed prior to the effective date of the Uruguay Round Agreements Act ("URAA"). See P.L. 103-465, approved Dec. 8, 1994, 108 Stat. 4809, at § 291. Thus, these investigations are conducted pursuant to substantive and procedural rules of the law as it existed prior to the URAA. Accordingly, all references to the statute contained herein are to the statute as it existed prior to the URAA.

[2]19 U.S.C. § 1677(4)(A).

[3]19 U.S.C. § 1677(10).

[4]See, e.g., Nippon Steel Corp. v. United States, Slip Op. 95-57, at 11 (Ct. Int'l Trade Apr. 3, 1995); Torrington Co. v. United States, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), aff'd, 938 F.2d 1278 (Fed. Cir. 1991) ("[E]very like product determination 'must be made on the particular record at issue' and the 'unique facts of each case.'"). In analyzing like product issues, the Commission generally considers six factors, including: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities and production employees; and (6) where appropriate, price. See Aramide Maatschappij V.O.F. v. United States, Slip Op. 95-113, at 4 (Ct. Int'l Trade June 19, 1995); Calabrian

No single factor is dispositive, and the Commission may consider other factors it deems relevant based upon the facts of a particular investigation. Generally, the Commission requires clear dividing lines among possible like products and disregards minor variations.[5] While the Commission must accept the Department of Commerce's ("Commerce's") determination as to which imported merchandise is within the class or kind of merchandise sold at less than fair value, the Commission determines what domestic product or products is or are like the imported articles identified by Commerce.[6] The Commission may expand the like product beyond the scope of the subject imports.[7]

The imported product subject to these investigations consists of:

> seamless pipes produced to the ASTM [American Society for Testing & Materials] A-335, ASTM A-106, ASTM A-53, and API [American Petroleum Institute] 5L specifications and meeting the physical parameters described below, regardless of application. The scope of these investigations also includes all products used in standard, line or pressure pipe applications and meeting the physical parameters below, regardless of specification.
>
> For purposes of th[ese investigations], seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.[8]

In the preliminary investigations we found one like product consisting of circular seamless carbon and alloy steel standard, line and pressure pipe and tubes not more than

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Corp. v. United States, 794 F. Supp. 377, 382 n.4 (Ct. Int'l Trade 1992).

[5]Torrington Co. v. United States, 747 F. Supp. at 748-49.

[6]See, e.g., Algoma Steel Corp. v. United States, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988) ("ITC does not look behind ITA's determination, but accepts ITA's determination as to which merchandise is in the class of merchandise sold at LTFV"), aff'd, 865 F.2d 240 (Fed. Cir. 1989); Torrington Co. v. United States, 747 F. Supp. at 748.

[7]See, e.g., Certain Pasta from Italy and Turkey, Invs. Nos. 701-TA-365-366 & 731-TA-734-735 (Preliminary), USITC Pub. 2905 (July 1995), at I-10; see also Asociacion Colombiana de Exportadores de Flores v. United States, 693 F. Supp. 1165, 1168 n.4 (Ct. Int'l Trade 1988) (ITA's scope does not control like product determination).

[8]60 Fed. Reg. 31,953 et seq. (June 19, 1995).

4.5 inches in outside diameter, and including redraw hollows.[9] We indicated in our opinion that we would revisit various issues in any final investigations, including: (1) whether standard, line and pressure pipe should be considered to be separate like products; (2) whether pipe two inches or less in outside diameter and pipe greater than two and less than or equal to 4.5 inches in outside diameter should be considered to be separate like products; (3) whether tubes should be included in the definition of the like product; and (4) whether redraw hollows should be included in the definition of the like product.[10] After examining the more complete record in these final investigations, we again find one like product, which consists of certain seamless carbon and alloy standard, line and pressure pipe and tube not more than 4.5 inches in outside diameter, and including all redraw and semifinished hollows.

1. Standard, Line and Pressure Pipe

Standard, line and pressure pipe all have the same general physical and metallurgical characteristics. Metallurgical characteristics are based upon the grade of steel required and are not unique to any particular type of pipe.[11] All are used to convey liquids and gases, so the end uses are the same.[12] The majority of products are triple-stenciled, which makes them interchangeable for most end uses.[13] The three types of pipe are manufactured on the same equipment with the same employees.[14] Distributors sell all types of pipe and do not specialize in seamless standard, line or pressure pipe.[15] Purchasers do not pay a premium for multi-stenciled products as opposed to products with fewer stenciling certifications.[16] Based on the foregoing we find, as we did in the preliminary investigations,[17] that standard, line and pressure pipe comprise a single like product.

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[9]Certain Seamless Carbon and Alloy Standard, Line, and Pressure Steel Pipe from Argentina, Brazil, Germany, and Italy, Invs. Nos. 701-TA-362 & 731-TA-707-710 (Preliminary), USITC Pub. 2801, at I-12 (Aug. 1994).

[10]USITC Pub. 2801, at I-8 - I-11.

[11]See Confidential Report ("CR") & Public Report ("PR") at C-5 - C-7.

[12]CR & PR at C-5 - C-7.

[13]CR & PR at C-5 - C-7; CR at I-21, I-22; PR at II-19.

[14]CR at I-15 - I-19; PR at II-14 - II-17.

[15]CR at I-22; PR at II-20.

[16]CR at I-90; PR at II-65. See CR at I-97 - I-103 (Tables 20-26); PR at II- 69 - II-70 (compare prices of products 1-3 & 7, which are single-stenciled, with prices of products 4-6, which are triple-stenciled).

[17]See USITC Pub. 2801, at I-8.

2. Pipe Two Inches or Less in Outside Diameter vs. Pipe Greater Than Two and Less Than or Equal to 4.5 Inches in Outside Diameter

Historically, the Commission has been reluctant to make like product determinations based solely on size.[18] In these investigations it appears that there is no clear dividing line between pipe two inches or less in outside diameter as opposed to pipe greater than two inches and less than or equal to 4.5 inches in outside diameter. Producers generally agree that the physical and metallurgical characteristics of smaller pipe are similar to those of larger pipe, with size being dictated by service conditions and code requirements.[19] Most domestic producers manufacture pipe less than two inches and greater than two inches in outside diameter on the same production lines, using the same equipment and production workers.[20] The channels of distribution for the two groups are the same.[21] We find the limited interchangeability between the smaller and larger diameter pipe,[22] as well as the differences in prices, not to be dispositive in light of the similarities described above.[23] Accordingly, based on the above, we determine that there is no clear dividing line between pipe of two inches or less and pipe greater than two inches in outside diameter.

3. Pipes vs. Tubes

For the purpose of the preliminary investigations, we included tubes within the definition of the like product.[24] However, there was confusion as to which products were included in Commerce's scope, because it excluded most (but not all) boiler tubing, mechanical tubing and OCTG. In addition, petitioner admitted during the preliminary investigations that there is no injury from these products and that it was not seeking to include them generally within the scope of the investigations. Accordingly, we sought additional information on the distinctions between the excluded tubing products and the tubes within the scope of the investigations.[25]

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[18]Silicon Carbide from the People's Republic of China, Inv. No. 731-TA-651 (Final), USITC Pub. 2779 (June 1994), at I-9 n.33; see also Certain Line Pipes and Tubes from Canada, Inv. No. 731-TA-375 (Preliminary), USITC Pub. 1965 (Mar. 1987), at 6-7.

[19]CR at I-12; PR at II-11.

[20]CR at I-20, C-10; PR at II-18, C-10.

[21]CR at I-22; PR at II-20.

[22]See CR & PR at C-7 - C-8, C-13 - C-14.

[23]The smaller pipe is significantly more expensive. CR at I-23; PR at II-20.

[24]USITC Pub. 2801, at I-11.

[25]USITC Pub. 2801, at I-11. While the scope definition may be designed to prevent circumvention, the relevant inquiry for the Commission is what is the scope definition, not why it is defined in a particular manner. Disposable Lighters from the People's Republic of China and Thailand, Invs. Nos. 303-TA-24 & 731-TA-700-701 (Preliminary), USITC Pub. 2792 (June 1994), at I-9 n.32.

a. Tubes Generally

Commerce stated that tubes, which are [p]ipes produced in non-standard wall thicknesses,[26] "are clearly within the parameters of the scope of these investigations" and further clarified the scope by stating that:

> the physical parameters of the scope include all seamless carbon and alloy steel pipes, of circular cross-section, not more than 4.5 inches in outside diameter, *regardless of wall thickness*. Therefore, the fact that such products may be referred to as tubes by some parties, and may be multiple-stenciled, does not render them outside the scope.[27]

Accordingly, because tubes are within the scope of these investigations, we include comparable domestic tubes in the like product.[28]

b. Boiler Tubing, Mechanical Tubing and OCTG

Commerce specifically excluded from the scope of the investigations boiler tubing and mechanical tubing, if not produced to A-335, A-106, A-53 or API 5L specifications and not used in standard, line or pressure applications.[29] However, pipes (or tubes) produced to a covered specification and used in a non-covered application are within the scope of the investigations.[30]

There is no domestic production of boiler and mechanical tubing used in these applications.[31] However, because these products are included within Commerce's definition of the scope of the investigations, we must determine which domestic product is "like, or in the absence of like, most similar in characteristics and uses" to them.[32] As stated above, we may expand the like product beyond the scope as delineated by Commerce to include all

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[26]See 60 Fed. Reg. 31,954, 31,961, 31,975, 31,981, 31,993.

[27]60 Fed. Reg. 31,956-57, 31,964, 31,977, 31,984 (emphasis in original).

[28]See generally Hosiden Corp. v. United States, 810 F. Supp. 322, 328 (Ct. Int'l Trade 1992) (if Commerce finds that a class or kind of merchandise is being sold at LTFV, Commission must determine whether domestic industry is injured or threatened with material injury by reason of imports of that merchandise).

[29]60 Fed. Reg. 31,954, 31,961, 31,975, 31,982, 31,994.

[30]60 Fed. Reg. 31,957, 31,964, 31,977-78, 31,984.

[31]See Tr. at 87-91.

[32]See Disposable Lighters from the People's Republic of China and Thailand, Invs. Nos. 303-TA-25 & 731-TA-700-701 (Preliminary), USITC Pub. 2792 (June 1994), at I-9 n.34; Ferrosilicon from Egypt, Inv. No. 731-TA-642 (Final), USITC Pub. 2688 (Oct. 1993), at I-7.

boiler and mechanical tubing. We note that no party argued that the like product should be expanded in this fashion.

The information available indicates that boiler and mechanical tubing have different physical characteristics and uses and are not interchangeable with the products used in standard, line and pressure pipe applications.[33] Moreover, the former products are used for different applications[34] and are usually more expensive than the standard, line and pressure pipe products.[35] Producers view boiler and mechanical tubing as different from standard, line and pressure pipe.[36] This information indicates that boiler and mechanical tubing are not like the subject pipe, suggesting that we have no basis to broaden the definition of the like product to include all such tubing products. The domestic articles most similar in characteristics and uses to the products meeting the specifications stated in Commerce's scope or used in standard, line and pressure applications are the subject seamless standard, line and pressure pipe. Accordingly, we determine not to expand the like product to include all boiler and mechanical tubing.

Commerce also excluded finished and unfinished OCTG from the scope of these investigations if covered by the scope of another antidumping or countervailing duty order from the same country.[37] If not covered by such an order, finished and unfinished OCTG are included in the scope when used in standard, line or pressure pipe applications.[38]

No party has urged us to determine that the like product be expanded to include all OCTG. As with boiler and mechanical tubing, the record indicates that there is no domestic production of OCTG that meets the above-described specifications or is used in the above-described applications.[39] It appears that the physical characteristics of standard, line and pressure pipe and OCTG differ, that producers perceive standard, line and pressure pipe to be

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[33]Boiler and mechanical tubes do not compete with standard, line and pressure pipe because of the extensive finishing differences, incompatible sizes and engineering specification requirements. CR & PR at C-15.

[34]See Tr. at 88 (engineering specifications drive the uses for these products and to use boiler and mechanical tubing in a standard, line or pressure application may result in a violation of the law; accordingly, there is no overlap in uses).

[35]CR & PR at C-15.

[36]See CR & PR at C-15.

[37]Commerce explained that, to eliminate confusion, it revised the scope language to show its intent that merchandise from a particular country not be classified simultaneously as subject to both an OCTG order and a seamless pipe order. 60 Fed. Reg. 31,956, 31,963, 31,977, 31,984.

[38]60 Fed. Reg. 31,954, 31,961, 31,975, 31,982, 31,994.

[39]See Tr. at 87-91.

different from OCTG[40] and that interchangeability between these products is limited.[41] We find that the product most similar in characteristics and uses to the OCTG included in the scope of the investigations is certain seamless carbon and alloy pipe, and not OCTG generally.[42]

4. Semifinished and Redraw Hollows[43]

Redraw hollows are essentially unfinished pipe produced to conform to the chemical and mechanical properties of the specification, such as A-106, for the finished pipe into which it is to be cold-drawn or further processed by other pipe and tube processors/manufacturers.[44] Cold-drawing is often used to produce smoother surfaces and closer dimensional accuracy, to modify mechanical properties or to produce special cross-sections other than round. The major reason for cold-drawing pipe is to draw it into diameters smaller than those that can be achieved in hot-finishing.[45] Semifinished hollows (not cold-drawn) are further processed by sulphuric acid wash, annealing, straightening, hydrostatic testing, end-facing, coating, stenciling, and bundling.[46] There is no independent market for any redraw hollows, other than in the manufacture of finished pipe.[47]

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[40]See CR & PR at C-16 (different sizes used in OCTG applications than are produced for standard, line and pressure applications).

[41]See CR & PR at C-16 (no head-to-head competition between the products).

[42]We note that in past investigations, we have not included OCTG in the same like product with seamless pipes and tubes. See Stainless Steel Pipes and Tubes from Sweden, Inv. No. 731-TA-354 (Preliminary), USITC Pub. 1919 (Dec. 1986), at 7 n.13; Certain Seamless Steel Pipes and Tubes from Japan, Inv. No. 731-TA-87 (Final), USITC Pub. 1347 (Feb. 1983), at 4, 7.

[43]We apply our finished/semifinished like product analysis in making our finding with respect to semifinished and redraw hollows. In such an analysis we examine: (1) whether the upstream article is dedicated to the production of the downstream article or has independent uses; (2) whether there are perceived to be separate markets for the upstream and downstream articles; (3) differences in the physical characteristics and functions of the upstream and downstream articles; (4) differences in the costs or value of the vertically differentiated articles; and (5) significance and extent of the processes used to transform the upstream into the downstream articles. Canned Pineapple Fruit from Thailand, Inv. No. 731-TA-706 (Final), USITC Pub. 2907 (July 1995), at I-8 n.25; Stainless Steel Bar from Brazil, India, Japan, and Spain, Invs. Nos. 731-TA-678, 679, 681, and 682 (Final), USITC Pub. 2856 (Feb. 1995), at I-6.

[44]CR at I-24; PR at II-21 - II-22.

[45]CR at I-19; PR at II-17. Cold-drawing is a labor-intensive process that adds significant value to the finished product. CR at I-19; PR at II-17.

[46]CR at I-24; PR at II-22.

[47]CR at I-24 - I-25; PR at II-22.

While Commerce's scope excludes redraw hollows "for cold-drawing when used in the production of cold-drawn pipe or tube,"[48] we see no clear dividing line between finished seamless pipe and all semifinished and redraw hollows. On balance, therefore, we determine that the like product includes all semifinished and redraw hollows. Hollows are dedicated to the production of finished pipe and, as stated above, there is no independent market for semifinished and redraw hollows. These factors outweigh the physical differences, as well as the value added to the hollows by the finishing process. In past investigations we have included redraw hollows in the definition of the like product.[49] Accordingly, we define the like product to include all semifinished and redraw hollows.[50]

5. Carbon and Alloy Pipe

Brazilian and German respondents argue that carbon and alloy pipe should be separate like products,[51] while petitioner urges that they be included in the same like product.[52] In the preliminary investigations, we defined carbon and alloy pipe as a single like product.[53] We see no reason to change that determination in these final investigations.

Both types of pipe share general characteristics and uses,[54] are produced on the same production equipment by the same employees,[55] share channels of distribution,[56] and are

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[48]60 Fed. Reg. 31,954, 31,961, 31,975, 31,982, 31,994.

[49]See Stainless Steel Pipes and Tubes from Sweden, Inv. No. 701-TA-281 (Final), USITC Pub. 1966 (Apr. 1987), at 7-8; Stainless Steel Pipes and Tubes from Sweden, Inv. No. 731-TA-354 (Preliminary), USITC Pub. 1919 (Dec. 1986), at 7-8.

[50]Using our traditional six-factor like product analysis, we would make the same determination. Redraw hollows may only be used to manufacture pipe. Except for the finishing operations, redraw hollows are manufactured using the same process as finished pipe. Cold-drawing modifies the physical characteristics of the hollows, but does not change these properties. The end uses are generally the same. We note, however, that the primary domestic consumer of redraw hollows processes them in order to sell them, thus showing that consumers perceive redraw hollows to be different from finished pipe as well as showing the lack of interchangeability. See CR at I-18 - I-19; PR at II-17. We also note that the prices of redraw hollows and finished pipe differ. See CR at I-23; PR at II-20. Nonetheless, on the basis of the general similarity in physical characteristics, generally similar manufacturing processes and overlap in channels of distribution, using our traditional like product analysis we would determine that all semifinished and redraw hollows should be included in the same like product as subject finished pipe.

[51]Mannesmann's Prehearing Brief at 2-11; Mannesmann's Posthearing Brief, Responses to Questions at iv-ix.

[52]Petitioner's Prehearing Brief at 42-50; Tr. at 21.

[53]USITC Pub. 2801, at I-8.

[54]Both have similar mechanical properties and convey gases and liquids. See CR & PR at C-3 - C-5.

[55]See CR & PR at C-9.

interchangeable to the extent that alloy pipe can be substituted for carbon pipe, though the reverse is not true.[57] On balance, we find that alloy and carbon pipe comprise the same like product.

6. Conclusion

We find a single like product consisting of seamless carbon and alloy steel standard, line and pressure pipe and tubes not more than 4.5 inches in outside diameter, and including all semifinished and redraw hollows.

B. Domestic Industry

Based on the definition of the like product in these investigations, the domestic industry consists of the domestic producers of seamless carbon and alloy steel standard, line and pressure pipes and tubes not more than 4.5 inches in outside diameter, as well as all redraw hollows. We include all domestic production in the domestic industry, whether toll-produced, captively consumed or sold in the merchant market.[58]

1. Production-Related Activities

The Commission has considered firms to be domestic producers based on their production-related activity in the United States.[59] Petitioner proposes for the first time in these final investigations that the domestic industry exclude redrawers/finishers who further process the pipe subject to these investigations, i.e. ***.[60]

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[56]Distributors tend to sell all types of pipe, of varying material composition. CR at I-22; PR at II-20.

[57]CR & PR at C-12.

[58]See, e.g., United States Steel Group v. United States, 873 F. Supp. 673 (Ct. Int'l Trade 1994), aff'g Certain Flat-Rolled Carbon Steel Products from Argentina et al., Invs. Nos. 701-TA-319-332, 334, 336-342, 344, and 347-353 & 731-TA-573-579, 581-592, 594-597, 599-609, and 612-619 (Final), USITC Pub. 2664 (Aug. 1993), at 17; Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands, Inv. No. 731-TA-652 (Final), USITC Pub. 2783 (June 1994), at I-8 - I-9, aff'd, Aramide Maatschappij V.O.F. v. United States, Slip Op. 95-113.

[59]The Commission has examined six specific factors in this regard: (1) the extent and source of a firm's capital investment; (2) the technical expertise involved in U.S. production activity; (3) the value added to the product in the United States; (4) employment levels; (5) the quantities and types of parts sourced in the United States; and (6) any other costs and activities in the United States leading to production of the like product, including where production decisions are made. See, e.g., Ferrovanadium and Nitrided Vanadium from Russia, Inv. No. 731-TA-702 (Final), USITC Pub. 2904 (June 1995), at I-8 n.24.

[60]Tr. at 25; Petitioner's Posthearing Brief at 3.

*** does not manufacture its own inputs, but purchases semifinished and redraw hollows that it cold draws or otherwise finishes. It is the only known redrawer/finisher of the subject product in the United States.[61] In the preliminary investigations, we determined that *** finishing operations were sufficient to consider it to be a domestic producer.[62] We received no new information to compel us to change that determination in these final investigations.

The overall nature of *** activities in producing the like product, including cold-drawing as well as finishing, are sufficient for it to be considered a domestic producer. The value of its assets is significant,[63] as is the amount of production inputs procured from domestic sources.[64] Moreover, the cold-drawing process requires substantial technical expertise and adds significant value to the product.[65] While it is unclear whether finishing operations other than cold-drawing require a similar degree of expertise, this is insufficient of itself to warrant excluding *** from the domestic industry.

2. Related Party

The related parties provision, 19 U.S.C. § 1677(4)(B), allows the Commission to exclude certain domestic producers from the domestic industry for the purpose of making its injury determination. The Commission must first determine whether the domestic producer meets the definition of a related party.[66] If a producer is a related party, the Commission may exclude that producer from the domestic industry if "appropriate circumstances" exist.[67] Exclusion of a related party is within the Commission's discretion based upon the facts presented in each investigation.[68]

In these investigations, because *** purchased subject merchandise from importer *** during the period of investigation, it could be a related party if its purchases rose to a level

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[61]CR at I-33; PR at II-29.

[62]USITC Pub. 2801, at I-13.

[63]CR at I-58, Table 11 (revised per INV-S-098 (July 13, 1995)); PR at II-45.

[64]*** input was purchased from domestic producers during the period of investigation. CR at I-34; PR at II-29.

[65]CR at I-18 - I-19, I-35; PR at II-17, II-29. See CR & PR at Table E-2.

[66]A domestic producer is a related party if it is either related to the exporters or imports of LTFV or subsidized merchandise, or is itself an importer of the subject merchandise. 19 U.S.C. § 1677(4)(B).

[67]19 U.S.C. § 1677(4)(B).

[68]Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), aff'd, 991 F.2d 809 (Fed. Cir. 1993); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

allowing it to control the purchase of large volumes of imports.[69] In the preliminary investigations, we found that no such relationship existed and included *** in the domestic industry.[70] No new facts have arisen in these final investigations to compel us to change our preliminary finding.

The percentage of input purchased from ***, the only year of the period of investigation in which subject imports were purchased, represented only *** percent of *** purchases in that year.[71] *** purchases accounted for only approximately *** percent of imports from *** in that year.[72] Accordingly, *** purchases were not significant enough to warrant a conclusion that it had a special relationship with *** or that it controlled imports from ***. We find, therefore, that *** is not a related party under the statute.

II. CONDITION OF THE DOMESTIC INDUSTRY

In assessing whether the domestic industry is materially injured by reason of LTFV or subsidized imports, the Commission considers all relevant economic factors that bear on the state of the industry in the United States.[73] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital, and research and development. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[74]

There are seven domestic producers of the subject pipe. Four of these seven produce pipe of two inches or less in outside diameter, while six of the seven manufacture pipe greater than two inches and less than or equal to 4.5 inches in diameter. In addition, the manufacture of pipe by size is more concentrated. Two of the seven domestic producers account for *** percent of the production of seamless pipe of two inches or less in outside diameter and two other producers are responsible for the manufacture of *** percent of the pipe greater than two inches and less than or equal to 4.5 inches in diameter.[75] Domestic producers sell almost exclusively to authorized distributors, although they make limited sales to end users.

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[69]See Fresh Garlic from the People's Republic of China, Inv. No. 731-TA-683 (Final), USITC Pub. 2825 (Nov. 1994), at I-18 n.86; Certain Carbon Steel Butt-Weld Pipe Fittings from China and Thailand, Invs. Nos. 731-TA-520-521 (Final), USITC Pub. 2528 (June 1992), at 10-12.

[70]USITC Pub. 2801, at I-14.

[71]CR at I-34; PR at II-29.

[72]See CR at I-34, Table 17; PR at II-29, Table 17.

[73]19 U.S.C. § 1677(7)(C)(iii).

[74]19 U.S.C. § 1677(7)(C)(iii).

[75]See CR at I-30, Table 3; PR at II-27.

Only one subject importer reported that it sells mostly to authorized distributors.[76] The domestic producers sell to authorized distributors because the latter (1) expand market coverage, with many operating multi-location facilities; (2) are responsible for inventory costs; and (3) provide the product-processing operations required to prepare and ship products to the many end users in the market.[77] Distributors authorized to buy the domestic product, however, also often buy the subject imported product.[78]

Demand for certain seamless pipe is a derived demand as it depends mainly on the level of demand in end-use markets (such as refineries, petrochemical installations, and energy plants) that employ industrial piping systems for the transmission of water, steam, petrochemicals, chemical, oil, natural gas, and other gases and fluids.[79] Apparent U.S. consumption increased by almost 33 percent between 1992 and 1993, due at least partially to tax incentives provided by the U.S. government that promoted oil and gas well drilling. This drilling, in turn, expanded the demand for the line pipe used in oil fields as drillers restocked their inventories.[80]

A number of factors suggest that the domestic product and subject imports are reasonably good substitutes. Domestic producers and importers agree that their products are largely interchangeable.[81] Certain large end users of the subject product maintain an approved manufacturing list for producers that they have certified as acceptable vendors. The domestic producers and the subject foreign producers are on the lists of most large end users. The products manufactured by producers that appear on the certified lists may be more readily accepted by smaller end users that do not maintain approved manufacturing lists than products of firms not on these lists.[82] In addition, a number of purchasers buy or consider buying subject pipe from both the domestic producers as well as the subject importers.[83] [84] While

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[76]CR at I-82; PR at I-60.

[77]CR at I-83; PR at II-60 - II-61.

[78]CR at I-82 n.112; PR at II-60 n.113.

[79]CR at I-80; PR at II-59. However, it appears from the data that at least some firms tend to view demand in terms of the specific products that they sell or buy and market areas that they serve. CR at I-80; PR at II-59.

[80]Final Economic Memorandum at 19-20, EC-S-076 (July 14, 1995). Apparent consumption declined somewhat in 1994 by approximately nine percent and, during January-March 1995, fell by approximately seven percent from the interim 1994 period. Final Economic Memorandum at 20.

[81]CR at I-21; PR at II-19.

[82]CR at I-80; PR at II-59.

[83]See CR at I-121, I-122, I-125, I-127; PR at II-78, II-79 - II-82.

[84]There are some limits regarding interchangeability between pipe of different sizes and between carbon and alloy seamless pipe. However, most of the pipe consumed in the United States during the period of investigation was triple-stenciled to A-106/API5L/A-53 specifications. CR at I-21; PR at II-19. In 1994, *** percent of domestically-produced subject pipe was triple-stenciled, while *** percent

respondents argue that "Buy American" policies restrict competition between the subject imports and the domestic like product, purchasers generally reported that "Buy American" policies were not a factor in, or had only a minor impact on, their purchases. Although these purchasing policies cannot be quantified, evidence on the record indicates that Buy American policies would affect no more than *** percent of distributors' U.S. sales of the subject product.[85]

We note that, although no party argued that a business cycle or other special consideration exists to warrant doing so for this industry,[86] respondents urged us to expand the data series we normally consider to include data for 1991, arguing that 1992 was a low point in demand for seamless pipe.[87] We have relied on the data gathered from 1992 to 1994 in making our findings, which corresponds to our usual three-year period of investigation. However, we also considered the data obtained for 1991, but note that such data do not change our determinations. We also viewed the data for interim 1995 with caution, because such data are for only one calendar quarter, and cover a period after Commerce's preliminary determinations resulted in the suspension of liquidation of the subject imports.[88]

As stated above, the period of investigation was characterized by generally increasing consumption of seamless pipe. U.S. apparent consumption for the subject product rose irregularly between 1992 and 1994, increasing from 170,057 short tons in 1992 to 225,584 tons in 1993, before falling to 205,247 short tons in 1994. Apparent consumption fell from 50,116 short tons in January-March 1994 to 46,535 short tons in January-March 1995.[89] The value of apparent consumption increased from $123.7 million in 1992 to $146.0 million in 1993, then decreased to $133.1 million in 1994. This figure increased from $31.9 million in January-March 1994 to $33.8 million in January-March 1995.[90]

The quantity of domestic producers' U.S. shipments increased from 106,821 tons in 1992 to 144,773 in 1993, then fell to 137,993 in 1994. Between interim periods these

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of Argentine pipe was triple-stenciled, as well as *** percent of Brazilian pipe, *** percent of German pipe and *** percent of Italian pipe. CR at I-22; PR at II-19.

[85]CR at I-84, PR at II-62.

[86]See Tr. at 95.

[87]Siderca's Prehearing Brief at 3-4; Siderca's Posthearing Brief at 4; Tr. at 191, 203-06.

[88]See 59 Fed. Reg. 60,774 (Nov. 28, 1994) (Commerce's preliminary countervailing duty determination for Italy); 60 Fed. Reg. 5,348, 5,350, 5,355, 5,358 (Jan. 27, 1995) (Commerce's preliminary LTFV determinations for Argentina, Brazil, Germany, and Italy).

[89]CR at I-29, Table 2; PR at II-26. U.S. apparent consumption was *** short tons in 1991. CR at D-18, Table D-6; PR at D-6.

[90]CR at I-29, Table 2; PR at II-26. In 1991, the value of apparent consumption was *** million. CR at D-18, Table D-6; PR at D-6.

shipments declined from 37,380 in interim 1994 to 35,911 in interim 1995.[91] The unit value of such shipments declined from $738 in 1992 to $663 in 1993, then rose slightly to $664 in 1994.[92]

The U.S. producers' quantity share of the domestic market increased from 62.8 percent in 1992 to 64.2 percent in 1993, then rose to 67.2 percent in 1994, and increased further between interim periods from 74.6 percent in interim 1994 to 77.2 percent in interim 1995.[93] By value, the U.S. producers' market share followed the same trend, increasing from 63.8 percent in 1992 to 65.8 percent in 1993, then rising to 68.9 percent in 1994. This figure increased from 73.7 percent in January-March 1994 to 76.5 percent in January-March 1995.[94]

Production increased substantially from 108,242 short tons in 1992 to 147,641 short tons in 1993, then fell to 138,295 short tons in 1994. Production fell slightly from 39,547 short tons in interim 1994 to 39,004 short tons in interim 1995.[95] Average-of-period capacity showed a small decline from 296,925 tons in 1992 to 292,750 tons in 1993, and decreased to 292,650 tons in 1994. Average-of-period capacity increased from 72,348 tons in January-March 1994 to 73,713 tons in January-March 1995.[96] Average capacity utilization rose from 36.5 percent in 1992 to 50.4 percent in 1993, then declined slightly to 47.3 percent in 1994. Between interim periods, average capacity utilization decreased from 54.7 percent to 52.9 percent.[97]

The number of production and related workers increased from 241 in 1992 to 296 in 1993, then decreased to 264 in 1994. The number of production workers increased from 268 in January-March 1994 to 292 in January-March 1995.[98] Hours worked increased from 568,000 in 1992 to 642,000 in 1994, and from 157,000 to 175,000 between interim 1994-

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[91]CR at I-29, Table 2; PR at II-26.

[92]CR at I-29, Table 2; PR at II-26.

[93]CR at I-74, Table 18; PR at II-56. In 1991, this figure was *** percent. CR at D-18, Table D-6; PR at D-6.

[94]CR at I-74, Table 18; PR at II-56. In 1991, the U.S. producers' value share of the domestic market was *** percent. CR at D-18, Table D-6; PR at D-6.

[95]CR at I-39, Table 5; PR at II-33. In 1991, production was *** short tons. CR at D-19, Table D-6; PR at D-6.

[96]CR at I-39, Table 5; PR at II-33. Average-of-period capacity was *** tons in 1991. CR at D-19, Table D-6; PR at D-6.

[97]CR at I-39, Table 5; PR at II-33. Average capacity utilization was *** percent in 1991. CR at D-19, Table D-6; PR at D-6.

[98]CR at I-44, Table 8; PR at II-37. In 1991, the number of production and related workers was ***. CR at D-19, Table D-6; PR at D-6.

1995.[99] Wages paid increased from $9.3 million in 1992 to $12.4 million in 1993, and declined slightly to $12.3 million in 1994. Wages paid increased from $3.0 million in January-March 1994 to $3.5 million in January-March 1995.[100]

The financial condition of the industry shows that the domestic industry was unable to generate operating profits consistently throughout the period. The value of net sales increased from $79.5 million in 1992 to $97.4 million in 1993, then fell to $91.8 million in 1994. This figure climbed from $23.5 million in January-March 1994 to $26.1 million in January-March 1995.[101]

The unit value of net sales declined from $737.71 per short ton in 1992 to $658.60 in 1993, then climbed slightly to $663.26 in 1994. Between interim periods these values rose from $627.56 in January-March 1994 to $716.30 in January-March 1995.[102] While gross profits increased from $3.5 million in 1992 to $6.6 million in 1993, they then decreased by almost one-third to $4.5 million in 1994. The industry experienced a gross loss of $344,000 in interim 1994, but realized a gross profit of $2.7 million in interim 1995.[103]

The cost of goods sold increased from $76.0 million in 1992 to $90.8 million in 1993, then decreased to $87.3 million in 1994. It declined from $23.9 million in January-March 1994 to $23.4 million in January-March 1995.[104] The unit cost of goods sold (COGS) decreased from $705 per short ton in 1992 to $614 in 1993, then increased to $631 in 1994. Unit COGS declined from $637 per short ton in January-March 1994 to $643 per short ton in January-March 1995.[105]

Selling, general and administrative (SG&A) rose from $4.3 million in 1992 to $5.8 million in 1993, then fell somewhat to $4.6 million in 1994. In January-March 1994, these

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[99]CR at I-44, Table 8; PR at II-37. In 1991, hours worked were ***. CR at D-18, Table D-6, PR at D-6.

[100]In 1991, *** million was paid in wages. CR at D-19, Table D-6; PR at D-6.

[101]CR at I-48, Table 9; PR at II-40. In 1991, the value of net sales was *** million. CR at D-20, Table D-6; PR at D-6.

[102]CR at I-48, Table 9; PR at II-40. The unit value of net sales was *** per short ton in 1991. CR at D-20, Table D-6; PR at D-6.

[103]CR at I-48, Table 9; PR at II-40. In 1991, gross profit was *** million. CR at D-20, Table D-6; PR at D-6.

[104]CR at I-48, Table 9; PR at II-40. The cost of goods sold was *** million in 1991. CR at D-20, Table D-6; PR at D-6.

[105]CR at I-48, Table 9; PR at II-40. The unit cost of goods sold was *** per short ton in 1991. CR at D-20, Table D-6; PR at D-6.

expenses totaled $1.05 million compared with $1.0 million in January-March 1995.[106] On a unit basis, SG&A declined from $40 per short ton in 1992 to $39 in 1993, then fell to $33 per short ton in 1994. Unit SG&A expenses were steady from January-March 1994 to January-March 1995 at $28 per short ton.[107]

Operating income remained low even when the industry earned a profit. The industry suffered an operating loss of $845,000 in 1992, and although its operating income was $804,000 in 1993, it suffered another operating loss of $123,000 in 1994. In three of the five periods between 1992 and 1995 for which we gathered data, the industry sustained operating losses, and three or more firms reported operating losses during these periods.[108]

Capital expenditures and spending on research and development declined significantly throughout the period of investigation.[109] [110]

III. CUMULATION

In determining whether there is material injury by reason of less than fair value or subsidized imports, the Commission is required to assess cumulatively the volume and price effects of imports from two or more countries of articles subject to investigation if such imports compete with one another and with the domestic like product in the United States market.[111] Cumulation is not required, however, when imports from a subject country are negligible and have no discernible adverse impact on the domestic industry.[112]

Imports of subject seamless carbon and alloy pipe from Argentina, Brazil, Germany, and Italy are subject to investigation. We determine that there is a reasonable overlap of competition between the subject imports and the domestic like product, as well as among the

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[106]CR at I-48, Table 9; PR at II-40. Selling, general and administrative expenses were *** million in 1991. CR at D-20, Table D-6; PR at D-6.

[107]CR at I-48, Table 9; PR at II-40. Unit selling, general and administrative expenses were *** per short ton in 1991. CR at D-20, Table D-6; PR at D-6.

[108]While the operating loss of $1.4 million in interim 1994 was converted into operating income of $1.6 million in interim 1995, CR at I-48, Table 9; PR at II-40, we discount the recent recovery as due to the preliminary determinations in these investigations. See CR at I-56 - I-57; PR at II-44 - II-45. In 1991, operating income was *** million. CR at D-20, Table D-6; PR at D-6.

[109]CR at I-58 - I-59; PR at II-45 - II-46.

[110]Based on the foregoing, Commissioners Rohr and Newquist determine that the domestic industry is experiencing material injury.

[111]19 U.S.C. § 1677(7)(C)(iv); Chaparral Steel Co. v. United States, 901 F.2d 1097, 1105 (Fed. Cir. 1990).

[112]19 U.S.C. § 1677(7)(C)(v).

Argentine, Brazilian, German, and Italian products. We further determine that none of the subject imports is negligible.

A. Competition Among the Imports and Between the Imports and the Like Product

In assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors, including:

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

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

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

(4) whether the imports are simultaneously present in the market.[113]

While no single factor is determinative, and the list of factors is not exclusive, these factors provide the Commission with a framework for determining whether the imports compete with each other and with the domestic like product.[114] Only a "reasonable overlap" of competition is required.[115] Thus, even if a certain volume of subject imports from a country is of a type or specification not produced by the domestic industry, imports from that country will be cumulated if the remaining imports collectively do compete with the domestic like product (and with other imports).[116]

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[113]See Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea and Taiwan, Invs. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), at 8 n.29, aff'd, Fundicao Tupy, S.A. v. United States, 678 F. Supp. 898 (Ct. Int'l Trade), aff'd, 859 F.2d 915 (Fed. Cir. 1988).

[114]See, e.g., Wieland Werke, AG v. United States, 718 F. Supp. 50, 52 (Ct. Int'l Trade 1989).

[115]See, e.g., United States Steel Group v. United States, 873 F. Supp. 673, 685 (Ct. Int'l Trade 1994).

[116]See generally Sandvik AB v. United States, 721 F. Supp. 1322, 1332-33 (Ct. Int'l Trade 1989), aff'd, 904 F.2d 46 (Fed. Cir. 1990).

As noted above, evidence on the record indicates that subject imports and the domestic like product are reasonably good substitutes.[117] Domestic producers and importers reported that their respective products are largely interchangeable, except for products sold in certain niche markets or for specialized applications.[118] In addition to price and quality, factors affecting purchasers' buying decisions are availability of supply, prompt delivery, technical support, sales service, payment terms, and the desire to maintain several sources of supply.[119] There are no significant differences in quality between the domestic product and subject imports.[120] With respect to the last factor, a number of purchasers buy or consider buying seamless pipe from more than one of the subject countries as well as the domestic product.[121] Although differences in lead times and delivery terms were found between the domestic product and subject imports,[122] we nevertheless find the products to be reasonably good substitutes. While an argument was made that imports from Italy were predominantly in smaller sizes,[123] imports from all four subject countries as well as the domestic product include pipe both above and below two inches in size.[124] As stated previously, "Buy American" policies had little, if any, impact on purchasers' buying decisions.

The majority of the subject imports enter the country via the Gulf coast region through the ports of Houston or New Orleans, although they also entered through northeast, southeast, midwest, and western customs districts.[125] Subject pipe is sold nationwide, with

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[117]Commissioner Newquist notes that, in his view, once a like product determination is made, that determination establishes an inherent level of fungibility within that like product. Only in exceptional circumstances could Commissioner Newquist find products to be "like" and then turn around and find that, for purposes of cumulation, there is no "reasonable overlap of competition" based on some roving standard of substitutability. See Additional and Dissenting Views of Chairman Newquist in Flat-Rolled Carbon Steel Products, USITC Pub. No. 2664.

[118]CR at I-21; PR at II-19. U.S. shipments to niche markets accounted for only approximately *** percent of total shipments from Brazil and Germany, and approximately *** percent of total shipments from Italy in 1994. CR at I-75 (revised per INV-S-098); PR at II-57.

[119]Final Economic Memorandum at 44.

[120]See Final Economic Memorandum at 45.

[121]See CR at I-121; PR at II-78 (purchase of domestic, Brazilian, German and Italian products); CR at I-122, I-125, I-128; PR at II-79, 80, 82 (purchase of domestic, Argentine and Brazilian imports); CR at I-125 - I-126; PR at II-81 (pipe obtained from domestic producers, Argentina, Germany and Italy); CR at I-127; PR at II-82 (pipe purchased from domestic manufacturers, Brazil and Argentina).

[122]See Final Economic Memorandum at 44.

[123]See Dalmine's Posthearing Brief at 6-7.

[124]See CR, Tables D-4 & D-5; PR at D-6. Indeed, in the last full year for which the Commission has data, roughly *** of Italian imports were of subject seamless pipe above two inches in size. See also CR at I-91 - I-92 n.137; PR at II-66 n.138 (suggesting a somewhat lower figure for Italian imports above two inches during the entire period of investigation).

[125]CR at I-35, I-78 - I-79; PR at II-53, II-57- II-58.

a significant portion of sales in the Gulf area.[126] Both the domestic producers and importers sell subject pipe predominantly to distributors who, in turn, resell it to end users and other distributors,[127] indicating common channels of distribution. Lastly, the subject imports from all countries and the domestic product were simultaneously present in the market.[128]

For the above reasons, we find that there is a reasonable overlap of competition among subject imports from Argentina, Brazil, Germany, and Italy, as well as between subject imports and the domestic like product.

B. Negligible Imports Exception

The Act provides that the Commission is not required to cumulate imports from a particular country if it determines that imports of the subject merchandise from that country "are negligible and have no discernable adverse impact on the domestic industry."[129] In determining whether imports are negligible, the Act directs the Commission to consider all relevant economic factors, including whether:

(I) the volume and market share of the imports are negligible,

(II) sales transactions involving the imports are isolated and sporadic, and

(III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.[130]

In these final investigations the German and Italian respondents allege that imports from their respective countries are negligible.

The volume of subject imports from Germany decreased from *** short tons in 1992 to *** short tons in 1993, then increased to *** short tons in 1994. These imports also

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[126]CR at I-78; PR at II-57.

[127]CR at I-22, I-23, Table 1, I-82; PR at II-20, II-21, II-60.

[128]CR at I-114; PR at II-74. The available pricing data show that comparisons were available for 68 quarters in which the Argentine product was sold, 62 quarters for the Brazilian product, 33 quarters for the German product, and 27 quarters for the Italian product. CR at I-115; PR at II-74.

[129]19 U.S.C. § 1677(7)(C)(v).

[130]19 U.S.C. § 1677(7)(C)(v). The negligible imports exception is to be applied narrowly and is not to be used to subvert the purpose and general applicability of the mandatory cumulation provision of the statute. See H.R. Rep. No. 40, Part I, 100th Cong., 1st Sess. 131 (1987); H.R. Rep. No. 576, 100th Cong., 2d Sess. 621 (1988).

decreased from *** short tons between interim periods.[131] Their market share decreased from *** percent to *** percent between 1992 and 1993, then climbed to *** percent in 1994. The market share decreased, however, from *** to *** percent between January-March 1994 and January-March 1995.[132] While there is no numerical standard for negligibility, these figures are generally above the levels determined by the Commission to be negligible in other investigations.[133]

Contrary to Mannesmann's arguments, there is no requirement that the imports follow a "set pattern" to avoid a determination that they are not isolated and sporadic. The pricing data show that subject imports from Germany were sold in the United States in almost all quarters.[134] There is a significant overlap between the German and domestic pipe, as well as among the German and other subject imports, with respect to the different German products that were sold in the various quarters between 1992 and 1994.[135] [136]

The domestic market for certain seamless pipe is at least somewhat price sensitive.[137] [138]

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[131]CR at I-72, Table 17; PR at II-56.

[132]CR at I-74, Table 18; PR at II-57.

[133]See, e.g., Certain Carbon Steel Butt-Weld Pipe Fittings from France et al., Invs. Nos. 701-TA-360-361 & 731-TA-688-695 (Final), USITC Pub. 2870 (Apr. 1995), at I-19 - I-20.

[134]German imports were not sold in ***. See CR at I-98 - I-103, Tables 21-26; PR at II-69- II-70.

[135]For example, ***. CR at I-98 - I-103, Tables 21-26; PR at II-69 - II-70.

[136]We note that Mannesmann manufactures subject pipe in Brazil and Germany. Both producers are owned by a German company. CR at I-64 n.89; PR at II-49 n.90.

[137]See CR at I-125; PR at II-81 (purchaser reporting that, once the stenciling standard is met, price becomes the dominant purchasing factor); Final Economic Memorandum at 45 (purchasers reported most frequently that advantage of imported products was their lower price); see also Final Economic Memorandum at 28-29 (price lists serve only as basis for discount policies and/or as a guideline for negotiating prices depending on prevailing market conditions).

[138]Chairman Watson and Commissioner Crawford determine the price sensitivity of the subject seamless pipe market by examining the following four factors: (1) the overall sensitivity of demand to changes in the price of seamless pipe (the elasticity of demand); (2) the responsiveness of domestic supply to changes in market price (the elasticity of supply); (3) the availability of nonsubject imports; and (4) the aggregate substitutability of the subject imports for the domestic product (the elasticity of substitution). Because of the limited existence and availability of commercially viable substitutes for seamless pipe and the small component cost it represents in the piping systems and operating units in which it is used, the overall quantity of seamless pipe demanded will not change significantly with changes in the price level of seamless pipe. A low elasticity of demand can point to market price sensitivity if, for example, subject imports and the domestic like product are good substitutes and the elasticity of supply for the domestic industry is moderate or low, i.e., domestic producers are either unable or unwilling to respond to increases in price with significant increases in production of the like product. As has been discussed above, subject imports and the domestic like product appear to be reasonably good substitutes. Also, despite reported high levels of unused capacity and switching of

On the basis of the above analysis, we find that subject imports from Germany are not negligible.

As regards Italian imports, their volume increased from *** short tons in 1992 to *** short tons in 1993, then declined to *** short tons in 1994. They further decreased between the interim periods: from ***.[139] The market share of the subject Italian pipe increased from *** percent in 1992 to *** percent in 1993, then fell to *** percent in 1994. This figure decreased only slightly between interim periods, from *** percent in interim 1994 to *** percent in interim 1995.[140]

Prices for subject Italian pipe were reported in *** for which prices for domestic, as well as other subject products, were reported.[141] As with the German imports, there is a significant overlap between the Italian and domestic pipe, as well as among the Italian and other subject imports, with respect to the different Italian products that were sold in the various quarters between 1992 and 1994,[142] belying a claim of isolated and sporadic imports. As noted above, the domestic market for certain seamless pipe is at least somewhat price sensitive.

In view of the foregoing, we determine that imports of subject pipe from Italy are not negligible.

Accordingly, we determine to assess cumulatively the volume and price effects of imports from Argentina, Brazil, Germany, and Italy.

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production between the certain seamless pipe and other products, we find that the reactions of domestic producers to changes in market prices (elasticity of domestic supply) is relatively low. We view reported capacity figures with caution, noting that they may reflect product-mix allocations rather than actual realizable utilization levels. Moreover, as previously discussed, the concentrated structure of the domestic industry, particularly within size segments, likely limits the role of price-restraining factors in the domestic market. Finally, we note that nonsubject imports have had a significant presence in the seamless pipe market over the period of investigation. Based on the foregoing, we conclude that the low elasticity of demand and domestic supply, and the fact that subject imports and the domestic like product are reasonably good substitutes, suggest that the U.S. market for subject seamless pipe is somewhat price sensitive. However, the presence of nonsubject imports in this case precludes our finding that the market is statutorily price sensitive so that a "small amount" of imports can result in price suppression or depression.

[139]CR at I-72, Table 17; PR at II-54.

[140]CR at I-72, Table 17; PR at II-54.

[141]See CR at I-98 - I-100, I-102 - I-103, Tables 21-23, 25-26; PR at II-69 - II-70.

[142]***. CR at I-98 - I-103, Tables 21-26; PR at II-69 - II-70.

IV. MATERIAL INJURY BY REASON OF SUBSIDIZED AND LTFV IMPORTS

In final countervailing and antidumping duty investigations, the Commission determines whether an industry in the United States is materially injured by reason of the imports that Commerce has determined are subsidized or sold at LTFV.[143] The Commission must consider the volume of imports, their effect on prices for the like product, and their impact on domestic producers of the like product, but only in the context of the U.S. production operations.[144] Although the Commission may consider alternative causes of injury,[145] it may not weigh causes.[146] [147] [148] [149] For the reasons discussed below, we

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[143]19 U.S.C. §§ 1671d(b), 1673d(b).

[144]19 U.S.C. § 1677(7)(B)(i).

[145]19 U.S.C. § 1677(7)(B)(ii).

[146]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:

> [T]he 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. No. 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).

[147]For Chairman Watson's interpretation of the statutory requirement regarding causation, see Certain Calcium Aluminate Cement and Cement Clinker from France, Inv. No. 731-TA-645 (Final), USITC Pub. 2772 (May 1994), at I-14 n.68.

[148]Commissioner Rohr and Commissioner Newquist further note that the Commission need not determine that imports are "the principal, a substantial, or a significant cause of material injury." S. Rep. No. 249, at 57, 74. Rather, a finding that imports are a cause of material injury is sufficient. See, e.g., Metallverken Nederland B.V. v. United States, 728 F. Supp. 730, 741 (Ct. Int'l Trade 1989); Citrosuco Paulista, S.A. v. United States, 704 F. Supp. at 1101.

[149]Commissioner Crawford notes that the statute requires that the Commission determine whether a domestic industry is "materially injured by reason of" the subsidized or LTFV imports. She finds that the clear meaning of the statute is to require a determination of whether the domestic industry is materially injured by reason of the subsidized or LTFV imports, not by reason of subsidized or LTFV imports among other things. Many, if not most, domestic industries are subject to injury from more than one economic factor. Of these factors, there may be more than one that independently are causing material injury to the domestic industry. It is assumed in the legislative history that the "ITC will consider information which indicates that harm is caused by factors other than less-than-fair value imports." S. Rep. No. 249, 96th Cong., 1st Sess. 75 (1979). However, the legislative history makes it clear that the Commission is not to weigh or prioritize the factors that are independently causing material injury. Id. at 74; H.R. Rep. No. 317, 96th Cong., 1st Sess. 46-47 (1979). The Commission is not to determine if the subsidized or LTFV imports are "the principal, a substantial or a significant cause of material injury." S. Rep. No. 249, at 74. Rather, it is to determine whether any injury "by reason of" the subsidized or LTFV imports is material. That is, the Commission must determine if the subject imports are causing material injury to the domestic industry. "When determining the effect of imports on the domestic industry, the Commission must consider all relevant factors that can demonstrate if unfairly traded imports are materially injuring the domestic industry." S. Rep. No. 71,

find that the domestic industry producing certain seamless carbon and alloy pipe is materially injured by reason of subsidized and LTFV imports from Argentina, Brazil, Germany, and Italy.

A. The Volume of Subject Imports

Subject import volume followed the rise and fall in domestic consumption. As stated above, consumption increased by almost one-third between 1992 and 1993. During this period, subject imports increased by more than one-third[150] and subject imports' market share increased from 21.0 to 25.4 percent.[151] Between 1993 and 1994, both consumption and subject imports declined somewhat,[152] with subject imports' market share decreasing to 23.2 percent between 1993 and 1994.[153] Consumption and subject imports also fell between the first quarters of 1994 and 1995,[154] when subject imports' market share decreased from 17.4 percent to 1.0 percent.[155] Except for the period January-March 1995, subject imports were present in substantial quantities throughout the period.[156] The value of these imports followed a pattern similar to the import volume, increasing by almost one-half between 1992 and 1993, before falling in 1994. Between interim periods, the value of subject imports declined drastically.[157]

100th Cong., 1st Sess. 116 (1987) (emphasis added).

[150]Consumption increased from 170,057 short tons to 225,584 short tons between 1992 and 1993. Shipments of subject imports totaled 35,792 short tons in 1992, then climbed to 57,383 tons in 1993. CR at I-29, Table 2; PR at II-26.

[151]CR at I-74, Table 18; PR at II-57.

[152]Domestic consumption declined to 205,247 tons between 1993 and 1994. Shipments of subject imports fell to 47,602 tons during that period. CR at I-29, Table 2; PR at II-26.

[153]CR at I-74, Table 18; PR at II-57.

[154]Between interim periods domestic consumption declined from 50,116 tons to 46,535 tons, while shipments of subject imports decreased from 8,726 tons to 484 tons during that time. CR at I-29, Table 2; PR at II-26.

As we noted above, for the most part we based our decision on data gathered between 1992 and 1994. We are, however, mindful of the data gathered in 1991. For example, we find it helpful to note that, in 1991, domestic consumption of the subject pipe was high: *** short tons. CR at D-18, Table D-6; PR at D-6. Subject imports were at their highest levels in that year: *** short tons. CR at D-19, Table D-6; PR at D-6.

[155]CR at I-74, Table 18; PR at II-57.

[156]As noted above, we have examined the data for interim 1995 with caution because they represent data for only one calendar quarter and encompass information obtained after the suspension of liquidation of the subject imports.

[157]The value of shipments of subject imports was $25.3 million in 1992, then rose to $35.5 million in 1993 before declining to $28.8 million in 1994. The value decreased from $5.5 million in January-March 1994 to $550,000 in January-March 1995. CR at I-29, Table 2; PR at II-26. In 1991, the value of subject imports was *** million. CR at D-19, Table D-6; PR at D-6.

Accordingly, we find that the volume and market share of subject imports are significant.[158]

B. The Effect of Subject Imports on Domestic Prices

The domestic and imported products are reasonably good substitutes, and price is an important factor in purchasing decisions.[159] Indeed, most purchasers indicated in their questionnaire responses that they bought the subject imports because of their lower price,[160] a fact further supported by the number of confirmed lost sales and lost revenue allegations.[161] In addition, questionnaire pricing data confirm that the subject imports significantly undersold the domestic product during the period of investigation. Of 190 total quarterly selling comparisons, 141 showed that imports undersold the domestic product.[162] The margins of underselling are large, with most instances of underselling exceeding 20 percent.[163] [164]

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[158]Commissioner Crawford notes that the significance of the volume of imports cannot be made in a vacuum. She makes her finding of the significance of volume in the context of the price and impact effects of these imports. For the reasons discussed below, she finds that the volume of imports is significant in this investigation.

[159]See CR at I-87 - I-88, I-121 - I-129; PR at II-63 - II-64, II-78 - II-82; Final Economic Memorandum at 44-45.

[160]Final Economic Memorandum at 45; see also CR at I-83 n.119.; PR at II-61 n.120. The domestic products and subject imports compete insofar as quality is concerned. Final Economic Memorandum at 44.

[161]CR at I-121 - I-129; PR at II-78 - II-82.

[162]CR at I-115, PR at II-74. In evaluating the price effects of the subject imports, we have used total quarterly sales data rather than data pertaining to the largest sales. We find that the former are a better means of calculating a weighted-average selling price for a product from a particular country than the largest sales data for the quarter. Different domestic producers and importers frequently sell different volumes for their largest sale in a specific quarter and typically a specific product in a particular quarter is sold by the reporting firms to different customers. In addition, producers and importers do not always sell at the same time in a quarter, such that a largest sale in the beginning of a quarter may carry a significantly lower price than a largest sale made toward the end of a quarter when prices are rising and vice-versa when prices are falling. A weighted-average price based on total quarterly sales of a specified product is not unduly influenced by unique sales conditions of a single-sale transaction. CR at I-92 - I-93 n.140; PR at II-67 n.141.

Nonetheless, we note that, when evaluating the largest quarterly sales data, 115 of 190 pricing comparisons reveal underselling by the subject imports. CR at I-117, PR at II-76.

[163]CR at I-97 - I-102, Tables 20-25; PR at II-69 - II-70.

[164]Commissioner Crawford rarely gives much weight to evidence of underselling since it usually reflects some combination of differences in quality, other nonprice factors, or fluctuations in the market during the period in which price comparisons were sought.

The subject imports also had significant price depressing and suppressing effects. Domestic prices declined in the early part of the period of investigation, then rose in the latter part as the volume of imports declined.[165] The increase in prices late in the period of investigation appears insufficient to allow the industry to recoup increased costs, however, because the ratio of cost of goods sold increased relative to net sales in 1994, the last full year for which data are available.[166]

Concurrent with the decrease in domestic prices, domestic unit values declined. These unit values then stabilized, except between interim periods.[167] Subject import unit values, however, steadily declined during the period, except between interim periods: the average unit value of U.S. shipments of subject imports fell from $708 per short ton in 1992 to $618 in 1993, then to $604 in 1994. The average unit value of U.S. shipments of subject imports increased significantly between interim periods, rising from $635 per short ton in January-March 1994 to $1,136 per short ton in January-March 1995.[168]

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[165]CR at I-96, PR at II-71.

[166]CR at I-48, Table 9; PR at II-40.

[167]CR at I-48, Table 9; PR at II-40. We continue to regard the interim 1995 data with caution, as explained above.

The unit value of domestic shipments decreased from $738 per short ton in 1992 to $663 in 1993, then remained steady at $664 in 1994. Unit values then climbed from $628 to $719 between interim periods, however, as subject imports exited the market. CR at I-29, Table 2; PR at II-26.

[168]CR at I-29, Table 2; PR at II-26. In 1991, subject imports' average unit value was ***. CR at D-19, Table D-6; PR at D-6.

We note that, when comparing imports of subject pipe between two and 4.5 inches in outside diameter with imports of subject pipe of two inches or less in outside diameter, imports of the former increased while imports of the latter decreased. Compare CR & PR at Table D-4 with CR & PR at Table D-5. However, this change in product mix was not a significant one and our analysis of the change in unit values is valid. The amount of subject pipe less than two inches in outside diameter that was imported, moreover, was significant throughout the period of investigation. See CR & PR at Table D-4.

Combined with the significant underselling noted above, these factors lead us to conclude that the subject imports have suppressed and depressed prices to a significant degree.[169] [170]

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[169]In assessing the price effects of LTFV imports, Chairman Watson also considers the elasticity of demand for the domestic like product, the elasticity of domestic supply, the substitutability between subject imports and the domestic like product, the presence of nonsubject imports in the domestic market, and other competitive factors. As stated previously in this opinion in a footnote with Commissioner Crawford, Chairman Watson finds that the domestic market for certain seamless pipe is somewhat price sensitive. This finding is based on evidence that the demand for certain seamless pipe does not change much with changes in price (demand for the product is price inelastic), that the domestic product and subject imports are reasonably good substitutes, that the supply elasticity of the domestic industry is relatively low, and that the role of price-restraining competitive factors, including the degree of competition within the domestic industry, is rather limited, notwithstanding the presence of nonsubject imports in the seamless pipe market. Given these considerations, Chairman Watson concludes that the significant quantity of subject imports over the period examined likely had adverse price effects on the domestic industry.

[170]To evaluate the effects of the dumping and subsidies on domestic prices, Commissioner Crawford analyzes supply and demand factors in the seamless pipe market and compares actual domestic prices with what prices would have been if subject imports had been priced fairly. In these investigations, the dumping margins for subject imports are 1.84 percent for Italy, 57.72 percent for Germany, 124.94 percent for Brazil, and 108.13 percent for Argentina. The subsidy amount for Italy is 1.47 percent. Given that imports from Italy account for only **** percent of total subject imports, prices for a substantial majority of subject imports would have risen by a significant amount if they had been priced fairly. The ability of domestic producers to have raised prices under these circumstances depends on competitive conditions in the market for seamless pipe involving both supply- and demand-side considerations.

A significant factor in determining what the effects of higher subject import prices would have been on domestic prices is the overall demand elasticity for seamless pipe in the U.S. market. As discussed elsewhere in a previous footnote in this opinion, consumer demand for seamless pipe does not change very much with changes in price. Even in a market characterized by relatively low demand elasticity, the composition of overall demand can be sensitive to the relative prices of the alternative sources of the product, i.e., subject imports, domestic product and nonsubject imports. If subject imports had been fairly priced, they would have become more expensive relative to both domestic products and nonsubject imports. In such case, there would have been a shift in the composition in demand toward the relatively less expensive products. The magnitude of this shift depends on the substitutability of subject imports for products from alternative sources. As has been discussed elsewhere in this opinion, subject imports and the domestic like product are reasonably good substitutes. Nonsubject imports are also good substitutes for subject imports and the domestic like product. Because they are good substitutes, purchasers that would have been unwilling to pay a higher price for the subject imports would have attempted to switch to the relatively less expensive domestic and nonsubject import products.

Whether domestic producers would have been able to increase prices if subject imports had been priced fairly is also affected by supply-side considerations, including the elasticity of domestic supply and the level of competition in the market. As noted above, information in the record supports a relatively low level of domestic supply elasticity. This indicates that domestic producers would have responded to changes in price with moderate increases in production. Nonsubject imports would also have captured a significant portion of market share from subject imports. However, the limited data

C. Impact on the Domestic Industry

Despite the domestic industry's increases in market share,[171] shipments,[172] production,[173] and capacity utilization[174] over the period of investigation, it experienced poor financial performance[175] as a result of the adverse price effects resulting from the subject imports.

While imports declined in 1994 and in interim 1995, their continued large and significant share of the market in 1994, combined with their adverse effects on domestic prices, led the industry to its poor operating results.[176] Due to the subject imports' adverse price effects, unit values declined over the period of investigation and, despite a slight recovery in 1994, were not sufficient to cover costs that year due to a larger increase in the unit cost of goods sold, in spite of the decline in unit selling, general and administrative expenses over the period of investigation.[177] Thus, the evidence demonstrates that

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available suggest that domestic and nonsubject supply increases would not have been sufficient to completely replace those subject imports that would have been priced out of the market. Given the low demand elasticity, even a small change in overall supply to the market could have caused significant price effects.

Another supply-side factor is the degree of competition in this industry. The concentration of production in the domestic industry, and the use of an authorized distributor network, likely limit significantly the role of price restraining factors in the seamless pipe market. Nonsubject imports, however, are available from several sources and have had a significant presence in the market over the period of investigation. Thus, there appears to be some price discipline in the market as a result of nonsubject imports, however, it would not have prevented price increases due to reductions in overall supply to the market. On balance, the domestic industry could have significantly raised prices, if subject imports had been priced fairly.

In sum, the dumping margins for the subject imports, the low demand elasticity, the level of substitutability, the supply elasticity of domestic industry, and the level of competition would have allowed a significant price increase, had subject imports been fairly priced. Accordingly, Commissioner Crawford finds that subject imports had significant price effects on the domestic industry.

[171]CR at I-74, Table 18; PR at II-56.

[172]See CR at I-29, Table 2; PR at II-26.

[173]See CR at I-39, Table 5; PR at II-33.

[174]See CR at I-39, Table 5; PR at II-33.

[175]See CR at I-48, Table 9; PR at II-40.

[176]Compare CR at I-29, Table 2; PR at II-26 with CR at I-48, Table 9; PR at II-40.

[177]See CR at I-48, Table 9; PR at II-40. The adverse impact of the subject imports is also reflected in a decline in capital expenditures, which decreased by approximately *** between 1992 and 1993, then fell by almost *** in 1994. They further decreased between interim periods. CR at I-58; PR at II-45. Research and development expenses also declined throughout the period of investigation. CR at I-59; PR at II-46.

underselling by the subject imports suppressed and depressed prices, thereby precluding domestic producers from recovering their costs.

While there was an improvement in many indicators during the first quarter of 1995,[178] these limited data are insufficient to cause us to discount the adverse impact of the subject imports throughout the period of investigation. Moreover, this improvement occurred after the suspension of liquidation of the imports, when subject imports' market share had decreased to one percent.[179] [180]

CONCLUSION

In light of the foregoing, we determine that the domestic industry is materially injured by reason of subsidized and LTFV imports of certain seamless carbon and alloy steel standard, line and pressure pipe from Argentina, Brazil, Germany, and Italy.

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[178]See CR at I-29, Table 2; I-48, Table 9; I-74, Table 18; PR at II-26, II-40, II-56.

[179]See CR at I-74, Table 18; PR at II-56.

[180]In her analysis of material injury by reason of subject imports, Commissioner Crawford evaluates the impact on the domestic industry by comparing the state of the industry when the imports were dumped with what the state of the industry would have been had imports been fairly traded. In assessing the impact of subject imports on the domestic industry, she considers, among other relevant factors, output, sales, inventories, capacity utilization, market share, employment, wages, productivity, profits, cash flow, return on investment, ability to raise capital and research and development as required by 19 U.S.C. § 1677(7)(C)(iii). These factors either encompass or reflect the volume and price effects of the dumped imports, and so she gauges the impact of the dumping through those effects. In this regard, the impact on the domestic industry's prices and sales is critical, because the impact on other industry indicators (e.g., employment, wages, etc.) is derived from this impact.

As noted earlier, Commissioner Crawford finds that the domestic industry would have been able to increase its prices significantly, had subject imports been priced fairly. Although increased production by the domestic industry and nonsubject import sources would not have been sufficient to fully replace any demand that would have shifted from subject imports, the domestic industry nonetheless would have captured a significant number of additional sales. With significant increases in both prices and the quantity sold, the domestic industry clearly would have been materially better off if the subject imports had been fairly priced, and she finds that the volume of imports is thus significant. Accordingly, Commissioner Crawford concludes that there is material injury to the domestic industry by reason of subsidized and LTFV imports of certain seamless pipe from Argentina, Brazil, Germany, and Italy.

PART II

INFORMATION OBTAINED IN THE INVESTIGATIONS

INTRODUCTION

These investigations result from a petition filed on June 23, 1994, by the Gulf States Tube Division of Quanex Corp. ("Quanex"), Rosenberg, TX,[1] alleging that an industry in the United States is materially injured or threatened with material injury by reason of (1) imports from Italy of certain seamless carbon and alloy standard, line, and pressure steel pipe[2] that were alleged to be subsidized by the government of Italy; and (2) imports from Argentina, Brazil, Germany, and Italy of certain seamless carbon and alloy standard, line, and pressure steel pipe that were alleged to be sold in the United States at less than fair value (LTFV). Information relating to the background of the investigations is provided below.[3]

Effective Date	*Action*
June 23, 1994	Petitions filed with Commerce and the Commission; institution of Commission preliminary investigations (59 FR 33780, June 30, 1994):

Inv. No.	Country	Type of Investigation
701-TA-362	Italy	Countervailing duty
731-TA-707	Argentina	Antidumping
731-TA-708	Brazil	Antidumping
731-TA-709	Germany	Antidumping
731-TA-710	Italy	Antidumping

July 13, 1994	Commerce's notice of initiation (59 FR 37025, July 20, 1994)
August 10, 1994	Commission's preliminary determinations (59 FR 42286, August 17, 1994)
August 17, 1994	Postponement of Commerce's preliminary countervailing duty (CVD) determination (59 FR 43554, August 24, 1994)

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[1] On April 27, 1995, Koppel Steel Corp., of Beaver Falls, PA, requested co-petitioner status in these investigations, which was granted by the U.S. Department of Commerce (Commerce).

[2] Certain seamless pipe consists only of circular pipe not more than 114.3mm (4.5") in outside diameter (OD). The included alloy grades consist of heat-resisting steel and "other" alloy steel, but stainless steel is excluded. A more complete definition of the product subject to these investigations is presented in the section of this report entitled *Description and Uses*.

Imports are currently reported under *Harmonized Tariff Schedule of the United States* (*HTS*) statistical reporting numbers 7304.10.1020, 7304.10.5020, 7304.31.6050, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.51.5005, 7304.51.5060, 7304.59.6000, 7304.59.8010, 7304.59.8015, 7304.59.8020, and 7304.59.8025.

[3] *Federal Register* notices relating to the final investigations and final determinations cited in the tabulation are presented in app. A.

Effective Date	*Action*
November 7, 1994 . . .	Postponement of Commerce's preliminary LTFV determinations (59 FR 59748, November 18, 1994)
November 18, 1994 . .	Commerce's preliminary CVD determination (59 FR 60774, November 28, 1994)
December 23, 1994 . . .	Institution of Commission final CVD investigation (60 FR 2984, January 12, 1995)
January 19, 1995	Commerce's preliminary LFTV determinations (60 FR 5348, January 27, 1995);
January 27, 1995	Institution of Commission final AD investigations (60 FR 11110, March 1, 1995)[4]
February 8, 1995	Postponement of Commerce's final LTFV determinations (60 FR 9012, February 16, 1995)
April 13, 1995	Postponement of Commerce's final CVD determination (60 FR 19571, April 19, 1995)
June 12, 1995	Commerce's final CVD and LTFV determinations (60 FR 31953, June 19, 1995)[5]
June 14, 1995	Institution of Commission final antidumping investigation concerning Italy (60 FR 32709, June 23, 1995)
June 20, 1995	Commission's hearing[6]
July 17, 1995	Commerce's corrections of ministerial errors[7]
July 19, 1995	Commission's public briefing and vote
July 26, 1995	Commission determinations due to Commerce

PREVIOUS COMMISSION INVESTIGATIONS

Prior to the current investigations, there have not been any Commission investigations concerning seamless carbon steel pipe. However, there have been several investigations which included seamless alloy steel pipe and tube, including stainless steel. Those investigations are identified in the following tabulation:

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[4] Commerce's preliminary determination of sales at LTFV regarding Italy was negative; the Commission did not institute a final investigation for Italy at that time.

[5] Commerce's final determination of sales at LTFV regarding Italy was affirmative. For further discussion of Commerce's final determinations, see the section of this report entitled *The Nature and Extent of Subsidies and Sales at LTFV.*

[6] A list of witnesses appearing at the hearing is presented in app. B.

[7] See the *Nature and Extent of Subsidies and Sales at LTFV* section of this report for a discussion of the change in margins for Brazil and Germany.

Country	Inv. No.	Date of Issue	Report No.	Determination
Japan[1]	731-TA-87 (P)	March 1982	USITC 1224	Affirmative[2]
Japan	731-TA-87 (F)	February 1983	USITC 1347	Affirmative
Sweden[3]	701-TA-281 (F)	April 1987	USITC 1966	Negative
Sweden	731-TA-354 (F)	November 1987	USITC 2033	Affirmative

[1] Certain alloy steels (i.e., other than stainless) were included within the scope of the investigations.

[2] The Commission made an affirmative determination with respect to seamless heat-resisting and seamless stainless pipes and tubes, and a negative determination with respect to seamless "other alloy" pipes and tubes.

[3] Stainless steel pipe was the product subject to investigation.

In addition, the Commission has conducted numerous investigations concerning or including welded steel pipes and tubes.

THE PRODUCTS

Description and Uses

Types of Pipes and Tubes

Steel pipes and tubes are made in circular, rectangular, or other cross sections[8] and can be divided into two general categories according to the method of manufacture--welded or seamless.[9] Each category can be further subdivided by grades of steel--namely, carbon or alloy. Included in alloy are heat-resisting, stainless, and "other" alloy grades.[10] In addition, steel pipes and tubes can be categorized by end use. The American Iron and Steel Institute (AISI) has defined six such end-use

[8] Virtually all seamless pipe is circular.

[9] Seamless pipes and tubes are more commonly used in demanding applications that require exceptional strength, high-pressure containment, and a great degree of reliability. Welded pipes and tubes more commonly are used to transport liquids at or near atmospheric pressure. For further discussion of the comparison of certain seamless pipe and other types of pipe, see the *Interchangeability* subheading of this section of the report.

[10] Seamless pipes and tubes are produced using virtually all of the carbon and alloy grades of steel, including stainless steel. However, none of the producers of certain seamless pipe manufactures stainless seamless pipe. Petitioner's postconference brief, p. 43. (The conventional rotary-piercing mills cannot produce a stainless product, ***.) Stainless pipe is used in highly corrosive atmospheres and in automotive systems. Staff visit to Quanex, July 12, 1994.

categories: standard pipe, line pipe, structural pipe and tubing, mechanical tubing, pressure tubing, and oil country tubular goods (OCTG).[11]

Steel pipes and tubes are generally produced according to standards and specifications published by a number of organizations, including the American Society for Testing & Materials (ASTM), the American Society of Mechanical Engineers (ASME), and the American Petroleum Institute (API). Comparable organizations in England, Germany, Japan, Russia, and other countries also have developed standard specifications for steel pipes and tubes.[12]

Definition of Products Subject to Investigation

The imported products subject to these investigations are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section not more than 114.3mm (4.5") in OD, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe, or pressure pipe, depending upon the application. They may also be used in structural applications.[13]

Specifications, Characteristics, and Uses

The subject product was further defined by Commerce (based upon a clarification of language included in the petition) with respect to a series of "specifications, characteristics, and uses." These additional defining criteria are, in part, as follows:[14]

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[11] The standard, line, and pressure pipe subject to these investigations is generally intended to convey substances and is typically tested and rated for its ability to withstand internal hydrostatic pressure. Structural pipe and tubing is used for construction and load-bearing purposes. (There are, however, only small amounts of seamless structural pipe.) Seamless mechanical tubing is typically a custom-designed product employed within the automotive industry and by equipment manufacturers. OCTG are steel pipes and tubes used in the drilling of oil and gas wells and in conveying oil and gas to ground level.

[12] The specifications met by a pipe product are commonly marked on each piece of pipe and referred to as a "stencil."

[13] Petitioner and certain respondents agree that there is a limited amount of seamless pipe that is used for structural applications. Hand-rails on off-shore oil rigs may require seamless pipe due to higher safety requirements (e.g., salt air can more easily degrade a welded pipe.) Some industrial facilities prohibit the use of any welded pipe in their facility, even for structural applications. Staff conversations with counsel for petitioner (June 24, 1994) and Dr. Seth Kaplan, an economist representing the respondents regarding Argentina. (July 15, 1994).

[14] The full statement of the scope and, thus, of the products subject to investigation is contained in Commerce's notice of final determinations (60 FR 31953, June 19, 1995, contained in app. A). That language should be understood to be incorporated by this reference into the Commission's description of the imported products it reviewed as part of these investigations.

Seamless pressure pipe is intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. It may carry these substances at elevated pressure and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting ASTM standard A-106 ("A-106") may be used in temperatures of up to 1000 degrees fahrenheit, at various ASME code stress levels. Alloy pipe made to ASTM standard A-335 ("A-335") must be used if temperature and stress levels exceed those allowed for A-106 and ASME codes. Seamless pressure pipes sold in the United States are commonly produced to A-106.

Seamless standard pipe is most commonly produced to the ASTM A-53 ("A-53") specification and is generally not intended for high temperature service. It is intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperature but must not exceed relevant ASME code requirements.

Seamless line pipe is intended for the conveyance of oil and natural gas and other fluids in pipe lines. Seamless line pipe is produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A-106, ASTM A-53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent A-106 specification necessarily meet the API 5L and ASTM A-53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A-53 specification. However, pipes meeting the A-53 or API 5L specifications do not necessarily meet the A-106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

Commerce also stated that "(s)tandard, line and pressure applications are defining characteristics of the scope of these investigations. Therefore, seamless pipes meeting the physical description above, but not produced to the A-106, A-53, or API 5L standards shall be covered if used in an A-106, A-335, A-53, or API 5L application." ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A-106 applications include A-162, A-192, A-210, A-333, and A-524. When such pipes are used in a standard, line, or pressure pipe applications, such products are covered by the scope of these investigations. Commerce determined that it is appropriate to continue to employ end use to define the scope of these investigations with respect to non-listed specifications.

In its final determinations, Commerce reviewed a number of scope issues and revised the scope language as follows:

(1) Commerce determined that pipes produced to nonstandard wall thicknesses (commonly referred to as "tubes") are clearly within the parameters of the scope of these investigations; and
(2) Clarified the scope language to state that products made to ASTM A-335, ASTM A-106, ASTM A-53, or API 5L specifications (e.g., boiler tubing, mechanical tubing) are covered by the scope, regardless of application/end use.

Certain seamless pipe is coated with a black lacquer or, to a lesser extent, painted in order to retard rust. A small amount is galvanized with a rust-resistant zinc. Pipe that is to be used as line pipe is almost always finished with a plain end and joined in the field by welding. Pressure pipe may be finished with plain or beveled ends or may be threaded and coupled. (However, the threading and coupling is typically done by intermediate distributors or by the end user. It adds minimal value.)

Exclusions

Specifically excluded from the scope of these investigations are boiler tubing, mechanical tubing, and OCTG except when used in a standard, line, or pressure application. Also excluded from these investigations are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube. In its final determinations, Commerce revised the scope language regarding OCTG to exclude finished and unfinished OCTG, if covered by the scope of another countervailing or antidumping duty order from the same country; if not covered by such an OCTG order, finished and unfinished OCTG are included in the scope of these investigations when used in a standard, line, or pressure pipe application and, as with other non-listed specifications, may be subject to end-use certification if there is evidence of substitution. With respect to redraw hollows used for cold drawing, Commerce reiterated its determination that the scope language excluded such products when used in the production of cold-drawn pipe or tube.

End Use

Quanex, the petitioner in these investigations, requested that the scope include an end-use certification requirement covering products that do not meet the listed specifications of the subject merchandise, but which are used in the same applications as the subject merchandise (see exceptions to exclusions above). After consideration of comments by the parties, Commerce determined that use is implicit in the description of the merchandise subject to these investigations and that, although there is no evidence that substitution is occurring, or threatening to occur, in the instant cases, there is precedent for substitution as a result of antidumping duty orders on steel pipe products.[15] Further,

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[15] See *Preliminary Affirmative Determination of Scope Inquiry on Antidumping Orders on Certain Welded Non-Alloy Steel Pipes from Brazil, the Republic of Korea, Mexico, and Venezuela* (59 FR 1929, Jan. 13, 1994).

Commerce found that the anticircumvention provisions of the Act do not address the issue of substitution of products which existed at the time of the order. Therefore, in the decision memorandum for its final determinations, Commerce found that "(w)hile we have concerns about the inclusion of end-use in the scope (which arise from the difficulties inherent in end-use certification), we believe that the inclusion of end-use in the scope will dampen any potential future substitution behavior."[16]

Like Product Considerations

During the preliminary phase of these investigations, petitioner argued that on the basis of the factors the Commission considers in analyzing like-product issues[17] there is a single like product and a single industry producing certain carbon and alloy standard, line, and pressure pipe. In addition, petitioner argued that redraw hollows, when used in the production of cold-drawn pipe, should not be included in the like product. Respondents did not dispute petitioner's proposed definition of the like product. For purposes of the preliminary investigations, the Commission found one like product consisting of circular seamless carbon and alloy steel standard, line, and pressure pipe and tubes[18] not more than 4.5" OD, including redraw hollows.[19]

Since the Commission's preliminary determinations, respondents argued before Commerce that the scope of the investigations should be divided into two classes or kinds of merchandise: (1) the Argentine respondents argued for distinctions based on size (i.e., seamless pipe 2" OD or less and pipe of more than 2" but not more than 4.5" OD); and (2) the Brazilian and German respondents argued for distinctions based on material composition (i.e., carbon and alloy). Based on its five-factor criteria,[20] Commerce found one class or kind of merchandise.[21]

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[16] See memorandum from Deputy Assistant Secretary Barbara Stafford to Assistant Secretary Susan Esserman, *End Use Decision*, June 12, 1995.

[17] The factors include: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions; (5) common manufacturing facilities and production employees; and where appropriate, (6) price.

[18] Tubes included in the like product are those meeting the specifications stated in the scope and/or used for standard, line, and pressure applications. (See *Certain Seamless Carbon and Alloy Standard, Line, and Pressure Steel Pipe from Argentina, Brazil, Germany, and Italy, Inv. Nos. 701-TA-362 and 731-TA-707-710 (Preliminary)*, USITC Pub. 2801, August 1994, p. I-11.)

[19] Ibid, p. I-12.

[20] Commerce analyzes the class or kind issue based on the following criteria: (1) the general physical characteristics of the merchandise; (2) the ultimate use of the merchandise; (3) the expectations of the ultimate purchasers; (4) channels of trade; and (5) cost. (See 60 FR 31955, June 19, 1995, contained in app. A.)

[21] At Commerce, the Argentine, Brazilian, and German respondents challenged the standing of Gulf States Tube to file the petition with respect to seamless pipe and tube between 2.0" and 4.5" OD, arguing that Gulf States Tube does not produce these products. Because it found one class or kind of merchandise, and Gulf

(continued...)

In the Commission's final investigations, the petitioner, Quanex, has supported the Commission's preliminary determination of one like product consisting of certain seamless carbon and alloy steel standard, line, and pressure pipe and tubes not more than 4.5" OD, but petitioner continues to argue that redraw hollows, when used in the production of cold-drawn pipe, should not be included in the like product. At the Commission's June 20, 1995, public hearing held in connection with these investigations, counsel for petitioner contended, for the first time, that hollows or semifinished pipe that is simply finished other than by redrawing should be included in the like product and the domestic industry.[22] Counsel for the Brazilian and German respondents contend that the Commission is not bound by Commerce's class or kind determinations, and assert that the carbon and alloy pipe products subject to investigation are distinct like products.[23] Counsel for the Argentine respondents did not raise any like product issues in their briefs or at the hearing in these investigations. However, counsel for the Argentine, Brazilian, and German respondents contend that there is no basis for the Commission to change its preliminary determination with respect to redraw hollows and U.S. redrawers.[24] Counsel for the Italian respondents reported that they did not dispute the Commission's preliminary like product finding.[25]

This report presents as much information as is available regarding these alternative like-product industries. Appendix C contains company-by-company responses to the Commission's questionnaire request for product comparisons relating to characteristics and uses, manufacturing processes, competition, and the distinctions between pipe and tube. In addition, summary data tables for products by steel type and product size are presented in appendix D.

Carbon vs. Certain Alloy

Both U.S. and foreign producers in these investigations acknowledge the differences in the chemical compositions between carbon and alloy products, with alloy pipe having greater physical attributes (i.e., strength) than carbon pipe. Questionnaire respondents also report that end-use engineering requirements will dictate whether carbon or alloy pipe is used.[26]

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[21] (...continued)
States is a producer of the like product, Commerce determined that Gulf States has standing to file a petition. In addition, Commerce granted Koppel Steel's request for co-petitioner status, and found that Koppel, as a producer of the like product, also has standing.

[22] June 20, 1995, hearing transcript (TR), pp. 25 and 26. For a discussion of hollows as semifinished product, see the *Intermediate Products* section of this report.

[23] Briefs of Sutherland, Asbill & Brennan: June 14, 1995, prehearing brief, pp. 2-11; and June 28, 1995, posthearing brief, Responses to Questions, pp. iii-ix.

[24] June 28, 1995, posthearing briefs: Mudge, Rose, Guthrie, Alexander & Ferdon, p. 3; and Sutherland, Asbill, and Brennan, p. xii.

[25] June 28, 1995, posthearing brief of Rogers & Wells, app. 1, p. 2.

[26] See app. C, pp. C-3-C-5, for company-specific comments.

≤ 2" OD vs. > 2" but ≤ 4.5" OD

With the exception of the foreign producer in Argentina, both U.S. and foreign producers agree that the physical and chemical characteristics of pipe not more than 2" OD are similar to those of pipe more than 2" but less than 4.5" OD. These producers also agree that size is dictated by service conditions and code requirements.[27]

Pipes vs. Tubes

In its written opinion of the preliminary investigations, the Commission indicated the need for additional information on the distinctions between excluded tubing products and tube within the scope. Available secondary information regarding pipe and tube differences is presented below. In addition, appendix C contains company-specific comments regarding the differences and similarities between pipe and tube. Definitions contained in *Piping Handbook* include:

> *Pipe*.--A tube with a round cross section conforming to the dimensional requirements for nominal pipe size as tabulated in ANSI B36.10 and ANSI B36.19.[28]
>
> *Tube*.--A hollow product of round or any other cross section having a continuous periphery. Round tube size may be specified with respect to any two, but not all three, of the following: outside diameter, inside diameter, wall thickness. Dimensions and permissible variations (tolerances) are specified in the appropriate ASTM or ASME specifications.[29]
>
> *Pressure Pipe*.--Pressure pipe is used for conveying fluids or gases at normal, subzero, or elevated temperatures or pressures It generally is not subjected to external heat application. The range of sizes is $^1/_8$-in. nominal size to 80-in. actual OD in various wall thicknesses. Pressure piping is furnished in random lengths, with threaded or plain ends, as required. Jointers are not customarily produced. Pressure pipe generally receives a hydrostatic test by the mill.[30]
>
> *Pressure Tubing*.--Pressure-tube applications commonly involve external heat applications, as in boilers or superheaters. Pressure tubing is produced to the actual outside diameter and minimum or average wall thickness specified by the purchaser. Pressure tubing may be hot- or cold-finished. The wall thickness is normally given in decimal parts of an inch rather than as a fraction or gauge number. When gauge numbers are given without reference to a system, Birmingham Wire Gauge (BWG) is implied.[31]

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[27] See app. C, p. C-6, for company-specific comments.

[28] *Piping Handbook*, Mohindar L. Nayyar, et al. ed., 6th ed. 1992, p. A-18.

[29] Ibid, p. A-25.

[30] Ibid, p. A-48.

[31] Ibid, p. A-53.

Excerpt from *Metallurgical Dictionary* includes:

> *Distinctions between pipe and tubing*.--Although as to shape and construction, pipe and tubing are practically synonymous, when these terms are applied as classifications of tubular products they have widely different meanings. Pipe is not generally made to as close tolerances or with as fine a finish as tubing. The standard sizes of pipe are relatively few in number, consideration being given to the various methods of lineal joining. The sizes designated are nominal, and do not designate either the inside diameter or the outside diameter. Tubing is made to relatively strict specifications as to dimensions, finish, chemical composition, and mechanical characteristics. The number of sizes available is almost unlimited.[32]

Excerpt from American Iron & Steel Institute (AISI) includes:

> Pressure tubing is used to convey fluids at elevated temperatures or pressures, or both, and is suitable to be subjected to heat applications. It is produced to exact OD and decimal wall thickness in sizes $^1/_2$ inch to 6 inches OD inclusive, usually to standard specifications such as ASTM.[33]

Excerpts from *Steel Products Manual* include:

> Tubing, as distinguished from pipe, is normally produced to actual outside or inside diameter dimensions and to a great variety of diameters and wall thickness, and to chemical compositions and mechanical properties not commonly available in pipe.[34]

> Pressure tubes, as distinguished from pressure piping, are used to convey fluids at elevated temperatures or pressures or both and are suitable to be subjected to heat application. Subdivisions of pressure tubes are boiler and superheater tubes, oil still tubes, heat exchanger and condenser tubes. Pressure tubes are also used at low temperatures. Pressure tubes are produced to actual outside diameter and minimum or average wall thickness (as specified by the purchaser) and may be hot finished or cold finished, as specified. Wall thickness is commonly specified in decimal parts of an inch rather than by gage numbers. Gage numbers for tubular products refer to the Birmingham Wire Gage.[35]

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[32] *Metallurgical Dictionary*, J.G. Henderson & J.M. Bates eds., 1953, p. 241.

[33] AISI, *Product Definitions and End-uses*, Jan. 19, 1988, p. 5.

[34] AISI, *Steel Products Manual, Carbon Steel Pipe, Structural Tubing, Line Pipe, Oil Country Tubular Goods*, April 1982, p. 20.

[35] Ibid, p. 39.

Excerpt from *Tubular Products Manual* includes:

> Pressure tubing is intended for use in boilers, super heaters, oil stills, heat exchangers, and condensers. Seamless pipe sizes $^1/_8$" to 1 $^1/_2$" nominal in all schedules and double extra heavy are classified as pressure tubing and are manufactured under ASTM Specification A-106.[36]

Excerpt from *Metals Handbook* includes:

> *Pressure Pipe*.--Pressure pipe, as distinguished from pressure tubes, is a commercial term for pipe used for conveying fluids at elevated temperature or pressure, or both, but not subjected to external application of heat. Pressure pipe ranges in size from $^1/_8$ in. nominal to 26 in. actual outside diameter in various thicknesses.[37]

Excerpt from *Industrial Piping* includes:

> Pipe is a term limited to tubular products which conform to certain standard outside diameters known as "iron pipe sizes." This distinguishes it from tubing which is made to either outside or inside diameters of even inches or fractions of an inch with the specific wall thickness.[38]

In its final determinations regarding the scope of these investigations, Commerce clarified that pipes produced to non-standard wall thickness (commonly referred to as "tubes") are covered by the scope; and pipes produced to a covered specification but used in a non-covered specification (e.g., boiler tubing, mechanical tubing) are also within the scope.[39] Data contained in this report reflect the scope of the investigations as clarified by Commerce.[40]

Production Processes

Certain seamless pipe is manufactured by one of two "hot" processes that form a central cavity in solid steel stock. Hot-finished pipe may be further cold drawn into different sizes.

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[36] National Association of Steel Pipe Distributors, *Tubular Products Manual*, 2nd ed. 1989, p. 49.

[37] *Metals Handbook*, desk edition, Howard E. Boyer & Timothy L. Gall ed, 7th ed., 1992, p. 4-41.

[38] Charles T. Littleton, *Industrial Piping*, 2nd ed. 1951, p. 21.

[39] See 60 FR 31956, June 19, 1995, contained in app. A.

[40] On June 1, 1995, Commission staff sent supplemental questionnaires to U.S. producers and U.S. importers of certain seamless pipe, requesting data for all product produced to the subject specifications, regardless of application. In response to those questionnaires, ***.

Hot-Finishing Processes

The central cavity may be formed either by the rotary-piercing or the hot-extrusion process. Most seamless pipes and tubes are produced through the rotary-piercing method, the more traditional method for producing such material. The production methods are further described below:

> Rotary-piercing and rolling operations produce the great bulk of seamless steel tubular products. A conditioned steel round of proper grade, diameter, and weight is heated to a suitable forging temperature and rotary pierced in one of several available types of mills which work the steel and cause it to flow helically over and around a so-called piercer-point yielding a seamless hollow billet. This billet is then roller elongated either in a succession of plug mills or in one of several mandrel mills. Finally the elongated steel is sized by further rolling without internal support in one or more of the sizing mills...the tension mill stretches the material between stands and actually makes wall reduction possible; the rotary sizing mill frequently is used in conjunction with one of the other mills to make final precision sizing of the OD.[41] See figure 1.
>
> Extrusion process also starts with a conditioned steel round of desired grade, diameter and weight. This billet may be cold drilled and hot expanded, or hot punched-pierced either separately or in the extrusion process. The drilled or punched billets are hot extruded by axially forcing the material through a die and over a mandrel.[42] See figure 2.

Because of the lower costs associated with it, the rotary-piercing method reportedly is the preferred method of producing most grades of seamless pipes and tubes. However, the more expensive extrusion method is preferred for product that has "poor hot-working properties." Such products include those with high chromium content (especially stainless steel) and tubular products with small diameters. The petitioner produces certain seamless pipe using the extrusion process.[43] In contrast, other U.S. manufacturers and producers in Argentina, Brazil, Germany, and Italy now use the rotary-piercing and rolling method.

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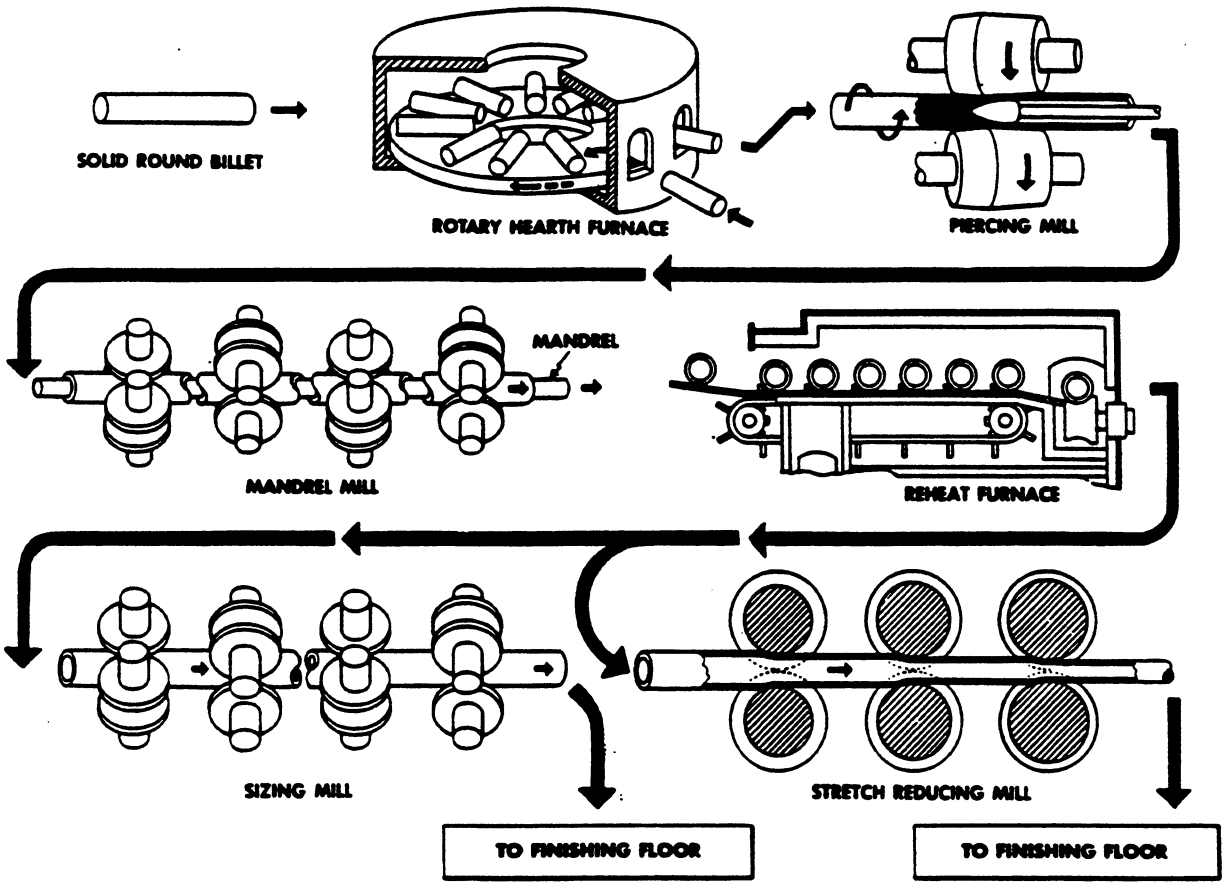
[41] American Iron & Steel Institute (AISI), *Steel Products Manual: Steel Specialty Tubular Products*, October 1980, p. 16.

[42] Ibid, p. 18.

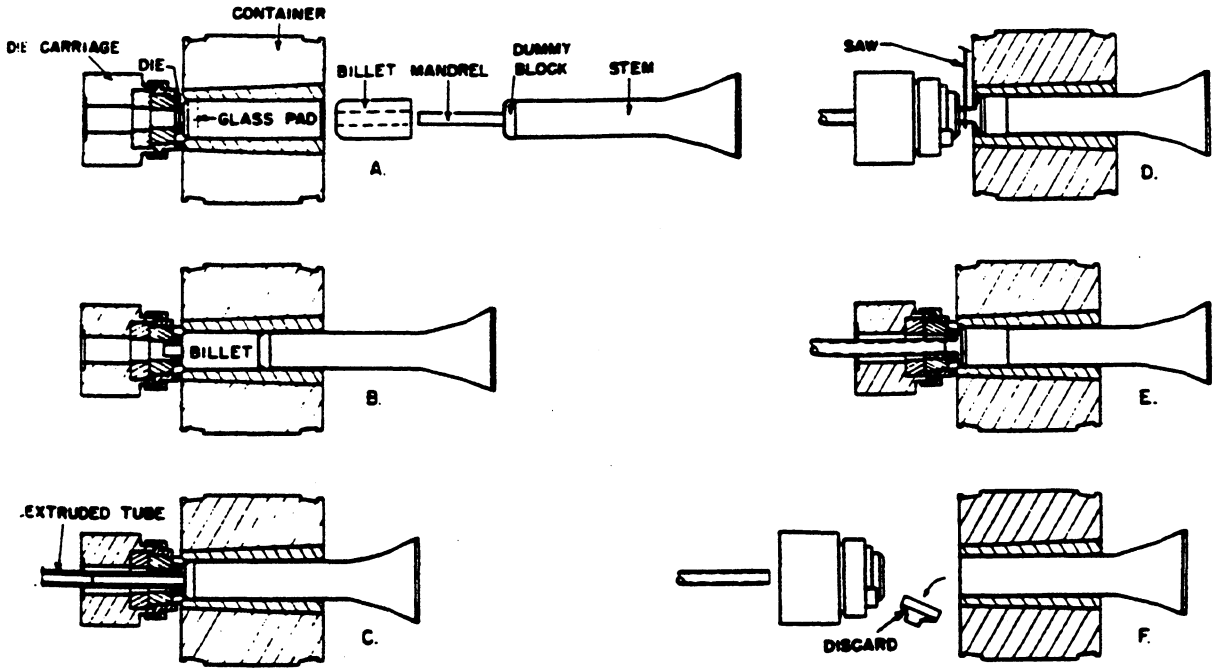
[43] On a tonnage basis, more than *** percent of all U.S.-produced certain seamless pipe is manufactured in rotary-piercing mills.

Figure 1
Sequence of operations used to produce seamless pipe and tube products by piercing and rolling



Source: AISI, *Steel Products Manual: Steel Specialty Tubular Products*, Oct. 1980, p. 17.

Figure 2
Cycle of operations in the production of an extruded tubular section



Source: AISI, *Steel Products Manual: Steel Specialty Tubular Products*, Oct. 1980, p. 19.

Petitioner has stated that raw material cost savings on its extrusion mill are approximately 20 to 30 percent when compared to a rotary-piercing mill, and that other variable production costs are lower for the extrusion process than the rotary-piercing mill.[44] However, respondents have argued that the petitioner's mill "is the oldest most antiquated and outdated equipment in the industry" and "Quanex has failed to invest in modern pipe making equipment," resulting in a lack of competitveness with U.S. and foreign mills that have invested in their pipe mills.[45]

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[44] TR, pp. 29 and 30. In addition, company officials reported that if the firm is able to modify its extrusion mill with the addition of a new stretch reduction unit, the modified mill "would be superior to or the equal of any mill in the world in its size range" (TR, p. 30).

[45] TR, pp. 120 and 121.

Cold Drawing and Other Finishing Operations

After a pipe or tube is pierced and rolled or extruded, the semifinished product is then subjected to certain finishing operations which may include straightening, cutting, inspection, and testing. The product then either can be sold as is or may undergo additional operations before being sold. These additional operations include heat treating, cold drawing, polishing, rough turning, honing, testing, pickling, threading, cold pilgering, and other special treatments. In general, the higher the alloy content and the more specialized the product, the greater the number of additional processes that will be required.

Cold drawing is the finishing process most commonly used. The term describes the process in which tubular products are drawn through a cold reduction die and over a mandrel or plug or a full length bar or rod (figure 3). Cold drawing often is used (especially for mechanical pipe) to produce smoother surfaces and closer dimensional accuracy, to modify mechanical properties, or to produce special shapes other than round.[46] However, the major reason for cold drawing the subject product is to draw it into diameters smaller than those that can be hot-finished.

The petitioner, which uses an extrusion process, testified that it must cold draw pipe sized below 1" OD.[47] Cold drawing is a labor-intensive process that adds a significant amount of value to the finished product. In contrast, both Mannesmannroehren-Werke AG (a German manufacturer) and Dalmine S.p.A. (an Italian manufacturer) can produce hot-finished pipe as small as $^1/_2$" OD without having to cold draw.[48] Reportedly, there is no quality difference between hot-finished pipe and that which is cold drawn to a specified size.[49]

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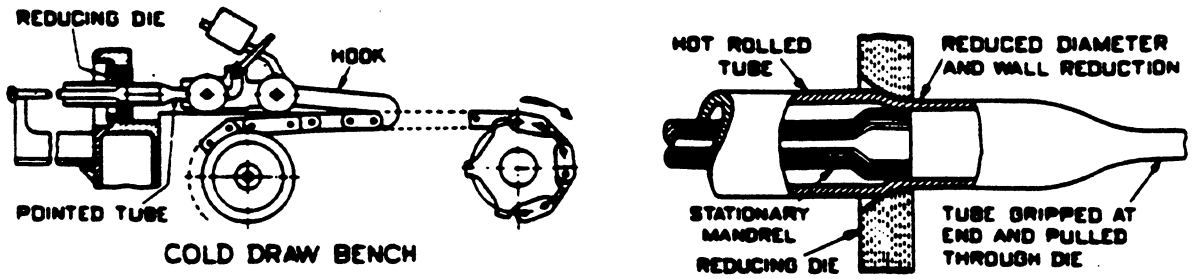
[46] AISI, p. 25.

[47] TR, p. 34. Petitioner further testified that they are working on a proposal to install a stretch-reduction mill and a new finishing mill that will enable them to make hot-finished products down to the $^1/_2$" OD size range (TR, p. 30).

[48] Dalmine's postconference brief (exhibit 1, p. 1) states that "Cold-drawing is an expensive process that also requires the further handling of the product. Eliminating this stage results in cost savings of approximately 50% or more."

[49] Preliminary transcript, p. 47. However, Dalmine states that while its product is "closely similar to the cold-finished product that is produced in the same sizes by U.S. manufacturers, Dalmine believes that its hot-finishing process imparts special surface texture properties that improve the coatability of its product." Postconference brief, exhibit 1, p. 2.

Figure 3
Diagram of the cold drawing process



Source: AISI, Steel Products Manual: Steel Specialty Tubular Products, Oct. 1980, p. 25.

Common Manufacturing Facilities and Production Employees

Carbon vs. Certain Alloy

Both U.S. and foreign producers in these investigations report that, except for differences in raw material input, carbon and alloy pipe are produced on the same equipment with the same employees. Foreign producers note that additional processes are required in alloy pipe production (e.g., heat treatment).[50]

≤ 2" OD vs. > 2" and ≤ 4.5" OD

U.S. producers report production of subject pipe 1" to 2 $^3/_8$" OD and 1.9" to 4.5" OD on hot-mill equipment, and finishing product from $^1/_8$" through $^3/_4$" nominal pipe size (NPS) on adjoining cold-drawing equipment. The producers report that production profiles and personnel skill levels are the same.

Foreign producers from Brazil, Germany, and Italy report that they produce (or are capable of producing) product more or less than 2" OD on the same production lines, using the same equipment and workers. Respondent from Argentina argues that pipe below 2" OD is made in entirely different cold-drawn facilities, in contrast to pipe above 2" OD which is hot finished.[51]

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[50] See app. C, p. C-7, for company-specific comments.

[51] See app. C, pp. C-10 and C-11, for company-specific comments.

Interchangeability and Customer and Producer Perceptions

In response to the Commission's questionnaires, U.S. producers and U.S. importers reported that domestically produced and imported certain seamless pipe are largely interchangeable, but that there are some niche markets or specialized applications that limit interchangeability.[52] In general, because of engineering design and specifications, there is limited interchangeablility between pipe of different sizes and between carbon and alloy.[53]

Pipes can be classified into "types" using two criteria: specification (or stencil) or actual end use. However, subject seamless pipe commonly is sold through a sometimes multilayered distribution chain with only a small amount sold by the manufacturer or importer directly to end users. Accordingly, many firms (especially the larger suppliers) reported that they cannot identify the use to which the pipe was eventually put without tracing individual sales through the distribution chain.[54] On a volume basis, the majority of the pipe consumed in the United States was triple stenciled to A-106/API 5L/A-53.[55] The tabulation below presents the reported specifications to which subject pipe was stenciled and the uses to which it was manufactured in 1994.

	Source--				
	Domestically	Imported from--			
Stenciled application	produced	Argentina	Brazil	Germany	Italy
Standard					
Line					
Pressure	*	*	*	*	*
Dual-stenciled[1]					
Triple-stenciled[2]					
Other[3]					
Total	100.0	100.0	100.0	100.0	100.0

[1] Dual-stenciled indicates that pipe is stenciled to pressure/standard, pressure/low-temperature, or pressure/boiler specifications.

[2] Triple-stenciled indicates that pipe is stenciled to meet standard specifications, line specifications, and pressure specifications and no other specifications.

[3] For U.S. producers, almost all of the remaining pipes are used as fittings; for Dalmine, the importer of subject pipe from Italy, the remaining products are either cold-drawn or meter-run pipes.

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[52] For further discussion of the fungibility of U.S-produced and imported certain seamless pipe, see the *Fungibility* subheading under the *Cumululation Issues* section of the report.

[53] June 14, 1995, prehearing brief of Schagrin Associates, p. 52, and company-specific comments contained in app. C, pp. C-12-C-14.

[54] In its postconference brief, Mannesmann stated that "In many instances, not even the distributor will know the actual end use of the pipe it sells because distributors often sell to other distributors or to supply houses." Exhibit 5, p. 1.

[55] Those producers that did not triple-stencil pipe included ***.

Channels of Distribution

Table 1 presents the channels of distribution of certain seamless pipe by source. As shown, the vast majority of subject product is sold by U.S. manufacturers and importers from subject countries to unrelated distributors. Almost all sales to end users were by ***. With respect to certain seamless carbon and alloy pipe, approximately *** percent of shipments of U.S.-produced product and *** percent of shipments of subject imports were sold to distributors. The distributors generally sell all types of subject product, of varying sizes and material composition, and do not specialize in seamless standard, line, or pressure pipe. A key reason that manufacturers triple-stencil is due to the desire of distributors to carry a single or common inventory.[56]

Price

Prices for certain seamless pipe vary by material composition, size, and finishing. The following tabulation presents average unit values per ton for U.S. shipments of the subject products for 1993 and 1994:

Item	Source-- Domestically produced	Imported from-- Argentina	Brazil	Germany	Italy
1993:[1]					
≤ 2" OD:					
Hot finished					
Cold finished	*	*	*	*	*
> 2" ≤ 4.5" OD:					
Hot finished					
Cold finished					
1994:					
Size:					
≤ 2" OD					
> 2" ≤ 4.5" OD . . .					
Type:					
Carbon	*	*	*	*	*
Alloy					
Average					
Hollows					

[1] Based on responses to the Commission's questionnaires received during the preliminary investigations.

For more information concerning price comparisons of products from the United States, Argentina, Brazil, Germany, and Italy, see the *Prices* section of this report.

[56] Petitioner's postconference brief, pp. 37-38.

Table 1
Certain seamless carbon and alloy standard, line, and pressure steel pipe: Domestic producers' and importers' U.S. shipments, by channels of distribution, 1994[1]

(Short tons)

Item	< 2" OD		> 2" < 4.5" OD	
	Distributors	End users	Distributors	End users
Domestic producers				
Imported:				
Argentina				
Brazil	*	*	*	*	*	*	*
Germany				
Italy				

[1] Includes data for hollows cold-drawn or finished by ***.

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

INTERMEDIATE PRODUCTS

In its preliminary determinations, the Commission found that redraw hollows should be included in the definition of like product based on its five-factor "semifinished/finished products" test, as set forth in *Stainless Steel Bar from Brazil, India, Italy, Japan, and Spain (Invs. Nos. 731-TA-678-682 (Preliminary))*. The factors examined are (1) uses; (2) markets; (3) characteristics and functions; (4) costs or value; and (5) transformation processes. In these final investigations, counsel for petitioner has argued that (a) redraw hollows used for cold drawing should not be included in the domestic industry,[57] and (b) hollows or semifinished pipe that are finished other than by redrawing should be included in the like product and in the domestic industry. Counsel for the respondents from Argentina, Brazil, and Germany argue that there is no basis for the Commission to change its preliminary determination with respect to redraw hollows.

Nonsubject redraw hollows (which are cold drawn) or subject semifinished hollows (which are not cold drawn) are essentially unfinished pipe produced to conform to the chemical and mechanial properties of the specification, such as A-106, for the finished pipe into which it is to be cold drawn or further processed by other pipe and tube processors/manufacturers.[58] The cold-drawing process has been described in the *Production Processes* section of this report. Semifinished hollows are

[57] Redraws hollows for cold drawing when used in the production of cold-drawn pipe or tube have been excluded from the scope of the investigations by Commerce (see 60 FR 31954, June 19, 1995, contained in app. A).

[58] Briefs of Schagrin Associates: June 14, 1995, prehearing brief, p. 67; June 28, 1995, posthearing brief, p. C-6.

further processed by sulphuric acid wash, annealing, straightening, hydrostatic testing, end-facing, coating, stenciling, and bundling.[59] Redraw and semifinished hollows are sold to ***, the only known finisher/processor of certain seamless pipe, for cold-drawing or other finishing operations in the production of certain seamless pipe which are then sold exclusively to unrelated distributors. For additional information regarding the nature and extent of *** production and related activities, see the *U.S. Producers* section of this report.

U.S. TARIFF TREATMENT

The imported seamless pipes that are subject to these investigations are classified in the following subheadings of the *HTS* and have the below-listed 1995 column 1-general rates of duty (*in percent ad valorem*), which are applicable to imports from the four countries subject to these investigations:

Subheading	Duty
7304.10.10	7.2
7304.10.50	6.8
7304.31.60	7.2
7304.39.00	7.2
7304.51.50	6.8
7304.59.60	6.8
7304.59.80	6.8

These *HTS* subheadings are either broad product categories (relative to the subject product), or residual or "basket" provisions that encompass large quantities of nonsubject seamless mechanical pipe and redraw hollows, as well as the subject product. For these subheadings, the only program under which special tariff treatment is provided for goods of the subject countries is the Agreement on Trade in Civil Aircraft (see general note 6 of the HTS); however, duty-free entry is accorded only to pipes with attached fittings (see additional U.S. note 1 to chapter 73 of the *HTS*).

[59] June 8, 1995, revisions to importer's questionnaire, ***, p. 1.

THE NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV

Subsidies by the Government of Italy

Commerce has determined that benefits which constitute subsidies within the Tariff Act of 1930, as amended, are being provided to manufacturers, producers, or exporters of certain seamless pipe in Italy. Commerce determined that the following programs confer subsidies:[60]

Program	Subsidy amount *(percent ad valorem)*
Benefits provided under Law 675/77[1] . . .	0.46
Grants under Law 193/84[2]	.81
Exchange Rate Guarantee Program[3]	.20
Net subsidy	1.47

[1] Law 675/77 was enacted to bring about restructuring and reconversion in the steel industry, as well as seven other industrial sectors, in Italy; Commerce found that Dalmine received interest contributions on bank loans and mortgage loans.

[2] Includes certain articles of Law 193/84 which provide for subsidies to close steel plants.

[3] The program provides exchange rate guarantees on foreign currency loans from the European Coal and Steel Community.

Commerce also determined the following programs to be not countervailable: (a) 1988/89 Equity Infusion; (b) European Social Fund ("ESF") Grants; (c) ECSC Article 54 Loans; and (d) 1989 Provisional Payment in Connection with 1989 Equity Infusion. In addition, Commerce determined that the following programs were not used: (a) Preferential IMI Export Financing Under Law 227/77; (b) Preferential Insurance Under Law 227/77; (c) Retraining Grants under Law 181/89; and (d) benefits under ECSC Article 56

Sales at LTFV from Argentina, Brazil, Germany, and Italy

Commerce determined that certain seamless pipe from Argentina, Brazil, Germany, and Italy is being, or is likely to be, sold in the United States at LTFV.[61] The following tabulation provides estimated dumping margins determined by Commerce for each of the countries (and companies) subject to these investigations:[62]

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[60] The period of the CVD investigation was calendar year 1993. For Commerce's detailed discussion of its final determination (60 FR 31992, June 19, 1995) see app. A.

[61] Commerce's period of investigation was Jan. 1, 1994, through June 30, 1994.

[62] For Commerce's detailed discussion of its final determinations (60 FR 31953, 31960, 31974, and 31981, June 19, 1995) see app. A.

Country/Company	Dumping margin *(percent ad valorem)*
Argentina (Siderca and all others)	108.13[1]
Brazil (Mannesmann and all others)	124.94[2]
Germany (Mannesmannroehren-Werke and all others)	57.72[3]
Italy (Dalmine and all others)	1.84[4]

[1] The principal manufacturer/exporter of the subject product from Argentina, Siderca, refused to answer Commerce's questionnaire and thus did not cooperate in the investigation; therefore, Commerce's margin is based on best information available (BIA), which is the highest margin alleged in the petition.

[2] U.S. price (USP) was based on purchase price (PP) because the subject merchandise was sold to unrelated purchasers in the United States before importation; and Commerce calculated PP based on packed CIF or duty paid, delivered prices to unrelated customers, with deductions for ocean freight and insurance, U.S. brokerage, U.S. import duty, and U.S. inland freight. Foreign market value (FMV) was based on FOB or CIF prices, exclusive of any inflation adjustment, charged to unrelated customers in Brazil; and weighted-average FMVs were calculated for each month in order to eliminate the distortive effects of hyperinflation in the Brazilian economy. Following verification, Commerce's final margin was based partially on a calculated margin from data reported by the Brazilian respondent, as well as BIA. The final dumping margin was amended by Commerce on July 17, 1995, to correct for ministerial errors; the original final margin was 125.00 percent.

[3] USP was based on PP because the subject merchandise was sold to unrelated purchasers in the United States before importation; and Commerce calculated PP based on packed prices to unrelated customers, with deductions for foreign inland freight, inland insurance, ocean freight, U.S. brokerage, U.S. import duty, wharfage, and U.S. inland freight. FMV was based on prices charged to both related and unrelated customers in Germany, with deductions, where appropriate, for discounts and rebates. Commerce determined that the German respondent's data was unverifiable, and therefore, the final margin is based on BIA, which is the highest margin alleged in the petition. The final dumping margin was amended by Commerce on July 17, 1995, to correct for ministerial errors; the original final margin was 58.23 percent.

[4] USP was based on PP because the subject merchandise was sold to unrelated purchasers in the United States before importation; and Commerce calculated PP based on packed f.o.b. U.S. port prices to unrelated customers, with deductions for foreign inland freight, ocean freight, U.S. brokerage, marine insurance, and U.S. import duty. Price-to-price comparisons were conducted using FMV and constructed value (CV) for certain home market sales that were sold below the cost of production; FMV was based on ex-factory or delivered prices charged to unrelated and, where appropriate, to related customers in Italy, with deductions, where appropriate, for discounts.

THE U.S. MARKET

Apparent U.S. Consumption[63]

Table 2 presents data on apparent U.S. consumption of certain seamless pipe. As shown, the quantity of apparent consumption rose sharply by 32.7 percent from 1992 to 1993, then decreased in 1994 by 9.0 percent. During interim 1995, apparent consumption again decreased (by 7.1 percent when compared to interim 1994). Generally, trends in apparent consumption are influenced by activities of energy, petrochemical, and oil and gas refinery industries. For further discussion of the factors that affect demand for certain seamless pipe see the section of this report entitled *Market Characteristics*.

U.S. Producers

Firms that produce the subject product are listed in table 3, and are described in the following pages. Except as noted, U.S. producers do not purchase or import certain seamless pipe. In addition, no U.S. producer is related to exporters or importers of the subject product.

Koppel Steel

Koppel Steel Corp. is a wholly owned subsidiary of the NS Group, Inc., and was started as a company in October 1990, when it purchased certain assets of Babcock & Wilcox Tubular Products Group, Newport, KY. Accounting for *** percent of U.S. production of certain seamless pipe in 1994, Koppel manufactures the subject product from ***. The firm also produces ***. Koppel's operations producing the subject product accounted for *** percent of its establishment's total net sales in 1994, with the remainder accounted for by ***.

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[63] The data for the following section on apparent U.S. consumption (and for the other sections of this report) are based primarily on the responses of industry participants to Commission questionnaires. Producers' questionnaires were sent to nine firms believed to be manufacturing seamless carbon and alloy standard, line, and pressure steel pipe. Two firms (CF&I Steel and North Star Steel) responded that they did not produce seamless pipe less than 4.5" OD. The remaining seven firms provided a response to the questionnaire and their data are believed to account for virtually all domestic production.

A total of 25 importers' questionnaires were sent to producing firms and to those firms that reported more than insignificant imports into the United States from subject countries under the *HTS* classifications that include subject pipe. Usable responses were received from 12 firms. The remaining 13 firms indicated that they purchased imports or did not import subject pipe during the January 1992 to March 1995 period.

Data for the quantity and value of pipe imported from nonsubject countries were estimated using official Commerce statistics and questionnaires sent to importers from nonsubject countries. The method of estimation and the number and identity of importers contacted are discussed in the section of this report on U.S. imports.

Table 2
Certain seamless carbon and alloy standard, line, and pressure steel pipe: U.S. shipments of domestic product, U.S. shipments of imports, by sources, and apparent U.S. consumption, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.-- 1994	Jan.-Mar.-- 1995
	Quantity (*short tons*)				
Producers' U.S. shipments	106,821	144,773	137,993	37,380	35,911
Importers' U.S. shipments:					
Argentina					
Brazil	*	*	*	*	*
Germany					
Italy					
Subtotal	35,792	57,383	47,602	8,726	484
Other sources	27,444	23,428	19,652	4,010	10,140
Total	63,236	80,811	67,254	12,736	10,624
Apparent consumption	170,057	225,584	205,247	50,116	46,535
	Value (*1,000 dollars*)				
Producers' U.S. shipments	78,844	96,011	91,688	23,489	25,836
Importers' U.S. shipments:					
Argentina					
Brazil	*	*	*	*	*
Germany					
Italy					
Subtotal	25,334	35,485	28,771	5,539	550
Other sources	19,475	14,470	12,620	2,863	7,404
Total	44,809	49,955	41,391	8,402	7,954
Apparent consumption	123,653	145,966	133,079	31,891	33,790
	Unit value (*per short ton*)				
Producers' U.S. shipments	$738	$663	$664	$628	$719
Importers' U.S. shipments:					
Argentina					
Brazil	*	*	*	*	*
Germany					
Italy					
Average	708	618	604	635	1,136
Other sources	710	618	642	714	730
Average	709	618	615	660	749
Average	727	647	648	636	726

[1] Not applicable.

Note.--Because of rounding, data may not add to the totals shown. Unit values are calculated from the unrounded data.

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

Table 3
Certain seamless carbon and alloy standard, line, and pressure steel pipe: U.S. producers, plant locations, positions on the petition, and share of 1994 U.S. production

Firm	Plant location	Position on petition	Share of 1994 U.S. production-- <2" OD	> 2" < 4.5" OD	Total
			percent		
Koppel Steel	Koppel, PA Ambridge, PA	Supports[1]	***	***	***
Plymouth Tube	Winamac, IN	***[3]	***	***	***
Quanex--Gulf States	Rosenberg, TX	Supports	***	***	***
Sharon Tube	Sharon, PA	***	***	***	***
Timken	Canton, OH	***	***	***	***
USS/Kobe	Lorain, OH	***	***	***	***
USX	Fairfield, AL	***[4]	***	***	***
Total			100.00	100.00	100.00
Total production (short tons)			***	***	138,295
Share of total production			***	***	100.00

[1] Koppel Steel stated that ***.
[2] Does not produce.
[3] Plymouth Tube reported that ***.
[4] USX states that ***.

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

Plymouth Tube

Plymouth Tube produces mechanical, boiler, and nonsubject pressure tubing (i.e., pressure tubing not meeting the ASTM specifications contained in the scope) at its cold-draw facility in Winamac, IN. A very small amount of its total production (or *** percent of its establishment's total net sales in 1994) is ***, and thus the company is technically a producer of the products subject to investigation, accounting for *** percent of U.S. production of such seamless pipe in 1994.

Quanex

In 1994, the petitioning firm, Quanex, accounted for *** percent of U.S. production of certain seamless pipe. Quanex produces pipe from *** in a plant in Rosenberg, TX, that was constructed in 1956. Petitioner notes that it is the only domestic producer located in the southwest, one of the largest consuming areas for this product in the United States because of the concentration

of the chemical and petrochemical plants and refineries that use the product.[64] The Gulf States Tube Division of Quanex Corp. is the entity that filed the petition. A very small amount of product that is technically subject product is produced in Quanex's Michigan plant and is included in the data reported by Quanex.[65] The company purchases billets from ***.[66] In 1994, the company reported that it ***. Quanex's operations producing the subject product accounted for *** percent of its establishment's total net sales in 1994, with the remainder accounted for by seamless mechanical products, OCTG, condenser/heat exchanger/boiler tubing, welded products, and other redraw shells.

Sharon Tube

Sharon Tube produces the subject product at its facility in Sharon, PA, and accounted for *** percent of U.S. production of certain seamless pipe in 1994. Sharon Tube's operations producing the subject product accounted for *** percent of its establishment's total net sales in 1994, with the remainder accounted for by ***.

Timken

The Timken Co. produces a full range of mechanical pipe. A very small amount of its total production is *** and it is thus technically a producer of the products subject to investigation, accounting for *** percent of U.S. production of such seamless pipe in 1994.

USS/Kobe Steel

USS/Kobe is 50 percent owned by USX, Pittsburgh, PA, and 50-percent owned by Kobe Steel, Ltd., Tokyo, Japan. The firm produces the subject product at its facility in Lorain, OH, and accounted for approximately *** percent of U.S. production of such seamless pipe in 1994. In 1992, the firm spent approximately *** in the modernization of its certain seamless pipe operations. USS/Kobe's operations producing the subject product accounted for *** percent of its establishment's total net sales in 1994, with the remainder accounted for by ***.

USX

USX Corp. produces the subject product at its facility in Fairfield, AL, and accounted for *** percent of U.S. production of such seamless pipe in 1994. USX's operations producing the subject

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[64] Petition, vol. II, p. 11.

[65] Quanex Corp.'s *** owned subsidiary Michigan Seamless Tube (MST), Livonia, MI, is a large producer of seamless mechanical tubing for the automotive industry. The firm produces small amounts (less than *** short tons annually) of a specialized heavy-walled A-106 pressure pipe that the Rosenberg, TX facility cannot manufacture. The pipe is ***; data (including financial data) for the product were included in the Rosenberg, TX, (Quanex) questionnaire response.

[66] ***.

product accounted for *** percent of its establishment's total net sales in 1994, with the remainder accounted for by ***.

Finishers/Redrawers

As previously discussed, counsel for petitioner has argued that: (a) redraw hollows used for cold drawing should not be included in the domestic industry; and (b) hollows or semifinished pipe that are finished other than by redrawing should be included in the like product and in the domestic industry. In determining whether a firm is a domestic producer of the subject product, the Commission considers six factors relating to the overall nature of a firm's production-related activities in the United States. The six factors are (1) source and extent of the firm's capital investment; (2) technical expertise involved in U.S. production activities; (3) value added to the product in the United States; (4) employment levels; (5) quantity and type of parts sourced in the United States; and (6) any other costs and activities in the United States directly leading to production of the like product.

*** is the only known finisher/redrawer of the subject product. ***. ***. The company has reported that in 1995, it is ***.[67] *** production, ***, during the period of investigation is provided in the following tabulation (*in short tons*):

* * * * * * *

*** has provided to the Commission a separate breakdown for data relating to its cold-drawing and other finishing (to purchased hot-finished material) operations, which enables the Commission to analyze the question of the value added by the two operations. Data relating to the value added by the two operations are presented in the following tabulation:[68]

* * * * * * *

U.S. Importers

As shown in table 4, most of the subject product is imported by affiliates of the foreign manufacturers. The majority of the imports from subject countries enter into the Gulf Coast region of the United States through the ports of Houston or New Orleans.

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[67] See June 30, 1995, submission of ***, p. 2.

[68] For more detailed information regarding the value added by *** operations see app. E.

Table 4
Certain seamless carbon and alloy standard, line, and pressure steel pipe: U.S. importers, quantity of imports in 1994, share of total imports from subject countries, and foreign manufacturer

Source and firm	Imports from subject countries in 1994-- Quantity	Share of total	Foreign manufacturer
	Short tons	*Percent*	
Argentina:			
Siderca Corp.[1]	***	***	Siderca S.A.I.C.
Brazil:			
Mannesmann Pipe & Steel Corp.[2]	***	***	Mannesmann S.A.
Germany:			
Mannesmann Pipe & Steel Corp.	***	***	Mannesmanroehren-Werke
***	***	***	***
Total	***	***	
Italy:			
TAD-USA, Inc.[3]	***	***	Dalmine S.p.A.
***[4]	***	***	***
Total	***	***	

[1] Siderca is *** percent owned by Siderca International, Curacao; *** percent owned by Industrial Investments, Luxembourg; and *** percent owned by Sidertubes S.A. Luxembourg.

[2] Mannesmann is *** percent owned by Mannesmann Capital Corp., New York, NY. It is affiliated with Mannesmannroehren-Werke and Mannesmann S.A., foreign manufacturers of subject product in Germany and in Brazil, respectively. The joint parent company of all cited affiliates is Mannesmann AG, Dusseldorf, Germany.

[3] TAD-USA, Inc. is *** percent owned by Dalmine S.p.A., Bergamo, Italy, and data includes operations of its sister company, Dalmine USA.

[4] ***.

Note.--In addition, ***.

Source: Compiled from responses to questionnaires of the U.S. International Trade Commission.

CONSIDERATION OF THE QUESTION OF 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 determinations in these investigations the Commission--

> 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 and pricing of imports is presented in the section of this report entitled *Consideration of the Causal Relationship Between Imports of the Subject Merchandise*

and the Alleged Material Injury. Information on the other factors specified is presented in this section.

All known U.S. producers of certain seamless pipe provided data in response to the Commission's questionnaire. Separate data are provided for each reporting producer in the following sections of this report. The U.S. industry is somewhat diverse with respect to such factors as size (***) and product produced (*** of the certain seamless pipe manufactured by *** and Quanex was 2" OD or under).

U.S. Production, Capacity, and Capacity Utilization

Data for the U.S. production, capacity, and capacity utilization of manufacturers of certain seamless pipe are presented in table 5. Staff notes that capacity data should be viewed with caution because firms are capable of producing certain subject pipe, as well as nonsubject products, on the same production lines. Firms reported manufacturing products other than certain seamless pipe on their production equipment, as shown in the tabulation below:

Firm	Other products manufactured	Total annual 1994 capacity[1] (*Short tons*)
Koppel Steel . .	OCTG and other products	***
Sharon Tube . .	Mechanical tubing, welded carbon	***
Quanex	Low-temperature pipe	***
USS/Kobe . . .	OCTG	***
USX	OCTG	***
Total		1,196,564

[1] Total capacity was defined as that for the production lines on which certain seamless pipe and "traded" redraw hollows are produced. "Traded" redraws were those sold commercially. The Commission's questionnaire instructed respondents "to assume a product mix that was typical or representative of your production during the period. If your plant is subject to considerable short-run variation, assume the product mix of the current period." Of the responding firms, only *** allocated their capacity on an annual basis. The other firms used the same allocation for each of the periods for which they reported.

***. Typically firms utilized *** of that capacity. Capacity utilization increased irregularly from 1992 to 1994, then declined during January-March 1995 compared to January-March 1994.

Table 5
Certain seamless carbon and alloy standard, line, and pressure steel pipe: U.S. capacity, production, and capacity utilization, by firms, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.-- 1994	1995
	Average-of-period capacity (*short tons*)				
Koppel					
Plymouth					
Quanex					
Sharon Tube	*	*	*	*	*	*	*
Timken					
USS/Kobe					
USX					
Total	296,925	292,750	292,650	72,348	73,713
	Production (*short tons*)				
Koppel					
Plymouth					
Quanex					
Sharon Tube	*	*	*	*	*	*	*
Timken					
USS/Kobe					
USX					
Total	108,242	147,641	138,295	39,547	39,004
	Capacity utilization (*percent*)				
Koppel					
Plymouth					
Quanex					
Sharon Tube	*	*	*	*	*	*	*
Timken					
USS/Kobe					
USX					
Average	36.5	50.4	47.3	54.7	52.9

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

U.S. Producers' Shipments

The total quantity of U.S. shipments by U.S. producers increased by 29 percent from 1992 to 1994, then declined by 4 percent during the interim periods (table 6).[69] Variations between quantity trends and value trends reflect the unit value of the product, which decreased from 1992 to 1994, before increasing during January-March 1995, when compared to the same period in 1994.
No firm reported any intracompany consumption of the subject product. Exports, as a share of total shipments, were relatively minor. U.S. producers exported *** short tons in 1992, *** short tons in 1993, *** short tons in 1994, *** short tons during January-March 1994, and *** short tons during January-March 1995.

[69] The increase in shipments from 1992 to 1993 is attributable principally to *** increase in shipments during that period. A representative of *** stated to Commission staff that the 1993 rise in shipments was due to a tax incentive provided by the U.S. Government, which promoted oil-well drilling. That drilling, in turn, expanded the demand for the line pipe used in the oil fields as drillers refilled inventories. (Staff conversations with ***.)

Table 6
Certain seamless carbon and alloy standard, line, and pressure steel pipe: U.S. producers' U.S. shipments, by firms, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.-- 1994	1995
	Quantity (*short tons*)				
Koppel					
Plymouth					
Quanex					
Sharon Tube	*	*	*	*	*
Timken					
USS/Kobe					
USX					
Total	106,821	144,773	137,993	37,380	35,911
	Value (*1,000 dollars*)				
Koppel					
Plymouth					
Quanex					
Sharon Tube	*	*	*	*	*
Timken					
USS/Kobe					
USX					
Total	78,844	96,011	91,688	23,489	25,836
	Unit value (*per short ton*)				
Koppel					
Plymouth					
Quanex					
Sharon Tube	*	*	*	*	*
Timken					
USS/Kobe					
USX					
Average	738	663	664	628	719

[1] Not applicable.

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

U.S. Producers' Inventories

U.S. producers' end-of-period inventories are presented in table 7. While inventories increased from 1992 to 1994, the ratios to production and shipments declined.

Table 7
Certain seamless carbon and alloy standard, line, and pressure steel pipe: End-of-period inventories of U.S. producers, by firms, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

U.S. Producers' Employment, Wages, and Productivity

The number of workers producing certain seamless pipe,[70] hours worked, and wages and total compensation paid to them increased irregularly from 1992 to 1994, and increased during the interim periods (table 8). Hourly wages paid rose steadily throughout the period examined.

[70] The production and related workers of all firms are represented by the United Steelworkers of America, a party to these investigations having entered its appearance on June 29, 1994.

Table 8
Average number of production and related workers in establishments wherein certain seamless carbon and alloy standard, line, and pressure steel pipe are produced, hours worked,[1] wages and total compensation paid to such employees, and hourly wages, productivity, and unit labor costs,[2] by firms, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995[3]

Item	1992	1993	1994	Jan.-Mar.-- 1994	1995
	Number of production and related workers (PRWs)				
Koppel					
Plymouth					
Quanex					
Sharon Tube	*	*	*	*	*	*	*
Timken					
USS/Kobe					
USX					
Total	241	296	264	268	292
	Hours worked by PRWs (*1,000 hours*)				
	*	*	*	*	*	*	*
Total	568	679	642	157	175
	Wages paid to PRWs (*1,000 dollars*)				
	*	*	*	*	*	*	*
Total	9,260	12,437	12,318	3,010	3,482
	Total compensation paid to PRWs (*1,000 dollars*)				
	*	*	*	*	*	*	*
Total	12,969	16,540	16,679	4,203	4,604

Table continued on next page.

Table 8--Continued
Average number of production and related workers in establishments wherein certain seamless carbon and alloy standard, line, and pressure steel pipe are produced, hours worked,[1] wages and total compensation paid to such employees, and hourly wages, productivity, and unit labor costs,[2] by firms, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995[3]

Item	1992	1993	1994	Jan.-Mar.-- 1994	1995
			Hourly wages paid to PRWs		
	*	*	*	*	*	*	*
Average	$ 16.30	$ 18.32	$ 19.19	$ 19.13	$ 19.87
			Hourly total compensation paid to PRWs		
	*	*	*	*	*	*	*
Average	$ 22.83	$ 24.36	$ 25.98	$ 26.73	$ 26.27
			Productivity (*short tons per 1,000 hours*)		
	*	*	*	*	*	*	*
Average	190.6	217.4	215.4	251.6	222.5
			Unit labor costs (*per short ton*)		
	*	*	*	*	*	*	*
Average	$ 119.81	$ 112.03	$ 120.60	$ 106.28	$ 118.04

[1] Includes hours worked plus hours of paid leave time.
[2] On the basis of total compensation paid.
[3] Firms providing employment data accounted for all of reported total U.S. shipments in 1994.
[4] Not applicable.

Note.--Ratios are calculated using data where both comparable numerator and denominator information were supplied.

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

Financial Experience of U.S. Producers

Seven producers, accounting for all of U.S. production of certain seamless pipes up to 4.5" OD in 1994, furnished income-and-loss and other financial data.[71] [72]

Overall Establishment Operations

Some of the producers indicated that they also produce larger size (over 4.5" OD) seamless pipe in their establishments. All of the producers manufacture a variety of other steel products (including OCTG). The subject product accounted for 4.2 percent of overall establishment sales in interim 1995.

Operations on Certain Seamless Pipe Up To 4.5" OD

The aggregate income-and-loss experience of the U.S. producers is presented in table 9 and figure 4. Net sales increased sharply between 1992 and 1993, but fell in 1994. The industry was profitable in 1993, but incurred operating losses in 1992 and 1994. Four of the companies incurred operating losses in 1992, two in 1993, and three in 1994. ***.[73]

Net sales increased between interim 1994 and interim 1995. After incurring an operating loss in interim 1994, industry operating income was up sharply in interim 1995. Four companies incurred operating losses in interim 1994 and two in interim 1995. ***.

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[71] These producers are Gulf States (Quanex), Koppel, Plymouth, Sharon, Timken, USS/Kobe, and USX.

[72] Salient income-and-loss data for certain seamless pipe by product categories are presented in app. D as follows: certain seamless pipe up to and including 4.5" OD are presented in table D-1; certain carbon pipe up to and including 4.5" OD are presented in table D-2; certain alloy pipe up to and including 4.5" OD are presented in table D-3; certain carbon and alloy pipe up to and including 2" OD are presented in table D-4; and certain carbon and alloy pipe over 2" OD through 4.5" OD are presented in table D-5.

[73] USX data were verified by the staff and there were no changes in its income-and-loss data. In addition, the importer questionnaire data of TAD-USA was verified with no changes, and the pricing section, as revised, of the importer questionnaire of Siderca was verified with no changes.

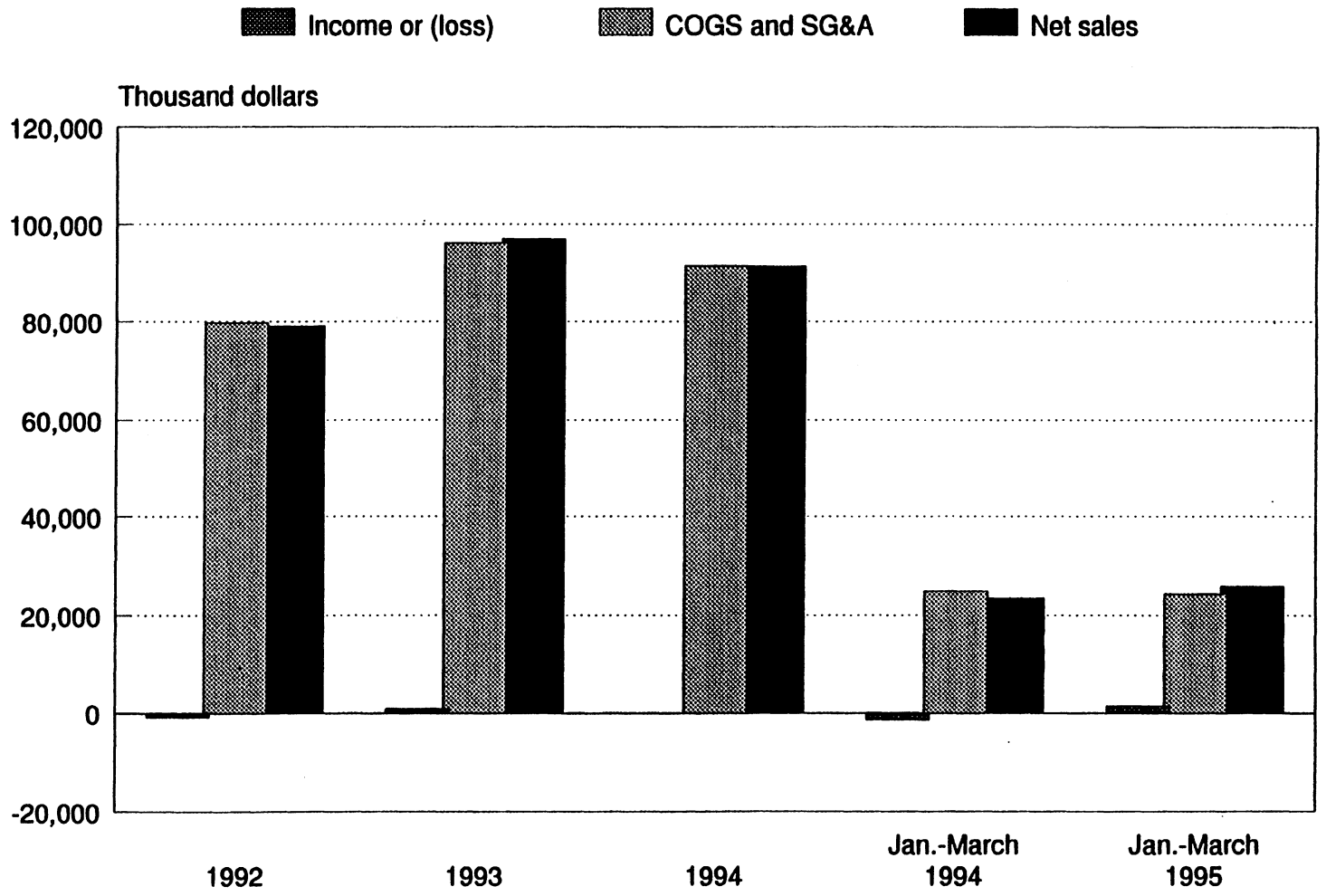
Table 9
Income-and-loss experience of U.S. producers[1] on their operations producing certain seamless carbon and alloy standard, line, and pressure steel pipe, fiscal years 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995[2]

Item	1992	1993	1994	Jan.-Mar.-- 1994	Jan.-Mar.-- 1995
	Quantity (*short tons*)				
Net sales	107,734	147,948	138,390	37,517	36,384
	Value (*1,000 dollars*)				
Net sales	79,476	97,439	91,788	23,544	26,062
Cost of goods sold	75,989	90,805	87,314	23,888	23,408
Gross profit	3,487	6,634	4,474	(344)	2,654
Selling, general, and administrative expenses	4,332	5,830	4,597	1,046	1,009
Operating income or (loss)	(845)	804	(123)	(1,390)	1,645
Interest expense	1,546	1,306	865	265	227
Other expense items	221	211	118	38	26
Other income items	116	407	30	13	52
Net income or (loss) before income taxes	(2,496)	(306)	(1,076)	(1,680)	1,444
Depreciation and amortization	5,162	5,472	4,726	1,368	914
Cash flow[3]	2,666	5,166	3,650	(312)	2,358
	Ratio to net sales (*percent*)				
Cost of goods sold	95.6	93.2	95.1	101.5	89.8
Gross profit	4.4	6.8	4.9	(1.5)	10.2
Selling, general, and administrative expenses	5.5	6.0	5.0	4.4	3.9
Operating income or (loss)	(1.1)	0.8	(0.1)	(5.9)	6.3
Net income or (loss) before income taxes	(3.1)	(0.3)	(1.2)	(7.1)	5.5
	Value (*per short ton*)				
Net sales	$ 737.71	$ 658.60	$ 663.26	$ 627.56	$ 716.30
Cost of goods sold	705.34	613.76	630.93	636.72	643.36
Gross profit	32.37	44.84	32.33	(9.17)	72.94
Selling, general, and administrative expenses	40.21	39.41	33.22	27.88	27.73
Operating income or (loss)	(7.84)	5.43	(0.89)	(37.05)	45.21
Other expense, net	15.32	7.50	6.89	7.73	5.52
Net income or (loss) before income taxes	(23.17)	(2.07)	(7.78)	(44.78)	39.69
	Number of firms reporting				
Operating losses	4	2	3	4	2
Net losses	4	2	4	4	3
Data	6	6	7	7	7

[1] The producers are Gulf States (Quanex), Koppel, Plymouth, Sharon, USS/Kobe, USX, and Timken.
[2] Fiscal years are Dec. 31 for all producers except Koppel (Sept. 26, 1992, Sept. 25, 1993, and Sept. 24, 1994). Gulf States' fiscal year ends Oct. 31, but it used a fiscal year of Dec. 31 to compile the financial data.
[3] 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.

Figure 4
Certain Seamless Pipe: Income and Loss,
1992-94 and Jan.-Mar. of 1994 and 1995



Source: Table 9.

Cost of Goods Sold

Producers obtain their raw materials from various sources, including internal production, purchases from related and unrelated companies, and scrap. Raw materials used varied from producer to producer. Raw materials, labor, and overhead costs accounted for 49.2, 13.6, and 37.2 percent, respectively, of the total cost of goods sold in interim 1995. A summary of each of these cost of goods sold components (for each period) follows (*in thousands of dollars*):

				Jan.-Mar.--	
Item	1992	1993	1994	1994	1995
Raw material	37,073	41,172	38,386	9,543	11,513
Direct labor[1]	9,780	11,773	12,728	3,389	3,194
Overhead	29,136	37,860	36,200	10,956	8,701
Total	75,989	90,805	87,314	23,888	23,408

[1] ***.

Individual Company Analysis

Income-and-loss data, by firms, are presented in table 10. Results were mixed between 1992 and 1994, but *** reported improved financial performance (increased profitability or reduced losses) between interim 1994 and interim 1995.

Table 10
Income-and-loss experience of U.S. producers on their operations producing certain seamless carbon and alloy standard, line, and pressure steel pipe, by firms, fiscal years 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

The aggregate average per-ton values reflect the wide variations of the product mix among the individual producers. One of the primary factors accounting for the wide per-ton variation in sales values between individual companies is diameter size. The three companies ***[74] that predominantly manufacture products with a maximum OD size of 2.375" have higher per-ton sales values than the other four companies *** that predominantly manufacture products with larger diameters.

[74] *** purchases redraw hollows or semifinished hollows which it either cold draw/finishes or just finishes. Its average 1994 value added was *** percent excluding SG&A, or *** percent including SG&A. See app. E for further details of *** operations.

During the hearing, Dr. Robert Leone (Professor of Operations Management of Boston University) commented that "subject products in this case represent 4.2 percent of the sales volumes for the domestic producers,"[75] and that in his experience, "reported net profits for any individual product line, especially ones that are small percentages of the total, are easily driven by accounting allocations." He urged that the "Commission use extreme caution when interpreting the net profit figures in this industry. I encourage, instead, a focus on the gross profit figures."[76] Also, he posed the question "are all domestic producers experiencing similar financial conditions?"[77]

In most cases there are some allocations, such as SG&A (selling, general, and administrative expenses), to specific products that are affected by the total sales volume within an establishment. But most subject product costs can usually be traced either directly to a specific product or from an allocation base smaller than the total volume of activity within an establishment. In these investigations, the allocation base for the ***. Allocations resulting from a smaller level of operations increase the reliability of the data.[78]

The increase in gross profit between 1992 and 1995 was primarily due to a combination of volume increases and cost reductions. There was a difference in performance between market segments.[79] The $\leq$ 2" OD product was ***, whereas the > 2" $\leq$ 4.5" OD product was ***. The companies producing certain seamless pipe > 2" $\leq$ 4.5" OD include USX and USS/Kobe, two integrated companies.

Redraw/Semifinished Hollows Income-and Loss Adjustment

The industry income-and-loss data in table 10 does not reflect ***.[80] Shown below is a tabulation of what the effect on income-and-loss would be if these transactions are included in the data (in 1,000 *dollars*, except as noted):

* * * * * * *

[75] The 4.2 percent figure noted by Dr. Leone was based on value and not volume.

[76] Profitability for individual products is usually measured in terms of operating income and not "net profits." The only difference between operating income and gross profit is SG&A expenses.

[77] TR, pp. 179-181.

[78] As previously indicated, income-and-loss data for USX were verified. Also, USS/Kobe submitted internal reports on their mill operations, an activity base *** than the total establishment.

[79] See app. D for income-and-loss summaries by product size.

[80] ***.

Comments From Annual Reports

Gulf States' comments (Quanex 1994 annual report) about the industry and the dumping petitions follow:

> "All of the Company's businesses, with the exception of the steel tube business, reflected substantial improvement in fiscal 1994 over fiscal 1993 in both revenues and income . . . The Company's steel tube business was adversely affected in fiscal 1994 by downward pricing pressure from imports on certain products, the absence of operating income from the Company's Bellville Tube Division, which was sold in fiscal 1993, and a general weakness in this segment's primary markets, which include power generation and the petrochemical and refining industries."[81]
>
> "The petrochemical and refining industries, which consumed much of the Gulf States Tube Division's heat exchanger and condenser tubing during an earlier period of expansion, by 1994 had begun to move construction offshore in response to the more stringent regulations of the Clean Air Act. Reduced maintenance budgets also contributed toward an overall soft market for carbon and alloy seamless pressure pipe."
>
> "With these conditions already in place, the division in early 1994 was faced with a surge in imported small-diameter pressure pipe at prices substantially below those of an already-depressed market."
>
> "On June 23, Gulf States filed petitions alleging that imports of carbon and alloy seamless pipe up to 4.5 inches in diameter from four countries were being dumped or subsidized. On August 3, the International Trade Commission made an affirmative preliminary determination that these imports were causing injury to the U.S. industry. Though final determinations are not expected until mid-fiscal 1995, this early ruling had a positive effect on Gulf States' sales of A106 pressure pipe and allowed some price recovery during the fourth quarter of fiscal 1994."[82]

The 1994 annual report of the NS Group, Inc., parent of Koppel, indicated the following with respect to its tubular products:[83]

---

[81] Quanex 1994 annual report (management's discussion and analysis of results of operations and financial condition), p. 37.

[82] Quanex 1994 annual report (Tube Group Summary), "Favorable Ruling in Dumping Petition", p. 30. Its fourth quarter was Aug. 1, 1994 to Oct. 31, 1994.

[83] Koppel produces OCTG, which is also currently under investigation by the Commission.

"We are guardedly optimistic that improvements in operating margins are on the horizon. There has recently been a substantial reduction in shipments of imported tubular products into the domestic market as a result of favorable preliminary rulings in recently filed trade cases, which are discussed at length throughout the report. Moderate price increases in tubular products initiated in the first quarter of fiscal 1995[84] appear to be holding and order prices and shipments have been improving steadily since mid-summer. The cost of steel scrap, at least in the near term, appears to have stabilized.[85] These improvements, coupled with continued increases in shipments of special bar quality and flat rolled steel products, give the company a strong start toward achieving record shipment levels and improved operating results in fiscal 1995."[86]

Investment in Productive Facilities and Capital Expenditures

The producers' investment in property, plant, and equipment is shown in table 11. Rates of return are not shown because three companies did not submit asset data. Capital expenditures for three producers of seamless pipe are shown in table 12.

Table 11
Value of fixed assets of certain seamless carbon and alloy standard, line, and pressure steel pipe, fiscal years 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

Table 12
Capital expenditures of U.S. producers of certain seamless carbon and alloy standard, line, and pressure steel pipe, fiscal years 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

[84] Koppel's fiscal year ends during the last week of September, therefore the first fiscal quarter would begin a few days before the end of September and end a few days before the end of December. Thus, its first fiscal 1995 quarter would be Sept. 25, 1994 to Dec. 24, 1994.

[85] On page 30 of its questionnaire response, Koppel reported that its purchase cost for scrap ***. The cost was *** between interim 1994 ($*** per ton) and interim 1995 ($*** per ton).

[86] Statement to the shareholders by Clifford R. Borland, President and Chief Executive Officer, 1994 annual report of the NS Group, Inc., p. 2.

Research and Development Expenses

Research and development expenses for three producers of seamless pipe are shown in the following tabulation (*in 1,000 dollars*):

* * * * * * *

Capital and Investment

The Commission requested the producers to describe and explain the actual and potential negative effects of imports of certain seamless pipe from Argentina, Brazil, Germany, and Italy on their growth, investment, ability to raise capital, or existing development and production efforts (including efforts to develop a derivative or improved version of certain seamless pipe.) Their responses to this question are presented in appendix F.

CONSIDERATION OF THE QUESTION OF THREAT OF MATERIAL INJURY TO AN INDUSTRY IN THE UNITED STATES

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that--
In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the merchandise, the Commission shall consider, among other relevant economic factors[87]--

> (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,

[87] 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."

(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 706 or 736, are also used to produce the merchandise under investigation,

(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both), and

(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.[88]

---

[88] 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."

The available information on the nature of the alleged subsidies (item (I) above) is presented in the section of this report entitled *Subsidies by the Government of Italy*; 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 the 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 the Question of 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), (VIII) and (IX) above); any other threat indicators, if applicable (item (VII) above); and any dumping in third-country markets, follows. Other threat indicators have not been alleged or are otherwise not applicable.

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

The data in the following sections of the report are based primarily on responses to Commission requests for information submitted to foreign manufacturers through their U.S. counsel. Staff also provided the names and addresses of all foreign manufacturers listed in the petitions to the U.S. embassies located in Argentina, Brazil, Germany, and Italy and requested that the embassies obtain information on the capacity to produce, production, shipments, and inventories for those firms and for any other identified producers.

The Industry in Argentina

The only manufacturer of certain seamless pipe in Argentina is Siderca S.A.I.C. (Siderca), Buenos Aires, Argentina.[89] Data for its certain seamless pipe operations are presented in table 13.

Table 13
Certain seamless carbon and alloy standard, line, and pressure steel pipe: Argentina's capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

[89] The U.S. embassy in Buenos Aires, Argentina, verified that Siderca is the sole producer of certain seamless pipe in Argentina. (U.S. Department of State telegram, message reference No. R 082243Z, July 1994.) In its most recent fiscal year, subject product accounted for *** percent of Siderca's total sales. The firm also produces boiler, heat exchanger, structural, and mechanical pipe and tubing and unfinished OCTG.

The Industry in Brazil

There are two manufacturers of subject product in Brazil: Mannesmann S.A., Sao Paulo, Brazil,[90] and NCS Siderurgica (or "Excell"), Sao Paulo, Brazil.[91] Data for the certain seamless pipe operations of Mannesmann S.A. are presented in table 14. The mill is currently undergoing modernizing which will have the effect of somewhat reducing its capacity to produce. The new plant will include a rotary-piercing (mandrell) mill capable of producing *** metric tons on an annual basis. Its former facility consisted of two extrusion presses and a pilger mill which together had a capacity of *** metric tons. The new plant is expected to begin commercial production by ***.[92]

Table 14
Certain seamless carbon and alloy standard, line, and pressure steel pipe: Brazil's capacity, production, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

[90] In its most recent fiscal year, subject pipe accounted for *** percent of total sales by Mannesmann S.A. The firm also produces other hot-rolled seamless tubes, including casing and mechanical tubes. Mannesmann S.A. and Mannesmannroehren-Werke, a German manufacturer of subject pipe, are both owned by Mannesmann AG, Duesseldorf, Germany.

[91] According to information provided by the U.S. consulate in Rio de Janeiro, Excell (named as a manufacturer by ***) and NCS Siderurgica (named as a manufacturer in the petition) are believed to be the same facility. The Instituto Brasileira Siderugica (IBS), or the Brazilian Steel Institute, lists only Mannesmann S.A. and Excell as producers of certain seamless pipe. *** imports from Brazil into the United States were manufactured by Mannesmann S.A. The consulate obtained data on what appears to be aggregate seamless steel pipe production and shipments from the IBS monthly and annual reports. According to those reports, Mannesmann S.A. produced 284,000 metric tons of seamless pipe in 1993 and Excell manufactured 18,000 metric tons. (U.S. Department of State telegram, message reference No. R 141348Z, July 1994.)

[92] June 6, 1995, telephone interview with counsel for Siderca.

The Industry in Germany

Certain seamless pipe is produced in Germany by Mannesmannroehren-Werke (MRW), Dusseldorf, Germany, and Benteler A.G., Paderborn, Germany.[93] [94] Data for the certain seamless pipe operations of MRW are presented in table 15.[95] In its response to the Commission's foreign producer questionnaire, MRW reported that ***. The firm reduced its capacity to produce all seamless pipe up to 4.5" OD by *** tons or *** percent in July 1992 when it demolished the Rohrkontistrasse mill.[96] Its current capacity to produce is *** tons.

Petitioner asserted that capacity, production, and shipments data submitted by Mannemannroehren-Werke for certain seamless pipe should include products made to German (DIN) specifications that are comparable to U.S. ASTM speciafications.[97] Counsel for Mannemannroehren-Werke has submitted data for subject products manufactured to DIN and other international standards comparable to the investigated products,[98] and such data are presented in table 15. Counsel for the German respondents argue that the comparable DIN products could not be sold in the United States.

Table 15
Certain seamless carbon and alloy standard, line, and pressure steel pipe: Germany's capacity, production, inventories, capacity utilization, and shipments, for ASTM and ASTM and DIN products, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

[93] The petition named four other possible manufacturers: Rohrenwerke Bous/Saar GmbH (RBS); Rohrwerk Neue Maxhutte GmbH; Technitube Rohrenwerke GmbH; and Walzlagerrohr GmbH. The Commission did not receive a response to its request to the U.S. Embassy in Bonn, Germany, for information on these producers. However, in its postconference brief, Mannesmann stated that of these firms only Rohrwerk Neue Maxhutte GmbH manufactures the subject product; ***. Rohrenwerke Bous/Saar GmbH reportedly only manufactures pipe in sizes 6" to 16" OD. Technitube Rohrenwerke GmbH is a redrawer and fabricator, primarily of stainless products. Walzlagerrohr GmbH produces only bearing steel and mechanical tubing. Postconference brief, p. 17, n. 10.

[94] Benteler A.G. did not respond to the Commission's final foreign producer questionnaire.

[95] In its most recent fiscal year, subject product accounted for *** percent of total sales by MRW. In addition to subject product, MRW produces redraw hollows, boiler and pressure tubes, line pipes, and OCTG.

[96] ***.

[97] June 14, 1995, prehearing brief of Schagrin Associates, p. 27.

[98] June 27, 1995, submission of Sutherland, Asbill & Brennan.

The Industry in Italy

The subject pipe is produced in Italy by Dalmine and by Pietra S.p.A.[99] Data for the subject pipe operations of these firms are presented in table 16.

Dalmine S.p.A. accounts for approximately *** of production of the subject carbon pipe in Italy (and *** of the subject product more than 2" OD but not more than 4.5" OD, and *** of the subject alloy pipe). It is the primary exporter of the product to the United States, accounting for *** percent of total Italian exports of subject product.[100] Dalmine is a government-owned company that has been in the process of restructuring (and privatizing) its seamless pipe and tube operations over a number of years. The firm operates a number of mills that have the capacity of producing seamless tubes with an OD not more than 4.5". As part of its restructuring operations, two extrusion presses were shut down in mid-1992 (Brescia and Arcore) and another (***) were closed at the end of 1994. The net change in capacity as a result of these actions during the period examined is a reduction of *** short tons (table 16).[101]

Table 16
Certain seamless carbon and alloy standard, line, and pressure steel pipe: Italy's capacity, production, inventories, capacity utilization, and shipments, 1992-94, Jan.-Mar. 1994, Jan.-Mar. 1995, and projected 1995-96

* * * * * * *

[99] In addition to Dalmine and Pietra, the petition named the following firms as possible manufacturers of certain seamless pipe in Italy: Acciaierie e Tubificio Meridionali S.p.A., Bari, Italy; Sandvik Italia S.p.A., Milan, Italy; Seta Tubi Srl, Brescia, Italy; and Tubicar S.p.A., Italy. The U.S. consulate in Milan contacted each of the above-identified firms. Acciaierie e Tubificio Meridionali S.p.A. claims that it has never exported any subject product to the United States. Sandvik stated that it is not authorized (presumably by its Swedish-owned parent) to directly export to the United States and has never done so. Seta Tubi Srl (the "Brescia" mill) was acquired by and then closed by Dalmine. Likewise, Tubicar S.p.A. is a Dalmine subsidiary. Representatives of Tubicar S.p.A. indicated that it produces nonsubject pipe. (U.S. Department of State telegram, message reference No. P 191359Z, July 1994.)

[100] In its most recent fiscal year, certain seamless pipe accounted for *** percent of total sales by Dalmine. In addition to subject product, Dalmine produces the following pipe products in the size range up to 4.5" OD: OCTG, hollows, bearings, and hot and cold mechanical pipe.

[101] Dalmine states "The shut down of the two extrusion presses in the years considered is caused by the low productivity and high costs of this kind of mill compared to the new technologies of the rolling mill: continuous mill and continuous pushing bench. The new technologies introduced for carbon and alloy steel pipes better tolerances with lower eccentricities and in general an improved status of the surface." Response to the foreign producers' questionnaire.

U.S. Importers' Inventories

Inventories by U.S. importers of certain seamless pipe were only reported for those firms importing from Italy. Such data are presented in the following tabulation.

* * * * * * *

***.[102] None of the importers ***[103] and, other than ***, no other source reported any product in inventory.

The Potential for Product Shifting

In response to a question in the foreign producer's questionnaire, each of the respondents stated that certain seamless pipe was not subject to antidumping findings or remedies in any GATT-member countries. However, effective January 30, 1995, the Commission instituted final countervailing duty and antidumping investigations concerning OCTG from two of the countries subject to the instant investigations, specifically Argentina and Italy.[104] As noted above, both the Argentine producer (Siderca) and at least one of the Italian producers (Dalmine) manufacture certain seamless pipe and OCTG ***.

Expected Imports

U.S. importers reported that they imported, or arranged for the importation of, the following quantities of certain seamless pipe for delivery after March 31, 1995:

---

[102] Dalmine's postconference brief, pp. 21-22.

[103] Economic submission by Trade Resources Company, p. 30.

[104] Effective Dec. 2, 1994, the Commission instituted its final CVD investigation concerning Italy (60 FR 2983, Jan. 12, 1995). Effective Jan. 30, 1995, the Commission instituted its final antidumping investigations regarding Argentina and Italy (60 FR 10107, Feb. 23, 1995). The Commission subsequently rescinded the antidumping investigation concerning Argentina subsequent to Commerce's revised negative preliminary determination as a result of ministerial error (60 FR 15941, Mar. 28, 1995). However, following an affirmative final determination of sales at LTFV, effective June 20, 1995, the Commission reinstituted its final antidumping investigation regarding Argentina (60 FR 32708, June 23, 1995).

Source	Importer	Amount (*short tons*)	Time period
Argentina . . .	Siderca	***[1]	***
Brazil	Mannesmann	***	***
Germany . . .	Mannesmann	***	***
Italy	TAD	***	***

[1] Counsel for Siderca reported that the firm has not imported or arrranged for the importation of the subject merchandise from Argentina for delivery after March 31, 1995. However, in its foreign producer questionnaire Siderca S.A.I.C. projects that *** short tons of the subject product will be exported to the United States from Argentina in 1995, based on Siderca's long-term commitment to the U.S. market. Counsel for Siderca S.A.I.C. reports that "(a)ctual shipments are not expected to be higher than the projections, but may be lower depending upon a number of circumstances, including U.S. demand, U.S. prices, and the eventual outcome of the current antidumping actions." (See May 12, 1995, submission of Mudge, Rose, Guthrie, Alexander & Ferdon, p. 1.)

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

U.S. Imports

Data on U.S. imports by sources are presented in table 17. As shown, imports from subject sources accounted for *** percent of the quantity of all imports entering the United States during 1994. Imports from nonsubject countries are from Canada, France, Japan, and Spain.

Table 17
Certain seamless carbon and alloy standard, line, and pressure steel pipe: U.S. imports, by sources, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.– 1994	1995
	Quantity (*short tons*)				
Argentina					
Brazil					
Germany	*	*	*	*	*
Italy					
Subtotal	35,323	57,330	47,345	8,613	446
Other sources	27,365	23,438	19,668	3,993	10,255
Total	62,688	80,768	67,013	12,606	10,701
	Value (*1,000 dollars*)				
Argentina					
Brazil					
Germany	*	*	*	*	*
Italy					
Subtotal	23,253	33,440	27,114	5,103	363
Other sources	19,099	14,120	12,210	2,728	7,277
Total	42,352	47,560	39,324	7,831	7,640
	Unit value (*per short ton*)				
Argentina					
Brazil					
Germany	*	*	*	*	*
Italy					
Average	$ 658	$ 583	$ 573	$ 592	$ 814
Other sources	698	602	621	683	710
Average	676	589	587	621	714
	Share of total quantity (*percent*)				
Argentina					
Brazil					
Germany	*	*	*	*	*
Italy					
Subtotal	56.3	71.0	70.7	68.3	4.2
Other sources	43.7	29.0	29.3	31.7	95.8
Total	100.0	100.0	100.0	100.0	100.0
	Share of total value (*percent*)				
Argentina					
Brazil					
Germany	*	*	*	*	*
Italy					
Subtotal	54.9	70.3	69.0	65.2	4.8
Other sources	45.1	29.7	31.0	34.8	95.2
Total	100.0	100.0	100.0	100.0	100.0

[1] Not applicable.

Note and source contained on next page.

Continued from previous page.

Note.--Data presented for other sources are derived from a combination of responses to Commission questionnaires and official import statistics. An explanation, by source, follows:

Japan.--Data are for the quantity and value of the product shown as entering under *HTS* Nos. 7304.10.10.20 (carbon line pipe) and 7304.10.50.20 (alloy line pipe) in the official Commerce statistics. According to Rule 3(a) of the General Rules of Interpretation of the *HTS* "the heading which provides the most specific description shall be preferred to headings providing a more general description." Therefore, any triple-stenciled standard/line/pressure carbon pipe is entered as "line" pipe. (This was confirmed by Paula Ilardi, the customs national import specialist.) Several industry sources stated to Commission staff that certainly the bulk, if not all, Japanese-produced certain seamless pipe is triple-stenciled and has been so throughout the period examined. (In fact, Japanese firms reportedly initiated the trend towards triple-stenciling in the mid-1980s.) Reported data are understated by the amount of any subject carbon pipe that is not triple-stenciled. This amount is not believed to be significant.

France.--Subject carbon pipe are for the quantity and value of the product reported by ***.

Canada.--Subject carbon and alloy pipe are the quantities and values reported by ***.

Spain.--Subject carbon and alloy pipe are the quantity and value reported by ***.

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.

Market Penetration of Imports

Data for the market shares of certain seamless pipe are presented in table 18. Data for 1991 are contained in appendix D.

Cumulation Issues

With respect to cumulation, in assessing whether imports compete with each other and with the domestic like product, the Commission has generally considered four factors: (1) the degree of fungibility, including specific customer requirements and other quality related questions; (2) presence of sales or offers to sell in the same geographical markets; (3) common channels of distribution; and (4) simultaneous presence in the market. Channels of distribution are discussed in the *Channels of Distribution* section of the report, and information relating to simultaneous presence in the market is presented in the *Prices* section. A discussion of fungibility and presence in geographical markets follows.

Table 18
Certain seamless carbon and alloy standard, line, and pressure steel pipe: Apparent U.S. consumption and market penetration, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

Item	1992	1993	1994	Jan.-Mar.– 1994	1995
	Quantity (*short tons*)				
Apparent consumption	170,057	225,584	205,247	50,116	46,535
	Value (*1,000 dollars*)				
Apparent consumption	123,653	145,966	133,079	31,891	33,790
	Share of the quantity of U.S. consumption (*percent*)				
Producers' U.S. shipments	62.8	64.2	67.2	74.6	77.2
Importers' U.S. shipments:					
Argentina					
Brazil	*	*	*	*	*
Germany					
Italy					
Subtotal	21.0	25.4	23.2	17.4	1.0
Other sources	16.1	10.4	9.6	8.0	21.8
Total	37.2	35.8	32.8	25.4	22.8
	Share of the value of U.S. consumption (*percent*)				
Producers' U.S. shipments	63.8	65.8	68.9	73.7	76.5
Importers' U.S. shipments:					
Argentina					
Brazil	*	*	*	*	*
Germany					
Italy					
Subtotal	20.5	24.3	21.6	17.4	1.6
Other sources	15.7	9.9	9.5	9.0	21.9
Total	36.2	34.2	31.1	26.3	23.5

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.

Fungibility

Specialized products

Respondents from Brazil, Germany, and Italy reported sales of imports from the three subject countries that were allegedly of sizes or specifications not made by U.S. manufacturers; for Brazil and Germany, U.S. shipments of such imports accounted for approximately *** percent of total shipments of imports from the two countries in 1994,[105] while U.S. shipments of such imports from Italy accounted for approximately *** percent of total shipments of imports from that country in 1994.[106] Respondents from Argentina report that they did not make any shipments of subject product not produced by U.S. manufacturers. In response to a supplemental request for information, U.S. producers of certain seamless pipe reported that *** percent of U.S. shipments of the subject product during 1994 were of products reportedly not available from U.S. producers. Data relating to the specialized products that are reportedly not produced by U.S. manufacturers are presented in the tabulation below:

* * * * * * *

Share of shipments

Data relating to share of shipments (*in percent*) during 1994, by type and size, are presented in the following tabulation:

* * * * * * *

Market presence

Certain seamless pipe is sold nationwide, with a significant portion of sales in the Gulf area. Data regarding U.S. imports of the certain seamless pipe from Commerce's official import statistics show the such imports are concentrated in the Houston and New Orleans customs districts, with imports also entered through northeast, southeast, midwest, and western customs districts. Data on imports by customs districts are presented in table 19.

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[105] Mannesmann reported in its questionnaire response and in its posthearing brief (response to question 1, p. i) the products from Brazil and Germany that were not available from U.S. producers.

[106] In the June 21, 1995, submission by Rogers & Wells, counsel for respondents from Italy provided the Commission with a nonproprietary list of products from Italy that allegedly were not available from U.S. producers (also contained in the July 28, 1995, posthearing brief of Rogers & Wells, app. 1, p.1).

Table 19

Certain seamless carbon and alloy standard, line, and pressure steel pipe: U.S. imports by customs districts, 1992-94[1] [2]

Source and district	Quantity						Share of country total		
	1992	1993	1994	1992	1993	1994	1992	1993	1994
	(1,000 kilograms)			(Short tons)			(Percent)		
Argentina:									
New Orleans	1,083	3,538	3,777	1,193	3,900	4,163	7.68	15.10	14.72
Houston	12,595	19,894	21,877	13,883	21,930	24,116	89.30	84.90	85.28
Subtotal	13,677	23,432	25,654	15,076	25,829	28,278	96.97	100.00	100.00
Norfolk	427	0	0	470	0	0	3.03	[3]	[3]
Total	14,104	23,432	25,654	15,547	25,829	28,278	100.00	100.00	100.00
Brazil:									
New Orleans	1,272	5,411	1,859	1,402	5,965	2,049	16.16	29.57	31.52
Houston	5,074	10,133	2,261	5,593	11,170	2,493	64.44	55.36	38.35
Subtotal	6,346	15,544	4,120	6,995	17,134	4,542	80.60	84.93	69.87
NE	1,075	2,038	693	1,185	2,247	764	13.65	11.14	11.75
West	453	546	1,050	499	602	1,157	5.75	2.98	17.81
SE	0	174	0	0	191	0	[3]	.95	[3]
Other	0	0	34	0	0	37	[3]	[3]	.58
Total	7,873	18,302	5,897	8,679	20,174	6,500	100.00	100.00	100.00
Germany:									
New Orleans	1,253	2,294	2,525	1,381	2,529	2,783	8.59	27.35	23.18
Houston	9,896	4,338	6,260	10,908	4,782	6,900	67.87	51.71	57.46
Subtotal	11,149	6,632	8,785	12,290	7,310	9,683	76.46	79.06	80.63
NE	1,039	323	296	1,146	356	326	7.13	3.85	2.72
West	1,099	688	536	1,212	759	591	7.54	8.21	4.92
SE	161	369	333	178	406	368	1.11	4.39	3.06
MW	1,132	377	897	1,248	415	989	7.76	4.49	8.24
Other	0	0	47	0	0	52	[3]	[3]	.43
Total	14,581	8,388	10,895	16,073	9,246	12,009	100.00	100.00	100.00
Italy:									
New Orleans	53	180	44	58	198	49	3.58	6.27	2.12
Houston	1,185	2,371	1,960	1,306	2,613	2,161	80.22	82.61	94.01
Subtotal	1,238	2,551	2,005	1,364	2,811	2,210	83.80	88.87	96.14
NE	239	307	73	264	339	80	16.19	10.71	3.50
West	[4]	12	8	[4]	13	8	.01	.42	.36
SE	0	[4]	0	0	[4]	0	[5]	[5]	[5]
MW	0	0	[4]	0	0	[4]	[5]	[5]	[5]
Total	1,477	2,870	2,085	1,628	3,163	2,299	100.00	100.00	100.00

[1] *HTS* numbers include: 7304.10.1020, 7304.39.0016, 7304.39.0020, 73404.39.0024.

[2] Regional abbreviations include the following customs districts:

NE: Baltimore, Boston, New York, Philadelphia, and Portland

West: Los Angeles, Portland, San Francisco, and Seattle

SE: Miami, Mobile, Norfold, Savannah, and Tampa

MW: Minneapolis, Detroit, Chicago, and Cleveland

Other: Minneapolis, Pembina ND, San Juan

[3] Not applicable.

[4] Less than 500 kgs. or 0.5 tons.

[5] Less than 0.01 percent.

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

Prices

Market Characteristics

In the U.S. market, U.S. producers and importers sell the domestic and subject imported certain seamless carbon and alloy standard, line, and pressure steel pipe up to 4.5" OD (certain seamless pipe) predominantly to distributors who, in turn, resell the subject product to end users and other distributors. U.S. producers and importers may also sell lesser quantities to pipe fitting manufacturers, refineries, and other firms engaged in fluid processing. Demand for certain seamless pipe depends mainly on the level of demand in end-use markets (such as refineries, petrochemical installations, and energy plants) that employ industrial piping systems for the transmission of water, steam, petrochemicals, chemicals, oil, natural gas, and other gases and fluids.[107] Total U.S. apparent consumption of the certain seamless pipes, discussed earlier in this report, rose substantially in 1993 from the level in 1992, before falling somewhat in 1994 and during January-March 1995. Comments by U.S. producers, importers, and distributors suggest, however, that individual firm's perspectives on the total U.S. market for the subject pipes vary significantly on the timing of market fluctuations and whether such fluctuations in the U.S. market constitute changes in demand or supply. These differences may indicate that at least some firms tend to view the market in terms of the specific products that they sell or buy and market areas that they serve.

Two U.S. producers (***) and one importer (***) indicated in their questionnaire responses that total U.S. demand for certain seamless pipe was sluggish in 1992, but picked up in 1993 and 1994, and cited increased demand in the process industries and in the oil and petrochemical sector.[108] On the other hand, *** asserted that demand for the certain seamless pipe has decreased since January 1992 because Federal regulation of air quality has dampened demand in the chemical and refinery industries as firms assess the cost of compliance (or penalties for non-compliance) with new environmental regulations. In addition, the increased influence of co-generation and the maturity of the power generation industry has reportedly contributed to decreasing demand for certain seamless pipe. *** also asserted that demand for the certain seamless pipe has decreased due to increased use of substitute products and noted, in particular, large inroads in traditional seamless areas by welded

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[107] Certain large end users of the certain seamless pipes, such as Dow Chemical and Exxon, maintain an approved manufacturing list (AML) for those producers of the subject steel pipe that they have certified as acceptable vendors. The certain seamless pipes of producers on these lists may be more acceptable by smaller end users than products of firms not on these lists. The U.S. producers and the subject foreign producers are on the major AMLs.

[108] As discussed earlier in the report, *** noted in particular that its increased shipments in 1993 were due to a tax incentive provided by the U.S. government which promoted oil-well drilling that, in turn, allegedly expanded the demand for the line pipe used in the oil fields as drillers restocked inventories. On the other hand, *** subject pipe products, reported in its importer questionnaire response that the tax incentives did not have an impact on demand for the subject products.

pipe because quality of the latter product has improved greatly.[109] Four U.S. producers felt demand for certain seamless pipe has not changed since January 1992. Two distributors, ***,[110] indicated that U.S. price decreases of the subject pipes were caused by increased supplies; *** cited in particular that increased supplies affected U.S. prices during January 1992-June 1994.[111] Four U.S. distributors indicated in their questionnaire responses that U.S. prices increased in the latter part of 1994 and early 1995 because of decreased supplies of the subject pipes in the U.S. market, which, in turn, resulted from the antidumping suits.[112] Three distributors, ***, indicated that U.S. price rises in late 1994 and early 1995 were also caused by increasing demand in the United States and the world market in general.

Seven domestic producers and three U.S. importers provided information regarding their selling practices for certain seamless pipe in the U.S. market. All seven U.S. producers reported that they sell their certain seamless pipe in the U.S. market almost exclusively to authorized distributors,[113] whereas *** reported that it sold to authorized distributors.[114] U.S. producers typically sell on a spot basis,[115] f.o.b. their U.S. mills directly to distributors,[116] who typically stock the subject products and sell in smaller quantities to the multitude of end users and to other

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[109] *** reported on demand factors in an attachment to the Argentine prehearing brief. *** cited factors similar to those reported by TAD-USA, noting that during 1991-94, demand for certain seamless pipe was depressed, with prices and imports falling during this period due to (1) decline in oil and gas drilling, which reached its lowest point in the post-World War II period, (2) global economic decline, (3) a decline in refinery plant maintenance, expansion, and/or new construction, and (4) competition from welded pipe which is gaining increasing acceptance as a substitute for seamless pipe, due, in turn, to improvements in welded-pipe production technology. *** also remarked that plastic and composite pipe have gained increasing acceptance at the expense of seamless and welded pipe in certain applications.

[110] The two distributors accounted for about *** percent of U.S. apparent consumption of the subject pipe during 1994.

[111] *** also indicated that prices fell during this latter period as various Japanese producers were competing for market share in the United States. ***, another U.S. distributor, indicated that the Japanese mills had lost Russian business during this period, contributing to the low level of business worldwide and, hence, declining U.S. prices.

[112] The four distributors are ***, which together accounted for about *** percent of U.S. apparent consumption of the subject pipes during 1994.

[113] U.S. producers also make limited sales to end users, but do not sell to unauthorized distributors; some distributors authorized to buy the domestic products also buy the subject imported products.

[114] The U.S. importers reported selling on a spot basis, f.o.b. duty-paid, landed, U.S. port of entry directly to U.S. distributors; the customers typically arranged the U.S. freight to their receiving locations. The U.S. importers generally do not inventory the subject foreign seamless steel pipe in the United States.

[115] Any contract sales are ***.

[116] ***.

smaller distributors.[117] Distributors also frequently perform additional processing, such as end finishing (beveling, upsetting, threading, coupling, etc.), coating, straightening, cutting to specific lengths, and bundling in smaller quantities that can account for up to *** percent of the value of the product.[118] U.S. producers reported selling to authorized distributors because the distributors (1) provide expanded market coverage, with many operating multilocation facilities, (2) undertake the inventory function, and (3) provide the numerous additional product-processing operations required to prepare and ship products to the many end users in the market.[119] Authorized distributors of the domestically produced certain seamless pipes often also purchase the subject imported products.[120]

Four U.S. producers indicated in their questionnaire responses that they refused to sell certain seamless pipes to certain distributors during January 1992-March 1995, while the three other U.S. producers and all three importers indicated that they did not refuse to sell to any distributors. Two of the U.S. producers reporting that they refused to sell to certain distributors, ***, commented ***. Two other U.S. producers, ***, reporting that they refused to sell to certain distributors, reported ***.[121] Distributors that are required to purchase imported certain seamless pipes because U.S. producers refuse to sell to them still compete with the domestic products when selling to end users and other distributors.[122]

Fourteen distributors responded in their purchaser questionnaire responses to the question regarding the extent of "Buy-American" policies in their purchases of the certain seamless pipes.[123] These purchasers typically commented that such policies were not a factor or had a minor impact on

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[117] U.S. producers generally sell their subject seamless steel pipe on a dollars-per-ton basis to distributors, who, in turn, sell smaller quantities on a dollars-per-foot basis to end users and other distributors. U.S. producers typically produce for sale only and do not inventory the subject seamless steel pipes for later sale; inventory figures of U.S. producers reported earlier in this report largely represent items that are already sold and awaiting shipment.

[118] Telephone conversation between Commission staff and ***.

[119] *** also reported in its questionnaire response ***.

[120] Three large distributors authorized to sell the domestic products, ***, reported in their purchaser questionnaire responses that they also buy imported certain seamless pipes, including those from the subject countries. All three of these distributors cited lower prices of the imported products, including products from the subject countries, as a reason for also buying imported certain seamless pipes. In addition, *** indicated that certain sizes and grades of the subject pipes were not available from U.S. producers and had to be obtained from foreign sources. These three distributors accounted for about *** percent of U.S. apparent consumption of the certain seamless pipes during 1994.

[121] Although requested to name such distributors, the reporting U.S. producers did not identify any specific firms; *** reported that they ***.

[122] U.S. producers have refused to sell to ***. In its purchaser questionnaire response, *** listed *** as two of its major competitors; both of these latter firms are ***.

[123] The 12 responding purchasers accounted for about 44 percent of U.S. apparent consumption of certain seamless pipes during 1994.

purchases and sales. Two distributors, ***, indicated that "Buy American" policies would affect no more than *** percent of their U.S. sales of the subject products.

U.S. importers generally do not publish price lists, but rather base their prices on the specifics of the order and current market conditions.[124] Conversely, five out of seven U.S. producers publish price lists. However, these U.S. producers indicated that price lists serve only as a basis for discount policies and/or as a guideline for negotiating prices based on prevailing market conditions.[125] Four of the seven U.S. producers reported offering formal schedules of quantity discounts on their sales of certain seamless pipe to their authorized distributors during the period examined, while three other U.S. producers reported that they did not offer a formal volume discount price structure.[126] *** base their quantity discounts on ***, whereas *** base their quantity discounts on ***. *** quantity discounts *** quantity discounts apply to ***; and *** quantity discounts apply to ***. The various quantity discount programs offered by the U.S. producers are discussed in detail below.

Quantity discount programs of U.S. producers

Quanex offered quantity discounts under its "foreign fighter" program during 1983-94, and, beginning in January 1995, ***. Between 1983 and August 1994, Quanex offered its authorized distributors a *** percent discount on ***.[127] This discount only applied to ***.[128] The discounts did not apply to ***. In late August 1994, Quanex ***, with all other stipulations remaining. Beginning in January 1995, Quanex ***. Under its most recent discount program, Quanex ***.

***.

***.

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[124] ***.

[125] In addition to quantity discounts offered by some U.S. producers, the domestic producers generally also offer a *** to their authorized distributors compared to their sales to end users. In addition to a discount price structure, U.S. producers reported somewhat more favorable payment terms of 1/2 percent to 2 percent, 10 to 25 days, net 30 days compared to importers who reported payment terms of net 30 days.

[126] Whether using quantity discounts or not, all 7 responding U.S. producers reported that their selling prices are determined through negotiations with their customers and are based on competitive market forces of demand, supply, and delivery.

[127] ***.

[128] Gulf Coast states are defined as Alabama, Arkansas, Florida, Louisiana, Mississippi, Oklahoma, and Texas.

Transportation factors

According to questionnaire responses, three U.S. producers, ***, and one importer, ***, indicated that U.S. transportation costs are an important factor in deciding where they sell their certain seamless pipe in the United States; the other four U.S. producers and two importers did not feel transportation costs were a significant factor. The three U.S. producers that felt U.S. transportation costs were significant also reported ***, which averaged $*** to $*** per ton, to meet competition.[129] The other four U.S. producers and all of the importers indicated ***.[130] *** indicated that ***. U.S. transportation costs as a percentage of total delivered cost for the subject domestic products averaged *** percent for shipments within 100 miles of U.S. producers' selling locations, *** percent for sales between 100 and 500 miles, and *** percent for sales over 500 miles. Importers reported U.S. transportation cost shares of *** percent for sales within 100 miles of their U.S. selling locations and *** percent for sales between 100 and 500 miles; importers did not report for sales more than 500 miles from their U.S. selling locations. The subject domestic and imported certain seamless pipes were shipped by truck within 500 miles of U.S. selling locations, and by truck or rail when shipped more than 500 miles. U.S. producers' lead times between order and delivery to a customer typically ranged from *** weeks,[131] whereas U.S. importers' lead times ranged from *** weeks; U.S. producers and importers typically produced/imported based on purchase orders already received and generally did not carry U.S. inventories of unsold certain seamless pipes.

Comparability Considerations

U.S. producers indicated in their questionnaire responses that the domestic and subject imported certain seamless pipes were always interchangeable with each other and that any differences in nonprice factors did not limit competition between the domestic and imported products. The six responding U.S. producers rated their quality, technical and sales support, payment terms, and packaging generally comparable to that of the subject countries, but rated their delivery and product availability generally superior to the subject countries. All six reporting U.S. producers indicated that the subject imported products were consistently priced less than the domestic products. At the same time, U.S. producers ranked price and quality as the most important considerations of their distributor customers, with the other factors ranked as less important to distributors.[132]

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[129] ***.

[130] U.S. producers that did not feel U.S. inland freight was a significant factor noted that they were able to ***. The *** importers that did not consider U.S. freight to be a significant factor, ***, indicated that they sold to customers that ***.

[131] One U.S. producer, ***, reported order lead times of *** weeks.

[132] Sixteen distributors listed in their purchaser questionnaires the three major factors, in order of importance, that they considered in deciding from whom to purchase the certain seamless pipes. The distributors identified quality most frequently as their first consideration, price most frequently as their second consideration, and availability/timely delivery as their third consideration.

U.S. importers indicated in their questionnaire responses that the domestic and subject imported certain seamless pipes were generally interchangeable with each other. The U.S. importers noted that the practice of U.S. producers using authorized U.S. distributors locked out other domestic distributors from U.S. products and, thereby, allegedly limited competition between the domestic and subject imported products in the U.S. market. In addition, Mannesmann, importer of the subject Brazilian and German products, and TAD-USA, importer of the Italian products, identified subject products that they import from the subject countries that are not available from U.S. producers.[133] The U.S. importers consistently ranked their prices comparable to prices of U.S. producers but ranked the quality of their subject imported products superior to those of U.S. producers. The importers ranked product availability, packaging, and technical support generally comparable to that of U.S. producers. *** ranked delivery of the subject *** products inferior to that of the domestic products, whereas *** ranked delivery of the subject *** products superior to that of the domestic products.[134] *** ranked sales service of the subject *** products comparable to that of the domestic products while *** ranked sales service of the subject *** products superior and *** ranked sales service of the subject *** products inferior to that of the domestic products. Finally, *** ranked payment terms of the subject *** products comparable to that of the domestic products, while *** ranked payment terms of the subject *** products inferior to that of the domestic products. At the same time, U.S. importers ranked quality as the most important consideration of their distributor customers; price was next in importance, with the other factors ranked as less important to distributors.

Questionnaire Price Data

The Commission requested U.S. producers and importers to report net U.S. f.o.b. quarterly selling prices for their largest sales of certain seamless pipe to unrelated distributors, as well as the total quantity shipped and the total net U.S. f.o.b. value shipped in each quarter to all unrelated U.S. distributors during January 1992-March 1995.[135] The products for which pricing data were requested are as follows:[136]

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[133] Specific identification of these products, including U.S. shipment values and quantities of the subject imported products and any U.S.-produced products, are discussed in the *Cumulation Issues* section of the report.

[134] *** reported order lead times of *** weeks for the subject *** products and *** reported order lead times of *** weeks for the subject *** products. These lead times were based on production times as U.S. importers generally *** of the subject imported products. *** reported that it generally *** of the subject *** products, but did not report order lead times.

[135] In addition, purchaser questionnaires requested distributors to report their delivered quarterly purchase price data.

[136] Products 1-6 are carbon steel products and product 7 is an alloy steel product. If reporting firms sold any of the products 1-3 that were double-stenciled to meet the pressure and ASTM-53 specifications or triple-stenciled to meet the pressure, ASTM-53, and API 5L Grade B specifications, they were requested to report prices of these products separately from prices of any single-stenciled pressure products 1-3. Reporting firms

(continued...)

Product 1: Seamless pipe single-stenciled to meet ASTM-106 Grade B specification; 0.5" nominal size (0.840" OD X 0.147" wall thickness); plain ends; schedule 80

Product 2: Seamless pipe single-stenciled to meet ASTM-106 Grade B specification; 1" nominal size (1.315" OD X 0.179" wall thickness); plain ends; schedule 80

Product 3: Seamless pipe single-stenciled to meet ASTM-106 Grade B specification; 1.5" nominal size (1.9" OD X 0.2" wall thickness); plain ends; schedule 80

Product 4: Seamless pipe triple-stenciled to meet ASTM-106 Grade B, ASTM A-53, and API 5L Grade B specifications; 2.5" nominal size (2.875" OD X 0.276" wall thickness); plain ends; schedule 80

Product 5: Seamless pipe triple-stenciled to meet ASTM-106 Grade B, ASTM A-53, and API 5L Grade B specifications; 3" nominal size (3.5" OD X 0.3" wall thickness); plain ends; schedule 80

Product 6: Seamless pipe triple-stenciled to meet ASTM-106 Grade B, ASTM A-53, and API 5L Grade B specifications; 4" nominal size (4.5" OD X 0.337" wall thickness); plain ends; schedule 80

Product 7: Seamless pipe single-stenciled to meet ASTM-335 Grade P11 specifications; 1" nominal size (1.315" OD X 0.179" wall thickness); plain ends; schedule 80

According to purchaser questionnaires, the certain seamless pipe, particularly above 1.5" OD, is often purchased with triple stenciling, certifying its use in any of the standard, line, and pressure applications. The pipe 1.5" OD and below is often purchased with only pressure stenciling. Twelve of 14 responding distributors and all three responding end users indicated in their purchaser questionnaires that they do not pay a premium for multistenciled products compared to products carrying fewer stenciling certifications. *** indicated that the market demands triple-stenciled products, particularly above 2" OD; *** indicated that double and triple stenciling of the certain seamless pipe have become industry standards. Two of the 14 distributors indicated that they would expect to pay a premium for multistenciled products compared to those with fewer stenciling certifications.

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[136] (...continued)
prices of these products separately from prices of any single-stenciled pressure products 1-3. Reporting firms were also asked to report price data separately for meter-run products (cold-drawn for metering applications), non-meter-run cold-drawn products, and hot-finished products in the grades and sizes requested. Based on the reported price data and for a specified product ASTM and size designation, ***.

U.S. Producers' and Importers' Prices

Five domestic producers and three importers provided pricing data for sales of the requested products in the U.S. market, although not necessarily for all products or all quarters over the period examined. One or two firms typically reported prices for any one domestic or subject imported product category during a particular quarter. The U.S.-produced products for which price data were reported accounted for almost 27 percent of the total quantity of domestic shipments of U.S.-produced certain seamless carbon and alloy standard, line, and pressure steel pipes during January 1992-March 1995.[137] Importers reported price data for products that accounted for almost *** percent of the total quantity of reported U.S. shipments of imports of the certain seamless carbon and alloy standard, line, and pressure steel pipes from Argentina during this period, *** percent from Brazil, *** percent from Germany, and *** percent from Italy.[138]

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[137] Domestic products 4-6 (carbon steel above 2" OD) accounted for almost 53 percent of the total net U.S. f.o.b. sales value of domestic products for which price data were reported, while domestic products 1-3 (carbon steel below 2" OD) accounted about 47 percent of the total net U.S. f.o.b. sales values; the alloy steel product 7 accounted for less than 0.5 percent. *** reported all of the price data for domestic products 4-6; *** reported practically all of the price data for domestic products 1-3; and *** reported all of the price data for domestic product 7. In terms of U.S. producers' total value of U.S. shipments of all certain seamless pipes during Jan. 1992-Mar. 1995, the subject domestic certain seamless pipes over 2" OD but not more than 4.5" OD accounted for almost 66 percent of their total net U.S. f.o.b. shipment values and the subject domestic pipe not more than 2" OD accounted for the remaining 34 percent. Almost 70 percent of the value of U.S. apparent consumption of the certain seamless pipes during the investigation period consisted of certain seamless pipes more than 2" OD but not more than 4.5" OD, while the certain seamless pipes not more than 2" OD accounted for the remaining 30 percent.

[138] The subject imported products 4-6 (carbon steel above 2" OD) accounted for almost 52 percent of the total net U.S. f.o.b. sales value of the imported products for which price data were reported, while the imported products 1-3 (carbon steel below 2" OD) accounted for about 48 percent of the total value; the alloy steel product 7 accounted for *** percent. However, these ratios differed significantly by country. Products 4-6 accounted for almost *** percent of the total net U.S. f.o.b sales values of products reported for ***, with products 1-3 accounting for the remainder. On the other hand, products 1-3 accounted for almost *** percent of the total net U.S. f.o.b. sales value of products reported for ***, about *** percent for ***, and about *** percent for ***, with products 4-6 accounting for most of the remainder of the total net U.S. f.o.b. sales values reported for each country; product 7 accounted for *** percent of the total net U.S. f.o.b. sales values of the products reported for *** and *** percent for ***. No alloy product prices were reported for the subject seamless pipes from ***.

In terms of subject importers' total value of U.S. shipments of all certain seamless pipes during Jan. 1992-Mar. 1995, the subject imported certain seamless pipes over 2" OD but not more than 4.5" OD accounted for almost 72 percent of their total net U.S. f.o.b. shipment values and the subject pipe not more than 2" OD accounted for the remainder. By country, imported certain seamless pipes over 2" OD but not more than 4.5" OD accounted for almost *** percent of the total net U.S. f.o.b. sales values of all certain seamless pipes from ***, *** percent from ***, *** percent from ***, and *** percent from ***, with the subject imported certain seamless pipes not over 2" OD accounting for the remainder for each country.

Price trends and price comparisons discussed in the price section are based on net U.S. f.o.b. quarterly selling prices of the specified pipe products to distributors that were reported by U.S. producers and importers.[139] Purchasers' reported price data were not used because of the limited responses.[140] The reported selling price data are shown on two bases: (1) selling prices were calculated from the reported total quantities and values of shipments reported for each quarter, and (2) selling prices were also calculated based on the reported largest-quarterly sales prices and weighted by the total quarterly quantities sold.[141] Prices based on the largest quarterly sales transaction are based on a small portion of total quarterly sales for U.S. producers and, therefore, may reflect sales conditions that are not fully representative of competition between the domestic and subject imported products. Largest quarterly sale quantities reported by U.S. producers were typically less than 10 percent of the reported total quarterly sales quantities, whereas largest quarterly sales quantities of importers were typically greater than 30 percent of the reported total quarterly sales quantities. Although four of the five U.S. producers reporting useable price data offer quantity discounts to qualified distributors, the other reporting U.S. producer and the three U.S. importers reporting price data do not offer quantity discounts. As indicated earlier in the price section, discount programs of the U.S. producers, including discount volumes, vary significantly by producing firm.[142] U.S. producers' largest quarterly sale data tended to show lower prices than total quarterly sale data, but

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[139] U.S. producers and importers typically quote prices on a U.S. f.o.b. price basis and sell over 90 percent of the certain seamless pipe to distributors.

[140] Distributors reported purchase prices for the specified products that accounted for 3.9 percent of the total quantity of domestic shipments of the subject U.S.-produced certain seamless pipes, 4.3 percent of the total quantity of the subject imported Argentine certain seamless pipes, 4.1 percent of the total quantity of the subject imported Brazilian certain seamless pipes, 15.1 percent of the total quantity of the subject imported German certain seamless pipes, and 9.1 percent of the total quantity of the subject imported Italian certain seamless pipes.

[141] Total quarterly sales data for a specified product are generally a better basis to calculate a weighted-average selling price for that product from a particular country than largest sales data for the quarter. Different U.S. producers and importers frequently sell different volumes for their largest sale in a specific quarter and typically a specific product in a particular quarter is sold by the reporting firms to different customers. In addition, producers and importers do not always sell at the same time in a quarter, such that a largest sale in the beginning of a quarter may carry a significantly lower price than a largest sale made toward the end of a quarter when prices are rising and vice-versa when prices are falling. A weighted-average price based on total quarterly sales of a specified product is not unduly influenced by unique sales conditions of a single-sale transaction.

[142] For U.S. producers offering quantity discounts, the quantities of their largest single-sale transactions were generally less than their first-tier quantity category that they reported eligible for a quantity discount. Additional shipments at the price shown in the largest shipment may have been reported in the total quarterly sales figures and/or the reported single transaction price may have been obtained also as a result of sales of non-subject pipe products. In addition to any quantity discounts, U.S. producers and importers reported in their questionnaire responses that their selling prices were often based on negotiations with their customers and resulted from competition in the U.S. market among the various U.S. producers and importers.

not in every quarter.[143] Reported selling prices of the subject imports based on largest quarterly sales showed a mixed pattern, with prices in some quarters higher, some lower, and some equal to prices based on total reported quarterly sales. Finally, for a specified product and quarter, distributors purchasing the reported largest-sales quantities were often different among competing U.S. producers and between U.S. producers and importers.

Average quarterly quantities, based on total quarterly sales, for the products 1-7 sold by U.S. producers were typically significantly higher than for sales of these products by the subject importers. U.S. producers' and importers' average total quarterly quantities of products 1-7 sold to distributors during January 1992-March 1995 and expressed in short tons are shown in the following tabulation:

* * * * * * *

Average quarterly quantities, based on largest sales in each quarter, for products 1-7 sold by U.S. producers and importers varied among U.S. producers and between U.S. producers and importers of the subject products. U.S. producers' and importers' average quarterly largest-sale quantities of products 1-7 sold to distributors during January 1992-March 1995 and expressed in short tons are shown in the following tabulation:

* * * * * * *

Reported prices of the hot-finished products were consistently *** than prices of cold-drawn or meter-run products and prices of the cold-drawn products were consistently *** than meter-run products. U.S. producers reported selling prices of hot-finished and cold-drawn products 2 and 3.[144] Based on total quarterly sales data, prices of the domestic hot-finished product 2 reported by *** averaged $***/ton or *** percent *** than prices of the domestic cold-drawn product 2 reported by ***, while prices of the domestic hot-finished product 3 reported by *** averaged $***/ton or *** percent *** than prices of the domestic cold-drawn product 3 reported by ***.[145] Prices of the domestic cold-finished product 3 reported by *** were $***/ton or almost *** percent *** than prices of the imported Italian meter-run product 3 reported by *** for the single quarter that any such price comparisons were possible.[146]

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[143] In addition, for a specified product and quarter, largest sales quantities were frequently significantly different among competing U.S. producers, as well as between U.S. producers and importers.

[144] These were the only specified products for which U.S. producers reported prices of both hot-finished and cold-drawn products.

[145] ***.

[146] U.S. producers ***.

Tables 20-26 show selling prices, quantities, and any margins of under/overselling based on total quarterly sales for products for which both U.S. producers and importers reported price data; in addition, figures 5-11 show trends in prices of these products. Appendix G tables and figures show price data based on total quarterly sales for the products that were reported only by the U.S. producers or only by the U.S. importers. Appendix H tables show selling prices based on largest quarterly sales, weighted by total quarterly sales quantities, and any margins of under/overselling.

Table 20
Product 1, cold-drawn: Weighted-average net U.S. f.o.b. selling prices reported by U.S. producers and importers and margins of under/(over)selling, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 21
Product 2, hot-finished: Weighted-average net U.S. f.o.b. selling prices reported by U.S. producers and importers and margins of under/(over)selling, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 22
Product 3, hot-finished: Weighted-average net U.S. f.o.b. selling prices reported by U.S. producers and importers and margins of under/(over)selling, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 23
Product 4, hot-finished: Weighted-average net U.S. f.o.b. selling prices reported by U.S. producers and importers and margins of under/(over)selling, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 24
Product 5, hot-finished: Weighted-average net U.S. f.o.b. selling prices reported by U.S. producers and importers and margins of under/(over)selling, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 25
Product 6, hot-finished: Weighted-average net U.S. f.o.b. selling prices reported by U.S. producers and importers and margins of under/(over)selling, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table 26
Product 7, hot-finished: Weighted-average net U.S. f.o.b. selling prices reported by U.S. producers and importers and margins of under/(over)selling, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Figure 5
Product 1, cold-drawn: Weighted-average net U.S. f.o.b. selling prices of the seamless cold-drawn pipe product 1 produced in the United States and imported from Argentina and Brazil, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Figure 6
Product 2, hot-finished: Weighted-average net U.S. f.o.b. selling prices of the seamless hot-finished pipe product 2 produced in the United States and imported from Argentina, Brazil, Germany, and Italy, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Figure 7
Product 3, hot-finished: Weighted-average net U.S. f.o.b. selling prices of the seamless hot-finished pipe product 3 produced in the United States and imported from Argentina, Brazil, Germany, and Italy, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Figure 8
Product 4, hot-finished: Weighted-average net U.S. f.o.b. selling prices of the seamless hot-finished pipe product 4 produced in the United States and imported from Argentina, Brazil, Germany, and Italy, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Figure 9
Product 5, hot-finished: Weighted-average net U.S. f.o.b. selling prices of the seamless hot-finished pipe product 5 produced in the United States and imported from Argentina, Brazil, and Germany, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Figure 10
Product 6, hot-finished: Weighted-average net U.S. f.o.b. selling prices of the seamless hot-finished pipe product 6 produced in the United States and imported from Argentina, Brazil, Germany, and Italy, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Figure 11
Product 7--hot-finished: Weighted-average net U.S. f.o.b. selling prices of the seamless hot-finished pipe product 7 produced in the United States and imported from Germany and Italy, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Price trends[147]

Quarterly selling prices of the domestic and subject imported pipe products fluctuated during January 1992-March 1995, but tended to fall in the early part of the period and, when data were reported for the full period, rise in the latter part of the period. Ending-quarter price levels in 5 of the 9 reported domestic product categories were below the initial-period prices, while ending-quarter prices in 4 of the 9 domestic product categories were above their initial-period prices. Generally only partial-period price data were reported for the subject imported products, such that full-period price trends could not be calculated for many of the imported product categories. For most of the imported products, however, selling prices in a majority of quarters reported were below the initial-period prices.

[147] Price trend data were based on selling prices calculated from total quarterly sales quantities and values. Price trends based on selling price data calculated from largest quarterly sales were generally similar to those based on total quarterly sales data. Regardless of the price bases used, selling prices in a majority of quarters reported for the domestic and imported products were below the initial-period prices.

U.S. producers reported in their questionnaire responses that their announced price increases in the early part of the investigation period did not hold, but those in the last half of 1994 and the first quarter of 1995 have taken effect. The recent price increases reported by U.S. producers that have been effective totaled up to $***/ton for any one firm.

United States.--Between January-March 1992 and January-March 1995, reported quarterly U.S. selling prices of U.S. producers declined for 5 of 9 seamless pipe ASTM, size, and cold-drawn or hot-finished product combinations sold to U.S. distributors. Price declines ranged from *** percent for U.S.-produced *** to *** percent for U.S.-produced ***. On the other hand, U.S. producers' reported prices rose for 4 seamless pipe products sold to distributors. Price increases ranged from *** percent for *** to *** percent for ***.

Argentina.--Between January-March 1992 and April-June 1994 (the most recent period reported), quarterly U.S. selling prices of imported Argentine seamless pipes *** for 5 of 6 seamless pipe ASTM, size, and cold-drawn or hot-finished product combinations sold to U.S. distributors. Price *** ranged from *** percent for Argentine *** to *** percent for Argentine ***. On the other hand, selling prices of imported Argentine *** by *** percent.

Brazil.--Between January-March 1992 and October-December 1994 (generally the most recent period reported), quarterly U.S. selling prices of imported Brazilian seamless pipes *** for 3 of 6 seamless pipe ASTM, size, and cold-drawn or hot-finished product combinations sold to U.S. distributors. Price *** ranged from *** percent for Brazilian *** to *** percent for Brazilian ***. On the other hand, selling prices of imported Brazilian seamless pipes *** for 3 of 6 seamless pipe products sold to U.S. distributors. Price *** ranged from *** percent for Brazilian *** to *** percent for Brazilian *** (through June 1994).

Germany.--During the various partial periods reported, quarterly U.S. selling prices of imported German seamless pipes *** for 5 of 6 seamless pipe ASTM, size, and cold-drawn or hot-finished product combinations that were sold to U.S. distributors and for which meaningful price trends could be calculated.[148] Price *** ranged from *** percent for German *** between January-March 1992 and January-March 1994 to *** percent for German *** between January-March 1992 and October-December 1994. On the other hand, selling prices of imported German *** sold to U.S. distributors *** by *** percent during October 1993-December 1994.

Italy.--During the various partial periods reported, quarterly U.S. selling prices of imported Italian seamless pipes *** for 4 of 7 seamless pipe ASTM, size, and cold-drawn or hot-finished product combinations that were sold to U.S. distributors and for which meaningful price trends could be calculated. Price *** ranged from *** percent for Italian *** between July-September 1992 and October-December 1994 to *** percent for Italian *** between October-December 1992 and October-

[148] Selling prices of the hot-finished product 7 imported from Germany were reported for only two quarters, which was insufficient to develop meaningful price trends.

December 1994.[149] On the other hand, selling prices of imported Italian seamless pipes *** for 3 of 7 seamless pipe products sold to U.S. distributors. Price *** ranged from *** percent for Italian *** between July-September 1992 and July-September 1994 to *** percent for Italian *** between April-June 1992 and April-June 1994.

Price comparisons

Price comparisons were based on net U.S. f.o.b. quarterly selling prices of the specified products reported by U.S. producers and importers that were calculated from total quarterly sales data and from largest quarterly sales prices weighted by total quarterly sales quantities. Under either price basis, price comparisons showed mostly underselling by the imported products for products 1-3 but showed somewhat more overselling than underselling for products 4-6.[150] The only price comparison involving product 7 showed overselling by the imported product. Price comparisons between the domestic and subject imported products are discussed and shown separately for hot-finished products 1-7 and cold-finished product 1. In addition, price comparisons between the domestic cold-drawn and subject imported hot-finished products and between the domestic cold-drawn and imported Italian meter-run products are also discussed. Price comparisons between cold-drawn and hot-finished products or between cold-drawn and meter-run products should be used with caution. Cold drawing adds extra cost[151] beyond the hot-finishing stage, typically making the cold-drawn product more expensive than the hot-finished product and thereby resulting in a bias of underselling by the hot-finished product.[152] Similarly, meter-run pipe involves additional processing beyond the standard cold-drawing stage, typically making the meter-run product more expensive than the standard cold-drawn product.

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[149] ***.

[150] The number of price comparisons between the domestic and imported certain seamless pipes may represent a disproportionately large number of price comparisons for the subject pipe products not over 2" OD and a disproportionately small number of price comparisons for the subject pipe products over 2" OD but not over 4.5" OD. As discussed earlier in the price section, total net U.S. f.o.b. sales values of the domestic products and of the subject imported products for which pricing data were reported were fairly evenly split between the small and large size product categories. This does not appear to be completely representative of the U.S. certain seamless pipe market as total U.S. shipment values of the U.S. producers and the total value of all subject imports were each split roughly 30 percent for the small size product category and 70 percent for the large size product category. Although the proportions of total U.S. shipment values between the small and large size product categories of subject pipe varied among the individual subject foreign countries, the value proportions for each country based on the reported price data were still disproportionately skewed toward the smaller size products for which price data were requested.

[151] *** reported cold-drawing costs as a share of cost of goods sold ranging from about *** percent to *** percent. In addition, Mannesmann reported that cold-drawing adds approximately $100 per ton to the cost of the product (p. 11 of Mannesmann's posthearing brief).

[152] As indicated earlier in the price section, the domestic hot-finished products 2 and 3 were consistently priced less than the domestic cold-drawn products 2 and 3 by an average of *** percent for each product.

Twelve distributors reported in their purchaser questionnaire responses on relative prices of the domestic and subject imported certain seamless pipes and on the advantages and disadvantages of the domestic and imported pipes.[153] Most of the purchasers indicated that the subject imported products were generally priced less than the domestic products and reported most frequently that the advantage of the imported products was their lower price and the advantage of the domestic products was quicker delivery/shorter lead-times/greater availability than that of the imported products.[154] The distributors also noted high quality of the German and Italian products as important advantages of the imported products. The distributors also commented that quality of the domestic and subject imported products were generally comparable and the domestic and subject imported products were employed in the same uses. On the other hand, 15 of 16 distributors reported that the lowest price offered did not always win the sale and cited quality, delivery, and availability as other factors that the distributors consider, in addition to price, when buying the certain seamless pipes.

Price comparisons based on selling prices calculated from total quarterly sales data.--A total of 190 quarterly U.S. f.o.b. selling price comparisons were possible between the domestic and subject imported certain seamless carbon and alloy standard, line, and pressure steel pipes during January 1992-December 1994. Of the total, 141 price comparisons showed underselling by the subject countries, 48 price comparisons showed the subject imported products to be priced higher than the domestic products, and 1 price comparison showed the domestic and imported products were equal in price. Instances of underselling, overselling, and total selling price comparisons for the subject products, by country, are as follows:

Country	Underselling	Overselling	Even	Total
Argentina..	57	11	0	68
Brazil.....	44	18	0	62
Germany...	20	12	1	33
Italy.....	20	7	0	27
Total.....	141	48	1	190

[153] The 12 responding distributors accounted for about 40 percent of U.S. apparent consumption of the certain seamless pipe during 1994.

[154] In a lost sales discussion with ***, and in lost revenue discussions with ***, it appears that some firms are willing to pay a premium for the domestic certain seamless pipes vis-a-vis the subject imported pipes. Premiums cited ranged from *** to *** percent and cited most frequently as the reason was quicker delivery of the domestic products. On the other hand, in a lost revenue discussion with ***, the representative indicated that at least some buyers of API-certified line pipe will not pay any supplier a premium for line pipe. See the *Lost Sales and Lost Revenues* section of this report for a full discussion of purchasers' comments.

Argentina.--During January 1992-June 1994, 68 quarterly U.S. f.o.b. selling price comparisons were possible between the domestic and imported Argentine seamless pipe products.[155] In 57 price comparisons, the Argentine products were priced lower than the domestic products by average margins ranging from *** percent for *** to *** percent for ***. Another 11 price comparisons showed that the Argentine products were priced higher than the domestic products, by average margins ranging from *** percent for *** to *** percent for ***.

Brazil.--During January 1992-December 1994, 62 quarterly U.S. f.o.b. selling price comparisons were possible between the domestic and imported Brazilian seamless pipe products.[156] In 44 price comparisons, the Brazilian products were priced lower than the domestic products by average margins ranging from *** percent for *** to *** percent for ***. Another 18 price comparisons showed that the Brazilian products were priced higher than the domestic products, by average margins ranging from *** percent for *** to *** percent for ***.

Germany.--During January 1992-December 1994, 33 quarterly U.S. f.o.b. selling price comparisons were possible between the domestic and imported German seamless pipe products.[157] In 20 price comparisons, the German products were priced lower than the domestic products by average margins ranging from *** percent for *** to *** percent for ***. Twelve price comparisons showed that the German products were priced higher than the domestic products, by average margins ranging from *** percent for *** to *** percent for ***. One other price comparison involving the domestic and German *** showed prices to be equal to each other.

Italy.--During January 1992-December 1994, 27 quarterly U.S. f.o.b. selling price comparisons were possible between the domestic and imported Italian seamless pipe products.[158]

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[155] In addition, 22 price comparisons between the domestic cold-drawn products 2 and 3 and the imported Argentine hot-finished products 2 and 3 showed that the imported products were consistently priced less than the domestic products, by an average of $***/ton or *** percent for product 2 and an average of $***/ton or *** percent for product 3.

[156] In addition, 23 price comparisons between the domestic cold-drawn products 2 and 3 and the imported Brazilian hot-finished products 2 and 3 showed that the imported products were consistently priced less than the domestic products, by an average of $***/ton or *** percent for product 2 and an average of $***/ton or *** percent for product 3.

[157] In addition, 16 price comparisons between the domestic cold-drawn products 2 and 3 and the imported German hot-finished products 2 and 3 showed that the imported products were consistently priced less than the domestic products, by an average of $***/ton or *** percent for product 2 and an average of $***/ton or *** percent for product 3. Finally, 5 other price comparisons between the domestic cold-drawn product 1 and the imported German hot-finished product 1 showed that the imported product was consistently priced less than the domestic product, by an average of $***/ton or *** percent.

[158] In addition, 20 price comparisons between the domestic cold-drawn products 2 and 3 and the imported Italian hot-finished products 2 and 3 showed that the imported products were consistently priced less than the domestic products, by an average of $***/ton or *** percent for product 2 and an average of $***/ton or *** (continued...)

In 20 price comparisons, the Italian products were priced lower than the domestic products by average margins ranging from *** percent for *** to *** percent for ***. Another seven price comparisons showed that the Italian products were priced higher than the domestic products, by average margins ranging from *** percent for *** to *** percent for ***.

Price comparisons based on selling prices calculated from largest quarterly sales data.--A total of 190 quarterly U.S. f.o.b. selling price comparisons were possible between the domestic and subject imported certain seamless carbon and alloy standard, line, and pressure steel pipes during January 1992-December 1994. Of the total, 115 price comparisons showed underselling by the subject countries and 75 price comparisons showed the subject imported products to be priced higher than the domestic products. Instances of underselling, overselling, and total selling price comparisons for the subject products, by country, are as follows:

Country	Underselling	Overselling	Even	Total
Argentina..	45	23	0	68
Brazil.....	37	25	0	62
Germany...	16	17	0	33
Italy.....	17	10	0	27
Total.....	115	75	0	190

Argentina.--During January 1992-June 1994, 68 quarterly U.S. f.o.b. selling price comparisons were possible between the domestic and imported Argentine seamless pipe products.[159] In 45 price comparisons, the Argentine products were priced lower than the domestic products by average margins ranging from *** percent for *** to *** percent for ***. Another 23 price comparisons showed that the Argentine products were priced higher than the domestic products, by average margins ranging from *** percent for *** to *** percent for ***.

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[158] (...continued)
percent for product 3. In 9 other price comparisons between the domestic cold-drawn product 1 and the imported Italian hot-finished product 1, showed that the imported product was consistently priced less than the domestic product, by an average of $***/ton or *** percent. Finally, as indicated earlier in the price section, 1 price comparison between the domestic cold-finished product 3 and the imported Italian meter-run product 3 showed that the imported product was priced above the domestic product by $***/ton or *** percent.

[159] In addition, 22 price comparisons between the domestic cold-drawn products 2 and 3 and the imported Argentine hot-finished products 2 and 3 showed that the imported products were consistently priced less than the domestic products, by an average of $***/ton or *** percent for product 2 and an average of $***/ton or *** percent for product 3.

Brazil.--During January 1992-December 1994, 62 quarterly U.S. f.o.b. selling price comparisons were possible between the domestic and imported Brazilian seamless pipe products.[160] In 37 price comparisons, the Brazilian products were priced lower than the domestic products by average margins ranging from *** percent for *** to *** percent for ***. Another 25 price comparisons showed that the Brazilian products were priced higher than the domestic products, by average margins ranging from *** percent for *** to *** percent for ***.

Germany.--During January 1992-December 1994, 33 quarterly U.S. f.o.b. selling price comparisons were possible between the domestic and imported German seamless pipe products.[161] In 16 price comparisons, the German products were priced lower than the domestic products by average margins ranging from *** percent for *** to *** percent for ***. Seventeen price comparisons showed that the German products were priced higher than the domestic products, by average margins ranging from *** percent for *** to *** percent for ***.

Italy.--During January 1992-December 1994, 27 quarterly U.S. f.o.b. selling price comparisons were possible between the domestic and imported Italian seamless pipe products.[162] In 17 price comparisons, the Italian products were priced lower than the domestic products by average margins ranging from *** percent for *** to *** percent for ***. Another 10 price comparisons showed that the Italian products were priced higher than the domestic products, by average margins ranging from *** percent for *** to *** percent for ***.

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[160] In addition, 23 price comparisons between the domestic cold-drawn products 2 and 3 and the imported Brazilian hot-finished products 2 and 3 showed that the imported products were consistently priced less than the domestic products, by an average of $***/ton or *** percent for product 2 and an average of $***/ton or *** percent for product 3.

[161] In addition, 16 price comparisons between the domestic cold-drawn products 2 and 3 and the imported German hot-finished products 2 and 3 showed that the imported products were consistently priced less than the domestic products, by an average of $***/ton or *** percent for product 2 and an average of $***/ton or *** percent for product 3. Finally, 5 other price comparisons between the domestic cold-drawn product 1 and the imported German hot-finished product 1 showed that the imported product was consistently priced less than the domestic product, by an average of $***/ton or *** percent.

[162] In addition, 20 price comparisons between the domestic cold-drawn products 2 and 3 and the imported Italian hot-finished products 2 and 3 showed that the imported products were consistently priced less than the domestic products, by an average of $***/ton or *** percent for product 2 and an average of $***/ton or *** percent for product 3. In 9 other price comparisons between the domestic cold-drawn product 1 and the imported Italian hot-finished product 1, the imported product was consistently priced less than the domestic product, by an average of $***/ton or *** percent. Finally, 1 price comparison between the domestic cold-finished product 3 and the imported Italian meter-run product 3 showed that the imported product was priced above the domestic product by $***/ton or *** percent.

Lost Sales and Lost Revenues

The petitioner and two other U.S. producers reported specific instances of lost sales and revenues due to certain seamless pipe imported from the subject countries during the preliminary and final investigations.[163] U.S. producers alleged total lost sales of $*** and lost revenues of $*** due to the subject imports. The petitioner, Quanex, alleged lost sales of $*** and lost revenues of $***. *** alleged lost sales of $*** and lost revenues of almost $***; the latter figure accounted for most of the lost revenue allegations.[164] *** alleged lost sales of $*** to ***, accounting for *** of the lost sale allegations, by value, and lost revenues of $*** to ***.[165] The following are reports of the conversations between Commission staff and those purchasers who could be reached and were willing to discuss price competition between U.S.-produced certain seamless pipe and the subject imports during the preliminary and final investigations.[166]

Lost Sales

*** alleged $*** of lost sales to ***.[167] *** alleged losing *** certain seamless pipe orders (involving *** products) due to Italian and/or German imports totaling $*** and *** involving *** products due to Brazilian imports totaling $*** during ***.[168] [169] *** questioned several of the sizes and quantities alleged. For example, ***; several allegations involved quantities of ***. Nevertheless, *** confirmed purchasing Brazilian, German, and Italian products at the alleged prices when domestic product was offered at the alleged prices. *** added that nearly *** percent of the firm's seamless pipe purchases, by volume, are from domestic mills, due in part to customers' preference for domestic pipe and *** desire to maintain existing supply relationships with U.S. mills. *** couldn't quantify the volume of sales resulting from Buy American purchasing policies, but stated that such sales continue to decline. In addition, *** commented that his firm requires a minimum of 5 percent less in the delivered price of the subject imported seamless pipe vis-a-vis delivered prices of the domestic products. *** cited the following reasons for requiring lower import prices: (1) much

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[163] *** could not provide specific details of lost sales and revenue allegations, but indicated that it increased its discounts from *** to nearly *** percent due to increasing price pressure from the subject imports during the period examined. *** indicated its lost sales and lost revenue would be covered by that reported by ***. *** reported that it had not lost sales or revenues due to competition with the subject imports.

[164] *** alleged $*** in lost revenues to *** due to imports from ***. However, according to ***. Consequently, staff was unable to investigate the allegation.

[165] *** cited *** in a lost sale allegation of $*** due to imports from ***. Staff was unable to contact representatives of ***. According to ***.

[166] The following discussions accounted for *** and *** percent of lost sales and lost revenues allegations, respectively, submitted in the preliminary and final investigations ***.

[167] ***.

[168] Each order specified numerous size and quantity combinations ranging between *** and between *** tons.

[169] ***.

larger purchase quantities of the import versus domestic seamless pipe products require large cash payments when the invoice is due, (2) more inventory space is required when the large import quantities arrive, and (3) much longer delivery times of the imported products make decisions regarding price and quantity difficult when industry demand and costs are subject to fluctuations.

*** named *** in *** lost sale allegations totaling *** tons of certain seamless pipe valued at $*** involving imports from ***. *** asserted that during *** the firm quoted *** an initial price of $*** per ton for *** product and $*** per ton for *** product, which was rejected in lieu of *** product priced at $*** per ton, respectively. *** confirmed the allegations, stating that a *** entertained bids on the *** product at the alleged quantities and prices, but eventually purchased certain seamless pipe from ***. *** added that currently *** is attempting a price increase on small diameter seamless pipe. According to *** has no domestic purchase requirements, but does prefer to purchase from U.S. mills due to availability and quality. *** stated that U.S. and Japanese producers, Mannesmann of Germany, and Dalmine of Italy produce the highest quality seamless pipe.

*** alleged *** instances of lost sales, totaling $*** for *** tons of certain seamless pipe, to ***, due to competition from *** imports during ***. *** asserted that during ***, the firm quoted *** initial prices of $*** per ton for *** tons of *** pipe, but lost the sales due to imports priced at $*** per ton from ***, respectively. *** could not comment on the allegations specifically, but stated that *** attempts to purchase seamless pipe from domestic and import sources based on a combination of factors including price, availability, service records, and delivery times. In instances where non-price factors are comparable between domestic and import sources, price becomes the determining factor. The firm prefers to support the U.S. producers, but *** is generally not price competitive with imports and, although ***.[170] In addition, *** stated that with the availability of quality seamless pipe from several sources, and with continued downsizing and restructuring occurring in the refinery and chemical processing industries, price has become very important.

*** cited *** in a lost sale allegation involving *** tons of product valued at $*** due to imports from ***. *** could not recall the specific sale but reported that on several instances *** have refused to provide product. In these instances, *** was told that U.S. producers were not taking on additional distributors in the area, and *** was referred to other local distributors currently purchasing from *** to meet *** seamless pipe needs.[171] *** stated that as a result, the firm continues to purchase seamless pipe imports, including the subject imports.

*** cited *** in a lost sale allegation involving *** tons of *** product valued at $*** due to imports from ***. *** indicated that the quantity was actually *** tons and that the U.S. producer's

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[170] ***.

[171] Mr. James Hill, President of Quanex, stated that Quanex requires that new distributors carry product inventory, are financially capable of meeting payables, and purchase an initial order in excess of 100 tons. (TR, p. 63.)

delivered price was $***/ton compared to $***/ton (delivered) for the imported *** product. *** reported purchasing the *** product, but noted that his firm bought the *** product because it strives to buy from more than one source and did not feel the purchase was at the expense of the U.S.-produced product.

*** cited *** in lost sales allegations of various sizes and grades of the certain seamless pipes. *** alleged that it lost sales of *** tons valued at $*** during *** to lower priced imports from ***. *** alleged that it lost sales of *** tons valued at $*** during *** to lower-priced imports from ***. *** reported that he did not recall any such inquiries by U.S. producers, but that his firm purchased the alleged seamless pipe from the named subject countries. He indicated that in ***, his firm purchased *** percent of certain seamless pipe requirements from ***, *** percent from the subject foreign countries, and *** percent from nonsubject foreign countries. He also noted that he is willing to pay a *** percent premium for domestic products compared to the subject imported products due to better availability and delivery of the domestic products.

Lost Revenues

*** alleged lost revenues of $*** to *** on *** certain seamless pipe orders (involving *** products) due to *** imports totaling $***, and *** (involving *** products) due to *** imports totaling $*** during ***. *** stated that the quantities, initial and accepted U.S. producer's prices, and prices for *** imports were correct. *** indicated that the U.S. mill approached *** with bids for material ordered by a *** customer that had previously been purchasing imported certain seamless pipe. The *** and attempts to secure the most favorable pricing available. *** stated that *** prices were accepted once reduced from the levels quoted initially.

*** alleged lost revenues of $*** to *** during ***. *** asserted that initial price quotes ranging between $*** per ton were subsequently reduced to between $*** per ton due to import competition from *** imports. *** confirmed the sales but stated that the rejected prices were Gulf Coast area prices, similar to a list price, whereas the accepted prices were an effort to meet import competition, but not necessarily from ***. According to ***, the quoted domestic mill's initial prices were higher than several possible import sources.

*** alleged lost revenues of certain seamless pipe valued at $***[172] to ***, due to competition from *** imports during ***. *** asserted that initial price quotes ranging from $*** per ton for the requested products were reduced to $*** per ton due to *** product available at prices between $*** per ton. *** confirmed that U.S.-producers' prices for *** certain seamless pipe ranged between $*** per ton while *** product prices were $*** per ton during ***. *** stated that *** lowered its price to $*** per ton for products *** purchased in the latter half of 1992. During ***, prices for *** certain seamless pipe were commonly lower than domestic product, approximately

[172] These lost revenue allegations involved *** orders totaling *** various specified size and quantity combinations of standard and line pipe. Sizes ranged from *** and quantities totaled *** tons.

$*** per ton depending on size and volume purchased. *** further stated that once a supplier meets the required stenciling standard, price becomes the dominant purchasing factor. *** prefers to source domestically produced pipe but has no explicit domestic purchase requirements.

*** named *** in lost revenue allegations totaling $*** due to competition from *** imports during ***.[173] In the lost revenue allegations, *** asserted that initial price quotes between $*** per ton were reduced to between $*** per ton to secure sales competing with *** product priced between $*** per ton. *** couldn't verify the specifics of the allegations, but stated that during 1992 certain seamless pipe prices for *** imports were approximately $*** per ton, while domestic product prices were $*** per ton for the sizes specified. *** purchases both domestic and imported certain seamless pipe, the majority of the latter from ***.

*** cited *** in *** allegations of lost revenues totaling $*** due to competition from *** imports. *** asserted that during *** initial price quotes ranging from $*** per ton for various standard certain seamless pipe between *** were rejected due to *** product available at prices between $*** per ton. *** stated that the quantities, accepted U.S. producer's prices, and prices for *** imports were correct for purchases made for their *** location. *** added that several U.S. firms have elected to offer a lower price structure in certain geographic areas, particularly the Gulf Coast region, to compete with imports. Under such pricing structure *** could purchase certain seamless pipe for its *** location at a lower price than for an identical order for its *** location. The prices allegedly rejected, ranging from $*** per ton, were reflective of prices generally quoted in markets outside the Gulf Coast region, not those typically entertained for purchase orders for the firm's *** location. *** indicated that *** attempts to maintain a consistent supply relationship with U.S. producers given that competitive prices exist. When prices of comparable domestic and imported seamless pipe vary more than *** percent the firm will frequently purchase the lower-priced product regardless of country of origin.

*** alleged that it lost revenue of $*** on sales of *** tons of certain seamless pipe to *** due to competition from *** imports during ***. *** asserted that it reduced the price from $*** per ton due to *** product priced at $*** per ton. *** confirmed purchasing the U.S. product at the alleged quantities for the prices alleged. *** confirmed that the U.S. producer reduced its price to compete with *** imports. *** further indicated that U.S. producers customarily offer more favorable non-price factors (delivery times, availability, and service) than imports. Consequently, when *** purchases imported product despite availability of domestic product, it's most often due to the price advantage of imports.

*** cited *** in *** allegations of lost revenues covering a variety of wall thicknesses and grades of the certain seamless pipes ***. *** alleged lost revenues totaling $*** for *** tons of products (about $***/ton) during *** due to competition from *** imports and lost revenues totaling

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[173] These lost revenue allegations involved multiple orders totaling *** various specified size and quantity combinations of standard and line pipe. Sizes ranged from *** and quantities totaled *** tons.

$*** for *** tons of products (about $***/ton) during *** due to competition from *** imports. *** indicated that the information was correct as reported and the U.S. producer had to lower its prices to a level somewhat above the prices of the subject import products to make the sales. He indicated that some purchasers are willing to pay a premium for the domestic products because of shorter delivery times of U.S. producers of about 4 weeks compared to 4 months for the subject imported products.

*** cited *** in *** allegations of lost revenues covering a variety wall of thicknesses and grades of the certain seamless pipes ***. *** alleged lost revenues totaling $*** for *** tons of products (about $***/ton) during *** due to competition from *** imports. *** indicated that the information was not fully correct as reported and noted that the U.S. producer had to lower its prices by an average of $***/ton to a level about equal to that of the *** pipe to make the sales. He indicated that most of the alleged pipe was *** pipe and that purchasers would rather change suppliers than pay a particular supplier (of domestic or imported pipe) more for line pipe than another supplier.

*** cited *** in *** allegations of lost revenues covering a variety of wall thicknesses and grades of the certain seamless pipes ***. *** alleged lost revenues totaling $*** for *** tons of products (about $***/ton) during *** due to competition from *** imports, and lost revenues totaling $*** for *** tons of products (about $***/ton) during *** due to competition from *** imports. *** indicated that *** did not have a specific inquiry from domestic producers for the seamless pipe products during the *** period and did not buy the domestic seamless pipes. *** noted that shortly after the *** period, ***.

*** cited *** in *** allegations of lost revenues covering a variety of wall thicknesses and grades of the certain seamless pipes ***. *** alleged lost revenues totaling $*** for *** tons of products (about $***/ton) during *** due to competition from *** imports. *** indicated that his firm bought the imported product in this case as the prices of the *** were particularly low. *** noted that many of his customers will pay up to a ***-percent premium for the domestic products over the subject imported products because of better delivery, availability, and technical service of the U.S. producers.

*** cited *** in *** allegations of lost revenues covering a variety of wall thicknesses and grades of the certain seamless pipes ***. *** alleged lost revenues totaling $*** for *** tons of products (about $***/ton) during *** due to competition from *** imports, and lost revenues totaling $*** for *** tons of products (about $***/ton) during *** due to competition from *** imports. *** indicated that in the first allegation, the U.S. producer had to lower its price by about $***/ton to get the sale due to competition with the *** products and that the lower price of the domestic material was about *** percent higher than the imported material. *** explained that better delivery and customer preferences enable the U.S. producers to sell at a premium above the *** products. In the second allegation, *** noted that the reported figures were essentially correct and that the U.S. producer was forced to lower its price due to competition with the *** products in order to get the sale. Again the U.S. producer's price was still somewhat above the price of the imported products.

Exchange Rates

Quarterly data reported by the International Monetary Fund indicate that the currencies of Brazil and Italy generally depreciated in nominal terms relative to the U.S. dollar during January 1992-December 1994, while the nominal currency values of Argentina and Germany remained relatively stable vis-a-vis the U.S. dollar (figure 12). Higher inflation in Argentina, Brazil, and Italy compared to that in the United States led to appreciation of the currencies of Argentina and Brazil in real terms vis-a-vis the U.S. dollar, and to less depreciation of the Italian currency in real terms vis-a-vis the U.S. dollar. Somewhat lower inflation in Germany compared to the United States led to somewhat less appreciation of the German currency in real terms vis-a-vis the U.S. dollar.

Argentina

The nominal value of the Argentine peso remained essentially unchanged vis-a-vis the U.S. dollar during January 1992-December 1994. Due to inflation of 18.9 percent in Argentina compared to 4.7 percent in the United States during this period, the real value of the Argentine peso appreciated against the U.S. dollar by 12.7 percent.

Brazil

The nominal value of the Brazilian reais depreciated by almost 100 percent against the U.S. dollar between January 1992 and December 1994. Due to inflation of 249,041 percent in Brazil compared to 4.7 percent in the United States during this period, the real value of the Brazilian reais appreciated against the U.S. dollar by 51.2 percent.

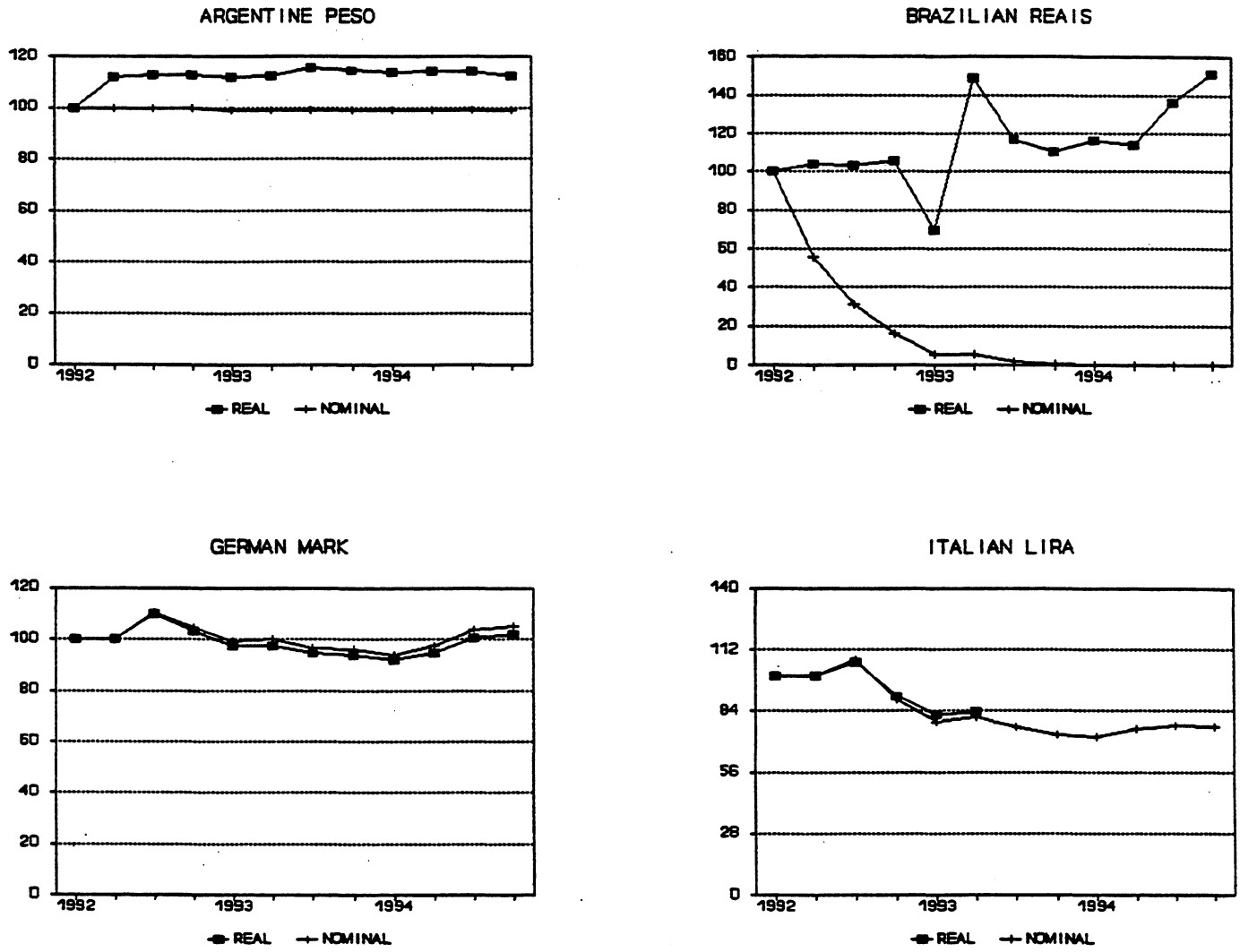
Germany

The nominal value of the German mark appreciated by 4.9 percent against the U.S. dollar between January 1992 and December 1994. Due to inflation of only 1.6 percent in Germany compared to 4.7 percent in the United States during this period, the real value of the German mark appreciated somewhat less against the U.S. dollar, by 1.9 percent.

Italy

The nominal value of the Italian lira depreciated by 23.3 percent against the U.S. dollar between January 1992 and December 1994, and by 19 percent during January 1992-June 1993, the latest period for which producer price index data for Italy were available. Due to inflation of 6.6 percent in Italy during January 1992-June 1993 compared to 3.1 percent in the United States during this period, the real value of the Italian lira depreciated somewhat less against the U.S. dollar, by 16.2 percent.

Figure 12
Exchange rates: Indexes of real and nominal exchange rates between the U.S. dollar and currencies of Argentina, Brazil, Germany, and Italy, by quarters, Jan. 1992 through Dec. 1994[1]



[1] Jan.-Mar. 1992 = 100.

Source: International Monetary Fund, *International Financial Statistics*, Apr. 1995.

APPENDIX A

FEDERAL REGISTER NOTICES

[Investigation No. 701-TA-362 (Final)]

Certain Seamless Carbon and Alloy Standard, Line, and Pressure Steel Pipe From Italy

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701-TA-362 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(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 Italy of certain seamless carbon and alloy standard, line, and pressure steel pipe,[1] provided for in subheadings 7304.10.10, 7304.10.50, 7304.31.60, 7304.39.00, 7304.51.50, 7304.59.60, and 7304.59.80 of the Harmonized Tariff Schedule of the United States.

Pursuant to a request from petitioner under section 705(a)(1) of the Act (19 U.S.C. § 1671d(a)(1)), the U.S. Department of Commerce (Commerce) has extended the date for its final determination to coincide with that to be made in the ongoing antidumping investigation on certain seamless carbon and alloy standard, line, and pressure steel pipe from Italy. Accordingly, the Commission will not establish a schedule for the conduct of the countervailing duty investigation until Commerce makes a preliminary determination in the antidumping investigation (currently scheduled to be made by January 19, 1995).

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: December 23, 1994.

FOR FURTHER INFORMATION CONTACT: Diane Mazur (202-205-3184), 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.

[1] The subject product consists of seamless carbon and alloy (other than stainless) steel pipe, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish. The pipe is commonly known as standard pipe, line pipe, or pressure pipe, depending on the application. It may also be used in structural applications. The subject pipe is further defined in the U.S. Department of Commerce's notice of its affirmative preliminary countervailing duty determination (59 FR 60774, Nov 28, 1994). Specifically excluded from the scope of the investigation are boiler tubing, mechanical tubing, and oil country tubular goods except when used in a standard, line, or pressure pipe application. Also excluded from the scope of the investigation are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202-205-1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. § 1671b) are being provided to manufacturers, producers, or exporters in Italy of certain seamless carbon and alloy standard, line, and pressure steel pipe. The investigation was requested in a petition filed on June 23, 1994, by the Gulf States Tube Division of Quanex Corp., Rosenberg, TX.

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 section 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.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

Issued: January 6, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95-812 Filed 1-11-95; 8:45 am]

BILLING CODE 7020-02-P

[Investigations Nos. 701–TA–382 and 731–TA–707 through 709 (Final)]

Certain Seamless Carbon and Alloy Standard, Line, and Pressure Steel Pipe From Argentina, Brazil, Germany, and Italy

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of final antidumping investigations and scheduling of the ongoing countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731–TA–707 through 709 (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 of certain seamless carbon and alloy standard, line, and pressure steel pipe [1] from Argentina, Brazil, and Germany.[2] Such imports are

[1] The imports subject to investigation are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, beveled end, upset end, threaded, or threaded and coupled), or surface finish. The subject imports are further defined in the U.S. Department of Commerce's notices of preliminary determinations of sales at less than fair value (60 FR 5348, January 27, 1995).

[2] Because Commerce's preliminary antidumping duty determination regarding Italy was negative, the Commission is not instituting a final investigation for Italy (No. 731–TA–710) at this time.

provided for in subheadings 7304.10.10, 7304.10.50, 7304.31.60, 7304.39.00, 7304.51.50, 7304.59.60, and 7304.59.80 of the Harmonized Tariff Schedule of the United States. The Commission also gives notice of the schedule to be followed in these antidumping investigations and the ongoing countervailing duty investigation regarding imports of small diameter seamless carbon and alloy standard, line, and pressure steel pipe from Italy (Inv. No. 701–TA–362 (Final)), which the Commission instituted effective November 28, 1994 (60 FR 2984, January 12, 1995). The schedules for the subject investigations will be identical, pursuant to Commerce's alignment of its final subsidy and dumping determinations (59 FR 66296, December 23, 1994).

For further information concerning the conduct of these investigations, 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: January 27, 1995.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202–205–3184), 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. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

The subject antidumping investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce (60 FR 5348, January 27, 1995) that imports of small diameter seamless carbon and alloy standard, line, and pressure steel pipe from Argentina, Brazil, and Germany 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). Commerce has also extended the date for its final determinations in the investigations from April 12, 1995 to June 12, 1995 (60 FR 9012, February 16, 1995). Therefore, the Commission's schedule in these investigations conforms with Commerce's extended schedule.

The Commission instituted the countervailing duty investigation concerning Italy on November 28, 1994 (60 FR 2984, January 12, 1995). The investigations were requested in a petition filed on June 23, 1994, on behalf of the Gulf States Tube Division of Quanex Corp., Rosenberg, TX.

Participation in the Investigations and Public Service List

Any person having already filed an entry of appearance in the countervailing duty investigation is considered a party in the antidumping investigations. Any other persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, 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 the investigations upon the expiration of the period for filing entries of appearance.

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

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these final investigations available to authorized applicants under the APO issued in the investigations, 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 these investigations will be placed in the nonpublic record on June 7, 1995, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on June 20, 1995, 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 June 11, 1995. 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 June 13, 1995, 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 section 207.22 of the Commission's rules; the deadline for filing is June 14, 1995. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is June 28, 1995; 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 investigations may submit a written statement of information pertinent to the subject of the investigations on or before June 28, 1995. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority

These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

By order of the Commission.

Issued: February 21, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95-5001 Filed 2-28-95; 8:45 am]

BILLING CODE 7030-02-P

[A-357-809]

Notice of Final Determination of Sales at Less than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Argentina

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

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Irene Darzenta or Fabian Rivelis, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-6320 or (202) 482-3853.

Final Determination

The Department of Commerce (the Department) determines that small diameter circular seamless carbon and alloy steel standard, line, and pressure pipe (seamless pipe) from Argentina is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act) (1994). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since our preliminary determination on January 19, 1995 (60 FR 5348, January 27, 1994), the following events have occurred.

In response to a request from respondent Siderca S.A.I.C. (Siderca), we postponed the final determination until June 12, 1995, pursuant to section 735(a)(2)(A) of the Act (60 FR 9012, February 16, 1995).

In our notice of preliminary determination we stated that we would solicit further information on various scope-related issues, including class or kind of merchandise. On February 10, 1995, we issued a questionnaire to interested parties to request further information on whether the scope of the investigation constitutes more than one class or kind of merchandise. Responses to this questionnaire were submitted on March 27, 1995.

On April, 27, 1995, Koppel Steel Corporation, a U.S. producer of subject merchandise which appeared as an interested party from the outset of this investigation, requested co-petitioner status.

On May 5, 1995, respondent submitted its case brief. Petitioner [1] submitted its rebuttal brief on May 15, 1995. In its rebuttal brief, petitioner requested that the Department reject "substantial portions" of Siderca's case brief because it allegedly constituted a "new submission of factual information." Siderca objected to this request on May 19, 1995. Petitioner responded to this letter on May 26, 1995. However, we determined that Siderca's case brief did not contain new factual information. (See Comment 1 in the "Interested Party Comment" section

[1] All references to "petitioner" in this notice include Koppel Steel Corporation.

of this notice.) In addition, on June 1, 1995, the Department returned Siderca's May 19, 1995, letter, as well as petitioner's letter of May 26, 1995, because they constituted unsolicited submissions untimely filed after the briefing period.

Scope of Investigation

The following scope language reflects certain modifications made for purposes of the final determination, where appropriate, as discussed in the "Scope Issues" section below.

The scope of this investigation includes seamless pipes produced to the ASTM A–335, ASTM A–106, ASTM A–53 and API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this investigation also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters below, regardless of specification.

For purposes of this investigation, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.

The seamless pipes subject to these investigations are currently classifiable under subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

The following information further defines the scope of this investigation, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the American Society for Testing and Materials (ASTM) standard A–106 may be used in temperatures of up to 1000 degrees fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A–335 must be used if temperatures and stress levels exceed those allowed for A–106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent A–106 specification necessarily meet the API 5L and ASTM A–53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A–53 specification. However, pipes meeting the A–53 or API 5L specifications do not necessarily meet the A–106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, A–106 pipes may be used in some boiler applications.

The scope of this investigation includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line and pressure applications and the above-listed specifications are defining characteristics of the scope of this investigation. Therefore, seamless pipes meeting the physical description above, but not produced to the A–335, A–106, A–53, or API 5L standards shall be covered if used in a standard, line or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A–106 applications. These specifications generally include A–162, A–192, A–210, A–333, and A–524. When such pipes are used in a standard, line or pressure pipe application, such products are covered by the scope of this investigation.

Specifically excluded from this investigation are boiler tubing and mechanical tubing, if such products are not produced to A–335, A–106, A–53 or API 5L specifications and are not used in standard, line or pressure applications. In addition, finished and unfinished OCTG are excluded from the scope of this investigation, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications. Finally, also excluded from this investigation are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Issues

Interested parties in these investigations have raised several issues related to the scope. We considered these issues in our preliminary determination and invited additional comments from the parties. These issues, which are discussed below, are: (A) Whether to continue to include end use as a factor in defining the scope of these investigations; (B) whether the seamless pipe subject to these investigations constitutes more than one class or kind of merchandise; and (C) miscellaneous scope clarification issues and scope exclusion requests.

A. End Use

We stated in our preliminary determination that we agreed with petitioner that pipe products identified as potential substitutes used in the same applications as the four standard, line, and pressure pipe specifications listed in the scope would fall within the class or kind of subject merchandise and, therefore, within the scope of any orders issued in these investigations. However, we acknowledged the difficulties involved with requiring end-use certifications, particularly the burdens placed on the Department, the U.S. Customs Service, and the parties, and stated that we would strive to simplify any procedures in this regard.

For purposes of these final determinations, we have considered carefully additional comments submitted by the parties and have determined that it is appropriate to continue to employ end use to define the scope of these cases with respect to non-listed specifications. We find that the generally accepted definition of standard, line and pressure seamless pipes is based largely on end use, and that end use is implicit in the description of the subject merchandise. Thus, end use must be considered a significant defining characteristic of the subject merchandise. Given our past experience with substitution after the imposition of antidumping orders on steel pipe products,[2] we agree with petitioner that if products produced to a non-listed specification (*e.g.*, seamless pipe produced to A–162, a non-listed specification in the scope) were actually used as standard, line, or pressure pipe, then such product would fall within the same class or kind of merchandise subject to these investigations.

Furthermore, we disagree with respondents' general contention that using end use for the scope of an antidumping case is beyond the purview of the U.S. antidumping law. The Department has interpreted scope language in other cases as including an end-use specification. *See Ipsco Inc.* v. *United States*, 715 F.Supp. 1104 (CIT 1989) (*Ipsco*). In *Ipsco*, the Department had clarified the scope of certain orders, in particular the phrase, "intended for use in drilling for oil and gas," as covering not only API specification OCTG pipe but, " 'all other pipe with [certain specified] characteristics used in OCTG applications * * *.' " Ipsco at 1105. In reaching this determination, the Department also provided an additional description of the covered merchandise, and initiated an end-use certification procedure.

Regarding implementation of the end use provision of the scope of these investigations, and any orders which may be issued in these investigations, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the end-use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require end-use certification until such time as petitioner or other interested parties provide a reasonable basis to believe or suspect that substitution is occurring.[3] Second, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to A–162 specification is being used as pressure pipe, we will require end-use certifications for imports of A–162 specification. Third, normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States. For a complete discussion of interested party comments and the Department's analysis on this topic, *see* June 12, 1995, *End Use Decision Memorandum* from Deputy Assistant Secretary Barbara Stafford (DAS) to Assistant Secretary Susan Esserman (AS).

B. Class or Kind

In the course of these investigations, certain respondents have argued that the scope of the investigations should be divided into two classes or kinds. Siderca S.A.I.C., the Argentine respondent, has argued that the scope should be divided according to size: seamless pipe with an outside diameter of 2 inches or less and pipe with an outside diameter of greater than 2 inches constitute two classes or kinds. Mannesmann S.A., the Brazilian respondent, and Mannesmannrohren-Werke, A.G., the German respondent, argued that the scope should be divided based upon material composition: carbon and alloy steel seamless pipe constitute two classes or kinds.

In our preliminary determinations, we found insufficient evidence on the record that the merchandise subject to these investigations constitutes more than one class or kind. We also indicated that there were a number of areas where clarification and additional comment were needed. For purposes of the final determination, we considered a significant amount of additional information submitted by the parties on this issue, as well as information from other sources. This information strongly supports a finding of one class or kind of merchandise. As detailed in the June 12, 1995, *Class or Kind Decision Memorandum* from DAS to AS, we analyzed this issue based on the criteria set forth by the Court of International Trade in *Diversified Products v. United States*, 6 CIT 155, 572 F. Supp. 883 (1983). These criteria are as follows: (1) The general physical characteristics of the merchandise; (2) expectations of the ultimate purchaser; (3) the ultimate use of the merchandise; (4) the channels of trade in which the merchandise moves; and (5) the cost of that merchandise.

In the past, the Department has divided a single class or kind in a petition into multiple classes or kinds where analysis of the *Diversified Products* criteria indicates that the subject merchandise constitutes more than one class or kind. *See, for example, Final Determination of Sales at Less than Fair Value; Anti-Friction Bearings (Apart from Tapered Roller Bearings) from Germany*, 54 FR 18992, 18998 (May 3, 1989) ("*AFBs from Germany*"); *Pure and Alloy Magnesium from Canada: Final Affirmative Determination; Rescission of Investigation and Partial Dismissal of Petition*, 57 FR 30939 (July 13, 1992).

1. Physical Characteristics

We find little meaningful difference in physical characteristics between seamless pipe above and below two inches. Both are covered by the same technical specifications, which contains detailed requirements.[4] While we recognize that carbon and alloy pipe do have some important physical

[2] *See Preliminary Affirmative Determination of Scope Inquiry on Antidumping Duty Orders on Certain Welded Non-Alloy Steel Pipes from Brazil, the Republic of Korea, Mexico and Venezuela*, 59 FR 1929, January 13, 1994.

[3] This approach is consistent with petitioner's request.

[4] The relevant ASTM specifications, as well as product definitions from other independent sources (e.g., American Iron and Steel Institute (AISI)), describe the sizes for standard, line, and pressure pipe, as ranging from ½ inch to 60 inches (depending on application). None of these descriptions suggest a break point at two inches.

differences (primarily the enhanced heat and pressure tolerances associated with alloy grade steels), it is difficult to say where carbon steel ends and alloy steel begins. As we have discussed in our *Class or Kind Decision Memorandum* of June 12, 1995, carbon steel products themselves contain alloys, and there is a range of percentages of alloy content present in merchandise made of carbon steel. We find that alloy grade steels, and pipes made therefrom, represent the upper end of a single continuum of steel grades and associated attributes.[5]

In those prior determinations where the Department divided a single class or kind, the Department emphasized that differences in physical characteristics also affected the capabilities of the merchandise (either the mechanical capabilities, as in *AFBs from Germany*, 54 FR at 18999, 19002–03, or the chemical capabilities, as in *Pure and Alloy Magnesium from Canada*, 57 FR at 30939), which in turn established the boundaries of the ultimate use and customer expectations of the products involved.

As the Department said in *AFBs from Germany*,

> [t]he real question is whether the physical differences are so material as to alter the essential nature of the product, and, therefore, rise to the level of class or kind distinctions. We believe that the physical differences between the five classes or kinds of the subject merchandise are fundamental and are more than simply minor variations on a theme.

54 FR at 19002. In the present cases, there is insufficient evidence to conclude that the differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, rise to the level of a class or kind distinction.

Furthermore, with regard to Siderca's allegation that a two-inch breakpoint is widely recognized in the U.S. market for seamless pipe, the Department has found only one technical source of U.S. market data for seamless pipe, the *Preston Pipe Report*. The *Preston Pipe Report*, which routinely collects and publishes U.S. market data for this merchandise, publishes shipment data for the size ranges ½ to 4½ inches: it does not recognize a break point at 2 inches. Accordingly, the Department does not agree with Siderca that "the U.S. market" recognizes 2 inches as a physical boundary line for the subject merchandise.

In these present cases, therefore, the Department finds that there is insufficient evidence that any physical differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, or between carbon and alloy steel, rise to the level of class or kind distinctions.

2. Ultimate Use and Purchaser Expectations

We find no evidence that pipe above and below two inches is used exclusively in any specific applications. Rather, the record indicates that there are overlapping applications. For example, pipe above and below two inches may both be used as line and pressure pipe. The technical definitions for line and pressure pipe provided by ASTM, AISI, and a variety of other sources do not recognize a distinction between pipe over and under two inches.

Likewise, despite the fact that alloy grade steels are associated with enhanced heat and pressure tolerances, there is no evidence that the carbon or alloy content of the subject merchandise can be differentiated in the ultimate use or expectations of the ultimate purchaser of seamless pipe.

3. Channels of Trade

Based on information supplied by the parties, we determine that the vast majority of the subject merchandise is sold through the same channel of distribution in the United States and is triple-stenciled in order to meet the greatest number of applications.

Accordingly, the channels of trade offer no basis for dividing the subject merchandise into multiple classes or kinds based on either the size of the outside diameter or on pipe having a carbon or alloy content.

4. Cost

Based on the evidence on the record, we find that cost differences between the various products do exist. However, the parties varied considerably in the factors which they characterized as most significant in terms of affecting cost. There is no evidence that the size ranges above and below two inches, and the difference between carbon and alloy grade steels, form a break point in cost which would support a finding of separate classes or kinds.

In conclusion, while we recognize that certain differences do exist between the products in the proposed class or kind of merchandise, we find that the similarities significantly outweigh any differences. Therefore, for purposes of the final determination, we will continue to consider the scope as constituting one class or kind of merchandise.

C. Miscellaneous Scope Clarification Issues and Exclusion Requests

The miscellaneous scope issues include: (1) Whether OCTG and unfinished OCTG are excluded from the scope of these investigations; (2) whether pipes produced to non-standard wall thicknesses (commonly referred to as "tubes") are covered by the scope; (3) whether certain merchandise (*e.g.*, boiler tubing, mechanical tubing) produced to a specification listed in the scope but used in an application excluded from the scope is covered by the scope; and (4) whether redraw hollows used for cold drawing are excluded from the scope. For a complete discussion of interested party comments and the Department's analysis on these topics, *see* June 12, 1995, *Additional Scope Clarifications Decision Memorandum* from DAS to AS.

Regarding OCTG, petitioner requested that OCTG and unfinished OCTG be included within the scope of these investigations if used in a standard, line or pressure pipe application. However, OCTG and unfinished OCTG, even when used in a standard, line or pressure pipe application, may come within the scope of certain separate, concurrent investigations. We intend that merchandise from a particular country not be classified simultaneously as subject to both an OCTG order and a seamless pipe order. Thus, to eliminate any confusion, we have revised the scope language above to exclude finished and unfinished OCTG, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in a standard, line or pressure pipe application, and, as with other non-listed specifications, may be subject to end-use certification if there is evidence of substitution.

Regarding pipe produced in non-standard wall thicknesses, we determine that these products are clearly within the parameters of the scope of these investigations. For clarification purposes, we note that the physical parameters of the scope include all seamless carbon and alloy steel pipes, of circular cross-section, not more than 4.5 inches in outside diameter, *regardless of*

[5] The Department has had numerous cases where steel products including carbon and alloy grades were considered to be within the same class or kind. *See, e.g., Preliminary Determination of Sales at Less than Fair Value: Oil Country Tubular Goods from Austria, et al.*, 60 FR 6512 (February 2, 1995); *Final Determination of Sales at Less than Fair Value: Certain Alloy and Carbon Hot-Rolled Bars, Rods, and Semi-Finished Products of Special Bar Quality Engineered Steel from Brazil*, 58 FR 31496 (June 3, 1993); *Final Determination of Sales at Less than Fair Value: Forged Steel Crankshafts from the United Kingdom*, 60 FR 22045 (May 9, 1995).

wall thickness. Therefore, the fact that such products may be referred to as tubes by some parties, and may be multiple-stenciled, does not render them outside the scope.

Regarding pipe produced to a covered specification but used in a non-covered application, we determine that these products are within the scope. We agree with the petitioner that the scope of this investigation includes all merchandise produced to the covered specifications and meeting the physical parameters of the scope, regardless of application. The end-use criteria included in the scope is only applicable to products which can be substituted in the applications to which the covered specifications are put *i.e.* standard, line, and pressure applications.

It is apparent that at least one party in this case interpreted the scope incorrectly. Therefore, we have clarified the scope to make it more explicit that all products made to ASTM A–335, ASTM A–106, ASTM A–53 and API 5L are covered, regardless of end use.

With respect to redraw hollows for cold drawing, the scope language excludes such products specifically when used in the production of cold-drawn pipe or tube. We understand that petitioner included this exclusion language expressly and intentionally to ensure that hollows imported into the United States are sold as intermediate products, not as merchandise to be used in a covered application.

Standing

The Argentine, Brazilian, and German respondents have challenged the standing of Gulf States Tube to file the petition with respect to pipe and tube between 2.0 and 4.5 inches in outside diameter, arguing that Gulf States Tube does not produce these products.

Pursuant to section 732(b)(1) of the Act, an interested party as defined in section 771(9)(C) of the Act has standing to file a petition. (*See also* 19 CFR 353.12(a).) Section 771(9)(C) of the Act defines "interested party," *inter alia*, as a producer of the like product. For the reasons outlined in the "Scope Issues" section above, we have determined that the subject merchandise constitutes a single class or kind of merchandise. The International Trade Commission (ITC) has also preliminarily determined that there is a single like product consisting of circular seamless carbon and alloy steel standard, line, and pressure pipe, and tubes not more than 4.5 inches in outside diameter, and including redraw hollows. (*See* USITC Publication 2734, August 1994 at 18). For purposes of determining standing, the Department has determined to accept the ITC's definition of like product, for the reasons set forth in the ITC's preliminary determination. Because Gulf States is a producer of the like product, it has standing to file a petition with respect to the class or kind of merchandise under investigation. Further, as noted in the "Case History" section of this notice, on April 27, 1995, Koppel, a U.S. producer of the product size range at issue, filed a request for co-petitioner status, which the Department granted. As a producer of the like product, Koppel also has standing.

The Argentine respondent argues that Koppel's request was filed too late to confer legality on the initiation of these proceedings with regard to the products at issue. Gulf States Tube maintains that the Department has discretion to permit the amendment of a petition for purposes of adding co-petitioners who produce the domestic like product, at such time and upon such circumstances as deemed appropriate by the Department.

The Court of International Trade (CIT) has upheld in very broad terms the Department's ability to allow amendments to petitions. For example, in *Citrosuco Paulista, S.A.* v. *United States*, 704 F. Supp. 1075 (Ct. Int'l Trade 1988), the Court sustained the Department's granting of requests for co-petitioner status filed by six domestic producers on five different dates during an investigation. The Court held that the addition of the co-petitioners cured any defect in the petition, and that allowing the petition to be amended was within Commerce's discretion:

> [S]ince Commerce has statutory discretion to allow amendment of a dumping petition *at any time*, and since Commerce may self-initiate a dumping petition, any defect in a petition filed by [a domestic party is] cured when domestic producers of the like product [are] added as co-petitioners and Commerce [is] not required to start a new investigation.

Citrosuco, 704 F. Supp. at 1079 (emphasis added). The Court reasoned that if Commerce were to have dismissed the petition for lack of standing, and to have required the co-petitioners to refile at a later date, it "would have elevated form over substance and fruitlessly delayed the antidumping investigation * * * when Congress clearly intended these cases to proceed expeditiously." *Id.* at 1083–84.

Koppel has been an interested party and a participant in these investigations from the outset. The timing of Koppel's request for co-petitioner status and the fact that it made its request in response to Siderca's challenge to Gulf States's Tube's standing does not render its request invalid. *See Final Affirmative Countervailing Duty Determination; Live Swine and Fresh, Chilled, and Frozen Pork Products from Canada*, 50 FR 25097 (June 17, 1985). The Department has rejected a request to add a co-petitioner based on the untimeliness of the request only where the Department determined that there was not adequate time for opposing parties to submit comments and for the Department to consider the relevant arguments. *See Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden*, 52 FR 5794, 5795, 5803 (February 26, 1987). In this investigation, the respondents have had an opportunity to comment on Koppel's request for co-petitioner status, and the Argentine respondent has done so in its case brief. Therefore, we have determined that, because respondents would not be prejudiced or unduly burdened, amendment of the petition to add Koppel as co-petitioner is appropriate.

Period of Investigation

The period of investigation (POI) is January 1, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Best Information Available

In accordance with section 776(c) of the Act, we have determined that the use of best information available (BIA) is appropriate for Siderca, the only named respondent in this investigation. As stated in our notice of preliminary determination, on September 12, 1994, Siderca notified the Department that it would not participate in this investigation. Because Siderca refused to answer the Department's questionnaire, we find that it has not cooperated in this investigation.

In determining what rate to use as BIA, the Department follows a two-tiered BIA methodology, whereby the Department may impose the most adverse rate upon those respondents who refuse to cooperate or otherwise significantly impede the proceeding, or assign a lower rate for those respondents who have cooperated in an investigation. The Department's BIA methodology for uncooperative respondents is to assign the higher of the highest margin alleged in the petition or the highest rate calculated for another respondent. The Department's practice for applying BIA to cooperative respondents is to use the higher of the average of the margins alleged in the petition or the calculated

margin for another firm for the same class or kind of merchandise from the same country. *See Final Determination of Sales at Less than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany*, 54 FR 18992, 19033 (May 3, 1989). The Department's two-tier methodology for assigning BIA based on the degree of respondents' cooperation has been upheld by the U.S. Court of Appeals for the Federal Circuit. (*See Allied-Signal Aerospace Co. v. the United States*, 996 F2d 1185 (Fed Cir. 1993); *see also Krupp Stahl AG. et al v. the United States*, 822 F. Supp. 789 (CIT 1993).) Because there are no other respondents in this investigation we are assigning to Siderca, as BIA, the highest margin among the margins alleged in the petition.

Fair Value Comparisons

To determine whether sales of subject merchandise from Germany to the United States were made at less than fair value, we compared United States price (USP) to foreign market value (FMV) as reported in the petition. *See Initiation of Antidumping Duty Investigation of Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe from Argentina, Brazil, Germany, and Italy* (59 FR 37025, July 20, 1994).

Interested Party Comments

Comment 1

Petitioner contends that Siderca's submissions of factual information made after its September 12, 1994, letter indicating that it would not participate in the investigation, are untimely. As such, they must be stricken from the record and not considered by the Department in its final determination. In addition, petitioner states that none of the factual information upon which Siderca relies in its case brief has been verified by the Department, which is required under the antidumping statute if it is to be utilized by the Department in making a final determination. Also, petitioner states that some of Siderca's later submissions (*e.g.*, submissions on October 12, 1994, and March 27, 1995) related to standing and class or kind issues did not contain certifications of factual information.

DOC Position

We disagree with petitioner. Despite the fact that Siderca chose not to respond to the Department's questionnaire, and thus not to participate in this investigation, the Department cannot preclude it from commenting as an interested party in this investigation. Furthermore, all of the information contained in Siderca's brief was submitted previously on the record, so that its case brief contained no new factual information. In addition, the omission of certification from earlier submissions was a clerical oversight which was cured without prejudicing petitioner.

Comment 2

Siderca maintains that Gulf States is not a producer of standard, line and pressure pipe between 2.0 and 4.5 inches in outer diameter (OD) and, therefore, lacks standing as an "interested party" under section 771(9)(C) of the Act to petition on behalf the U.S. industry which produces this merchandise. Siderca also asserts that the request of Koppel Steel Corporation for co-petitioner status does not remedy Gulf States' lack of standing or cure the petitioner's defects. Consequently, Siderca urges the Department to rescind the initiation of the investigation with respect to seamless pipe in the OD size range between 2.0 and 4.5.

Specifically, respondent states that Gulf States openly admits in the petition that it neither manufactures or sells seamless pipe greater than or equal to 2⅜ inches in OD, and that publicly available evidence shows that Gulf States neither manufactures or sells seamless pipe between 1.9 and 2⅜ inches in OD. Respondent also maintains that Gulf States fails to meet the statutory test for interested party status to file a petition under Section 771(9)(C) of the Act, and has no legally-recognizable stake in the market for pipe greater than 2.0 inches in OD, as provided for in the legislative history of the standing requirement.

Furthermore, Siderca asserts that the ITC's one like product preliminary determination does not change this analysis because the like product determination made by the ITC when it considers the issue of material injury is different from the like product determination made by the Commerce Department when it considers the issue of standing. The Commerce Department is not required to adopt the ITC's like product definition for purposes of determining petitioner's standing. Siderca adds that seamless carbon and alloy pipe is produced in a continuum of sizes at least up to 36 inches in OD; there is no "bright line" at any point on that continuum above 2.0 inches, other than a line that may be drawn where the facilities of producers impose physical limitations. Thus, if the Department concludes that a producer of seamless pipe up to 2.0 inches is an interested party with regard to seamless pipe of greater OD, then there is no more of a justification for a producer such as Gulf States to petition on pipe up to 4.5 inches than there is for it to petition up to 36 inches. Once the Department determines that a petitioner is an interested party for sizes beyond its production capability, there is no reason for drawing the line at 4.5 inches or any other point along the continuum.

With respect to Koppel's request for co-petitioner status, respondent states that this request was filed too late (almost 10 months after the June 23, 1994, filing of the petition) to confer legality on the initiation of this proceeding with regard to seamless pipe between 2.0 and 4.5 inches in OD. According to Siderca, this action is unprecedented, and was precipitated by Gulf States' and Koppel's realization that the petition and Department's subsequent initiation are legally deficient with respect to seamless pipe over 2.0 inches. Siderca also points out that all of the information on which the Department relied in making its initiation determination came from Gulf States, not Koppel. If Koppel is not accepted as co-petitioner, the initiation of these investigations with regard to pipe between 2.0 and 4.5 inches in OD must be rescinded because Gulf States is not an interested party with respect to merchandise of this size range.

Siderca also asserts that if the Department does not reject the petition or rescind the initiation with respect to seamless pipe of this size range, it should determine that there are two classes or kinds of merchandise, *i.e.*, 2.0 inches and below; and between 2.0 and 4.5 inches, because these pipe size ranges differ in terms of physical characteristics, purchaser expectations, end use and cost.

Gulf States contends that Siderca's objection to its standing is without merit because: (1) There is no basis in law or in fact for treating pipe larger than 2.0 inches in OD as a separate class or kind of merchandise; and (2) in any event, Gulf States produces pipe in the categories of merchandise proposed by Siderca. Contrary to respondent's claim, petitioner points out that in its March 27, 1995, submission, it provided extensive factual information concerning the stencilling, sale, distribution, and cost of production for all sizes of subject merchandise produced by Gulf States, including seamless pipe larger than 2.0 inches in OD. Therefore, petitioner asserts that even if pipe over 2.0 inches in OD were to constitute a separate class or kind of merchandise, Gulf States would nonetheless have standing as a

petitioner. Additionally, Gulf States maintains that Siderca's claim that Koppel cannot be added as a co-petitioner at the time it made its request on April 27, 1995, is legally incorrect. Citing *Citrosuco Paulista, S.A.* v. *United States* (704 F. Supp. 1075 (CIT 1988)), petitioner asserts that the Department has discretion to permit the amendment of a petition for the purposes of adding co-petitioners who produce the like product, at such time and upon such circumstances as deemed appropriate by the Department.

DOC Position

We agree with petitioner for reasons explained in our section on "Standing" in this notice.

Comment 3

Siderca argues that the Department should reject petitioner's end use language in the scope of this investigation which includes products not subject to this investigation if they are used in standard line pipe applications.

Respondent maintains that such an end use requirement would result in a disparate treatment between imported goods that have crossed the border and domestic goods once they are competing in the U.S. marketplace, which is contrary to Article III of the General Agreement on Tariffs and Trade (GATT).

Respondent also argues that if an end use certification program were implemented, it would be virtually unadministerable because importers and producers normally do not know the end use of their product. Moreover, respondent cites the *Oil Country Tubular Goods from Canada* investigation, in which the Department abandoned its end use program after two years, because the program was cumbersome and difficult to administer.

Petitioner states that end use is an appropriate element of the scope and that the Department has included end use has included end use as an element of scope in other investigations. Furthermore, petitioner maintains that because of overlapping properties, it is possible that pipe made to other specifications than A–53, A–106, A–335, and API–5L may be applied to uses for which those specifications are normally used, creating the likelihood of substitution. Petitioner recognizes that defining scope by end use presents more complications for the enforcement of an order, but, for simplification, has suggested that the Department employ a rebuttable presumption that specification is an indication of use for pipe in non-listed specifications. Finally, petitioner counters Siderca's assertion that an end use element in the scope is contrary to GATT by stating that the GATT is not violated unless the country imposing the duties has disregarded its obligations under Article VI of the Antidumping Code; and that Siderca does not allege that any provisions of relevant GATT antidumping law would be violated if the Department, following established U.S. practice continues to consider end use as a scope criterion.

DOC Position

We agree with petitioner for the reasons outlined in the "Scope Issues" section of this notice.

Comment 4

Siderca argues that there are two classes or kinds of merchandise: standard line pipe 2.0 inches in outside diameter and below; and between 2.0 and 4.5 inches in outside diameter. Respondent maintains that the criteria articulated in *Diversified Products* support its assertion of two classes of kinds. Specifically, respondent argues that the distinct size differences between steel pipe below 2.0 inches in outside diameter and steel pipe between 2.0 and 4.5 inches are recognized in the industry as differentiating physical characteristics. Respondent maintains that line capacity, operating pressure, temperature, stress level, and structural integrity will determine the size of the pipe, and in turn, will determine the particular application.

With respect to customer expectations, Siderca argues that customers purchase pipe in specific sizes knowing that different sizes have different applications. Respondent states that pipe under 2.0 inches is used almost exclusively as pressure pipe because of the unique characteristics of pipe that size. Moreover, respondent claims that a purchaser will expect pipe above 2.0 inches to be suitable for line pipe applications.

Regarding channels of trade, respondent argues that although pipe below 2.0 inches and pipe between 2.0 and 4.5 inches are sold though distributors, this fact does not make these two groups a single class or kind.

Siderca argues that the ultimate use of the product depends on the size. Respondent states that pipe under 2.0 inches is used almost exclusively as pressure pipe and most pipes between 2.0 and 4.5 inches are sold as line pipe. Furthermore, respondent claims that seamless pipe is almost never used in standard pipe applications.

Respondent contends that the cost of seamless pipe differs significantly depending on size. Respondent states that smaller pipe also costs more to manufacture because it requires more manufacturing time, on a kilogram basis, than larger pipe. Furthermore, respondent maintains that pipe in sizes under 2.0 inches is usually cold-drawn, a more costly process than hot-finishing, which is the most common production process for pipe above 2.0 inches.

Petitioner argues that an analysis of the five factors used in the diversified products analysis supports a single class or kind of merchandise. Regarding the physical characteristics, petitioner argues that seamless standard, line, and pressure pipe each meet the same physical characteristics described in the petition. Petitioner argues that the use of different production facilities to make physically identical merchandise does not constitute a difference in physical characteristics. Petitioner also states the respondent's argument that cold-drawn merchandise (pipe below 2.0 inches) and hot-finished merchandise (pipe above 2.0 inches) indicated two classes or kinds is contrary to the Department's decision not to create separate classes of kinds based on cold-drawn and hot-rolled products in *Stainless Steel Bar from Italy*. Petitioner asserts that respondent's suggestions that end users have different expectations for pipe below 2.0 inches is unfounded. Petitioner contends that the physical characteristics of pipe are set forth in the ASTM and API specifications, which apply to all subject pipe regardless of size. Petitioners contend that the sales subject seamless pipes are made through the same channels of trade. Petitioner maintains that the ultimate end use of the product is largely dictated by the specification to which the pipe is produced. Petitioner argues that since the majority of imported subject pipe is triple certified, the pipe may be put to use in any of the uses that either A–106, A–53, or API 5L may be applied.

Petitioner argues that all subject seamless pipe has sufficiently similar costs to be considered a single class or kind of merchandise. Petitioner contends that since the majority of the subject pipe is triple certified, it has basically identical costs regardless of the customer to whom it is sold and that there are only minimal differences in production costs between pipe over 2.0 inches and pipe under 2.0 inches.

DOC Position

We agree with petitioner for the reasons outlined in the "Scope Issues" section of this notice.

Comment 5

In order to eliminate confusion and uncertainty of the scope, respondent argues that the Department should clarify the language of the scope and explicitly exclude products that are not intended to be part of the investigation. Specifically, respondent argues that the Department exclude unfinished oil country tubular goods and tubing products made in non-pipe sizes. Furthermore, respondent contends that language in the scope concerning "redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube," is confusing. Respondent suggests the Department revise this language to simply state that the scope excludes hollows for cold-drawing. This would eliminate confusion, while not changing the intended scope of the exclusion.

Petitioner asserts that a modification of the scope to Siderca's requests would be unsupported by substantial evidence on the record. With respect to OCTG, petitioner notes that the scope explicitly excludes OCTG when it is not used or intended for use in one of the listed applications and that no further clarification is necessary. Petitioner states that tubing in "non-pipe" sizes is expressly covered by the scope of the investigation when produced to one of the listed specifications or when used in a listed application. Petitioner maintains that the language in the scope with respect to redraw hollows was included expressly to ensure that hollows are actually cold-drawn and not sold directly as A–106 pipe.

DOC Position

We agree with petitioner for the reasons outlined in the "Scope Issues" section of this notice.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act 19 USC 1673b(d)(1), we directed the Customs Service to suspend liquidation of all entries of seamless pipe from Argentina, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after January 27, 1995.

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below, for entries of seamless pipe from Argentina that are entered, or withdrawn from warehouse, for consumption from the date of publication of this notice in the Federal Register. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted average margin percent
Siderca S.A.I.C.	108.13
All Others	108.13

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will makes its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury or threat of material injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in these investigations of their responsibility covering 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 (19 U.S.C. 1673d(d)) and 19 CFR 353.20(a)(4).

Dated: June 12, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–14936 Filed 6–16–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–351–826]

Notice of Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Brazil

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

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Irene Darzenta or Fabian Rivelis, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–6320 or 482–3853, respectively.

Final Determination

The Department of Commerce (the Department) determines that small diameter circular seamless carbon and alloy steel, standard, line and pressure pipe from Brazil (seamless pipe) is being sold, or is likely to be sold, in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the "Act") (1994). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of preliminary determination on January 27, 1995 (60 FR 5351, January 27, 1995), the following events have occurred.

On February 10, 1995, we issued a supplemental questionnaire to respondent Mannesmann S.A. (MSA) and its affiliated Brazilian and U.S. sales organizations, Mannesmann Comercial S.A. (MCSA) and Mannesmann Pipe & Steel Corporation (MPS), respectively (collectively "Mannesmann"), concerning certain items in its December 9, 1994, response, which we deemed required further clarification and/or information prior to verification. On February 28, and March 9, 1995, Mannesmann submitted its responses to this questionnaire, including revised home market and U.S. sales listings.

In response to respondent's request, we postponed the final determination until June 12, 1995, pursuant to section 735(a)(2)(A) of the Act (60 FR 9012, February 16, 1995).

In our notice of preliminary determination we stated that we would solicit further information on various scope-related issues, including class or kind of merchandise. On February 10, 1995, we issued a questionnaire to interested parties to request further information on whether the scope of the investigation constitutes more than one class or kind of merchandise. Responses to this questionnaire were submitted on March 27, 1995.

In March and April, 1995, we conducted verification of Mannesmann's questionnaire responses. Our verification reports were issued in May, 1995.

On April 27, 1995, Koppel Steel Corporation, a U.S. producer of subject merchandise which appeared as an interested party from the outset of this investigation, requested co-petitioner status, which the Department granted.

Case and rebuttal briefs were submitted on May 19, 1995, and May 25, 1995, respectively. In its rebuttal

brief, petitioner maintained that the Department should not consider certain information in respondent's case brief because it allegedly constituted an "untimely submission of factual information." MSA disagreed with petitioner in a letter submitted on June 5, 1995. However, we determined that MSA's case brief did not contain new factual information. On June 6, 1995, the Department returned MSA's June 5, 1995, letter, because it constituted an unsolicited submission untimely filed after the briefing period.

Because no requests were received from interested parties, we did not hold a public hearing in this proceeding.

Scope of Investigation

The following scope language reflects certain modifications made for purposes of the final determination, where appropriate, as discussed in the "Scope Issues" section below.

The scope of this investigation includes seamless pipes produced to the ASTM A–335, ASTM A–106, ASTM A–53 and API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this investigation also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters below, regardless of specification.

For purposes of this investigation, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section; not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.

The seamless pipes subject to these investigations are currently classifiable under subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

The following information further defines the scope of this investigation, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the American Society for Testing and Materials (ASTM) standard A–106 may be used in temperatures of up to 1000 degrees fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A–335 must be used if temperatures and stress levels exceed those allowed for A–106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent A–106 specification necessarily meet the API 5L and ASTM A–53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A–53 specification. However, pipes meeting the A–53 or API 5L specifications do not necessarily meet the A–106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, A–106 pipes may be used in some boiler applications.

The scope of this investigation includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line and pressure applications and the above-listed specifications are defining characteristics of the scope of this investigation. Therefore, seamless pipes meeting the physical description above, but not produced to the A–335, A–106, A–53, or API 5L standards shall be covered if used in a standard, line or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A–106 applications. These specifications generally include A–162, A–192, A–210, A–333, and A–524. When such pipes are used in a standard, line or pressure pipe application, such products are covered by the scope of this investigation.

Specifically excluded from this investigation are boiler tubing and mechanical tubing, if such products are not produced to A–335, A–106, A–53 or API 5l specifications and are not used in standard, line or pressure applications. In addition, finished and unfinished OCTG are excluded from the scope of this investigation, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications. Finally, also excluded from this investigation are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Issues

Interested parties in these investigations have raised several issues related to the scope. We considered these issues in our preliminary determination and invited additional comments from the parties. These

issues, which are discussed below, are: (A) whether to continue to include end use as a factor in defining the scope of these investigations; (B) whether the seamless pipe subject to these investigations constitutes more than one class or kind of merchandise; and (C) miscellaneous scope clarification issues and scope exclusion requests.

A. End Use

We stated in our preliminary determination that we agreed with petitioner that pipe products identified as potential substitutes used in the same applications as the four standard, line, and pressure pipe specifications listed in the scope would fall within the class or kind of subject merchandise and, therefore, within the scope of any orders issued in these investigations. However, we acknowledged the difficulties involved with requiring end-use certifications, particularly the burdens placed on the Department, the U.S. Customs Service, and the parties, and stated that we would strive to simplify any procedures in this regard.

For purposes of these final determinations, we have considered carefully additional comments submitted by the parties and have determined that it is appropriate to continue to employ end use to define the scope of these cases with respect to non-listed specifications. We find that the generally accepted definition of standard, line and pressure seamless pipes is based largely on end use, and that end use is implicit in the description of the subject merchandise. Thus, end use must be considered a significant defining characteristic of the subject merchandise. Given our past experience with substitution after the imposition of antidumping orders on steel pipe products,[1] we agree with petitioner that if products produced to a non-listed specification (*e.g.*, seamless pipe produced to A–162, a non-listed specification in the scope) were actually used as standard, line, or pressure pipe, then such product would fall within the same class or kind of merchandise subject to these investigations.

Furthermore, we disagree with respondents' general contention that using end use for the scope of an antidumping case is beyond the purview of the U.S. antidumping law. The Department has interpreted scope language in other cases as including an end-use specification. *See Ipsco Inc.* v. *United States*, 715 F.Supp. 1104 (CIT 1989) (*Ipsco*). In *Ipsco*, the Department had clarified the scope of certain orders, in particular the phrase, "intended for use in drilling for oil and gas," as covering not only API specification OCTG pipe but, " 'all other pipe with [certain specified] characteristics used in OCTG applications * * *' " Ipsco at 1105. In reaching this determination, the Department also provided an additional description of the covered merchandise, and initiated an end-use certification procedure.

Regarding implementation of the end use provision of the scope of these investigations, and any orders which may be issued in these investigations, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the end-use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require end-use certification until such time as petitioner or other interested parties provide a reasonable basis to believe or suspect that substitution is occurring.[2] Second, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to A–162 specification is being used as pressure pipe, we will require end-use certifications for imports of A–162 specification. Third, normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States. For a complete discussion of interested party comments and the Department's analysis on this topic, see June 12, 1995, *End Use Decision Memorandum* from Deputy Assistant Secretary Barbara Stafford (DAS) to Assistant Secretary Susan Esserman (AS).

B. Class or Kind

In the course of these investigations, certain respondents have argued that the scope of the investigations should be divided into two classes or kinds. Siderca S.A.I.C., the Argentine respondent, has argued that the scope should be divided according to size: seamless pipe with an outside diameter of 2 inches or less and pipe with an outside diameter of greater than 2 inches constitute two classes or kinds. Mannesmann S.A., the Brazilian respondent, and Mannesmannrohren-Werke AG, the German respondent, argued that the scope should be divided based upon material composition: carbon and alloy steel seamless pipe constitute two classes or kinds.

In our preliminary determinations, we found insufficient evidence on the record that the merchandise subject to these investigations constitutes more than one class or kind. We also indicated that there were a number of areas where clarification and additional comment were needed. For purposes of the final determination, we considered a significant amount of additional information submitted by the parties on this issue, as well as information from other sources. This information strongly supports a finding of one class or kind of merchandise. As detailed in the June 12, 1995, *Class or Kind Decision Memorandum* from DAS to AS, we analyzed this issue based on the criteria set forth by the Court of International Trade in *Diversified Products* v. *United States*, 6 CIT 155, 572 F. Supp. 883 (1983). These criteria are as follows: (1) the general physical characteristics of the merchandise; (2) expectations of the ultimate purchaser; (3) the ultimate use of the merchandise; (4) the channels of trade in which the merchandise moves; and (5) the cost of that merchandise.

In the past, the Department has divided a single class or kind in a petition into multiple classes or kinds where analysis of the *Diversified Products* criteria indicates that the subject merchandise constitutes more than one class or kind. *See, for example, Final Determination of Sales at Less than Fair Value: Anti-Friction Bearings (Apart from Tapered Roller Bearings) from Germany*, 54 Fed. Reg. 18992, 18998 (May 3, 1989) (*"AFBs from Germany"*); *Pure and Alloy Magnesium from Canada: Final Affirmative Determination; Rescission of Investigation and Partial Dismissal of Petition*, 57 Fed. Reg. 30939 (July 13, 1992).

1. Physical Characteristics

We find little meaningful difference in physical characteristics between seamless pipe above and below two inches. Both are covered by the same technical specifications, which contains

[1] *See Preliminary Affirmative Determination of Scope Inquiry on Antidumping Duty Orders on Certain Welded Non-Alloy Steel Pipes from Brazil, the Republic of Korea, Mexico and Venezuela*, 59 FR 1929, January 13, 1994.

[2] This approach is consistent with petitioner's request.

detailed requirements.[3] While we recognize that carbon and alloy pipe do have some important physical differences (primarily the enhanced heat and pressure tolerances associated with alloy grade steels), it is difficult to say where carbon steel ends and alloy steel begins. As we have discussed in our *Class or Kind Decision Memorandum* of June 12, 1995, carbon steel products themselves contain alloys, and there is a range of percentages of alloy content present in merchandise made of carbon steel. We find that alloy grade steels, and pipes made therefrom, represent the upper end of a single continuum of steel grades and associated attributes.[4]

In those prior determinations where the Department divided a single class or kind, the Department emphasized that differences in physical characteristics also affected the capabilities of the merchandise (either the mechanical capabilities, as in AFBs from Germany, 54 Fed. Reg. at 18999, 19002–03, or the chemical capabilities, as in *Pure and Alloy Magnesium from Canada*, 57 Fed. Reg. at 30939), which in turn established the boundaries of the ultimate use and customer expectations of the products involved.

As the Department said in *AFBs from Germany*,

> [t]he real question is whether the physical differences are so material as to alter the essential nature of the product, and, therefore, rise to the level of class or kind distinctions. We believe that the physical differences between the five classes or kinds of the subject merchandise are fundamental and are more than simply minor variations on a theme.

54 Fed. Reg. at 19002. In the present cases, there is insufficient evidence to conclude that the differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, rise to the level of a class or kind distinction.

Furthermore, with regard to Siderca's allegation that a two-inch breakpoint is widely recognized in the U.S. market for seamless pipe, the Department has found only one technical source of U.S. market data for seamless pipe, the *Preston Pipe Report*. The *Preston Pipe Report*, which routinely collects and publishes U.S. market data for this merchandise, publishes shipment data for the size ranges ½ to 4½ inches: it does not recognize a break point at 2 inches. Accordingly, the Department does not agree with Siderca that "the U.S. market" recognizes 2 inches as a physical boundary line for the subject merchandise.

In these present cases, therefore, the Department finds that there is insufficient evidence that any physical differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, or between carbon and alloy steel, rise to the level of class or kind distinctions.

2. Ultimate Use and Purchaser Expectations

We find no evidence that pipe above and below two inches is used exclusively in any specific applications. Rather, the record indicates that there are overlapping applications. For example, pipe above and below two inches may both be used as line and pressure pipe. The technical definitions for line and pressure pipe provided by ASTM, AISI, and a variety of other sources do not recognize a distinction between pipe over and under two inches.

Likewise, despite the fact that alloy grade steels are associated with enhanced heat and pressure tolerances, there is no evidence that the carbon or alloy content of the subject merchandise can be differentiated in the ultimate use or expectations of the ultimate purchaser of seamless pipe.

3. Channels of Trade

Based on information supplied by the parties, we determine that the vast majority of the subject merchandise is sold through the same channel of distribution in the United States and is triple-stenciled in order to meet the greatest number of applications.

Accordingly, the channels of trade offer no basis for dividing the subject merchandise into multiple classes or kinds based on either the size of the outside diameter or on pipe having a carbon or alloy content.

4. Cost

Based on the evidence on the record, we find that cost differences between the various products do exist. However, the parties varied considerably in the factors which they characterized as most significant in terms of affecting cost. There is no evidence that the size ranges above and below two inches, and the difference between carbon and alloy grade steels, form a break point in cost which would support a finding of separate classes or kinds.

In conclusion, while we recognize that certain differences do exist between the products in the proposed class or kind of merchandise, we find that the similarities significantly outweigh any differences. Therefore, for purposes of the final determination, we will continue to consider the scope as constituting one class or kind of merchandise.

C. Miscellaneous Scope Clarification Issues and Exclusion Requests

The miscellaneous scope issues include: (1) Whether OCTG and unfinished OCTG are excluded from the scope of these investigations; (2) whether pipes produced to non-standard wall thicknesses (commonly referred to as "tubes") are covered by the scope; (3) whether certain merchandise (e.g., boiler tubing, mechanical tubing) produced to a specification listed in the scope but used in an application excluded from the scope is covered by the scope; and (4) whether redraw hollows used for cold drawing are excluded from the scope. For a complete discussion of interested party comments and the Department's analysis on these topics, see June 12, 1995, *Additional Scope Clarifications Decision Memorandum* from DAS to AS.

Regarding OCTG, petitioner requested that OCTG and unfinished OCTG be included within the scope of these investigations if used in a standard, line or pressure pipe application. However, OCTG and unfinished OCTG, even when used in a standard, line or pressure pipe application, may come within the scope of certain separate, concurrent investigations. We intend that merchandise from a particular country not be classified simultaneously as subject to both an OCTG order and a seamless pipe order. Thus, to eliminate any confusion, we have revised the scope language above to exclude finished and unfinished OCTG, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in a standard, line or pressure pipe application, and, as with other non-listed specifications, may be subject to end-use certification if there is evidence of substitution.

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[3] The relevant ASTM specifications, as well as product definitions from other independent sources (e.g., American Iron and Steel Institute (AISI)), describe the sizes for standard, line, and pressure pipe, as ranging from ½ inch to 60 inches (depending on application). None of these descriptions suggest a break point at two inches.

[4] The Department has had numerous cases where steel products including carbon and alloy grades were considered to be within the same class or kind. See, e.g., *Preliminary Determination of Sales at Less than Fair Value: Oil Country Tubular Goods from Austria, et al.*, 60 Fed. Reg. 6512 (February 2, 1995); *Final Determination of Sales at Less than Fair Value: Certain Alloy and Carbon Hot-Rolled Bars, Rods, and Semi-Finished Products of Special Bar Quality Engineered Steel from Brazil*, 58 Fed. Reg. 31496 (June 3, 1993); *Final Determination of Sales at Less than Fair Value: Forged Steel Crankshafts from the United Kingdom*, 60 Fed. Reg. 22045 (May 9, 1995).

Regarding pipe produced in non-standard wall thicknesses, we determine that these products are clearly within the parameters of the scope of these investigations. For clarification purposes, we note that the physical parameters of the scope include all seamless carbon and alloy steel pipes, of circular cross-section, not more than 4.5 inches in outside diameter, *regardless of wall thickness.* Therefore, the fact that such products may be referred to as tubes by some parties, and may be multiple-stenciled, does not render them outside the scope.

Regarding pipe produced to a covered specification but used in a non-covered application, we determine that these products are within the scope. We agree with the petitioner that the scope of this investigation includes all merchandise produced to the covered specifications and meeting the physical parameters of the scope, regardless of application. The end-use criteria included in the scope is only applicable to products which can be substituted in the applications to which the covered specifications are put *i.e.* standard, line, and pressure applications.

It is apparent that at least one party in this case interpreted the scope incorrectly. Therefore, we have clarified the scope to make it more explicit that all products made to ASTM A–335, ASTM A–106, ASTM A–53 and API 5L are covered, regardless of end use.

With respect to redraw hollows for cold drawing, the scope language excludes such products specifically when used in the production of cold-drawn pipe or tube. We understand that petitioner included this exclusion language expressly and intentionally to ensure that hollows imported into the United States are sold as intermediate products, not as merchandise to be used in a covered application.

Standing

The Argentine, Brazilian, and German respondents have challenged the standing of Gulf States Tube to file the petition with respect to pipe and tube between 2.0 and 4.5 inches in outside diameter, arguing that Gulf States Tube does not produce these products.

Pursuant to section 732(b)(1) of the Act, an interested party as defined in section 771(9)(C) of the Act has standing to file a petition. (*See also* 19 C.F.R. § 353.12(a).) Section 771(9)(C) of the Act defines "interested party," *inter alia*, as a producer of the like product. For the reasons outlined in the "Scope Issues" section above, we have determined that the subject merchandise constitutes a single class or kind of merchandise. The International Trade Commission (ITC) has also preliminarily determined that there is a single like product consisting of circular seamless carbon and alloy steel standard, line, and pressure pipe, and tubes not more than 4.5 inches in outside diameter, and including redraw hollows. (*See* USITC Publication 2734, August 1994 at 18). For purposes of determining standing, the Department has determined to accept the ITC's definition of like product, for the reasons set forth in the ITC's preliminary determination. Because Gulf States is a producer of the like product, it has standing to file a petition with respect to the class or kind of merchandise under investigation. Further, as noted in the "Case History" section of this notice, on April 27, 1995, Koppel, a U.S. producer of the product size range at issue, filed a request for co-petitioner status, which the Department granted. As a producer of the like product, Koppel also has standing.

The Argentine respondent argues that Koppel's request was filed too late to confer legality on the initiation of these proceedings with regard to the products at issue. Gulf States Tube maintains that the Department has discretion to permit the amendment of a petition for purposes of adding co-petitioners who produce the domestic like product, at such time and upon such circumstances as deemed appropriate by the Department.

The Court of International Trade (CIT) has upheld in very broad terms the Department's ability to allow amendments to petitions. For example, in *Citrosuco Paulista, S.A. v. United States,* 704 F. Supp. 1075 (Ct. Int'l Trade 1988), the Court sustained the Department's granting of requests for co-petitioner status filed by six domestic producers on five different dates during an investigation. The Court held that the addition of the co-petitioners cured any defect in the petition, and that allowing the petition to be amended was within Commerce's discretion:

> [S]ince Commerce has statutory discretion to allow amendment of a dumping petition *at any time*, and since Commerce may self-initiate a dumping petition, any defect in a petition filed by [a domestic party is] cured when domestic producers of the like product [are] added as co-petitioners and Commerce [is] not required to start a new investigation.

Citrosuco, 704 F. Supp. at 1079 (emphasis added). The Court reasoned that if Commerce were to have dismissed the petition for lack of standing, and to have required the co-petitioners to refile at a later date, it "would have elevated form over substance and fruitlessly delayed the antidumping investigation * * * when Congress clearly intended these cases to proceed expeditiously." *Id.* at 1083–84.

Koppel has been an interested party and a participant in these investigations from the outset. The timing of Koppel's request for co-petitioner status and the fact that it made its request in response to Siderca's challenge to Gulf States's Tube's standing does not render its request invalid. *See Final Affirmative Countervailing Duty Determination; Live Swine and Fresh, Chilled, and Frozen Pork Products from Canada,* 50 FR 25097 (June 17, 1985). The Department has rejected a request to add a co-petitioner based on the untimeliness of the request only where the Department determined that there was not adequate time for opposing parties to submit comments and for the Department to consider the relevant arguments. *See Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden,* 52 FR 5794, 5795, 5803 (February 26, 1987). In this investigation, the respondents have had an opportunity to comment on Koppel's request for co-petitioner status, and the Argentine respondent has done so in its case brief. Therefore, we have determined that, because respondents would not be prejudiced or unduly burdened, amendment of the petition to add Koppel as co-petitioner is appropriate.

Period of Investigation

The period of investigation (POI) is January 1, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar merchandise comparisons, when verified data permitted, on the basis of the criteria defined in Appendix V to the antidumping questionnaire, on file in Room B–099 of the main building of the Department.

Fair Value Comparisons

To determine whether Mannesmann's sales of seamless pipe from MSA 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 "Unite-

States Price" and "Foreign Market Value" sections of this notice.

In accordance with past practice and consistent with our decision in the preliminary determination, we considered Brazil's economy to be hyperinflationary during the POI. Pursuant to our methodology concerning such an economy, we made contemporaneous sales comparisons based on the month of the U.S. sale.

In accordance with 19 CFR 353.58, we made comparisons at the same level of trade. For those U.S. sales where there were no comparable sales at the same level of trade in the home market, we used home market sales at a different level of trade as the basis of our less than fair value comparisons. Based on our analysis of Mannesmann's questionnaire response, we have accepted its claim that MSA's sales from its factory to unrelated customers and its sales through its related distributor MCSA represent two distinct levels of trade. However, because we could not determine that the difference in level of trade affects price comparability, we made no adjustment to FMV. *See* Comment 5 of the "Company-specific Issues" sub-section of the "Interested Party Comments" section of this notice.

We also made adjustments for differences-in-merchandise (difmer), where possible, in accordance with 19 CFR 353.57. At verification, we found that respondent's reported variable cost of manufacture data included cost differences not attributable to physical differences in the merchandise. Therefore, we modified the submitted cost data where we had information on the record to eliminate cost differences unrelated to physical differences.

For those products for which difmer cost modification was not possible and those U.S. sales with no comparable home market products and no cost data, we based our analysis, pursuant to section 776(C) of the Act, on the best information available (BIA). As BIA, we used a calculated margin that is sufficiently adverse to fulfill the statutory purpose of the BIA rule. *See* June 12, 1995, *Final Determination Concurrence Memorandum*. *See* also DOC Position to Comment 2 of the "Company-specific Issues" sub-section of the "Interested Party Comments" section of this notice.

United States Price

We calculated USP according to the methodology described in our preliminary determination, with the following exceptions:

1. We corrected certain clerical errors found at verification, including: (a) The reported product codes for four products; (b) the reported sales date and end-finish for one transaction; (c) the level of trade reported for one customer; and (d) the reported U.S. duty charges for certain transactions.

2. We revised the reported ocean freight, U.S. brokerage, and U.S. inland freight amounts for certain transactions to reflect actual expenses.

3. We recalculated credit expenses using respondent's revised U.S. shipment dates submitted in the March 9, 1995, response. These dates reflect the approximate date on which the merchandise left the factory.

4. We made a deduction for foreign inland freight charges that were previously not reported in respondent's sales listing.

5. We made a deduction for bank fees paid by MSA for entering into foreign exchange contracts, which had not been reported in respondent's sales listing. *See* Comment 8 of the "Company-specific Issues" sub-section of the "Interested Party Comments" section of this notice.

Foreign Market Value

As stated in the preliminary determination, we determined that respondent's home market was viable with respect to sales of seamless pipe during the POI to serve as the basis for FMV.

Based on the results of the Department's related party sales test as set forth in Appendix II of the *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062 (July 9, 1993), we excluded respondent's related party sales from our analysis, and used only those sales made to unrelated parties.

We calculated FMV according to the methodology described in our preliminary determination with the following exceptions:

1. Where we had verified transaction-specific data on the record, we excluded from our analysis those home market sales that were found to have been returned, and incorrectly included in respondent's sales listing.

2. For both MSA's and MCSA's sales, we revised the reported insurance charges, where appropriate, based on the applicable, verified insurance percentage rates prevailing during the POI.

3. We corrected clerical errors made with respect to the reported interest revenue amounts for two transactions.

4. For MSA's sales, we reduced the reported inland freight charges by the amount by which they exceeded the actual amounts charged by MSA's freight supplier.

5. With respect to MCSA's sales, we corrected the surface treatment codes for those products reported incorrectly as corrosion-resistant.

6. We made no adjustment for inflation value in addition to an adjustment for the reported, verified credit expenses which included an inflation factor. *See* Comment 4 in the "Company-specific Issues" sub-section of the "Interested Party Comments" section of this notice.

7. Because the reported U.S. and home market packing expenses did not verify, we used BIA for these expenses. As BIA for home market packing expenses, we used the lowest domestic packing expense noted on the record. As BIA for U.S. packing expenses, we used the highest export packing expense noted on the record. *See* Comment 6 in the "Company-specific Issues" sub-section of the "Interested Party Comments" section of this notice.

8. Where possible, we made difmer adjustments based on the submitted cost data, modified to eliminate cost differences unrelated to physical differences between the merchandise being compared. *See* Comment 2 in the "Company-specific Issues" sub-section of the "Interested Party Comments" section of this notice.

Currency Conversion

No certified rates of exchange, as furnished by the Federal Reserve Bank of New York, were available for the POI. In place of the official certified rates, we used the daily official exchange rates for the Brazilian currency, as well as the UFIR[5] index, published by the Central Bank of Brazil which were provided by respondent in its February 28, 1995, response and verified by the Department.

Verification

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

Interested Party Comments

General Issues

Comment 1

Mannesmann argues that petitioner lacks standing to seek the imposition of antidumping duties on products that it does not produce. According to Mannesmann, petitioner has admitted

[5] The UFIR is an inflationary neutral currency unit.

that it is incapable of manufacturing seamless pipe and tube in dimensions above two inches in outside diameter. Therefore, respondent maintains that petitioner is not an "interested party" with respect to this merchandise. Accordingly, the Department should amend the scope of the investigation to limit it only to those dimensions and pipe types that petitioner has a proven ability to manufacture.

Gulf States Tube contends that the antidumping statute neither requires nor permits the Department to limit the scope of the investigation to products that the petitioner itself produces. Gulf States Tube also maintains that respondent's standing claim is untimely and may not be considered by the Department at this stage of the proceeding. Nevertheless, Gulf States Tube asserts that the issue is rendered moot by the request of Koppel Steel Corporation, a domestic producer of subject merchandise in sizes larger than two inches in outside diameter, for co-petitioner status.

DOC Position

We disagree with respondent for the reasons outlined in the "Standing" section of this notice.

Comment 2

Mannesmann contends that including an end-use certification requirement in the scope would be both illegal and unworkable. Respondent maintains that petitioner is effectively seeking to circumvent the established legal procedure by arguing for an open-ended scope definition that encompasses products that it does not manufacture and that petitioner has conceded are not causing present injury. In addition, respondent states that it is clear that any end-use certification procedure designed to implement such a scope definition is wholly unworkable because of the manner in which the subject products are sold. That is, in almost all cases the importer of record does not know the ultimate use of the pipe products it sells, and in many instances, neither do its customers. According to respondent, as a practical matter, the effect of an end-use certification requirement would be to ask the impossible of importers. Furthermore, respondent states that the anticircumvention procedures of the antidumping law provide ample remedy to petitioner in cases of order circumvention via product substitution. Respondent emphasizes that absent the detailed inquiry required by anti-circumvention legal provisions, the Department cannot include within the scope of this investigation other merchandise simply because such other products might in theory be utilized for the same purposes as pipe meeting the listed specifications. According to respondent, to do otherwise is contrary to the antidumping law and deprives respondents of their right to a full and fair hearing on any circumvention allegations that might be advanced by petitioner at some later date.

Petitioner argues that there is no factual or legal basis for eliminating end use as a defining element of the scope of the investigation. Furthermore, not only is the feasibility of specific enforcement mechanisms irrelevant to the scope determination, but it is also untrue that any end use certification procedure would be unworkable. According to petitioner, there is no evidence on the record of this investigation that an end-use certification program must require the submission of an end-use certificate by the importer at the time of importation. Rather, petitioner proposes a program whereby the end-use certificate travels with the pipe to the ultimate end-user, who may then send it back up the line of distribution. When final duties are assessed, the Department may assume that any pipe for which no certificates can be produced was used in subject applications. Contrary to Mannesmann's arguments, petitioner maintains that the Department and the U.S. Customs Service are perfectly capable of administering an order that includes end use in its scope definition. In the event that products meeting the physical description of subject merchandise, but which are not certified to one or more of the covered specifications, are being substituted into one of the listed applications, the burden would be on the petitioner, other domestic producers or interested parties to notify Customs and the Department with some objective evidence supporting a reasonable belief that substitution is occurring. Accordingly, it is both unnecessary and inappropriate at this point to engage in debate about the feasibility and desirability of specific end-use certification procedures. According to petitioner, the facts and policy considerations relevant to such a debate are not available on this record, and the selection of a specific enforcement mechanism is beyond the Department's responsibilities in this proceeding.

DOC Position

We disagree with respondent's assertion that including end-use in the scope of the investigation would be unlawful. The Department has interpreted scope language in other cases as including an end-use specification. *See Ipsco Inc.* v. *United States*, 715 F. Supp. 1104 (CIT 1989). *See* "Scope Issues" section of this notice for further discussion on end-use.

Comment 3

Mannesmann contends that the carbon and alloy pipe products subject to investigation are distinct classes or kinds of merchandise. Mannesmann asserts that the criteria set out in *Diversified Products* support a division between carbon and alloy products. Specifically, Mannesmann argues that carbon and alloy pipes differ in terms of physical characteristics, uses, customer expectations and cost. With respect to physical characteristics, alloy seamless pipes contain higher grade steel than carbon seamless pipe, and because of their different chemistries, these products have different performance characteristics. With respect to end use which, according to respondent, is inherently tied to physical characteristics, carbon pipe is not as versatile as alloy steel pipe and is not suited for the more sophisticated applications, such as operations in high temperature environments. Respondent asserts that the Department has consistently emphasized the relationship between physical characteristics and end use in past cases (*e.g., Torrington Co.* v. *United States*, 745 F.Supp. 718, 726 (CIT 1990) (*Torrington*)). In addition, respondent states that customer expectations vary depending upon the ability of specific merchandise to perform a given task. With regard to alloy and carbon steel pipe, the ultimate purchaser does not expect these two types of pipe to be interchangeable, and is willing to pay more for alloy steel pipe because it must perform under more adverse conditions than the conditions for which carbon pipe is suited. With respect to cost, respondent states that the cost of alloy pipe is higher than that of carbon pipe because of the more expensive raw materials and production costs incurred in producing alloy pipe. Finally, with respect to channels of trade, respondent states that carbon and alloy pipe move in similar channels, but that this factor is not determinative as to class or kind of merchandise.

Petitioner maintains that the subject merchandise constitutes a single class or kind. With respect to Mannesmann's proposal for a split in class or kind on the basis of material composition, petitioner asserts that the factual evidence does not support such a division. Petitioner states that the application of the criteria employed by the Department in *Diversified Products*

compels the conclusion that there is a single class or kind of merchandise. According to petitioner, the physical characteristics of carbon and alloy pipe represent a continuum of products produced with varying chemical compositions to meet a range of heat, pressure and tensile requirements. According to petitioner, there is simply no bright dividing line between the physical characteristics of the products. Petitioner states that the customer's expectations and use of the product are dictated by the engineering specification required by the intended application. Because the majority of all subject seamless pipe is triple-certified, the pipe may be put to any of the uses that apply to each of the individual specifications to which it is certified. Petitioner points out that the vast majority of seamless pipe is sold through the same channel of trade—distributors. Finally, petitioner adds that, because the majority of seamless pipe is triple-certified, it has identical costs regardless of the customer to whom it is sold.

DOC Position

We agree with petitioner that the subject merchandise constitutes a single class or kind for the reasons outlined in the "Scope Issues" section of this notice. Furthermore, respondent's reliance on *Torrington* is misplaced. In *Torrington*, the Court of International Trade found that the Department's division of antifriction bearings into five classes or kinds, based in large part on the physical characteristics of the different types of antifriction bearings, was supported by substantial evidence on the record. In this case, as we stated in our "Scope Issues" section, that there is insufficient evidence to show that the difference between carbon and alloy steel rises to a class or kind distinction. *See* "Scope Issues" section of this notice for further discussion on class or kind.

Company-Specific Issues

Comment 1

Petitioner argues that BIA must be applied to Mannesmann's responses for the following reasons:

(a) the Department was unable to verify the accuracy or completeness of Mannesmann's sales listings;

(b) MSA's difmer data is erratic and contains serious errors; and

(c) the information for various sales charges and adjustments reported by respondent could not be verified.

Petitioner maintains that Mannesmann's home market sales response must be considered unreliable when viewed in the context of the totality of problems identified at verification and the additional opportunities Mannesmann had prior to verification to provide an accurate response.

With respect to reason (a) above, petitioner states that the Department's verification report confirms that Mannesmann omitted certain sales of subject merchandise from its home market sales listing, often characterizing these omissions as insignificant in terms of the percentage they constitute of total reported sales. Petitioner asserts that since only a portion of Mannesmann's total reported sales will be matched to U.S. sales in dumping margin analysis and the Department's standard hyperinflation methodology requires separate FMV calculations for each month, omissions such as those observed by the Department can have a significant impact on the ultimate margin calculation. According to petitioner, the Department must examine each of the errors and omissions noted in the verification report in the context of its potential impact on monthly sales matches.

In addition to these sales omissions, petitioner notes further that certain sales were reported incorrectly because of errors in accounting for merchandise returns and invoice price corrections. Also, the gross prices for numerous transactions and the surface treatment codes for certain products were reported incorrectly.

With respect to reason (b), petitioner maintains that the cost data submitted by respondent remains erratic and unusable even after the Department's request for its revision in a deficiency letter issued subsequent to the preliminary determination. Reason (b) is discussed in detail under Comment 2 below.

With respect to reason (c), petitioner takes issue with verification findings for certain charges and adjustments, *i.e.*, that MSA's home market inland freight and insurance expenses were overstated, that foreign inland freight charges incurred by MSA on U.S. sales were not reported, that home market and U.S. packing costs were not verified, MPS' reporting of estimated movement charges for certain U.S. transactions, and U.S. shipment date.

Respondent argues that the discrepancies noted by the Department in the verification reports either do not have appreciable effects on antidumping analysis or serve to disadvantage respondent. Therefore, its responses should be used in the Department's final analysis. For example, respondent asserts that a portion of the unreported sales would be irrelevant to product comparisons in the Department's analysis because it did not make any sales of those same products in the United States during the POI.

With respect to the transactions which were omitted inadvertently from MCSA's February 28, 1995, sales listing due to programming errors, respondent points out that these sales were originally reported to the Department in the December 9, 1994, sales listing, and considered in the Department's preliminary analysis. Respondent states that these omitted sales fall into two categories: (1) sales of products which were not matched to U.S. products in the preliminary determination and were irrelevant in the margin calculation; and (2) sales of products which were potential matches for products sold to the United States. However, the sales of potentially matchable products were either not made in the same month as the corresponding U.S. products to which they were matched, or the Department has the necessary data from the December 9 response to utilize the sales for matching purposes. With respect to certain sales of cold-drawn pipe which were never reported to the Department, respondent argues that this is an insignificant portion of total reported home market sales, and that examining these sales within the context of the Department's preliminary determination product concordance indicates that none of the unreported sales should be treated as the most similar match to U.S. sales of cold drawn pipe. With respect to another group of products that were not reported to the Department because of a product selection error made during response preparation, respondent argues that these products are irrelevant to product comparisons on the basis of specification.

Furthermore, respondent notes that any other discrepancies found at verification are minor and/or disadvantage respondent. Such discrepancies include: the incorrect reporting of four U.S. product codes for certain transactions; the overstatement of MSA's home market inland freight and insurance charges; MSA's omission of foreign inland freight charges for U.S. sales; and certain estimated U.S. movement charges which were not updated to reflect actual charges incurred.

DOC Position

We disagree with petitioner that Mannesmann's responses cannot be used for the final determination. While we noted several discrepancies at verification, these discrepancies were neither pervasive nor representative of a

pattern of misrepresentation which would merit the rejection of the questionnaire response in total.

It is true that respondent omitted certain home market sales from its February 28, 1995, sales listing for a variety of reasons, ranging from incorrect product code selection to inadvertent programming errors (*see* MSA/MCSA Verification Report at 49–55). However, we were able to verify the nature and magnitude of these errors, and found that they are not significant with respect to either the percentage of total home market sales reported or potential home market matches. In order to arrive at this conclusion, we conducted a comparative analysis between the characteristics (and weighted-average prices) of the omitted home market products originally reported in Mannesmann's December 9, 1994, sales listing, and those of the reported home market products in respondent's February 28, 1995, sales listings. As a result of this exercise we found that for some of the omitted sales, there did not exist contemporaneous sales of identical products reported in respondent's February 28, 1995, sales listings. We then compared the product characteristics of the omitted sales to those of the U.S. sales, and found that none of the omitted home market sales would be comparable to the U.S. products sold during the POI on the basis of grade. Regarding those sales of another group of products that were not reported to the Department because of a product selection error, we found that, regardless of the month in which they were sold, these products would not be comparable to those sold to the United States on the basis of specification. Finally, we have determined to apply BIA to respondent's U.S. sales of cold-drawn pipe made during the POI for the reasons outlined in Comments 2 and 3 below.

Furthermore, with respect to those home market sales affected by merchandise returns which were verified not to be usable for margin analysis, we found that the home market sales quantity affected was insignificant in terms of total reported home market sales quantity. Because these sales were incorrectly included in respondent's home market sales listing, we excluded them from our analysis where we could clearly identify the affected individual transactions from data contained in verification exhibits.

In addition, regarding the gross prices of those transactions which were found to be overreported, we included these sales in our analysis, but did not make any adjustments to price. Our decision to make no adjustment is based on the fact that the prices at issue represent an overstatement of actual prices charged and any revision of such prices would not only be burdensome given the number of affected transactions, but would also require the revision of other sales-related data (*e.g.*, taxes) which are calculated based upon price and were not examined specifically at verification within the context of overreported gross prices.

As for the other areas stated by petitioner in which discrepancies were found (*e.g.*, difmer, packing, etc.), we made appropriate adjustments in accordance with verification findings based on information on the record, as discussed in the "United States Price," "Foreign Market Value" and "Interested Party Comments" sections of this notice.

Comment 2

Petitioner contends that Mannesmann's difmer cost data remains erratic and unusable for the final determination and, therefore, the Department should apply BIA to calculate the margin for any U.S. sale for which there is no contemporaneous identical match in the home market. According to petitioner, Mannesmann's difmers are deficient because they are not based on replacement costs in the month of shipment; rather Mannesmann's costs have been reported on a historical basis. Petitioner points out that the fact that Mannesmann has recorded its historical costs in UFIRs does not transform them into replacement costs, and that this approach has been rejected in previous cases by the Department (*e.g.*, *Final Determination of Sales at Less Than Fair Value: Silicon Metal from Brazil*, 59 FR 42806, August 19, 1994) (*Silicon Metal from Brazil*). Even though the Department changed its hyperinflationary methodology in 1994 by providing for indexing of costs across different months, petitioner maintains that the costs that are indexed still must be replacement costs during the month of shipment, and must not represent historical costs. Petitioner argues that UFIR indexation is no substitute for the reporting of actual monthly replacement costs.

Petitioner also maintains that the fluctuations in cost are not limited to the materials component of the reported costs; there are also significant variations in the reported labor and variable overhead costs from month to month for the same products, indicating that the data is unreliable. According to petitioner, while the Department verified that the reported cost data was submitted in accordance with the exact methodology used in its normal cost accounting system, the Department did not verify that the system accurately states respondent's costs for purposes of this investigation. Citing *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), petitioner emphasizes that the Department has rejected the use of cost differences unrelated to physical differences for difmer adjustment purposes in past cases.

With respect to petitioner's request for the use of BIA, respondent asserts that petitioner ignores the facts on the record and that the Department was able to trace the reported cost data to source documentation, and tie them to financial statements.

Furthermore, respondent asserts that petitioner's attempt to link the concepts of replacement costs and monetary correction in arguing that MSA's reported costs do not account for changes in replacement costs is confused. According to MSA, a monetary correction is merely an adjustment to financial statements to measure the cost for holding balances in certain accounts during periods of inflation. Such an adjustment has nothing to do with production costs or difmer calculations. Respondent notes that the Department has confirmed this in past cases by treating such monetary corrections as offsets or additions to financing expenses (*e.g.*, *Final Results of Administrative Review: Gray Portland Cement from Mexico*, 58 FR 47253 (1993)).

Respondent asserts that, contrary to petitioner's attempt to confuse the significance of MSA's UFIR-based cost system, this system accounts for the effects of changes in replacement costs. In addition, respondent opposes petitioner's characterization that a UFIR-based system is tantamount to reporting historical costs. According to respondent, the historical method contrasts sharply with the UFIR system, which carries costs forward on a steady currency basis and, in effect, reaches the same result as a replacement cost system. The UFIR-based methodology is applicable for both finished goods and inputs and ensures that MSA's costs reflect market conditions. Because this methodology tracks the inflation rate, material and finished goods are constantly inflated when expressed in Brazilian currency. According to respondent, this result is precisely the intent of the replacement cost accounting system, *i.e.*, to express costs in real terms. Therefore, respondent's UFIR-based system accurately tracks cost on a replacement basis and is not,

as petitioner suggests, on a historical cost basis.

DOC Position

We agree in part with both petitioner and respondent. At verification, we noted that respondent's reported UFIR-based material and fabrication costs varied substantially for the same product produced in different months. We were able to establish that this cost variance was due to a combination of factors which are unrelated to physical differences: (1) the nature of MSA's cost accounting system; (2) the process used to produce the input bar consumed in the production of subject merchandise (whether it was produced using ingot or a continuous caster); and (3) whether the material was purchased (imported) or produced in-house by the respondent.

Contrary to petitioner's contention that replacement costs must be used when indexing costs between different months, for difmer purposes, we consider it appropriate to have cost data submitted in UFIR, as maintained by the company in its ordinary course of business. (*See* Department Policy Bulletin No. 94.5 dated March 25, 1994.) The UFIR is not a methodological creation of the respondent; UFIR-denominated costs must be kept in the ordinary course of business for reporting purposes to the "Junta Comercial" (the Brazilian equivalent of the Securities and Exchange Commission). Also, we find that petitioner's cite to *Silicon Metal from Brazil* as case precedence for the Department rejecting submitted UFIR costs is misplaced. In *Silicon Metal from Brazil*, unlike the instant case, there was no UFIR type indexation scheme in effect. Rather, the "monetary correction" methodology (*i.e.*, year-end restatement of assets/liabilities) used by respondent was deemed inappropriate.

Furthermore, we disagree with petitioner's contentions that MSA's submitted variable fabrication costs are unreliable and that the differences in fabrication costs cannot be explained by alleged differences in input steel costs. As stated above, we verified that MSA's submitted cost data was extracted directly from its normal cost accounting system which records the actual costs incurred to manufacture each batch of pipe produced. We thus have no reason to believe that MSA's submitted cost data is unreliable in general. Second, we observed at verification that steel bar produced from ingot versus a continuous caster will affect both material and fabrication costs.

However, notwithstanding the fact that respondent's variable costs were reported in accordance with its normal cost accounting system, we agree with petitioner that we must use variable costs for difmer adjustment purposes which are not distortive in margin analysis. For difmer purposes, it is the Department's practice to consider only those cost differences associated with physical differences in the products under comparison. The flaw we found in MSA's reporting methodology was one of not neutralizing the cost differences resulting from different production processes or supply sources for input bar, which is an inherent result of its normal cost accounting system. Therefore, for purposes of the final determination, we have modified respondent's variable costs of manufacture for those products for which we had information on the record to enable us to compute a difmer adjustment exclusive of the cost differences unrelated to physical differences. For the material costs of these products, we computed a POI weighted-average bar cost for all subject merchandise using the same material grade bar. We then determined the product-specific material costs by multiplying product-specific POI average yield rates by the POI weighted average bar cost. For fabrication costs, we had available a breakout of the quantity of continuous casted versus ingot bar used in production for specific products for each month of the POI. From this data, we identified for similar product matches, which months used comparably sourced bar.

However, for certain products we did not have the information concerning the POI monthly quantity of input bar produced via the continuous-casted versus ingot methods. Additionally, we were unable to determine the percentage of such products produced from imported tube versus MSA-produced tube. We note that the vast majority of the U.S. products that are affected by this lack of information on the record are cold-drawn pipes. *See* Comment 9 below. Therefore, for a small percentage of U.S. sales quantity, we were unable to eliminate the fabrication cost differences resulting from the different production processes and/or sources of input bar. For those sales of U.S. products where we did not have reliable fabrication costs, we used a margin based on BIA. As BIA, we used a calculated margin that is sufficiently adverse to fulfill the statutory purpose of the BIA rule (section 776(c) of the Act) and which is indicative of, and bears a rational relationship to, the respondent's sales. *See National Steel* v. *United States*, 870 F.Supp. 1130 (CIT 1994).

Comment 3

Petitioner argues that MSA and MCSA incorrectly reported invoice date as the date of sale for all home market sales. It maintains that the correct date of sale is Mannesmann's internal order date because it is at this time that final agreement on the essential terms of sale, including price and the manner in which it will be adjusted for inflation, is made. Petitioner asserts that the only changes in the essential terms of sale between Mannesmann's internal order and invoice dates are a currency conversion and an inflation adjustment, both of which are performed automatically by computer without negotiation with the customer; and that this was the only variance between order and invoice date noticed by the Department at verification. According to petitioner, the automatic restatement of the price by computer to account for inflation is not a substantive change in the material terms of sale. Petitioner cites *Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip from France* (52 FR 812, January 9, 1987) (*Brass Sheet and Strip*) to support its position that it is the Department's established practice to use as the date of sale, the date on which basic terms become determinable, without regard to automatic mechanisms that might alter or establish specific terms.

For the final determination, petitione. urges the Department to use the sales listings submitted on December 9, 1994, despite substantial alterations made to them (*i.e.*, in the subsequent sales listings submitted on February 28, 1995). According to petitioner, these listings provide internal order dates and invoice numbers that can easily be matched to the invoice numbers reported in Mannesmann's February 28, 1995, response. For any sales in the February 28, sales listing which cannot be matched to an alleged "proper" date of sale using the December 9, listing, petitioner maintains that the Department should apply partial BIA by using the average time lag between order and invoice date for other sales to place the sale in the appropriate month. This method of partial BIA would entail deflating prices for such months because the prices and adjustments in the February 28, response are stated in cruzeiros valued for months later than the actual date of sale claimed by petitioner, so that they are restated in terms of the value of the cruzeiro during the month of sale. Alternatively, if the currency conversion is too burdensome, the Department should apply, as partial BIA to such sales, either the highest

calculated margin for the company or the highest margin alleged in the petition.

Respondent argues that invoice date is the correct date of sale in accordance with the Department's normal methodology. It is also the date mandated by Brazilian law and accounting practices, which do not recognize a sale until the invoice is generated, and the date consistent with MSA and MCSA's recordkeeping system in the ordinary course of trade. Respondent takes issue with petitioner's assertion that the only subsequent changes in the essential terms of sale between MSA's internal order entry and shipment are a currency conversion and an inflation adjustment. Respondent states that not only did the high rate of inflation during the POI preclude any determination of the essential terms of sale (particularly price) until the time of invoicing, but also that there are significant fluctuations in price and quantity that typically occur between the order date and invoice date which the Department confirmed at verification. Citing the *Preliminary Determination of Sales at Less Than Fair Value: Canned Pineapple Fruit from Thailand* (60 FR 2734, January 11, 1995), respondent asserts that the Department has, under appropriate circumstances in past cases, specifically endorsed invoice date as the date of sale. In addition, respondent states that the purchase order is sometimes not received until after the invoice is generated by MCSA and the order shipped. According to respondent, invoice date is the most consistent and reliable basis for reporting comparable dates of sale in Brazil from both MSA and MCSA.

DOC Position.

We agree with respondent and have accepted its reported date of sale. At the verification of both MSA and MCSA, respondent provided source documentation substantiating its reasons for using invoice date as the date of sale. These reasons included not only the effects of inflation between purchase order date and invoice date, but also the fact that Mannesmann's internal order is subject to numerous fluctuations in price and quantity up until the date of invoice. (*See* Verification Report at 11–12 and 47.) Our decision in this instance is consistent with past cases. *See Amended Final Determination of Sales at Less Than Fair Value: Ferrosilicon from Brazil*, 59 FR 8598, February 23, 1994).

We also note that the facts in *Brass Sheet and Strip* are different from those in the instant case. In *Brass Sheet and Strip*, a formal contract between the buyer and seller established a price based upon a publicly quoted metal value source. The parties had agreed upon a time period during which the customer could lock in the publicly quoted rate; no further negotiations were necessary. *In Brass Sheet and Strip*, the price and quantity terms were sufficiently definite and effectively finalized as of the date of the initial contract, and the parties had no further ability to change the price by negotiation. In the instant case, not only are prices subject to fluctuation due to the hyperinflationary adjustment in Brazil, but customers often negotiate a different price or make material changes to quantity between the date of initial order entry and invoice date. While the *Brass Sheet and Strip* case involved long-term, fixed contracts where there was nothing left for the parties to negotiate, the instant case reflects the fact that when a purchase order to schedule production enters into MSA's system, the negotiating continues and a price adjustment often follows at the time of invoicing. With respect to this price adjustment, we could find no evidence in the source documentation examined at verification that, at the time of order, the customer had knowledge of the index (or indices) that would be used by respondent to make the adjustment for inflation, and that the customer therefore knew the exact price to which it had agreed. We also noted evidence of post-order cancellations, indicating that the customer was not bound by the terms set in the order.

We note that our decision in this case to accept the date of invoice as the date of sale is based upon the factual evidence on the record. In general, issues regarding the appropriate date of sale are examined on a case-by-case basis, and our decision in this case should not be interpreted as a general policy preference in future cases.

Comment 4

Consistent with its contention that the appropriate date of sale is the date of respondent's internal order, petitioner maintains that the home market prices and other cruzeiro-denominated data reported by Mannesmann must be restated in terms of the value of the cruzeiro during the month of sale. Similarly, according to petitioner, an inflation factor should not be included in any credit expense adjustment. Petitioner argues that to some extent the inflator in the credit expense adjustment can be expected to offset the inflator in the price. However, since the two inflators are derived differently and serve different purposes, they are seldom, if ever, equal. Whereas the credit expense inflator reflects inflation from the invoice date to the actual date of payment, the price inflator is based on the number of days between the invoice and the expected date of payment. Furthermore, petitioner states that the Department verified that the rates used for the price inflator are not proportional across payment terms. Therefore, while the credit expense inflator should reflect the actual inflation rate, the price inflator may be higher or lower than the true rate depending on the date of actual payment. According to petitioner, the Department can determine the actual gross unit price in terms of cruzeiros during the month of sale by subtracting the reported inflation value from the reported gross unit price (invoice price). In addition, the indexed value of the reported (inflated) gross price should be compared to the price of the internal order, and any excess should be treated as interest revenue attributable to that sale because the price inflator may be higher than the true inflation rate.

Petitioner suggests that the reported inflation value be subtracted from gross price to obtain the price in terms of cruzeiros as valued during the month of shipment, and the resulting values can be converted to cruzeiros as valued on the actual date of sale (*i.e.*, the internal order date) using the exchange rates provided in Mannesmann's response. The indexed value of the reported (inflated) gross price should then be compared to the price of the internal order, and any excess should be treated as interest revenue attributable to that sale.

Respondent maintains that the Department has verified the reported home market credit expenses and the rates for short-term loans available in Brazil during the POI without discrepancy and, therefore, should deduct these credit expenses as reported from FMV. Mannesmann disputes petitioner's allegation that interest revenue affects credit expenses and that, if a customer made a late payment, Mannesmann is not entitled to an adjustment for credit expenses because it would understate home market price. Respondent states that in the few instances when a customer did not pay on the expected date, interest revenue amounts were reported as an upward adjustment to the home market price, as verified by the Department. Also, if a customer did pay late, not only did Mannesmann incur the opportunity cost of not having the customer's money from the invoice date to the expected payment date, but it also suffered a

financial loss from delayed payment during the period between the payment date listed on the invoice and the actual payment date. Therefore, according to Mannesmann, denying an adjustment for credit expenses for the time following payment due date and actual payment is totally illogical.

DOC Position

As discussed above in Comment 3, we have determined that invoice date is the appropriate date of sale in this case. Therefore, we consider moot petitioner's arguments with respect to the restatement of home market prices to reflect the value of the cruzeiro on the order date.

In our preliminary determination, we adjusted FMV for inflation occurring between order and invoice date, which factors in expected payment terms, as well as credit expenses, which include an inflation factor based on actual payment terms. Based on verification findings and our acceptance of respondent's date of sales methodology, we have determined that this adjustment was incorrect because it double-counted the value of inflation. Therefore, for purposes of the final determination, we only made an adjustment to FMV for credit expenses as reported and verified.

Comment 5

Mannesmann argues that the Department should compare U.S. sales by MPS with home market sales made by MSA, including sales to its related party MCSA, and that it provided evidence that MSA's sales to MCSA are arm's-length transactions. However, if the Department does not treat MSA's sales to MCSA as arm's-length transactions, the Department should make a level of trade adjustment to reflect the additional selling expenses (*i.e.*, indirect selling expenses and inventory carrying costs) incurred by MCSA.

Mannesmann asserts that 19 CFR 353.58 requires that a level of trade adjustment be made when FMV and U.S. price are not based on sales at the same commercial level of trade. According to respondent, MSA and MCSA operate at different levels of trade in Brazil. MCSA is a distributor that purchases from MSA and sells to customers from inventory, requiring MCSA to incur considerable inventory and selling expenses. In contrast, both MSA in Brazil and MPS in the United States are not made from inventory, but are manufactured to order. To support its argument, respondent cites *Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from Spain* (59 FR 66931, December 28, 1994) (*Stainless Steel Bar*) where the Department granted such an adjustment under allegedly similar factual circumstances.

Petitioner contends that Mannesmann did not provide the evidence it purports to have provided substantiating its claim regarding the arm's-length nature of the transactions between MSA and MCSA. At the preliminary determination, the Department determined that sales to MCSA were not made at arm's length, and based FMV on MSA's and MCSA's sales to unrelated customers. According to petitioner, nothing in the verification report obligates the Department to change that finding. Furthermore, petitioner argues that Mannesmann has not proven its entitlement to a level of trade adjustment. Petitioner asserts that it has not been clearly established that two levels of trade exist. In addition, petitioner states that while Mannesmann argues that differences in selling expenses exist due to inventory costs, it has not proven that a correlation exists between both prices and selling expenses at each level of trade.

According to petitioner, absent additional information concerning differences in the customer bases (*e.g.*, relative size and purchasing power of customers), evidence that price differences correlate to level of trade differences, a level of trade adjustment is not appropriate. However, if the Department nonetheless decides to grant respondent the requested adjustment, it should be based on differences in actual expenses incurred on MCSA's sales; *i.e.*, the adjustment should be made on the reported indirect selling expenses only, exclusive of the reported inventory carrying costs. Petitioner also adds that these selling expenses must be offset by the indirect selling expenses incurred by MSA on U.S. sales because the basic purpose of a level of trade adjustment is to account for differences in the level of trade between U.S. and home market sales.

DOC Position

With regard to the arm's-length nature of related party sales, we agree with petitioner. Based on the results of our related party test (as described in the FMV section of this notice), we found that MSA's sales to MCSA are not at arm's length and, thus, we excluded them from our dumping analysis for purposes of the final determination. This result is consistent with that in our preliminary determination, and since that time, respondent has not provided any new evidence to justify a departure from our normal related party test.

With regard to matching by level of trade, we have accepted respondent's level of trade classification because the record indicates that the alleged difference in level of trade involves different selling activities and expenses. However, with regard to the respondent's claim for a level of trade adjustment, we have determined that an adjustment is not warranted because we are uncertain whether the difference in level of trade affects price comparability.

In analyzing the prices at the two levels of trade, we compared average prices, adjusted for all direct selling expenses, by product and month of sale for the POI. The results of this analysis indicate that prices overlap for a significant number of sales. However, because for each month only a small number of prices by product were available and the monthly inflation rate was high, we have concluded that the data does not provide a reliable indication of the pattern of prices at the two levels of trade. Therefore, we do not have a basis to conclude whether there is or is not a pattern of price differences attributable to level of trade. Accordingly, we have not made a level of trade adjustment.

Comment 6

Petitioner maintains that Mannesmann's packing expenses are unverified and may not be relied upon for purposes of the final determination. Petitioner also maintains that these costs appear to have been based solely on labor and materials without any allocation of overhead costs, and MCSA failed to report any repacking costs associated with its sales. Therefore, petitioner advocates using BIA. As BIA, petitioner requests that the Department either not make any upward adjustment to U.S. price for packing or use the lower of the amounts reported in the U.S. sales listing and the lowest export packing amount reported on the chart on page 41 of the Department's May 11, 1995, Verification Report. Additionally, petitioner proposes that the Department should (1) subtract the lowest of the packing amount reported for the home market sales listing and the lowest domestic packing amount from the verification report chart, and (2) add as an offset to FMV the higher of the amount of the highest U.S. packing amount reported in the sales listing and the highest amount of export packing reported on page 41 of the verification report.

Respondent argues that the Department should apply an average per

unit packing cost based on MSA's simulated cost data provided at verification which tied to the cost data provided in Exhibit 18 of the December 9, 1994, response, as this is the most accurate and reliable data on which to calculate MSA's packing costs. MSA provides a monthly average packing cost calculation for each of the four products sold in each market in Exhibit 2 of its May 19, 1995, case brief. Therefore, the Department should match the resulting average monthly packing data to the sales listing based on the month of shipment for home market sales, as all home market shipments occurred between January and June 1994. For U.S. sales, many shipments of which occurred after the POI, respondent proposes using an average POI packing expense (also provided in Exhibit 2). For sales of products which do not match to one of the four product codes, the average packing expense of all four product codes should be applied.

DOC Position

We agree with petitioner that the reported packing expenses were unverified. At verification, respondent explained that MSA's cost accounting system cannot separately identify packing costs incurred for export and domestic sales. Therefore, in order to derive the monthly per unit packing amounts reported in the U.S. and home market sales listings, MSA conducted packing simulation exercises for four products—three hot-finished and one cold-drawn. That is, they estimated the time it took to pack the products based on actual experience and derived the associated materials and labor costs from their accounting records. However, we could not tie the monthly packing costs resulting from this exercise to the reported monthly per unit packing amounts in respondent's home market and U.S. sales listings. Respondent could not explain the reason for the discrepancy. Therefore, we determine that these costs were not verified. Because the reported costs cannot be used for purposes of our analysis, we used BIA. As BIA for these costs, we subtracted from FMV, the lowest domestic packing amount reported on the record, and added to FMV, the highest export packing amount reported on the record.

Comment 7

Respondent maintains that the Department verified that no galvanized, threaded or coupled products were sold to the United States during the POI. Therefore, MCSA's sales of such products will not be matched to U.S. products and are thereby irrelevant in the Department's margin analysis. With respect to the unreported bevelling costs, respondent states that MSA's cost for producing bevelled pipe was used as a surrogate value for MCSA's sales of bevelled product. Mannesmann states that it is logical that its cost of bevelling would be lower than the bevelling costs charged by a third party. The use of the third party bevelling cost would have resulted in higher home market variable costs which, in turn, would have resulted in a lower difmer to be added to FMV. According to Mannesmann, the use of MSA's bevelling costs as a surrogate for third party expenses incurred by MCSA was therefore conservative and reasonable.

Petitioner contends that Mannesmann often reports significantly different costs in the same month for products that are identical except for end finish, and that these variations do not make sense, particularly because the differences between black plain-end pipe and bevelled-end pipe are insignificant especially in terms of material costs. According to petitioner, there is no consistency in the margins by which reported materials costs differ for otherwise identical products with different end finishes. Neither is there any evidence on the record to suggest a reason for attributing such widely varying costs to virtually identical products simply by reason of end finish. Petitioner notes that, in some instances, Mannesmann has reported identical costs for different end finishes. Petitioner maintains that these facts cast doubt on Mannesmann's entire cost accounting system.

In addition, Mannesmann's principal contention concerning MCSA's third party bevelling costs (*i.e.*, that they are higher than MSA's) constitutes non-record information upon which the Secretary may not rely. MCSA's bevelling costs have never been separately reported on the record and, therefore, could not have been verified. Thus, any bevelling cost attributed to products sold by MCSA must be based on BIA.

DOC Position

We agree with petitioner and respondent in part. We verified that while MCSA failed to report third party galvanization, coupling and threading costs for certain products, no such products were sold to the United States during the POI and, therefore, were not used in product comparisons. Thus, the omission of these costs did not affect any difmer adjustments that were made for similar product comparisons. However, even if such products were used in product comparisons, MCSA's omission of these costs for difmer adjustment purposes would have the effect of underestimating home market costs and thereby overstating the upward difmer adjustment made to FMV. Therefore, we did not make any adjustment for the omitted costs at issue.

With respect to bevelling costs, we note that there were U.S. sales of bevelled pipe during the POI. We also note that for MCSA's sales of bevelled products that were used in product comparisons, MSA's costs of bevelling were included in the reported variable costs of manufacture. This is consistent with the verified product coding methodology used by MCSA. That is, for those products that were further processed by third parties prior to sale, MCSA reported only its own internal product code, and for those products that did not undergo further processing, MCSA reported both MSA's product code and its own product code (*see* May 11, 1995, Verification Report at 8). For the transactions consisting of the bevelled products sold by MCSA which were used in product comparisons, respondent reported both product codes, indicating that the bevelling was performed at MSA's mill. However, we modified these costs for difmer adjustment purposes for the reasons stated in DOC Position to Comment 2 above.

Comment 8

Petitioner alleges that a deduction to U.S. price should be made for the "bank fees" incurred by MSA for entering into exchange contracts in order to receive payment from MPS on its shipments to the United States. According to petitioner, such fees are a necessary and direct selling expense relating to U.S. sales. Since similar fees are not incurred for home market sales, the fees must be deducted from USP in order to obtain a proper comparison. Petitioner maintains that Mannesmann's claims that the fees do not affect the U.S. price and that Mannesmann invests a portion of these funds (which respondent has not quantified) is irrelevant to the Department's analysis.

Respondent maintains that this proposal is incorrect for the following reasons: (1) The exchange contract transaction does not impact the U.S. customer, but is solely a mechanism whereby MSA can be paid in local currency for foreign currency sales as required by Brazilian law; and (2) throughout the POI, MSA chose to receive payment in Brazilian currency under the exchange contracts in advance (when the order was booked from the mill), a portion of which it

invested and gained returns which exceeded any fees paid to the bank. According to Mannesmann, the Department should treat the exchange contracts as intercompany transfers of funds between MSA and MPS that have no effect on the payment from the U.S. customer. Respondent claims that any bank fees incurred pre-shipment by MSA are administrative fees that have no bearing on U.S. price.

DOC Position

We disagree with respondent that these fees are intracompany transfers. They are fees paid to third parties in the U.S. sales process which we conclude are included in the ultimate price between MPS and the U.S. customer. These types of fees are normally taken into account in the Department's margin analysis. Therefore, we made an adjustment to U.S. price in the amount of the fee reported in the sample exchange contract provided in Exhibit 10 of the December 9, 1994, response.

Comment 9

Petitioner states that respondent included in its sales listing sales of cold-drawn products finished from imported tube hollows. According to petitioner, such products are not subject merchandise produced in Brazil and should not have been included in the sales listing. Petitioner urges that the Department apply BIA to all sales of cold-drawn pipe in the final determination. In addition, petitioner maintains that none of the difmers provided for cold-drawn products can be used because it is not known how many are affected by the inclusion of imported tube hollows. There is no information on the record that would allow the Department to equate the cost of producing cold-drawn pipe with the cost of finishing cold-drawn tube hollows.

Respondent asserts that the cold-drawn products referred to fall within the scope of the investigation. Mannesmann reported as subject merchandise sales of all products within the scope of the investigation, regardless of whether those products were made from ingots or billets, or in the case of the limited amount of cold-drawn products, purchased hollows. Therefore, unless the petitioner contends that pipe manufactured in Brazil from imported hollows are excluded from the scope of the investigation, Mannesmann asserts that it properly reported all shipments of subject merchandise, including small diameter cold-drawn product manufactured from hollows. Moreover, the Department verified the quantity and price of purchased hollow tubes, and traced the reliability of those material costs reported for cold-drawn products.

DOC Position

We agree with petitioner in part. Our verification findings revealed that respondent had properly reported sales of cold-drawn seamless pipe as subject merchandise in its sales listings (but for certain omissions discussed in Comment 1 above). We also found that respondent used imported tubes in the production of cold-drawn pipe during the POI. However, respondent failed to inform the Department that it used any material input other than in-house produced bar for the production of cold-drawn pipe during the POI, despite the Department's questions concerning the materials used in the production of the subject merchandise in its February 10, 1995, supplemental questionnaire. Consequently, we are unable to make a reliable difmer adjustment for U.S. sales of cold-drawn products because the variable costs reported include costs unassociated with physical differences. Therefore, because we cannot use or modify the reported difmer data for these cold-drawn products as we do not have the information on the record to do so, we have used BIA for the affected sales. *See* also DOC Position to Comment 2 above.

Comment 10

Petitioner contends that approximately two-thirds of the exchange rates reported in MCSA's sales listing, which are necessary for the proper calculation of difmers and should reflect the average monthly rate for the month of shipment, are incorrect. Therefore, the Department should cross-check each reported exchange rate against the actual monthly rate, and make appropriate corrections for the final determination.

Respondent maintains that petitioner's contention is incorrect. According to respondent, the rates at issue were adjusted to ensure that they matched the date of shipment from the factory, and this is the reason for the 22 day adjustment reflected in Mannesmann's response. Mannesmann reported all difmer data and the relevant exchange rates based on the month in which the pipe was shipped from MSA's mill. Because MSA does not maintain inventories of finished pipe, the month of shipment from MSA is also the month in which the pipe was produced. Similarly, in the case of U.S. sales, the Department asked MPS to revise its reported shipment date to reflect the date on which the pipe left the mill. Thus, in all cases involving sales by MSA or MPS, the reported date of shipment reflects the month in which pipe was produced and shipped.

For sales by MCSA, pipe produced by MSA and shipped to MCSA is placed in MCSA's inventory from which it is subsequently resold to MCSA's customers. The reported shipment date for MCSA sales, therefore, does not reflect when the pipe was produced and shipped from MSA. In order to ascertain when a given quantity of pipe was produced and shipped from MSA, MCSA's average days in inventory (as reported in Exhibit 24 of the December 9, 1994, response) was subtracted from the reported shipment date. Therefore, all difmer data and exchange rates for MCSA were based on MCSA's date of shipment minus the average number of days in inventory in order to ensure that the difmer data and exchange rate reflected the date on which the merchandise was produced and shipped from the factory.

DOC Position

We consider this issue raised by petitioner to be moot based on our treatment of difmer costs discussed in Comment 2 above. By using revised UFIR costs for difmer adjustment purposes, we no longer need to convert these costs to U.S. dollars using an average exchange rate. However, we note that we verified the daily CR/UFIR and US$/CR exchange rates reported by respondent in Exhibits 4 and 5 of the February 28, 1995, response against source documentation and found that they were based on official government rates. (*See* May 11, 1995, Verification Report at 37.) Therefore, for purposes of converting home market prices, difmer costs and other adjustments to U.S. dollars on the date of the U.S. sale, we intend to use the verified government exchange rates that were verified. This is consistent with past practice. (*See Silicon Metal from Brazil.*)

Comment 11

Petitioner maintains that Mannesmann has improperly submitted untimely new factual information in its case brief, including: (1) an affidavit by an MPS employee which presents evidence of differences between carbon and alloy pipe within the context of the criteria in *Diversified Products* relevant to the issue of whether the subject merchandise should constitute more than one class or kind; (2) portions of the record of proceedings before the International Trade Commission concerning the issue of whether to continue to include end use as a defining characteristic of the scope; and (3) factual information concerning the

manner in which it calculated MCSA's bevelling costs that had not been submitted to the Department previously. According to petitioner, the Department must strike this information from the record and may not consider it in the final determination.

DOC Position

We disagree with petitioner. With respect to the portions of Mannesmann's case brief referred to above concerning class or kind and end use, we note that the information contained therein further corroborates data previously submitted on the record by respondent (*see* Mannesmann's submissions dated October 21, 1994, October 31, 1994, and March 27, 1994). With respect to bevelling costs, we did not rely on the information referred to by petitioner for purposes of the final determination (*see* DOC Position to Comment 7 above).

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act 19 USC 1673b(d)(1), we directed the Customs Service to suspend liquidation of all entries of seamless pipe from Brazil, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after January 27, 1995.

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated dumping margin, as shown below, for entries of seamless pipe from Brazil that are entered, or withdrawn from warehouse, for consumption from the date of the publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percent
Mannesmann S.A.	125.00
All Others	125.00

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry, within 45 days of the publication of this notice. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that material injury or threat of material injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in these investigations of their responsibility covering 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 (19 USC 1673(d)) and 19 CFR 353.20.

Dated: June 12, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-14937 Filed 6-16-95; 8:45 am]

BILLING CODE 3510-DS-P

[A-428-820]

Notice of Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Germany

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

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Irene Darzenta or Fabian Rivelis, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-6320 or (202) 482-3853, respectively.

FINAL DETERMINATION: The Department of Commerce (the Department) determines that small diameter circular seamless carbon and alloy steel, standard, line and pressure pipe (seamless pipe) from Germany is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 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 notice of the preliminary determination published on January 27, 1995, (60 FR 5355), the following events have occurred.

On February 8, 1995, petitioner alleged that the Department made a ministerial error in its preliminary margin calculations. The Department determined on February 17, 1995, that the allegation raised by petitioners was methodological in nature and improperly raised under Section 751(f) of the Act.

In our notice of preliminary determination we stated that we would solicit further information on various scope-related issues, including class or kind of merchandise.

On February 10, 1995, we issued a questionnaire to interested parties to request further information on whether the scope of the investigation constitutes more than one class or kind of merchandise. Responses to this questionnaire were submitted on March 27, 1995.

On February 10, 1995, we issued a supplemental questionnaire to Mannesmannrohren-Werke AG (MRW). MRW submitted its supplemental responses and revised home market and U.S. sales listings on February 28, 1995, and March 6, 1995, respectively.

Pursuant to requests by petitioner and respondent, on February 16, 1995, a notice was published in the **Federal Register** (60 FR 9012) announcing the postponement of the final determination until June 12, 1995.

In March and April 1995, we conducted verification of MRW's questionnaire responses. Our verification reports were issued in May 1995.

On April 27, 1995, Koppel Steel Corporation, a U.S. producer of subject merchandise which appeared as an interested party from the outset of this investigation, requested co-petitioner status.

Respondent and petitioner submitted case briefs on May 16, 1995, and rebuttal briefs on May 23, 1995. No public hearing was requested. On May 23, 1995, we returned portions of MRW's case brief because we determined that it contained new factual information submitted after the deadline specified in 19 CFR 353.31 (a)(i)) for the submission of factual information. On May 24, 1995, MRW refiled its case brief with the new information deleted.

Scope of Investigation

The following scope language reflects certain modifications made for purposes of the final determination, where appropriate, as discussed in the "Scope Issues" section below.

The scope of this investigation includes seamless pipes produced to the ASTM A-335, ASTM A-106, ASTM A-53 and API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this investigation also includes all products used in standard, line, or pressure pipe

applications and meeting the physical parameters below, regardless of specification.

For purposes of this investigation, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.

The seamless pipes subject to these investigations are currently classifiable under subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

The following information further defines the scope of this investigation, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the American Society for Testing and Materials (ASTM) standard A–106 may be used in temperatures of up to 1000 degrees fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A–335 must be used if temperatures and stress levels exceed those allowed for A–106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent A–106 specification necessarily meet the API 5L and ASTM A–53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A–53 specification. However, pipes meeting the A–53 or API 5L specifications do not necessarily meet the A–106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, A–106 pipes may be used in some boiler applications.

The scope of this investigation includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line and pressure applications and the above-listed specifications are defining characteristics of the scope of this investigation. Therefore, seamless pipes meeting the physical description above, but not produced to the A–335, A–106, A–53, or API 5L standards shall be covered if used in a standard, line or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A–106 applications. These specifications generally include A–162, A–192, A–210, A–333, and A–524. When such pipes are used in a standard, line or pressure pipe application, such products are covered by the scope of this investigation.

Specifically excluded from this investigation are boiler tubing and mechanical tubing, if such products are not produced to A–335, A–106, A–53 or API 5l specifications and are not used in standard, line or pressure applications. In addition, finished and unfinished OCTG are excluded from the scope of this investigation, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications. Finally, also excluded from this investigation are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Issues

Interested parties in these investigations have raised several issues related to the scope. We considered these issues in our preliminary determination and invited additional comments from the parties. These issues, which are discussed below, are: (A) Whether to continue to include end use as a factor in defining the scope of these investigations; (B) whether the seamless pipe subject to these investigations constitutes more than one class or kind of merchandise; and (C) miscellaneous scope clarification issues and scope exclusion requests.

A. End Use

We stated in our preliminary determination that we agreed with petitioner that pipe products identified as potential substitutes used in the same applications as the four standard, line, and pressure pipe specifications listed in the scope would fall within the class or kind of subject merchandise and, therefore, within the scope of any orders issued in these investigations. However, we acknowledged the difficulties involved with requiring end-use certifications, particularly the burdens placed on the Department, the U.S. Customs Service, and the parties, and stated that we would strive to simplify any procedures in this regard.

For purposes of these final determinations, we have considered carefully additional comments submitted by the parties and have determined that it is appropriate to

continue to employ end use to define the scope of these cases with respect to non-listed specifications. We find that the generally accepted definition of standard, line and pressure seamless pipes is based largely on end use, and that end use is implicit in the description of the subject merchandise. Thus, end use must be considered a significant defining characteristic of the subject merchandise. Given our past experience with substitution after the imposition of antidumping orders on steel pipe products [1], we agree with petitioner that if products produced to a non-listed specification (*e.g.*, seamless pipe produced to A–162, a non-listed specification in the scope) were actually used as standard, line, or pressure pipe, then such product would fall within the same class or kind of merchandise subject to these investigations.

Furthermore, we disagree with respondents' general contention that using end use for the scope of an antidumping case is beyond the purview of the U.S. antidumping law. The Department has interpreted scope language in other cases as including an end-use specification. *See Ipsco Inc. v. United States*, 715 F.Supp. 1104 (CIT 1989)(*Ipsco*). In *Ipsco*, the Department had clarified the scope of certain orders, in particular the phrase "intended for use in drilling for oil and gas," as covering not only API specification OCTG pipe but, "'all other pipe with [certain specified] characteristics used in OCTG applications * * *'" Ipsco at 1105. In reaching this determination, the Department also provided an additional description of the covered merchandise, and initiated an end-use certification procedure.

Regarding implementation of the end use provision of the scope of these investigations, and any orders which may be issued in these investigations, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the end-use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require end-use certification until such time as petitioner or other interested parties provide a reasonable basis to believe or suspect that substitution is occurring.[2] Second, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to A–162 specification is being used as pressure pipe, we will require end- use certifications for imports of A–162 specification. Third, normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States. For a complete discussion of interested party comments and the Department's analysis on this topic, *see* June 12, 1995, *End Use Decision Memorandum* from Deputy Assistant Secretary Barbara Stafford (DAS) to Assistant Secretary Susan Esserman (AS).

B. Class or Kind

In the course of these investigations, certain respondents have argued that the scope of the investigations should be divided into two classes or kinds. Siderca S.A.I.C., the Argentine respondent, has argued that the scope should be divided according to size: seamless pipe with an outside diameter of 2 inches or less and pipe with an outside diameter of greater than 2 inches constitute two classes or kinds. Mannesmann S.A., the Brazilian respondent, and Mannesmannrohren-Werke AG, the German respondent, argued that the scope should be divided based upon material composition: carbon and alloy steel seamless pipe constitute two classes or kinds.

In our preliminary determinations, we found insufficient evidence on the record that the merchandise subject to these investigations constitutes more than one class or kind. We also indicated that there were a number of areas where clarification and additional comment were needed. For purposes of the final determination, we considered a significant amount of additional information submitted by the parties on this issue, as well as information from other sources. This information strongly supports a finding of one class or kind of merchandise. As detailed in the June 12, 1995, *Class or Kind Decision Memorandum* from DAS to AS, we analyzed this issue based on the criteria set forth by the Court of International Trade in *Diversified Products* v. *United States*, 6 CIT 155, 572 F. Supp. 883 (1983). These criteria are as follows: (1) The general physical characteristics of the merchandise; (2) expectations of the ultimate purchaser; (3) the ultimate use of the merchandise; (4) the channels of trade in which the merchandise moves; and (5) the cost of that merchandise.

In the past, the Department has divided a single class or kind in a petition into multiple classes or kinds where analysis of the *Diversified Products* criteria indicates that the subject merchandise constitutes more than one class or kind. *See, for example, Final Determination of Sales at Less than Fair Value; Anti-Friction Bearings (Apart from Tapered Roller Bearings) from Germany*, 54 FR 18992, 18998 (May 3, 1989) ("AFBs from Germany"); *Pure and Alloy Magnesium from Canada: Final Affirmative Determination; Rescission of Investigation and Partial Dismissal of Petition*, 57 FR 30939 (July 13, 1992).

1. Physical Characteristics

We find little meaningful difference in physical characteristics between seamless pipe above and below two inches. Both are covered by the same technical specifications, which contains detailed requirements.[3] While we recognize that carbon and alloy pipe do have some important physical differences (primarily the enhanced heat and pressure tolerances associated with alloy grade steels), it is difficult to say where carbon steel ends and alloy steel begins. As we have discussed in our *Class or Kind Decision Memorandum* of June 12, 1995, carbon steel products themselves contain alloys, and there is a range of percentages of alloy content present in merchandise made of carbon steel. We find that alloy grade steels, and pipes made therefrom, represent the upper end of a single continuum of steel grades and associated attributes.[4]

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[1] *See Preliminary Affirmative Determination of Scope Inquiry on Antidumping Duty Orders on Certain Welded Non-Alloy Steel Pipes from Brazil, the Republic of Korea, Mexico and Venezuela*, 59 FR 1929, January 13, 1994.

[2] This approach is consistent with petitioner's request.

[3] The relevant ASTM specifications, as well as product definitions from other independent sources (*e.g.*, American Iron and Steel Institute (AISI)), describe the sizes for standard, line, and pressure pipe, as ranging from 1/2 inch to 60 inches (depending on application). None of these descriptions suggest a break point at two inches.

[4] The Department has had numerous cases where steel products including carbon and alloy grades were considered to be within the same class or kind. *See, e.g., Preliminary Determination of Sales at Less than Fair Value: Oil Country Tubular Goods from Austria, et al.*, 60 FR 6512 (February 2, 1995); *Final Determination of Sales at Less than Fair Value: Certain Alloy and Carbon Hot-Rolled Bars, Rods, and Semi-Finished Products of Special Bar Quality Engineered Steel from Brazil*, 58 FR 31496 (June 3, 1993); *Final Determination of Sales at Less than Fair Value: Forged Steel Crankshafts from the United Kingdom*, 60 FR 22045 (May 9, 1995).

In those prior determinations where the Department divided a single class or kind, the Department emphasized that differences in physical characteristics also affected the capabilities of the merchandise (either the mechanical capabilities, as in *AFBs from Germany*, 54 FR at 18999, 19002–03, or the chemical capabilities, as in *Pure and Alloy Magnesium from Canada*, 57 FR at 30939), which in turn established the boundaries of the ultimate use and customer expectations of the products involved.

As the Department said in AFBs from Germany,

> [t]he real question is whether the physical differences are so material as to alter the essential nature of the product, and, therefore, rise to the level of class or kind distinctions. We believe that the physical differences between the five classes or kinds of the subject merchandise are fundamental and are more than simply minor variations on a theme.

54 Fed. Reg. at 19002. In the present cases, there is insufficient evidence to conclude that the differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, rise to the level of a class or kind distinction.

Furthermore, with regard to Siderca's allegation that a two-inch breakpoint is widely recognized in the U.S. market for seamless pipe, the Department has found only one technical source of U.S. market data for seamless pipe, the *Preston Pipe Report*. The *Preston Pipe Report*, which routinely collects and publishes U.S. market data for this merchandise, publishes shipment data for the size ranges ½ to 4½ inches: It does not recognize a break point at 2 inches. Accordingly, the Department does not agree with Siderca that "the U.S. market" recognizes 2 inches as a physical boundary line for the subject merchandise.

In these present cases, therefore, the Department finds that there is insufficient evidence that any physical differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, or between carbon and alloy steel, rise to the level of class or kind distinctions.

2. Ultimate Use and Purchaser Expectations

We find no evidence that pipe above and below two inches is used exclusively in any specific applications. Rather, the record indicates that there are overlapping applications. For example, pipe above and below two inches may both be used as line and pressure pipe. The technical definitions for line and pressure pipe provided by ASTM, AISI, and a variety of other sources do not recognize a distinction between pipe over and under two inches.

Likewise, despite the fact that alloy grade steels are associated with enhanced heat and pressure tolerances, there is no evidence that the carbon or alloy content of the subject merchandise can be differentiated in the ultimate use or expectations of the ultimate purchaser of seamless pipe.

3. Channels of Trade

Based on information supplied by the parties, we determine that the vast majority of the subject merchandise is sold through the same channel of distribution in the United States and is triple-stenciled in order to meet the greatest number of applications.

Accordingly, the channels of trade offer no basis for dividing the subject merchandise into multiple classes or kinds based on either the size of the outside diameter or on pipe having a carbon or alloy content.

4. Cost

Based on the evidence on the record, we find that cost differences between the various products do exist. However, the parties varied considerably in the factors which they characterized as most significant in terms of affecting cost. There is no evidence that the size ranges above and below two inches, and the difference between carbon and alloy grade steels, form a break point in cost which would support a finding of separate classes or kinds.

In conclusion, while we recognize that certain differences do exist between the products in the proposed class or kind of merchandise, we find that the similarities significantly outweigh any differences. Therefore, for purposes of the final determination, we will continue to consider the scope as constituting one class or kind of merchandise.

C. Miscellaneous Scope Clarification Issues and Exclusion Requests

The miscellaneous scope issues include: (1) Whether OCTG and unfinished OCTG are excluded from the scope of these investigations; (2) whether pipes produced to non-standard wall thicknesses (commonly referred to as "tubes") are covered by the scope; (3) whether certain merchandise (*e.g.*, boiler tubing, mechanical tubing) produced to a specification listed in the scope but used in an application excluded from the scope is covered by the scope; and (4) whether redraw hollows used for cold drawing are excluded from the scope. For a complete discussion of interested party comments and the Department's analysis on these topics, *see* June 12, 1995, *Additional Scope Clarifications Decision Memorandum* from DAS to AS.

Regarding OCTG, petitioner requested that OCTG and unfinished OCTG be included within the scope of these investigations if used in a standard, line or pressure pipe application. However, OCTG and unfinished OCTG, even when used in a standard, line or pressure pipe application, may come within the scope of certain separate, concurrent investigations. We intend that merchandise from a particular country not be classified simultaneously as subject to both an OCTG order and a seamless pipe order. Thus, to eliminate any confusion, we have revised the scope language above to exclude finished and unfinished OCTG, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in a standard, line or pressure pipe application, and, as with other non-listed specifications, may be subject to end-use certification if there is evidence of substitution.

Regarding pipe produced in non-standard wall thicknesses, we determine that these products are clearly within the parameters of the scope of these investigations. For clarification purposes, we note that the physical parameters of the scope include all seamless carbon and alloy steel pipes, of circular cross-section, not more than 4.5 inches in outside diameter, *regardless of wall thickness*. Therefore, the fact that such products may be referred to as tubes by some parties, and may be multiple-stenciled, does not render them outside the scope.

Regarding pipe produced to a covered specification but used in a non-covered application, we determine that these products are within the scope. We agree with the petitioner that the scope of this investigation includes all merchandise produced to the covered specifications and meeting the physical parameters of the scope, regardless of application. The end-use criteria included in the scope is only applicable to products which can be substituted in the applications to which the covered specifications are put *i.e.* standard, line, and pressure applications.

It is apparent that at least one party in this case interpreted the scope incorrectly. Therefore, we have clarified the scope to make it more explicit that all products made to ASTM A–335,

ASTM A–106, ASTM A–53 and API 5L are covered, regardless of end use.

With respect to redraw hollows for cold drawing, the scope language excludes such products specifically when used in the production of cold-drawn pipe or tube. We understand that petitioner included this exclusion language expressly and intentionally to ensure that hollows imported into the United States are sold as intermediate products, not as merchandise to be used in a covered application.

Standing

The Argentine, Brazilian, and German respondents have challenged the standing of Gulf States Tube to file the petition with respect to pipe and tube between 2.0 and 4.5 inches in outside diameter, arguing that Gulf States Tube does not produce these products.

Pursuant to section 732(b)(1) of the Act, an interested party as defined in section 771(9)(C) of the Act has standing to file a petition. (*See also* 19 CFR 353.12(a).) Section 771(9)(C) of the Act defines "interested party," *inter alia*, as a producer of the like product. For the reasons outlined in the "Scope Issues" section above, we have determined that the subject merchandise constitutes a single class or kind of merchandise. The International Trade Commission (ITC) has also preliminarily determined that there is a single like product consisting of circular seamless carbon and alloy steel standard, line, and pressure pipe, and tubes not more than 4.5 inches in outside diameter, and including redraw hollows. (*See* USITC Publication 2734, August 1994 at 18). For purposes of determining standing, the Department has determined to accept the ITC's definition of like product, for the reasons set forth in the ITC's preliminary determination. Because Gulf States is a producer of the like product, it has standing to file a petition with respect to the class or kind of merchandise under investigation. Further, as noted in the "Case History" section of this notice, on April 27, 1995, Koppel, a U.S. producer of the product size range at issue, filed a request for co-petitioner status, which the Department granted. As a producer of the like product, Koppel also has standing.

The Argentine respondent argues that Koppel's request was filed too late to confer legality on the initiation of these proceedings with regard to the products at issue. Gulf States Tube maintains that the Department has discretion to permit the amendment of a petition for purposes of adding co-petitioners who produce the domestic like product, at such time and upon such circumstances as deemed appropriate by the Department.

The Court of International Trade (CIT) has upheld in very broad terms the Department's ability to allow amendments to petitions. For example, in *Citrosuco Paulista, S.A.* v. *United States*, 704 F. Supp. 1075 (Ct. Int'l Trade 1988), the Court sustained the Department's granting of requests for co-petitioner status filed by six domestic producers on five different dates during an investigation. The Court held that the addition of the co-petitioners cured any defect in the petition, and that allowing the petition to be amended was within Commerce's discretion:

> [S]ince Commerce has statutory discretion to allow amendment of a dumping petition *at any time*, and since Commerce may self-initiate a dumping petition, any defect in a petition filed by [a domestic party is] cured when domestic producers of the like product [are] added as co-petitioners and Commerce [is] not required to start a new investigation.

Citrosuco, 704 F. Supp. at 1079 (emphasis added). The Court reasoned that if Commerce were to have dismissed the petition for lack of standing, and to have required the co-petitioners to refile at a later date, it "would have elevated form over substance and fruitlessly delayed the antidumping investigation . . . when Congress clearly intended these cases to proceed expeditiously." *Id.* at 1083–84.

Koppel has been an interested party and a participant in these investigations from the outset. The timing of Koppel's request for co-petitioner status and the fact that it made its request in response to Siderca's challenge to Gulf States's Tube's standing does not render its request invalid. *See Final Affirmative Countervailing Duty Determination; Live Swine and Fresh, Chilled, and Frozen Pork Products from Canada*, 50 FR 25097 (June 17, 1985). The Department has rejected a request to add a co-petitioner based on the untimeliness of the request only where the Department determined that there was not adequate time for opposing parties to submit comments and for the Department to consider the relevant arguments. *See Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden*, 52 FR 5794, 5795, 5803 (February 26, 1987). In this investigation, the respondents have had an opportunity to comment on Koppel's request for co-petitioner status, and the Argentine respondent has done so in its case brief. Therefore, we have determined that, because respondents would not be prejudiced or unduly burdened, amendment of the petition to add Koppel as co-petitioner is appropriate.

Period of Investigation

The period of investigation (POI) is January 1, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise.

Best Information Available (BIA)

We have determined that the questionnaire responses submitted by MRW are unusable because we were unable to verify their accuracy. Most importantly, we found at verification that MRW failed to include the costs incurred by one of its two manufacturing facilities which produced subject merchandise during the POI among the costs reported for differences-in-merchandise (difmer) adjustment purposes, despite the fact that the response had indicated, and MRW claimed up until the final hours of verification, that its reported costs reflected a weighted-average of the two plants. Accurate difmer information is crucial to the Department's analysis in this case because there are very few, if any, comparisons of identical merchandise. In general, seamless pipe in Germany is produced and sold to DIN specifications while seamless pipe exported to the United States is produced to ASTM specifications.

Other significant problems were discovered at verification. Company officials could not explain or provide adequate support documentation to explain numerous discrepancies and omissions. MRW was unable to tie the reported difmer data to its financial statements. MRW also failed to adequately demonstrate that the sales data reported to the Department took into account changes in price, quantity and date of sale. Finally, numerous other errors were found ranging in magnitude from significant discrepancies to minor clerical errors, for the majority of the items we attempted to verify. Collectively, these discrepancies and omissions demonstrate that MRW's questionnaire response is unreliable and unusable for purposes of the final determination.

Section 776(b) of the Act provides that if the Department is unable to verify, within the time specified, the accuracy and completeness of the factual information submitted, it shall

use BIA as the basis for its determination. Consequently, we have based this determination on BIA. (*See* decision memorandum from The Team to Barbara R. Stafford dated June 12, 1995, for a detailed discussion of our verification findings and BIA recommendation.)

In determining what rate to use as BIA, the Department follows a two-tiered BIA methodology, whereby the Department may impose the most adverse rate upon those respondents who refuse to cooperate or otherwise significantly impede the proceeding, or assign a lower rate for those respondents who have cooperated in an investigation. When a company is deemed uncooperative, it has been the Department's practice to apply as BIA the higher of the highest margin alleged in the petition or the highest rate calculated for any respondent. The Department's practice for applying BIA to cooperative respondents is to use the higher of the average of the margins alleged in the petition or the highest calculated margin for another firm for the same class or kind of merchandise from the same country. *See Final Determination of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany*, 54 FR 18992, 19033 (May 3, 1989). The Department's two-tier methodology for assigning BIA based on the degree of respondents' cooperation has been upheld by the U.S. Court of Appeals for the Federal Circuit. (*See Allied-Signal Aerospace Co.* v. *the United States*, 996 F2d 1185 (Fed Cir. 1993); *see also Krupp Stahl AG. et al* v. *the United States*, 822 F. Supp. 789 (CIT 1993).)

We have determined that MRW was uncooperative during this proceeding and have assigned a margin based on uncooperative BIA. Because there are no other respondents in this investigation we are assigning, as BIA, the highest margin among the margins alleged in the petition. MRW significantly impeded our administration of the case by misrepresenting the methodology it used in the response regarding the costs of the unreported plant.

MRW did not alert the Department at any time to any difficulties in providing the information requested in the questionnaire concerning the unreported manufacturing facility, and had indicated that the plant's costs had been included in a weighted-average calculation. In addition, much of the documentation we requested at verification was received late in the verification process, was incomplete, or, in some cases, not received at all. MRW was unable to demonstrate: (1) How many of the figures reported on the sales listing were calculated; (2) how they tied to source documentation; and (3) a tie to financial statements. Therefore, we are assigning MRW the highest margin alleged in the petition as uncooperative BIA.

Fair Value Comparisons

To determine whether sales of subject merchandise from Germany to the United States were made at less than fair value, we compared United States price (USP) to foreign market value (FMV) as reported in the petition. *See Initiation of Antidumping Duty Investigation of Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Argentina, Brazil, Germany and Italy* (59 FR 37025, July 20, 1994).

Interested Party Comments

General Issues

Comment 1. MRW argues that petitioner lacks standing to seek the imposition of antidumping duties on products that it does not produce. According to MRW, petitioner has admitted that it is incapable of manufacturing seamless pipe and tube in dimensions above two inches in outside diameter. Therefore, respondent maintains that petitioner is not an "interested party" with respect to this merchandise. Accordingly, the Department should amend the scope of the investigation to limit it only to those dimensions and pipe types that petitioner has a proven ability to manufacture.

Gulf States Tube contends that the antidumping statute neither requires nor permits the Department to limit the scope of the investigation to products that the petitioner itself produces. Gulf States Tube also maintains that respondent's standing claim is untimely and may not be considered by the Department at this stage of the proceeding. Nevertheless, Gulf States Tube asserts that the issue is rendered moot by the request of Koppel Steel Corporation, a domestic producer of subject merchandise in sizes larger two inches in outside diameter, for co-petitioner status.

DOC Position. We agree with petitioner for the reasons outlined in the "Standing" section of this notice.

Comment 2. MRW contends that including an end-use certification requirement in the scope would be both illegal and unworkable. Respondent maintains that petitioner is effectively seeking to circumvent the established legal procedure by arguing for an open-ended scope definition that encompasses products that it does not manufacture and that petitioner has conceded are not causing present injury. In addition, respondent states that it is clear that any end-use certification procedure designed to implement such a scope definition is wholly unworkable because of the manner in which the subject products are sold. That is, in almost all cases the importer of record never knows the ultimate use of the pipe products it sells, and in many instances, neither do its customers. According to MRW, as a practical matter, the effect of an end-use certification requirement would be to ask the impossible of importers. Furthermore, respondent states that the anticircumvention procedures of the antidumping law provide ample remedy to petitioner in cases of circumvention via product substitution. MRW emphasizes that absent the detailed inquiry required by anti-circumvention legal provisions, the Department cannot include within the scope of this investigation other merchandise simply because such other products might in theory be utilized for the same purposes as pipe meeting the listed specifications. According to respondent, to do otherwise is contrary to the antidumping law and deprives respondents of their right to a full and fair hearing on any circumvention allegations that might be advanced by petitioner at some later date.

Petitioner argues that there is no factual or legal basis for eliminating end-use as a defining element of the scope of the investigation. Furthermore, not only is the feasibility of specific enforcement mechanisms irrelevant to the scope determination, but it is also untrue that any end-use certification procedure would be unworkable. According to petitioner, there is no evidence on the record of this investigation that an end-use certification program must require the submission of an end-use certificate by the importer at the time of importation. Rather, petitioner envisions a program whereby the end-use certificate travels with the pipe to the ultimate end-user, who may then send it back up the line of distribution. When final duties are assessed, the Department may assume that any pipe for which no certificates can be produced was used in subject applications. Contrary to MRW's arguments, petitioner maintains that the Department and the U.S. Customs Service are perfectly capable of administering an order that includes end use in its scope definition. In the event that products meeting the

physical description of subject merchandise, but which are not certified to one or more of the covered specifications are being substituted into one of the listed applications, the burden would be on the petitioner, other domestic producers or interested parties, to notify Customs and the Department with some objective evidence supporting a reasonable belief that substitution is occurring. However, it is both unnecessary and inappropriate at this point to engage in debate about the feasibility and desirability of specific end-use certification procedures. According to petitioner, the facts and policy considerations relevant to such a debate are not available on this record, and the selection of a specific enforcement mechanism is beyond the Department's responsibilities in this proceeding.

DOC Position. We disagree with respondent's assertion that including end-use in the scope of the investigation would be unlawful. The Department has interpreted scope language in other cases as including an end-use specification. *See Ipsco Inc.* v. *United States*, 715 F. Supp. 1104 (CIT 1989). *See* the "Scope Issues" section of this notice for further discussion on end-use.

Comment 3. MRW contends that the carbon and alloy pipe products subject to investigation are distinct classes or kinds of merchandise. MRW asserts that the criteria set out in *Diversified Products* support a division between carbon and alloy products. Specifically, MRW argues that carbon and alloy pipes differ in terms of physical characteristics, uses, customer expectations and cost. With respect to physical characteristics, alloy seamless pipes contain higher grade steel than carbon seamless pipe, and because of their different chemistries, these products have different performance characteristics. With respect to end use which, according to respondent, is inherently tied to physical characteristics, carbon pipe is not as versatile as alloy steel pipe and is not suited for the more sophisticated applications, such as operations in high temperature environments. Respondent asserts that the Department has consistently emphasized the relationship between physical characteristics and end use in past cases (*e.g., Torrington Co.* v. *United States*, 745 F.Supp. at 726 (CIT 1990)). In addition, respondent states that customer expectations vary depending upon the ability of specific merchandise to perform a given task. With regard to alloy and carbon steel pipe, the ultimate purchaser does not expect these two types of pipe to be interchangeable, and is willing to pay more for alloy steel pipe because it must perform under more adverse conditions than those for which carbon pipe is suited. With respect to cost, respondent states that the cost of alloy pipe is higher than that of carbon pipe because of the more expensive raw materials and production costs incurred in producing alloy pipe. Finally, with respect to channels of trade, respondent states that carbon and alloy pipe move in similar channels; however, this factor is not determinative as to class or kind of merchandise.

Petitioner maintains that the subject merchandise constitutes a single class or kind. With respect to MRW's proposal for a split in class or kind on the basis of material composition, petitioner asserts that the factual evidence does not support such a division. Petitioner's state that the application of the criteria employed by the Department in *Diversified Products* compels the conclusion that there is a single class or kind of merchandise. According to petitioner, the physical characteristics of carbon and alloy pipe represent a single continuum of product produced with varying chemical compositions to meet a range of heat, pressure and tensile requirements. According to petitioner, there is simply no bright dividing line between the physical characteristics of the products. Petitioner states that the customer's expectations and use of the product are dictated by the engineering specification required by the intended application. Because the majority of all subject seamless pipe is triple-certified, the pipe may be put to any of the uses that apply to each of the individual specifications to which it is certified. Petitioner points out that the vast majority of seamless pipe is sold through the same channel of trade—distributors. Finally, petitioner adds that because the majority of seamless pipe is triple-certified, it has identical costs regardless of the customer to whom it is sold.

DOC Position. We agree with petitioner that the subject merchandise constitutes a single class or kind for the reasons outlined in the "Scope Issues" section of this notice.

Company-Specific Issues

For a number of reasons articulated in its briefs, with which we concur, petitioner argues that the final determination should be based on BIA, and that MRW should be found to be uncooperative.

MRW disagrees and argues that the Department's verification report does not offer a balanced assessment of the verification. MRW states that the Department verified the accuracy of its reported sales information and that the discrepancies found at verification were minor. Furthermore, respondent argues that the minor discrepancies detailed in the verification report should be evaluated in the context of the vast majority of data that tied exactly to source documentation. Respondent states that the minor discrepancies found at verification do not affect the Department's ability to perform its antidumping analysis.

Respondent states that the delays in providing information requested by the Department at verification were a result of the manner in which its records are kept in the ordinary course of business. MRW cites to *Nippon Pillow Block Sales Co.* v. *United States*, 820 F. Supp. 1444, 1449 (CIT 1993), and *Fresh Cut Roses from Colombia (Final)* 60 FR 6980, 7009 (February 6, 1995) as examples of Department policy that respondents cannot be penalized because of the way their records are kept.

Regarding its failure to include the costs of one of its plants in its reported difmer costs, MRW states the manner in which it reported difmer costs is reasonable given that this plant is a newly acquired facility located in the former German Democratic Republic, which was a non-market economy until recently. Furthermore, MRW states that it is extraordinarily difficult to calculate actual, verifiable costs for a plant that has operated under a planned economy and that it is appropriate to use the surrogate costs of a plant in the Federal Republic of Germany to perform antidumping calculations.

DOC Position. We agree with petitioner that the magnitude and nature of the problems found at verification require that we base MRW's margin on BIA. (*See Best Information Available (BIA)* section of this notice).

We disagree with respondent's assertion that it is being penalized for the way its records are kept. We must hold all respondents to a basic standard of accuracy and completeness at verification while taking into account the limitations existing with respect to the respondent's sales and cost accounting systems. We require all respondents, regardless of record keeping systems, to prepare for verification in such a manner that the Department's questions can be answered within a specified period of time. To this end, we supply all respondents with an outline which specifies the type of documentation that needs to be available at verification. MRW did not have the necessary documentation readily available, which prevented us from verifying its response. Most

significantly, respondents are expected to be forthcoming in their responses to the Department's requests for information. In this case, respondent failed to report fundamental information—cost data relating to one of its plants producing subject merchandise. In other words, respondent withheld information critical to verification and thus BIA is required.

Other Comments

Petitioner and respondent made additional comments on various charges and adjustments contained in MRW's home market and U.S. sales listings. However, since we are basing our final determination on BIA, we consider these comments to be moot.

Continuation of Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, 19 USC 1673b(d)(1), we directed the Customs Service to suspend liquidation of all entries of seamless pipe from Germany, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after January 27, 1995.

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below for entries of seamless pipe from Germany that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. The suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percent
Mannesmannrohren-Werke AG	58.23
All Others	58.23

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or canceled. However, if the ITC determines that material injury or threat of material injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) in these investigations of their responsibility covering 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 (19 USC 1673(d)) and 19 CFR 353.20.

Dated: June 12, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–14938 Filed 6–16–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–475–814]

Notice of Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Italy

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

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Dolores Peck or James Terpstra, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4929 or 482–3965, respectively.

FINAL DETERMINATION: The Department of Commerce (the Department) determines that small diameter circular seamless carbon and alloy steel, standard, line and pressure pipe (seamless pipe) from Italy is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the "Act") (1994). The estimated weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since our negative preliminary determination on January 19, 1995 (60 FR 5358, January 27, 1995), the following events have occurred:

On February 1, 1995, we initiated a sales below cost investigation of the respondent, Dalmine, S.p.A. ("Dalmine"). We instructed Dalmine to respond to the complete cost questionnaire which it had previously used to only report constructed value data. Dalmine submitted its response to this questionnaire on March 7. Supplemental cost and sales responses and revisions were submitted in February, March, and April 1995.

On February 8, 1995, we postponed the final determination until not later than June 12, 1995 (60 FR 9012, February 16, 1995).

We conducted verifications of Dalmine's sales and cost questionnaire responses in Italy and the United States in March and April 1995. Verification reports were issued in May 1995.

On April 27, 1995, Koppel Steel Corporation, an interested party to this investigation, requested that it be granted co-petitioner status, which the Department granted.

The petitioner and the respondent submitted case briefs on May 18 and rebuttal briefs on May 24, 1995.

On May 22, and May 30, 1995, respectively, the Department returned the respondent's case and rebuttal briefs and instructed the respondent to refile the briefs redacting new information. The respondent did so on May 25, and June 2, 1995.

Scope of the Investigation

The following scope language reflects certain modifications made for purposes of the final determination, where appropriate, as discussed in the "Scope Issues" section below.

The scope of this investigation includes seamless pipes produced to the ASTM A–335, ASTM A–106, ASTM A–53 and API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this investigation also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters below, regardless of specification.

For purposes of this investigation, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.

The seamless pipes subject to these investigations are currently classifiable under subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20,

7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

The following information further defines the scope of this investigation, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the American Society for Testing and Materials (ASTM) standard A–106 may be used in temperatures of up to 1000 degrees fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A–335 must be used if temperatures and stress levels exceed those allowed for A–106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent A–106 specification necessarily meet the API 5L and ASTM A–53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A–53 specification. However, pipes meeting the A–53 or API 5L specifications do not necessarily meet the A–106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, A–106 pipes may be used in some boiler applications.

The scope of this investigation includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line and pressure applications and the above-listed specifications are defining characteristics of the scope of this investigation. Therefore, seamless pipes meeting the physical description above, but not produced to the A–335, A–106, A–53, or API 5L standards shall be covered if used in a standard, line or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A–106 applications. These specifications generally include A–162, A–192, A–210, A–333, and A–524. When such pipes are used in a standard, line or pressure pipe application, such products are covered by the scope of this investigation.

Specifically excluded from this investigation are boiler tubing and mechanical tubing, if such products are not produced to A–335, A–106, A–53 or API 5l specifications and are not used in standard, line or pressure applications. In addition, finished and unfinished OCTG are excluded from the scope of this investigation, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications. Finally, also excluded from this investigation are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Scope Issues

Interested parties in these investigations have raised several issues related to the scope. We considered these issues in our preliminary determination and invited additional comments from the parties. These issues, which are discussed below, are: (A) whether to continue to include end use as a factor in defining the scope of these investigations; (B) whether the seamless pipe subject to these investigations constitutes more than one class or kind of merchandise; and (C) miscellaneous scope clarification issues and scope exclusion requests.

A. End Use

We stated in our preliminary determination that we agreed with petitioner that pipe products identified as potential substitutes used in the same applications as the four standard, line, and pressure pipe specifications listed in the scope would fall within the class or kind of subject merchandise and, therefore, within the scope of any orders issued in these investigations. However, we acknowledged the difficulties involved with requiring end-use certifications, particularly the burdens placed on the Department, the U.S. Customs Service, and the parties, and stated that we would strive to simplify any procedures in this regard.

For purposes of these final determinations, we have considered carefully additional comments submitted by the parties and have determined that it is appropriate to continue to employ end use to define the scope of these cases with respect to non-listed specifications. We find that the generally accepted definition of standard, line and pressure seamless pipes is based largely on end use, and that end use is implicit in the description of the subject merchandise. Thus, end use must be considered a significant defining characteristic of the subject merchandise. Given our past experience with substitution after the imposition of antidumping orders on steel pipe products [1], we agree with petitioner that if products produced to a non-listed specification (*e.g.*, seamless pipe produced to A–162, a non-listed specification in the scope) were actually used as standard, line, or pressure pipe,

[1] *See Preliminary Affirmative Determination of Scope Inquiry on Antidumping Duty Orders on Certain Welded Non-Alloy Steel Pipes from Brazil, the Republic of Korea, Mexico and Venezuela*, 59 FR 1929, January 13, 1994.

then such product would fall within the same class or kind of merchandise subject to these investigations.

Furthermore, we disagree with respondents' general contention that using end use for the scope of an antidumping case is beyond the purview of the U.S. antidumping law. The Department has interpreted scope language in other cases as including an end-use specification. *See Ipsco Inc.* v. *United States*, 715 F.Supp. 1104 (CIT 1989) (Ipsco). In Ipsco, the Department had clarified the scope of certain orders, in particular the phrase, "intended for use in drilling for oil and gas," as covering not only API specification OCTG pipe but, " 'all other pipe with [certain specified] characteristics used in OCTG applications * * *" Ipsco at 1105. In reaching this determination, the Department also provided an additional description of the covered merchandise, and initiated an end-use certification procedure.

Regarding implementation of the end use provision of the scope of these investigations, and any orders which may be issued in these investigations, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the end-use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require end-use certification until such time as petitioner or other interested parties provide a reasonable basis to believe or suspect that substitution is occurring.[2] Second, we will require end-use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that seamless pipe produced to A–162 specification is being used as pressure pipe, we will require end-use certifications for imports of A–162 specification. Third, normally we will require only the importer of record to certify to the end use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States. For a complete discussion of interested party comments and the Department's analysis on this topic, see June 12, 1995, *End Use Decision Memorandum* from Deputy Assistant Secretary Barbara Stafford (DAS) to Assistant Secretary Susan Esserman (AS).

[2] This approach is consistent with petitioner's request.

B. Class or Kind

In the course of these investigations, certain respondents have argued that the scope of the investigations should be divided into two classes or kinds. Siderca S.A.I.C., the Argentine respondent, has argued that the scope should be divided according to size: seamless pipe with an outside diameter of 2 inches or less and pipe with an outside diameter of greater than 2 inches constitute two classes or kinds. Mannesmann S.A., the Brazilian respondent, and Mannesmannrohren-Werke AG, the German respondent, argued that the scope should be divided based upon material composition: carbon and alloy steel seamless pipe constitute two classes or kinds.

In our preliminary determinations, we found insufficient evidence on the record that the merchandise subject to these investigations constitutes more than one class or kind. We also indicated that there were a number of areas where clarification and additional comment were needed. For purposes of the final determination, we considered a significant amount of additional information submitted by the parties on this issue, as well as information from other sources. This information strongly supports a finding of one class or kind of merchandise. As detailed in the June 12, 1995, *Class or Kind Decision Memorandum* from DAS to AS, we analyzed this issue based on the criteria set forth by the Court of International Trade in *Diversified Products v. United States*, 6 CIT 155, 572 F. Supp. 883 (1983). These criteria are as follows: (1) the general physical characteristics of the merchandise; (2) expectations of the ultimate purchaser; (3) the ultimate use of the merchandise; (4) the channels of trade in which the merchandise moves; and (5) the cost of that merchandise.

In the past, the Department has divided a single class or kind in a petition into multiple classes or kinds where analysis of the *Diversified Products* criteria indicates that the subject merchandise constitutes more than one class or kind. *See, for example, Final Determination of Sales at Less than Fair Value; Anti-Friction Bearings (Apart from Tapered Roller Bearings) from Germany*, 54 Fed. Reg. 18992, 18998 (May 3, 1989) ("*AFBs from Germany*"); *Pure and Alloy Magnesium from Canada: Final Affirmative Determination; Rescission of Investigation and Partial Dismissal of Petition*, 57 Fed. Reg. 30939 (July 13, 1992).

1. Physical Characteristics

We find little meaningful difference in physical characteristics between seamless pipe above and below two inches. Both are covered by the same technical specifications, which contains detailed requirements.[3] While we recognize that carbon and alloy pipe do have some important physical differences (primarily the enhanced heat and pressure tolerances associated with alloy grade steels), it is difficult to say where carbon steel ends and alloy steel begins. As we have discussed in our *Class or Kind Decision Memorandum* of June 12, 1995, carbon steel products themselves contain alloys, and there is a range of percentages of alloy content present in merchandise made of carbon steel. We find that alloy grade steels, and pipes made therefrom, represent the upper end of a single continuum of steel grades and associated attributes.[4]

In those prior determinations where the Department divided a single class or kind, the Department emphasized that differences in physical characteristics also affected the capabilities of the merchandise (either the mechanical capabilities, as in *AFBs from Germany*, 54 Fed. Reg. at 18999, 19002–03, or the chemical capabilities, as in *Pure and Alloy Magnesium from Canada*, 57 Fed. Reg. at 30939), which in turn established the boundaries of the ultimate use and customer expectations of the products involved.

As the Department said in *AFBs from Germany*,

> [t]he real question is whether the physical differences are so material as to alter the essential nature of the product, and, therefore, rise to the level of class or kind distinctions. We believe that the physical differences between the five classes or kinds

[3] The relevant ASTM specifications, as well as product definitions from other independent sources (e.g., American Iron and Steel Institute (AISI)), describe the sizes for standard, line, and pressure pipe, as ranging from 1/2 inch to 60 inches (depending on application). None of these descriptions suggest a break point at two inches.

[4] The Department has had numerous cases where steel products including carbon and alloy grades were considered to be within the same class or kind. *See, e.g., Preliminary Determination of Sales at Less than Fair Value: Oil Country Tubular Goods from Austria, et al.*, 60 Fed. Reg. 6512 (February 2, 1995); *Final Determination of Sales at Less than Fair Value: Certain Alloy and Carbon Hot-Rolled Bars, Rods, and Semi-Finished Products of Special Bar Quality Engineered Steel from Brazil*, 58 Fed. Reg. 31496 (June 3, 1993); *Final Determination of Sales at Less than Fair Value: Forged Steel Crankshafts from the United Kingdom*, 60 Fed. Reg. 22045 (May 9, 1995).

of the subject merchandise are fundamental and are more than simply minor variations on a theme.

54 Fed. Reg. at 19002. In the present cases, there is insufficient evidence to conclude that the differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, rise to the level of a class or kind distinction.

Furthermore, with regard to Siderca's allegation that a two-inch breakpoint is widely recognized in the U.S. market for seamless pipe, the Department has found only one technical source of U.S. market data for seamless pipe, the *Preston Pipe Report*. The *Preston Pipe Report*, which routinely collects and publishes U.S. market data for this merchandise, publishes shipment data for the size ranges ½ to 4½ inches: it does not recognize a break point at 2 inches. Accordingly, the Department does not agree with Siderca that "the U.S. market" recognizes 2 inches as a physical boundary line for the subject merchandise.

In these present cases, therefore, the Department finds that there is insufficient evidence that any physical differences between pipe over 2 inches in outside diameter and 2 inches or less in outside diameter, or between carbon and alloy steel, rise to the level of class or kind distinctions.

2. Ultimate Use and Purchaser Expectations

We find no evidence that pipe above and below two inches is used exclusively in any specific applications. Rather, the record indicates that there are overlapping applications. For example, pipe above and below two inches may both be used as line and pressure pipe. The technical definitions for line and pressure pipe provided by ASTM, AISI, and a variety of other sources do not recognize a distinction between pipe over and under two inches.

Likewise, despite the fact that alloy grade steels are associated with enhanced heat and pressure tolerances, there is no evidence that the carbon or alloy content of the subject merchandise can be differentiated in the ultimate use or expectations of the ultimate purchaser of seamless pipe.

3. Channels of Trade

Based on information supplied by the parties, we determine that the vast majority of the subject merchandise is sold through the same channel of distribution in the United States and is triple-stenciled in order to meet the greatest number of applications.

Accordingly, the channels of trade offer no basis for dividing the subject merchandise into multiple classes or kinds based on either the size of the outside diameter or on pipe having a carbon or alloy content.

4. Cost

Based on the evidence on the record, we find that cost differences between the various products do exist. However, the parties varied considerably in the factors which they characterized as most significant in terms of affecting cost. There is no evidence that the size ranges above and below two inches, and the difference between carbon and alloy grade steels, form a break point in cost which would support a finding of separate classes or kinds.

In conclusion, while we recognize that certain differences do exist between the products in the proposed class or kind of merchandise, we find that the similarities significantly outweigh any differences. Therefore, for purposes of the final determination, we will continue to consider the scope as constituting one class or kind of merchandise.

C. Miscellaneous Scope Clarification Issues and Exclusion Requests

The miscellaneous scope issues include: (1) whether OCTG and unfinished OCTG are excluded from the scope of these investigations; (2) whether pipes produced to non-standard wall thicknesses (commonly referred to as "tubes") are covered by the scope; (3) whether certain merchandise (*e.g.*, boiler tubing, mechanical tubing) produced to a specification listed in the scope but used in an application excluded from the scope is covered by the scope; and (4) whether redraw hollows used for cold drawing are excluded from the scope. For a complete discussion of interested party comments and the Department's analysis on these topics, *see* June 12, 1995, *Additional Scope Clarifications Decision Memorandum* from DAS to AS.

Regarding OCTG, petitioner requested that OCTG and unfinished OCTG be included within the scope of these investigations if used in a standard, line or pressure pipe application. However, OCTG and unfinished OCTG, even when used in a standard, line or pressure pipe application, may come within the scope of certain separate, concurrent investigations. We intend that merchandise from a particular country not be classified simultaneously as subject to both an OCTG order and a seamless pipe order. Thus, to eliminate any confusion, we have revised the scope language above to exclude finished and unfinished OCTG, if covered by the scope of another antidumping duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in a standard, line or pressure pipe application, and, as with other non-listed specifications, may be subject to end-use certification if there is evidence of substitution. Regarding pipe produced in non-standard wall thicknesses, we determine that these products are clearly within the parameters of the scope of these investigations. For clarification purposes, we note that the physical parameters of the scope include all seamless carbon and alloy steel pipes, of circular cross-section, not more than 4.5 inches in outside diameter, *regardless of wall thickness*. Therefore, the fact that such products may be referred to as tubes by some parties, and may be multiple-stenciled, does not render them outside the scope.

Regarding pipe produced to a covered specification but used in a non-covered application, we determine that these products are within the scope. We agree with the petitioner that the scope of this investigation includes all merchandise produced to the covered specifications and meeting the physical parameters of the scope, regardless of application. The end-use criteria included in the scope is only applicable to products which can be substituted in the applications to which the covered specifications are put *i.e.* standard, line, and pressure applications.

It is apparent that at least one party in this case interpreted the scope incorrectly. Therefore, we have clarified the scope to make it more explicit that all products made to ASTM A–335, ASTM A–106, ASTM A–53 and API 5L are covered, regardless of end use.

With respect to redraw hollows for cold drawing, the scope language excludes such products specifically when used in the production of cold-drawn pipe or tube. We understand that petitioner included this exclusion language expressly and intentionally to ensure that hollows imported into the United States are sold as intermediate products, not as merchandise to be used in a covered application.

Standing

The Argentine, Brazilian, and German respondents have challenged the standing of Gulf States Tube to file the petition with respect to pipe and tube between 2.0 and 4.5 inches in outside diameter, arguing that Gulf States Tube does not produce these products.

Pursuant to section 732(b)(1) of the Act, an interested party as defined in section 771(9)(C) of the Act has standing to file a petition. (*See also* 19 C.F.R. § 353.12(a).) Section 771(9)(C) of the Act defines "interested party," *inter alia*, as a producer of the like product. For the reasons outlined in the "Scope Issues" section above, we have determined that the subject merchandise constitutes a single class or kind of merchandise. The International Trade Commission (ITC) has also preliminarily determined that there is a single like product consisting of circular seamless carbon and alloy steel standard, line, and pressure pipe, and tubes not more than 4.5 inches in outside diameter, and including redraw hollows. (*See* USITC Publication 2734, August 1994 at 18.) For purposes of determining standing, the Department has determined to accept the ITC's definition of like product, for the reasons set forth in the ITC's preliminary determination. Because Gulf States is a producer of the like product, it has standing to file a petition with respect to the class or kind of merchandise under investigation. Further, as noted in the "Case History" section of this notice, on April 27, 1995, Koppel, a U.S. producer of the product size range at issue, filed a request for co-petitioner status, which the Department granted. As a producer of the like product, Koppel also has standing.

The Argentine respondent argues that Koppel's request was filed too late to confer legality on the initiation of these proceedings with regard to the products at issue. Gulf States Tube maintains that the Department has discretion to permit the amendment of a petition for purposes of adding co-petitioners who produce the domestic like product, at such time and upon such circumstances as deemed appropriate by the Department.

The Court of International Trade (CIT) has upheld in very broad terms the Department's ability to allow amendments to petitions. For example, in *Citrosuco Paulista, S.A.* v. *United States*, 704 F. Supp. 1075 (Ct. Int'l Trade 1988), the Court sustained the Department's granting of requests for co-petitioner status filed by six domestic producers on five different dates during an investigation. The Court held that the addition of the co-petitioners cured any defect in the petition, and that allowing the petition to be amended was within Commerce's discretion:

> [S]ince Commerce has statutory discretion to allow amendment of a dumping petition *at any time*, and since Commerce may self-initiate a dumping petition, any defect in a petition filed by [a domestic party is] cured when domestic producers of the like product [are] added as co-petitioners and Commerce [is] not required to start a new investigation.

Citrosuco, 704 F. Supp. at 1079 (emphasis added). The Court reasoned that if Commerce were to have dismissed the petition for lack of standing, and to have required the co-petitioners to refile at a later date, it "would have elevated form over substance and fruitlessly delayed the antidumping investigation * * * when Congress clearly intended these cases to proceed expeditiously." *Id.* at 1083–84.

Koppel has been an interested party and a participant in these investigations from the outset. The timing of Koppel's request for co-petitioner status and the fact that it made its request in response to Siderca's challenge to Gulf States Tube's standing does not render its request invalid. *See Final Affirmative Countervailing Duty Determination; Live Swine and Fresh, Chilled, and Frozen Pork Products from Canada*, 50 Fed. Reg. 25097 (June 17, 1985). The Department has rejected a request to add a co-petitioner based on the untimeliness of the request only where the Department determined that there was not adequate time for opposing parties to submit comments and for the Department to consider the relevant arguments. *See Final Affirmative Countervailing Duty Determination: Certain Stainless Steel Hollow Products from Sweden*, 52 Fed. Reg. 5794, 5795, 5803 (February 26, 1987). In this investigation, the respondents have had an opportunity to comment on Koppel's request for co-petitioner status, and the Argentine respondent has done so in its case brief. Therefore, we have determined that, because respondents would not be prejudiced or unduly burdened, amendment of the petition to add Koppel as co-petitioner is appropriate.

Period of Investigation

The period of investigation ("POI") is January 1, 1994, through June 30, 1994.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and the Department's regulations refer to these provisions as they existed on December 31, 1994.

Such or Similar Comparisons

We have determined that all the products covered by this investigation constitute a single category of such or similar merchandise. We made fair value comparisons on this basis. In accordance with the Department's standard methodology, we first compared identical merchandise. Referencing Appendix V of our questionnaire, Dalmine states that the physical characteristics for the majority of the merchandise exported to the United States are identical to the physical characteristics of merchandise sold in the home market. We verified this claim. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we based foreign market value ("FMV") on constructed value ("CV") because the difference in merchandise adjustment ("difmer") for any similar product comparison exceeded 20 percent. See Appendix V to the antidumping questionnaire, on file in Room B–099 of the main building of the Department.

Fair Value Comparisons

To determine whether sales of certain seamless pipe from Italy to the United States were made at less than fair value, we compared the United States price (USP) to the FMV, as specified in the "United States Price" and "Price-to-Price Comparisons" sections of this notice.

United States Price

We calculated USP according to the methodology described in our preliminary determination, with the following exceptions:

We corrected certain clerical errors found at verification, including: (a) the reduction of the marine insurance expense for one sale (see U.S. verification report); b) an increase in the U.S. interest rate used to calculate imputed credit expenses (see U.S. verification report); and c) an increase in the percentage used to calculate an offset for home market commissions (See Comment 5 below). We also limited VAT adjustments to those sales on which VAT was paid on the comparison home market sale.

Cost of Production

Based on the petitioner's allegations, the Department found reasonable grounds to believe or suspect that sales in the home market were made at prices below the cost of producing the merchandise. As a result, the Department initiated an investigation to determine whether Dalmine made home market sales during the POI at prices below their cost of production (COP) within the meaning of section 773(b) of the Act. See memorandum from the Team to Barbara Stafford dated February 1, 1995.

A. Calculation of COP

We calculated the COP based on the sum of the respondent's cost of materials, fabrication, general expenses, and home market packing in accordance

with 19 CFR 353.51(c). We relied on the submitted COP data, except in the following instances where the costs were not appropriately quantified or valued:

1. We recalculated the weighted average costs for two control numbers ("CONNUM"). CONNUM's are used to identify a group of products considered to be identical. See Comment 18 below.
2. We adjusted depreciation expenses to reflect mill- specific costs. See Comment 13 below.
3. We used the revised total indirect costs submitted at verification to recalculate the indirect cost allocation rate.
4. We disallowed the portion of the reported variance which resulted from reversals of prior period accounting entries. See Comment 17 below.
5. We used Instituto per la Ricostruzione Industriale S.p.A.'s ("IRI") consolidated financing costs. IRI is the parent of Dalmine's parent company. See Comment 14 and 15 below.

B. Test of Home Market Sales Prices

After calculating COP, we tested whether, as required by section 773(b) of the Act, the respondent's home market sales of subject merchandise were made at prices below COP, over an extended period of time in substantial quantities, and whether such sales were made at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade. On a product-specific basis, we compared the COP (net of selling expenses) to the reported home market prices, less any applicable movement charges, rebates, and direct and indirect selling expenses. To satisfy the requirement of section 773(b)(1) of the Act that below-cost sales be disregarded only if made in substantial quantities, we applied the following methodology. If over 90 percent of the respondent's sales of a given product were at prices equal to or greater than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." If between ten and 90 percent of the respondent's sales of a given product were at prices equal to or greater than the COP, we discarded only the below-cost sales, provided sales of that product were also found to be made over an extended period of time. Where we found that more than 90 percent of the respondent's sales of a product were at prices below the COP and the sales were made over an extended period of time, we disregarded all sales of that product, and calculated FMV based on CV, in accordance with section 773(b) of the Act.

In accordance with section 773(b)(1) of the Act, in order to determine whether below-cost sales had been made over an extended period of time, we compared the number of months in which below-cost sales occurred for each product to the number of months in the POI in which that product was sold. If a product was sold in three or more months of the POI, we do not exclude below-cost sales unless there were below-cost sales in at least three months during the POI. When we found that sales of a product only occurred in one or two months, the number of months in which the sales occurred constituted the extended period of time, *i.e.*, where sales of a product were made in only two months, the extended period of time was two months; where sales of a product were made in only one month, the extended period of time was one month. *See Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the United Kingdom*, 60 FR 10558, 10560 (February 27, 1995).

C. Results of COP Test

We found that for certain products more than 90 percent of the respondent's home market sales were sold at below COP prices over an extended period of time. Because Dalmine provided no indication that the disregarded sales were at prices that would permit recovery of all costs within a reasonable period of time in the normal course of trade, for all U.S. sales left without a match to home market sales as a result of our application of the COP test, we based FMV on CV, in accordance with section 773(b) of the Act.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of the respondent's cost of materials, fabrication, general expenses and U.S. packing costs as reported in the U.S. sales database. In accordance with section 773(e)(1)(B) (i) and (ii) of the Act, we included: (1) for general expenses, the greater of the respondent's reported general expenses, adjusted as detailed in the "Calculation of COP" section above, or the statutory minimum of ten percent of the cost of manufacture; and (2) for profit, the statutory minimum of eight percent of the sum of COM and general expenses because actual profit on home market sales for the respondent was less than eight percent. We recalculated the respondent's CV based on the methodology described in the calculation of COP above.

Price-to-Price Comparisons

We calculated FMV according to the methodology described in our preliminary determination with the following exceptions:

1. We excluded from our analysis reported home market sales that were sold for shipment to third countries. See Comment 5 below.
2. We revised the imputed credit calculation for transactions without reported payment dates, using the earliest verified payment date from the preselected sales in our verification report. See Comment 10 below.
3. We limited VAT adjustments to those sales on which VAT was paid.
4. We decreased the interest rate used to calculate imputed credit based on verified data. See home market verification report.

Price-to-CV Comparisons

Where we made CV to purchase price comparisons, we deducted from CV the weighted-average home market direct selling expenses and added the U.S. product-specific direct selling expenses. We adjusted for differences in commissions in accordance with 19 CFR 353.56(a)(2). Because commissions were paid on some, but not all home market sales, we deducted from CV both (1) indirect selling expenses attributable to those sales on which commissions were not paid; and (2) weighted average commissions. The total deduction was capped by the amount of indirect expenses paid on the U.S. sales in accordance with 19 CFR 353.56(b)(1) (1994).

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York, pursuant to 19 CFR 353.60.

Verification

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

Interested Party Comments

Sales Issues

Comment 1

The petitioner contends that a margin based on the best information available (BIA) should be assigned to each of the

unreported sales of subject merchandise discovered at verification; stating that there is no evidence on the record that Dalmine made a request to have these sales excluded. Additionally, the petitioner asserts that the respondent's unilateral exclusion of certain pipe sales without notice to or permission from the Department was a deliberate and material omission which affected the Department's decision to excuse the respondent from reporting certain categories of sales. Had the Department known about the totality of the exclusion being requested, it would not have excused the respondent from reporting these sales.

The respondent argues that its non-reported sales fall into the category of merchandise produced to a subject specification, but which are used in a non-subject application. Thus, these sales are outside the scope and therefore need not be reported. Since these unreported sales involved non-subject merchandise, no exclusion request was necessary. The respondent contends it only requested exclusions for products produced to subject specifications and used in subject applications, in accordance with the Department's published scope language.

DOC Position

We agree in part with the petitioner. With respect to certain unreported sales of merchandise which was the subject of the respondent's exclusion request, we agree that BIA is appropriate. In the early stages of this investigation, the respondent made several requests to be excused from reporting particular categories of U.S. sales which were clearly covered by the scope of this investigation. The respondent based this exclusion request on the claim that these sales represented a certain percentage of total U.S. sales. Based on this representation, we granted the request but indicated that the claim would be subject to verification. At verification we found additional unreported sales of the same merchandise that was the subject of the respondent's exclusion request. These additional unreported sales constitute a significant additional quantity than was represented in the exclusion request. Accordingly, we have assigned a margin based on BIA to the U.S. sales involved in the exclusion request, as well as the additional unreported sales of the same merchandise.

With regard to the other unreported sales discovered at verification, we agree that the merchandise is within the scope of this investigation. However, we have decided that the use of adverse BIA for these unreported sales is unwarranted. As discussed above (see the Miscellaneous Scope Clarification Issues and Exclusion Requests section of this notice) the scope language, as published in the notice of initiation and the preliminary determination, was unclear as to whether the products in question are subject merchandise. The respondent did not report these sales based on its reading of the scope of the initiation. Since the scope language in the initiation is ambiguous (and hence has been clarified in the final determination), it is not appropriate to penalize the respondent.

Comment 2

The petitioner urges the Department to apply a BIA margin to one unreported U.S. sale of subject merchandise discovered during verification. According to the petitioner, the Department should view Dalmine's failure to report this sale against the background of the respondent's failure to report other sales of subject merchandise, and apply an adverse BIA margin.

The respondent acknowledges that it inadvertently failed to report this sale. According to the respondent, the order for this unreported sale appeared to be filled when it reported its U.S. sales data. However, two months later, the respondent made an additional shipment pursuant to this order, which was mistakenly not loaded with the first two parts of the order. The respondent claims it did not attempt to identify subsequent shipments pursuant to this order, since it considered this order filled at the time it prepared the sales listing. Only in the course of preparing for verification did the additional invoice amount come to the company's attention.

DOC Position

We agree with the petitioner, in part. The respondent made several shipments of subject merchandise pursuant to a customer's order. Each of the shipments were separately invoiced. Two of the invoices were reported in the respondent's sales listing. However, the respondent failed to report one invoice for a small amount of subject merchandise sold pursuant to this order. The facts do not support applying an adverse BIA margin to this sale. Instead, as BIA, we applied the average of all positive margins calculated for the remaining U.S. sales.

Comment 3

The petitioner claims the respondent misreported home market freight charges because it reported a calculated amount based on certain assumptions rather than an actual amount. Therefore, the petitioner urges the Department to use the lowest freight expense in the home market response as the freight expense for all sales for its price to price comparisons. For the Department's price to cost comparisons, the Department should consider the highest freight charge for any home market sale to be the freight charge for all home market sales.

In reply, the respondent argues that it would have been extraordinarily burdensome, if not impossible, to match specific freight invoices to specific shipments because freight invoices are not computerized. At verification, the respondent demonstrated it was impractical to link thousands of freight invoices to the specific shipments to which the invoices related. Therefore, the respondent calculated the reported freight charges from published tariff rates by assuming all shipments were part of a full truck load that was delivered to more than one location. The respondent claims that the Department verified that its freight estimates are reasonable and any differences between estimated amounts and actual freight charges are minor.

DOC Position

We agree with the respondent. At verification, we noted that, while Dalmine maintained computerized databases regarding all sales and cost information, it did not maintain invoice-specific expense data in its computerized sales database. At verification the invoice-specific actual expenses, calculated to check the information in the sales response, had to be calculated manually and there was some difficulty in obtaining source documentation.

At verification, we examined the respondent's methodology for calculating estimated freight expenses. We compared actual freight expenses with the reported estimated freight expenses, and noted only minor discrepancies between these two figures. Therefore, the use of BIA for this adjustment is not warranted.

Comment 4

The petitioner urges the Department to disallow the home market credit expense adjustment in its dumping margin calculation because the respondent overstated substantially credit costs by reporting March 6, 1995, as the payment for all sales unpaid as of November 1994. The petitioner also claims the home market credit expense adjustment should be disallowed because verified credit differed from the actual credit for six of the eight

preselected sales. Further, the petitioner asserts that the respondent failed to take into account certain outstanding short-term loan balances in its calculation of the interest rate used to compute credit costs. Finally, the petitioner cites page 54 of the Department's Italian verification report where it claims the Department notes that the payment dates reported by Dalmine were either incorrect or not available.

The respondent admits that it did not update payment data in its home market sales listing after the submission of December 19, 1994 (which reported all payments as of November 25, 1994). Nevertheless, the respondent acknowledges that, for purposes of calculating imputed credit costs in its March 6, 1995, filing, it assumed incorrectly that all sales unpaid as of November 1994 remained unpaid as of March 6, 1995. As a result, the imputed credit calculation was wrong for sales paid between November 25, 1994, and March 6, 1995. The respondent urges the Department to calculate the imputed credit cost adjustment for all sales for which no home market payment date was reported using November 1, 1994, as the date of payment, since this is a more conservative approach than that employed in the Preliminary Determination.

DOC Position

We disagree with both the petitioner and the respondent. During the Italian verification, we were able to verify the payment dates for preselected and surprise home market sales. The petitioner's reference to page 54 of the Italian sales verification report in support of its statement that payment dates were not available for sales not paid after November 23, 1994, is incorrect. The Italian sales verification report in its entire discussion of payment dates and credit expenses makes no statement regarding the unavailability of payment dates. We used the earliest verified payment date, November 18, 1994, as the payment date in the credit expense calculation for sales without reported payment dates which were shipped before November 18, 1994. We assumed no credit expenses were incurred for sales without reported payment dates which were shipped after November 18, 1994.

Comment 5

The petitioner argues that the respondent incorrectly based its commission offset on U.S. indirect selling expenses taken from Dalmine's U.S. subsidiary's (TAD USA's) 1993 SG&A expenses. The petitioner maintains that the Department must use the verified 1994 SG&A expenses to the extent that it offsets home market commissions.

According to the respondent, it acted reasonably in basing the indirect selling expenses in its questionnaire response on 1993 SG&A expense data, given that 1994 data was unavailable at the time the response was being prepared. The respondent concedes that the 1994 data obtained at verification would be more useful to the Department than the 1993 data.

DOC Position

It is the Department's practice to use the most recent verified data for indirect selling expenses in our margin calculations. Accordingly, we used the verified 1994 SG&A figures in our final determination calculations.

Comment 6

The petitioner claims that Dalmine incorrectly reported average rather than actual foreign inland freight on U.S. sales. The petitioner also claims that the respondent could have reported actual foreign inland freight charges because its records are computerized. Therefore, the petitioner urges the Department to assign the highest foreign inland freight charge observed at verification to all U.S. sales.

In reply, the respondent claims the difference between the highest foreign inland freight charge used in its calculation of average freight and the average foreign inland freight reported for all U.S. sales is immaterial. Moreover, the respondent maintains that its inland and ocean freight documents are not computerized.

DOC Position

We agree with the respondent. There is no evidence that the respondent's automated system allowed it to link individual sales with the freight charges incurred for those sales. At verification, we noted the actual per unit foreign inland freight charges for the U.S. preselected sales did not differ materially from the average charge reported in the sales listing.

Comment 7

In its case brief, the respondent requests that the Department clarify which of its customers are related within the meaning of the U.S. antidumping duty law.

In its rebuttal brief, the petitioner claims that there is no need to make this distinction for the purposes of the final determination. Should the Department address such an issue, the petitioner requests that it do so in a manner consistent with any findings made in the *Antidumping Duty Investigation of Oil Country Tubular Goods from Italy* (A–475–816).

DOC Position

We agree with the petitioner that such a finding is unnecessary. The respondent identified all related parties in its questionnaire response. We verified the accuracy of that response (*see* page 6 of our home market verification report). No further determination is necessary.

Comment 8

The respondent argues that tubes and pipes are distinct products, and urges the Department to clarify that the scope of this proceeding is limited to pipes. In its case brief, the respondent included an affidavit from a steel pipe and tube expert in which the expert explains that hollow steel products known as "pipe" have specific technical and commercial characteristics distinct from those hollow steel products commonly known as "tubes." According to this expert, the pipe producing and consuming industries consider pipe to be a product with any combination of outside diameter ("OD") and wall thickness set forth in the American Society for Testing Materials ("ASTM") standard B36.10. This expert reports that hollow steel products that do not correspond to the OD and wall specifications set forth in this standard are not pipes. The respondent's expert also cites numerous reasons why products produced to non-pipe sizes are normally not used in subject pipe applications. Finally, the respondent notes that according to the American Iron & Steel Institute, tubing, as distinguished from pipe, is normally produced to outside or inside diameter dimensions and to a great variety of diameters and wall thicknesses, and to chemical compositions and mechanical properties not commonly available in pipe. Therefore, the respondent requests that the Department clarify that products produced to non-pipe dimensions are not subject to this investigation.

The petitioner argues that the petition and the published scope expressly state that subject seamless pipe includes all outside diameters not exceeding 4.5 inches regardless of wall thickness. The petitioner contends that the specifications covered by the scope of this investigation allow products to be made to non-standard dimensions and notes that neither the petition, nor the published scope, distinguishes between pipes and tubes. In addition, the petitioner states that the ITC found a single like product containing both pipes and tubes using an analysis

similar to that employed by the Department. Finally, the petitioner argues that respondent's own sales invoices and internal records refer to products made to non-standard dimensions as pipes.

DOC Position

We agree with the petitioner. *See* Scope clarification discussion in the body of this notice above.

Comment 9

The petitioner maintains that pipe and tube subject to this investigation constitutes a single class or kind of merchandise. The respondent did not comment on the class or kind issue in its case or rebuttal briefs.

DOC Position

We agree with the petitioner. *See* Class or Kind discussion in the body of this notice above.

Comment 10

The petitioner asserts that the respondent's home market sales data contains a multitude of errors that render it unsuitable for calculating an accurate FMV. Combined with substantial unreported U.S. sales and misreported costs, the petitioner considers it appropriate for the Department to base the final determination on BIA (petitioner cites *Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from Brazil*, 57 FR 42940 (September 17, 1992)).

The respondent claims that the discrepancies mentioned by the petitioner are immaterial and the use of BIA is unwarranted.

DOC Position

We agree with the respondent that the use of total BIA is unwarranted. Based on the facts on the record, we believe the errors discovered at verification are minor in nature, and resulted from oversight or mathematical rounding. In addition, the lack of clarity in the scope, as published in the notice of initiation and the preliminary determination, may have resulted in respondent misinterpretation. The possibility that some of the unreported sales discovered at verification were not reported because the respondent misinterpreted the scope cannot be overlooked in our decision to accept or reject the home market sales response.

However, we made certain adjustments to the home market sales listing based on our findings at verification. Specifically, we deleted sales of small quantities of subject merchandise which were unlikely to be shipped and sales which the respondent believed would be exported to a country other than the United States. *See* the June 12, 1995 concurrence memorandum to Barbara Stafford from the Team for a complete discussion of this issue.

Cost Issues

Comment 11

The petitioner maintains that Dalmine understated its depreciation expense by excluding improperly the costs associated with 1993 fixed asset write-downs. Such costs, according to the petitioner, should be amortized over a number of years, including the POI. The petitioner argues that the Department should adjust the COP/CV figures by including a portion of the 1993 fixed asset adjustment.

The respondent claims that the 1993 adjustment referred to by the petitioner is not related to fixed assets, but is the adjustment to Dalmine's investment in its subsidiaries. The amount of the adjustment represents the operating losses of those subsidiaries. The respondent argues that, even if the adjustment had involved the company's fixed assets or inventory, it still should not be included in COP/CV as none of the subject merchandise sold during the POI was produced in 1993.

DOC Position

We agree with the respondent. The write-downs referred to by the petitioner are identified in Dalmine's 1993 annual report as write-downs due to the operating results of subsidiaries, associated companies and to an adjustment of the shareholder's equity of two subsidiaries. Accordingly, these write-downs are not related to the respondent's production activities or the subject merchandise and, therefore, we did not adjust the reported COP/CV figures.

Comment 12

The petitioner claims that Dalmine understated its depreciation expense by excluding improperly depreciation of its idle equipment. Although Italian generally accepted accounting principles (GAAP) may permit this practice, the petitioner argues that the Department should not allow the respondent to exclude depreciation of idle assets since this treatment creates distortions. The petitioner further states that the Department's long-standing practice is to include depreciation on idle assets in calculating COP and CV because such assets represent a cost to the company. To support this statement, the petitioner cites *Antifriction Bearings and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand and the United Kingdom*, 58 FR 39729, 37756 (1993) (*Antifriction Bearings*). The petitioner asserts that the Department should write off the remaining book value of the idle assets and allocate the expense to the POI, because the petitioner is unable to determine their remaining useful lives.

The respondent argues that it properly excluded depreciation expense relating to its assets because the facility is permanently closed and such accounting treatment is in accordance with Italian GAAP (*Iron Construction Castings From India*, 51 FR 9486, 1988). If the Department were to impute depreciation expense for the assets in the closed facility, the respondent argues we should allocate the imputed depreciation over 16 years, the average life of the fixed assets, rather than expensing the remaining book value of the idle assets during the POI.

DOC Position

The fixed assets in question relate to one of the respondent's facilities which is no longer in operation. The land and building housing these fixed assets have been sold and the company is currently attempting to sell the equipment. Italian GAAP requires the recognition of a loss on discontinued operations in the income statement, but the appropriate period of recognition is not defined. The respondent, in its normal books and records, has yet to recognize a gain or loss from the remaining assets of the discontinued operation.

The assets in question relate clearly to discontinued operations from a prior period and are no longer productive assets; they are merely awaiting sale. Accordingly, we do not consider the respondent's normal accounting treatment of these assets to be unreasonable. The *Antifriction Bearings* case cited by the petitioner is not controlling because it involved operations which were *temporarily* idle, while Dalmine's facility is *permanently* closed.

Additionally, had we considered the respondent's accounting treatment to be unreasonable and treated the discontinued operations in accordance with U.S. GAAP, we would consider the loss to be related to the year in which the decision was made to discontinue the operations, which was prior to the POI. Upon disposal of these assets, the gain or loss on the sale will be included on the respondent's income statement and we will include the gain or loss in COP/CV, if an order is issued and an administrative review conducted.

Comment 13

The petitioner argues that Dalmine improperly allocated depreciation expense using internal management reports instead of the mill-specific fixed asset ledgers which are kept in the normal course of business. The management reports, according to the petitioner, are used for allocating plant-wide depreciation expense to specific mills, but do not properly take into account the actual plant and equipment used in manufacturing. Instead, the petitioner claims, the submitted allocation method shifted costs from cost centers producing the subject merchandise to cost centers producing non-subject merchandise. The petitioner urges the Department to apply BIA because an analysis they performed suggests that the respondent applied an unusually slow rate of depreciation.

The respondent claims that it did not understate reported depreciation costs, as the verification report suggested, and argues that it may, in fact, have overstated its reported depreciation costs. Dalmine asserts that the internal management reports used to calculate depreciation for the submission segregate separately depreciation by mill and are not used for company-wide allocations. It also maintains that the depreciation expense for equipment used to produce the subject merchandise, as reported in the company's fixed asset ledgers, is substantially less than the depreciation expense which was reported in the submitted COP/CV data.

DOC Position

We agree with the petitioner, in part. The respondent reported its depreciation expense consistent with the way its cost accounting system allocates it to specific mills in the ordinary course of business. However, we believe that the use of its normal cost accounting methodology may not be a reasonable and accurate methodology as it does not properly take into account the actual plant and equipment used in manufacturing the subject merchandise. We consider the mill-specific fixed asset ledgers to be the most accurate basis for allocating depreciation expense to specific products. Therefore, we used the mill-specific depreciation expense.

We note that the petitioner's analysis regarding the unusually slow depreciation rate is flawed because it did not properly consider the cost of some fixed assets, such as land, which are not depreciated, and the cost of other fixed assets, which have long useful lives.

Comment 14

The petitioner argues that the Department should reject Dalmine's reported financing costs because Dalmine failed to disclose the fact that its financial results are consolidated with the financial results of its parent, ILVA S.p.A., in liq. (ILVA). These financial results are, in turn, consolidated with the financial results of ILVA's parent, IRI. The petitioner asserts that the Department calculates interest expense on a consolidated basis, unless the financial structure of the parent and the operating subsidiary are clearly not integrated, or there are no reliable audited consolidated financial statements. According to the petitioner, neither of these exceptions are applicable in this case.

The petitioner also contends that the Department should reject the respondent's argument that Dalmine's 1994 interest costs should be used instead of IRI's 1993 interest costs because the Dalmine-based figures are more closely correlated to the POI. The petitioner argues for the application of BIA in the final determination. However, if the Department determines that total BIA is inappropriate, then the petitioner believes the Department should calculate financing costs using IRI's 1993 audited financial statement information.

The respondent claims that it properly reported interest expense based on the consolidated financing costs incurred at the Dalmine level, rather than at the consolidated IRI level. In support of its claim, the respondent states that IRI does not exercise control over Dalmine's operations or its capital structure. In addition, the respondent maintains that using IRI's consolidated financial expenses would distort Dalmine's true financing costs because IRI's financing costs include expenses for entities which are dissimilar to Dalmine. Additionally, the respondent points out that IRI's 1994 audited consolidated financial statements were not available at verification and only its 1993 audited consolidated financial statements are on the record. However, Dalmine's 1994 audited consolidated financial statements are on the record and, according to the respondent, they are more relevant because they encompass the entire POI. Lastly, the respondent objects to the petitioner's insinuation that it attempted to mislead the Department by failing to disclose that its financial results are consolidated with the financial results of IRI. The respondent asserts that this information was not provided since it was not requested in the Department's questionnaires. When the Department did request IRI's consolidated financial data at verification, the respondent provided this information.

DOC Position

We agree with the petitioner, in part. The Department's long-standing practice is to calculate interest expense for COP/CV purposes from the borrowing costs incurred by the consolidated group. *Silicon Metal From Brazil*, 56 Fed. Reg. at 26,986 (1991). This methodology, which has been upheld by the CIT in *Camargo Correa Metals, S.A. v. U.S.*, Slip Op 93–163 (CIT 1993), is based on the fact that the consolidated group's controlling entity has the power to determine the capital structure of each member of the group. IRI has such power since it owns a substantial majority of Dalmine through ILVA. In addition, although the respondent claims that IRI does not exercise control over Dalmine's operations, it is the Department's position that majority equity ownership is prima facie evidence of corporate control. *See, e.g., Final Determination of Sales at Less Than Fair Value: New Minivans from Japan, (Minivans)* 57 FR 21946 (May 26, 1992) The respondent has not presented sufficient evidence to demonstrate that IRI's consolidated financing expense would distort Dalmine's financing costs. In *Minivans*, we determined that, as a member of a consolidated group of companies, the operations of a financing company remain under the controlling influence of the group. Like other members of the consolidated group, the financing company's capital structure is determined largely within the group. Consequently, its interest income and expenses are as much a part of the group's overall borrowing experience as any other member company.

Lastly, we do not consider it more appropriate to use Dalmine's 1994 consolidated figures over IRI's 1993 consolidated figures simply because Dalmine's audited information more closely relates to the time period of the POI. We have no reason to believe that IRI's 1993 audited financial statement interest expense data is not representative of the POI.

Comment 15

The petitioner believes the Department should not allow the respondent to offset its IRI level financing costs with short-term interest income because the reported interest income included both short and long-term interest income.

The respondent claims that the Department should reduce Dalmine's interest expenses by long and short-tern

interest income since both long and short-term investments arise from the company's current operations. The respondent argues that it must earn revenue from its current operations in order to make long and short-term investments. Therefore, it is illogical for the Department to only consider short-term interest income to be related to current operations. Additionally, the respondent notes that treating short and long-term interest income differently contradicts the Department's fungibility of money argument. The respondent claims that the Department should recognize the symmetrical nature of interest income and expense and calculate a true net interest cost which would take long-term interest income into account.

DOC Position

We agree with the respondent, in part. It is the Department's practice to allow a respondent to offset financial expenses with interest income earned from the general operations of the company. *See, e.g., Timkin v. United States*, 852 F. Supp. 1040, 1048 (CIT 1994). The Department does not, however, offset interest expense with interest income earned on long-term investments because long-term interest income does not relate to current operations. *See, e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany: Final Results of Antidumping Duty Administrative Review*, 56 FR 31734 (July 11, 1991). The company did not provide a break-down of short and long-term interest income for IRI. However, we were able to determine the amount of short-term interest income for the consolidated IRI group from verification exhibits and have applied short-term interest income as an offset to Dalmine's financing costs.

Comment 16

The petitioner contends that the Department should not allow the respondent to offset production costs with foreign exchange gains because the gains were not verified by the Department.

The respondent maintains that, contrary to the verification report, it does not associate exchange gains and losses with particular transactions. The respondent states that it classifies exchange gains and losses as part of the company's general expenses and it urges the Department to accept this treatment of these exchange gains and losses. As an alternative to including both foreign exchange gains and losses in its financing cost calculation, the respondent argues that the Department should exclude both gains and losses. The respondent states in its brief that it was not aware of the Department's treatment of exchange gains and losses until it received the verification agenda where the distinction was explicitly noted.

DOC Position

We agree with the petitioner. It is the Department's normal practice to distinguish between exchange gains and loses from sales transactions and exchange gains and losses from purchase transactions. *See, e.g., Final Determination of Sales at Less Than Fair Value; Silicomanganese from Venezuela*, 59 FR 55436 (November 7, 1994) (*Silicomanganese*). Accordingly, the Department does not include exchange gains and losses on accounts receivable because the exchange rate used to convert third-country sales to U.S. dollars is that in effect on the date of the U.S. sale. (See 19 CFR 353.60). The Department includes, however, foreign exchange gains and losses on financial assets and liabilities in its COP and CV, calculation where they are related to the company's production. Financial assets and liabilities are directly related to a company's need to borrow money, and we include the cost of borrowing in our COP and CV calculations. See *Silicomanganese*. The respondent did not provide any substantiation for the exchange gains and losses reflected in either Dalmine's financial statements or IRI's financial statements. However, Dalmine did state at verification that exchange gains are generally from sales transactions and exchange losses are generally from purchase transactions. We therefore adjusted the interest expense rate calculation to include IRI's exchange losses and exclude IRI's exchange gains.

Comment 17

The petitioner argues that the Department should disallow the portion of the LIFO variance adjustment which is comprised of reversals of accruals and other reserves. The petitioner claims that these accruals and reserves were established in prior accounting periods and do not relate to POI production. According to the petitioner, allowing such reversals provides companies that have advance knowledge of a dumping case with a simple means of shifting costs out of the POI.

The respondent contends that it included properly reversals of 1993 accruals and write-downs in its COP/CV costs. Dalmine claims that the Department's general practice is to include accruals which are recognized in the respondent's audited financial statements in the COP/CV calculations. According to the respondent, this treatment necessitates the inclusion of any accrual reversals in COP/CV calculations for the period in which the respondent recognizes the reversal. Otherwise, the respondent claims, the Department would be overstating the company's total costs.

DOC Position

We agree with the petitioner. We do not consider it appropriate to reduce current year production costs by the reversal of prior year operating expense accruals and write-downs of equipment and inventory. The subsequent year's reversal of these estimated costs does not represent revenue or reduced operating costs in the year of reversal. See *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From France*, 58 FR 37079 (July 9, 1993). Rather, they represent a correction of an estimate which was made in a prior year. If the Department is able to verify that an operating expense accrual or an equipment or inventory write-down recorded during the POI is subsequently adjusted because the company overestimated the cost, we will use the corrected figure, but only for the same period in which the accrual or write-down occurred. However, absent any verified information supporting the overestimation of cost, we have no choice but to rely on the amounts recorded by the company. The fact that a company is unable to determine that it over accrued certain costs in time for verification does not justify distorting the actual production costs incurred in a subsequent year by reducing subsequent year costs by the overestimated amount. In the present case, since the accruals and write-downs did not occur during 1994, it would be inappropriate to recognize the reversals of such entries in the reported costs.

Comment 18

The petitioner asserts that Dalmine has not reported the COP and CV for all of the subject merchandise sold in the U.S. during the POI. This assertion is based on the fact that Dalmine did not calculate a weighted average cost for CONNUM's 45 and 108, because the company did not produce those products during the POI. The petitioner claims that a significant percentage of U.S. sales during the POI were for control numbers not produced during the POI. The petitioner argues that the

Department should increase the submitted COP and CV for the two products sold in the U.S. during the POI, but produced prior to the POI, because Dalmine was less profitable in 1993.

The respondent maintains that it calculated the average COP and CV for CONNUM's 45 and 108 by using a simple average of the cost of the products that comprise each CONNUM rather than a weighted average with a weighting factor for the cost of products not produced during the POI. Thus, the respondent contends that it properly reported actual contemporaneous cost information.

DOC Position

We agree with the respondent. Dalmine used a simple average of the cost of the products that comprised CONNUM's 45 and 108 and our statement in the verification report that the respondent used a weighting factor for some of the products in its cost calculation for CONNUM's 45 and 108 is inaccurate. We calculated COP/CV by weight averaging the average costs of products classified within those CONNUM's by the production quantities which we obtained at verification.

We disagree with the petitioner's claim that the Department should increase the submitted cost data for the products produced prior to the POI because the company was less profitable in the prior year. The Department tested Dalmine's standard costs as adjusted to actual costs at verification and determined that these costs actually reflect the costs incurred during the POI.

Comment 19

The petitioner contends that Dalmine understated its reported general and administrative (G&A) expenses as it failed to include an allocation of G&A expenses incurred by ILVA and IRI. Because Dalmine failed to disclose that it was consolidated with ILVA and IRI, the petitioner believes that, as BIA, the Department should add the G&A expenses calculated from ILVA's 1992 financial statements and IRI's 1993 financial statements to the amounts reported by Dalmine.

The respondent maintains that the Department verified that an appropriate share of parent company management costs was included in the submitted COP/CV data.

DOC Position

We agree with the respondent. It is the Department's practice to include a portion of the G&A expenses incurred by affiliated companies on the reporting entity's behalf in total G&A expenses for COP/CV purposes. *Final Determination of Sales at Less Than Fair Value: Welded Stainless Steel Pipe from Malaysia*, 59 Fed. Reg. 4023, 4027 (Jan. 28, 1994); *Final Determination of Sales at Less Than Fair Value: Ferrosilicon from Venezuela*, 58 Fed. Reg. 27524 (May 10, 1993); *Final Determination of Sales at Less Than Fair Value: Sweaters from Hong Kong*, 55 Fed. Reg. 30733 (July 27, 1990); *Final Determination of Sales at Less Than Fair Value: Certain Small Business Telephones and Subassemblies Thereof from Korea*, 54 Fed. Reg. 53141 (Dec. 27, 1989). In the present case, the respondent included a portion of Dalmine's G&A expenses and the G&A expenses of its producing subsidiary in the submitted G&A expenses. We identified no parent company costs allocable to Dalmine.

Comment 20

The petitioner questions whether all steel mill variances have been captured because steel bar costs have been reported exclusively on the basis of standard costs. The petitioner claims that price and efficiency variances for the steel mill were excluded from the ratio used to allocate variances to each product.

The respondent claims that the Department verified that the steel mill variance was properly allocated to the subject merchandise.

DOC Position

We agree with the respondent. The steel mill net profit reported on the respondent's management report was zero after all steel mill costs were allocated to producing mills, based on steel usage by the mills. Therefore, all steel mill activity, including variances, was properly allocated to the producing mills.

Suspension of Liquidation

Pursuant to the results of this final determination, we will instruct the Customs Service to require a cash deposit or posting of a bond equal to the estimated final dumping margin, as shown below, for entries of seamless standard, line and pressure pipe from Italy that are entered or withdrawn from warehouse, for consumption from the date of publication of this notice in the **Federal Register**. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Producer/manufacturer exporter	Weighted-average margin (percent)
Dalmine	1.84
All Others	1.84

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure or threaten injury to a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. However, if the ITC determines that material injury or threat of material injury does exist, the Department will issue an antidumping duty order.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protection order ("APO") in these investigations of their responsibility covering the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.4(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d))and 19 CFR 353.20.

Dated: June 12, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–14939 Filed 6–16–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–475–815]

Final Affirmative Countervailing Duty Determination: Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe ("Seamless Pipe") From Italy

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

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Peter Wilkniss, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0588.

FINAL DETERMINATION: The Department determines that benefits which constitute subsidies within the meaning

of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Italy of seamless pipe. For information on the estimated net subsidies, please see the Suspension of Liquidation section of this notice.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994. References to the *Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments*, 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), which has been withdrawn, are provided solely for further explanation of the Department's CVD practice.

Case History

Since the publication of the preliminary determination in the **Federal Register** (59 FR 60774, November 28, 1994), the following events have occurred.

On December 23, 1994, we aligned the final countervailing duty determination in this investigation with the final determination in the companion antidumping investigation of seamless pipe from Italy (59 FR 66296).

We conducted verification of the responses submitted on behalf of the Government of Italy ("GOI"), and Dalmine S.p.A. ("Dalmine") from January 22 through January 27, 1995.

On April 19, 1995, we postponed the final determination in this case to June 12, 1995 (60 FR 19571).

On May 2, 1995 we received a case brief from respondent. Neither petitioner or respondent requested a hearing in this investigation.

Scope of Investigation

The following scope language reflects certain modifications made for purposes of the final determination, where appropriate, as discussed in the "Scope Issues" section of the final determination in the companion antidumping case of seamless pipe from Italy.

The scope of this investigation includes seamless pipes produced to the ASTM A–335, ASTM A–106, ASTM A–53 and API 5L specifications and meeting the physical parameters described below, regardless of application. The scope of this investigation also includes all products used in standard, line, or pressure pipe applications and meeting the physical parameters below, regardless of specification.

For purposes of this investigation, seamless pipes are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3 mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. These pipes are commonly known as standard pipe, line pipe or pressure pipe, depending upon the application. They may also be used in structural applications. Pipes produced in non-standard wall thicknesses are commonly referred to as tubes.

The seamless pipes subject to these investigations are currently classifiable under subheadings 7304.10.10.20, 7304.10.50.20, 7304.31.60.50, 7304.39.00.16, 7304.39.00.20, 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.51.50.05, 7304.51.50.60, 7304.59.60.00, 7304.59.80.10, 7304.59.80.15, 7304.59.80.20, and 7304.59.80.25 of the Harmonized Tariff Schedule of the United States (HTSUS).

The following information further defines the scope of this investigation, which covers pipes meeting the physical parameters described above:

Specifications, Characteristics and Uses: Seamless pressure pipes are intended for the conveyance of water, steam, petrochemicals, chemicals, oil products, natural gas and other liquids and gasses in industrial piping systems. They may carry these substances at elevated pressures and temperatures and may be subject to the application of external heat. Seamless carbon steel pressure pipe meeting the American Society for Testing and Materials (ASTM) standard A–106 may be used in temperatures of up to 1000 degrees fahrenheit, at various American Society of Mechanical Engineers (ASME) code stress levels. Alloy pipes made to ASTM standard A–335 must be used if temperatures and stress levels exceed those allowed for A–106 and the ASME codes. Seamless pressure pipes sold in the United States are commonly produced to the ASTM A–106 standard.

Seamless standard pipes are most commonly produced to the ASTM A–53 specification and generally are not intended for high temperature service. They are intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gasses in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipes (depending on type and code) may carry liquids at elevated temperatures but must not exceed relevant ASME code requirements.

Seamless line pipes are intended for the conveyance of oil and natural gas or other fluids in pipe lines. Seamless line pipes are produced to the API 5L specification.

Seamless pipes are commonly produced and certified to meet ASTM A–106, ASTM A–53 and API 5L specifications. Such triple certification of pipes is common because all pipes meeting the stringent A–106 specification necessarily meet the API 5L and ASTM A–53 specifications. Pipes meeting the API 5L specification necessarily meet the ASTM A–53 specification. However, pipes meeting the A–53 or API 5L specifications do not necessarily meet the A–106 specification. To avoid maintaining separate production runs and separate inventories, manufacturers triple certify the pipes. Since distributors sell the vast majority of this product, they can thereby maintain a single inventory to service all customers.

The primary application of ASTM A–106 pressure pipes and triple certified pipes is in pressure piping systems by refineries, petrochemical plants and chemical plants. Other applications are in power generation plants (electrical-fossil fuel or nuclear), and in some oil field uses (on-shore and off shore) such as for separator lines, gathering lines and metering runs. A minor application of this product is for use as oil and gas distribution lines for commercial applications. These applications constitute the majority of the market for the subject seamless pipes. However, A–106 pipes may be used in some boiler applications.

The scope of this investigation includes all seamless pipe meeting the physical parameters described above and produced to one of the specifications listed above, regardless of application, and whether or not also certified to a non-covered specification. Standard, line and pressure applications and the above listed specifications are defining characteristics of the scope of this investigation. Therefore, seamless pipes meeting the physical description above, but not produced to the A–335, A–106, A–53, or API 5L standards shall be covered if used in a standard, line or pressure application.

For example, there are certain other ASTM specifications of pipe which, because of overlapping characteristics, could potentially be used in A–106 applications. These specifications generally include A–162, A–192, A–210, A–333, and A–524. When such pipes are used in a standard, line or pressure pipe application, such products are

covered by the scope of this investigation.

Specifically excluded from this investigation are boiler tubing and mechanical tubing, if such products are not produced to A–335, A–106, A–53 or API 5l specifications and are not used in standard, line or pressure applications. In addition, finished and unfinished OCTG are excluded from the scope of this investigation, if covered by the scope of another countervailing duty order from the same country. If not covered by such an OCTG order, finished and unfinished OCTG are included in this scope when used in standard, line or pressure applications. Finally, also excluded from this investigation are redraw hollows for cold-drawing when used in the production of cold-drawn pipe or tube.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Dalmine has raised a scope issue in this investigation. The Department has addressed all scope issues in the final determination of the companion antidumping investigation of seamless pipe from Italy.

Injury Test

Because Italy is a "country under the Agreement" within the meaning of section 701(b) of the Act, the U.S. International Trade Commission ("ITC") is required to determine whether imports of seamless pipe from Italy materially injure, or threaten material injury to, a U.S. industry. On August 3, 1994, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is being materially injured or threatened with material injury by reason of imports from Italy of the subject merchandise (59 FR 42286, August 17, 1994).

Corporate History of Respondent Dalmine

Prior to its liquidation in 1988, Finsider S.p.A. ("Finsider") was the holding company for all state-owned steel companies in Italy, including Dalmine. Dalmine was an operating company wholly owned by Finsider. After Finsider's liquidation, a new government-owned holding company, ILVA S.p.A. ("ILVA"), was created. ILVA took over the former Finsider companies, among them Dalmine, which became a subsidiary of ILVA in 1989 when Finsider's shareholding in Dalmine was transferred to ILVA.

Between 1990 and 1993, Dalmine itself was radically restructured. Dalmine became a financial holding company, with industrial, trading, and service shareholdings. As part of its restructuring, Dalmine made several asset purchases, sold two of its subsidiaries to private parties, and closed several manufacturing facilities. As of December 31, 1993, the Dalmine Group consisted of a holding company (Dalmine S.p.A.), four wholly-owned, and one majority-owned, manufacturing companies, and a number of sales and service subsidiaries.

During the POI, ILVA was owned by the Istituto per la Ricostruzione Industriale ("IRI"), a holding company which was wholly-owned by the GOI.

Spin-offs

In its questionnaire response, Dalmine reported that between 1990 and 1991, as part of its overall restructuring process, the company twice sold "productive units" to private buyers. According to Dalmine, these sales involved facilities that do not produce the subject merchandise. In the preliminary determination, we determined that the amount of potentially spun-off benefits was insignificant. We did not learn anything at verification that would lead us to reverse this determination. Therefore, we have not reduced the subsidies allocated to sales of the subject merchandise. (See Final Concurrence Memorandum dated June 12, 1995).

Equityworthiness

Petitioner has alleged that Dalmine was unequityworthy in 1989, the year it received an indirect equity infusion from the GOI, through ILVA S.p.A. ("ILVA"), and that the equity infusion was, therefore, inconsistent with commercial considerations.

In accordance with section 355.44(e)(1) of the Proposed Regulations (Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments ("Proposed Regulations"), 54 FR 23366, May 31, 1989)), we preliminarily determined that ILVA's purchase of Dalmine's shares was consistent with commercial considerations because Dalmine provided evidence that private investors, unrelated to Dalmine or the GOI, purchased a significant percentage of the 1989 equity offering, on the same terms as ILVA. We did not learn anything at verification that would lead us to reverse this finding. Therefore, the Department determines that ILVA's purchase of Dalmine's shares was consistent with commercial considerations.

Creditworthiness

Petitioner has alleged that Dalmine was uncreditworthy in every year between 1979 and 1993. In accordance with section 355.44(b)(6)(i) of the Proposed Regulations, we preliminarily determined that Dalmine was creditworthy from 1979 to 1993. In making this determination we examined Dalmine's current, quick, times interest earned, and debt-to-equity ratios, in addition to its profit margin. Specifically, although a number of the financial indicators are weak for certain years, none of the indicators are weak over the medium or long term, and when examined together on a yearly basis, the indicators support the determination that Dalmine was creditworthy in every year examined. (See also Creditworthy Memorandum, November 18, 1994). In addition, Dalmine received long-term, commercial loans from private lenders in several of the years examined.

We did not learn anything new at verification that would lead us to reconsider our preliminary determination. Therefore, we continue to find that Dalmine was creditworthy from 1979 to 1993.

Benchmarks and Discount Rates

Dalmine did not take out any long-term, fixed-rate, lire-denominated loans in any of the years of the government loans under investigation. Therefore, in accordance with section 355.44(b)(4) of the Proposed Regulations, in our preliminary determination we used, as the benchmark interest rate, the Bank of Italy reference rate which was determined in Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Italy ("Certain Steel from Italy"), 58 FR 37327 (July 9, 1993), to be both the best approximation of the cost of long-term borrowing in Italy and the only long-term fixed interest rate commonly available in Italy. We also used this rate as the discount rate for allocating over time the benefit from non-recurring grants for the same reasons as explained in Final Affirmative Countervailing Duty Determination: Certain Steel Products from Spain, 58 FR 37374, 37376 (July 9, 1993).

At verification, we learned that the Bank of Italy reference rate reflects the cost for Italian banks to borrow long-term funds. Therefore, the reference rate does not incorporate the mark-up a bank would charge a corporate client when making a long-term loan. Long-term corporate interest rate data is not available in Italy. Accordingly, we have adjusted the reference rate used in the preliminary determination upward to reflect the mark-up an Italian bank would charge a corporate customer.

In order to approximate this mark-up, we calculated the difference between the average short-term corporate borrowing rate in Italy and the average interest rate on short-term Italian government debt, for each year in which Dalmine received long-term lire loans or non-recurring grants from the government. We then added this mark-up to the Italian reference rate used in the preliminary determination to approximate an average long-term corporate benchmark interest rate. We also used these rates as the discount rates for allocating over time the benefit from non-recurring grants. *See Certain Steel Products from Spain*, 58 FR at 37376.

For long-term loans denominated in other currencies, we used, as the benchmark interest rate, an average long-term fixed interest rate for loans denominated in the same currency. (See section E—Article 54 Loans below.)

Calculation Methodology

For purposes of this determination, the period for which we are measuring subsidies (the POI) is calendar year 1993. In determining the benefits received under the various programs described below, we used the following calculation methodology. We first calculated the benefit attributable to the POI for each countervailable program, using the methodologies described in each program section below. For each program, we then divided the benefit attributable to Dalmine in the POI by Dalmine's total sales revenue, as none of the programs was limited to either certain subsidiaries or products of Dalmine. Next, we added the benefits for all programs, including the benefits for programs which were not allocated over time, to arrive at Dalmine's total subsidy rate. Because Dalmine is the only respondent company in this investigation, this rate is also the country-wide rate.

Based upon our analysis of the petition, the responses to our questionnaires, verification, and comments by interested parties, we determine the following:

I. Programs Determined To Be Countervailable

A. Benefits Provided Under Law 675/77

Law 675/77 was enacted to bring about restructuring and reconversion in the following industrial sectors: (1) electronic technology; (2) the manufacturing industry; (3) the agro-food industry; (4) the chemical industry; (5) the steel industry; (6) the pulp and paper industry; (7) the fashion sector; and (8) the automobile and aviation sectors. Law 675/77 also sought to promote optimal exploitation of energy resources, and ecological and environmental recovery.

A primary goal of this legislation was to bring all government industrial assistance programs under a single law in order to develop a system to replace indiscriminate and random public intervention by the GOI. Other goals were (1) to reorganize and develop the industrial sector as a whole; (2) to increase employment in the South; and (3) to maintain employment in depressed areas. Among other measures taken, the Interministerial Committee for the Coordination of Industrial Policy ("CIPI") was created as a result of Law 675/77. CIPI approves individual projects in each of the industrial sectors listed above.

Six main programs were provided under Law 675/77: (1) interest contributions on bank loans; (2) mortgage loans provided by the Ministry of Industry at subsidized interest rates; (3) interest contributions on funds raised by bond issues; (4) capital grants for projects in the South; (5) personnel retraining grants; and (6) VAT reductions on purchases of capital goods by companies in the South. Dalmine reported that it received benefits under items (1), (2), and (5) above.

In its response, the GOI asserts that the steel and automobile industries did not receive a "disproportionate" share of benefits associated with interest contributions when the extent of investment in those industries is compared to the extent of investment in other industries. However, in keeping with past practice, we did not consider the level of investment in the individual industries receiving benefits under Law 675/77. Instead, we followed the analysis outlined in *Final Affirmative Countervailing Duty Determination: Grain-Oriented Electrical Steel From Italy (Grain-Oriented Electrical Steel)*, 59 FR 18357 (April 18, 1994), and *Final Affirmative Countervailing Duty Determination: Certain Steel Products From Brazil*, 58 FR 37295, 37295 (July 9, 1993), of comparing the share of benefits received by the steel industry to the collective share of benefits provided to other users of the programs.

According to the information provided by the GOI, of the eight industrial sectors eligible for benefits under Law 675/77, the two dominant users of the interest contribution program were (1) the Italian auto industry which accounted for 34 percent of the benefits, and (2) the Italian steel industry which accounted for 33 percent of the benefits. Likewise, with respect to the mortgage loans, the two dominant users were the auto and steel industries which received 45 percent and 31 percent of the benefits, respectively.

In light of the above evidence, we determine that the steel industry was a dominant user of both the interest contribution and the mortgage loan programs under Law 675/77. (*See* section 355.43(b)(2)(iii) of the *Proposed Regulations*). Therefore, we determine that benefits received by Dalmine under these programs are being provided to a specific enterprise or industry or group of enterprises or industries. On this basis, we find Law 675/77 financing to be countervailable to the extent that it is granted on terms inconsistent with commercial considerations.

Under the interest contribution program, Italian commercial banks provided loans to industries designated under Law 675/77. The interest owed by the recipient companies was partially offset by interest contributions from the GOI. Dalmine received bank loans with interest contributions under Law 675/77 which were outstanding in the POI.

Because the GOI interest contributions were automatically available when the loans were taken out, we consider the contributions to constitute reductions in the interest rates charged, rather than grants (*see Certain Steel From Italy* at 37335).

At verification, we established that Dalmine had repaid each of the loans it received under this program in June 1994. We further found that Dalmine had not yet received a portion of the interest contributions originally owed to it by the GOI under this program, due to delays in GOI approval of several Dalmine internal asset transfers. Finally, we established that Dalmine had paid interest on each of the loans during the loan grace periods, contrary to what Dalmine reported in its questionnaire responses.

Dalmine argues that the GOI terminated the subsidized loan portion of this program in 1982, and that Dalmine repaid each of the loans in June 1994, after the POI, but before the publication of the preliminary determination. Consequently, Dalmine contends, no further benefits can accrue to Dalmine under this program. Therefore, according to Dalmine, the Department should, in accordance with the Department's policy to take program-wide changes into account in setting the duty deposit rate, set Dalmine's deposit rate for this program to zero.

Contrary to Dalmine's assertion, we determine that the termination of the subsidized loan portion of this program

does not constitute a program-wide change as defined in section 355.50(b)(1) of the *Proposed Regulations*. Specifically, although Dalmine has repaid the loans it received under the program, there could be other Italian companies with loans that are still outstanding. Therefore, despite termination of the program in 1982, there may still be residual benefits under the program. Under our program-wide change policy, the change at issue cannot be limited to individual firms. Consequently, we determine that the "termination" of the subsidized loan portion of this program does not constitute a program-wide change. *See Final Affirmative Countervailing Duty Determination and Countervailing Duty Orders; Certain Welded Carbon Steel Pipe and Tube Products From Argentina (Argentine Pipe)*, 53 FR 37619 (September 27, 1988); Section 355.50(b)(1) of the *Proposed Regulations*.

Alternatively, Dalmine claims that the Department should recalculate the benefits under this program to reflect the delayed receipt of GOI interest contributions, as well as Dalmine's payment of grace period interest.

With respect to the grace period, we have adjusted our calculations to reflect that Dalmine paid interest during that time, as established at verification. However, we are treating the interest contributions as countervailable on the date Dalmine made the corresponding interest payments, despite any delay in receipt by Dalmine. This is because Dalmine's entitlement to the interest contributions was automatic when it made the interest payments. Thus, we find, for purposes of benefit calculation, that the interest contributions were received at the time the interest payments were made. *See Steel Wire Nails from New Zealand*, 52 FR 37196 (1987).

Under the mortgage loan program, the GOI provides long-term loans at subsidized interest rates. Dalmine received financing under this program which was outstanding in the POI.

To determine whether these programs conferred a benefit, we compared the effective interest rate paid by Dalmine to the benchmark interest rate, discussed above. Based on this comparison, we determine that the financing provided under these programs is inconsistent with commercial considerations, *i.e.*, on terms more favorable than the benchmark financing.

To calculate the benefit from these programs, we used our standard long-term loan methodology as described in section 355.49(c)(1) of the *Proposed Regulations*. We then divided the benefit allocated to the POI for each program by Dalmine's total sales in 1993. On this basis, we determine the net subsidy from these programs to be 0.46 percent *ad valorem* for all manufacturers, producers, and exporters in Italy of the subject merchandise.

With respect to retraining grants provided to Dalmine under Law 675/77, it is the Department's practice to treat training benefits as recurring grants. (*See Certain Steel General Issues Appendix* at 37226). Since the only grant reported under this program was received by Dalmine in 1986, any benefit to Dalmine as a result of this grant cannot be attributed to the POI. Therefore, we determine that retraining benefits provided under Law 675/77 conferred no benefit to Dalmine during the POI.

B. Grants Under Law 193/84

According to the GOI, Articles 2, 3, and 4 of Law 193/84 provide for subsidies to close steel plants. As stated in Art. 20 of Law N. 46 of 17/2/1982, steel enterprises, including enterprises producing seamless pipes, welded pipes, conduits and welded pipes for water and gas, are the recipients of these subsidies. As benefits under this program are limited to the steel industry, we determine that Law 193/84 is de jure specific and, therefore, countervailable.

At verification, we found that Dalmine received an additional benefit under this program not reported in its questionnaire responses. We have included this additional benefit in our calculation of the benefits received by Dalmine under this program.

To calculate the benefit during the POI, we used our standard grant methodology (*see* section 355.49(b) of the *Proposed Regulations*). We then divided the benefits attributable to Dalmine under Law 193/84 in the POI by Dalmine's total sales. On this basis, we determine the estimated net subsidy to be 0.81 percent *ad valorem* for all manufacturers, producers, and exporters in Italy of the subject merchandise.

C. Exchange Rate Guarantee Program

This program, which was enacted by Law 796/76, provides exchange rate guarantees on foreign currency loans from the European Coal and Steel Community ("ECSC") and *The Council of European Resettlement Fund ("CER")*. Under the program, repayment amounts are calculated by reference to the exchange rate in effect at the time the loan is agreed upon. The program sets a ceiling and a floor on repayment to limit the effect on the borrower of exchange rate changes over time. For example, if the lire depreciates five percent against the DM (the currency in which the loan is taken out), borrowers would normally find that they would have to repay five percent more (in lire terms). However, under the Exchange Rate Guarantee Program, the ceiling would act to limit the increased repayment amount to two percent. There is also a floor in the program which would apply if the lire appreciated against the DM. The floor would limit any windfall to the borrower.

In *Grain-Oriented Electrical Steel*, the Department found this program to be not countervailable because of incomplete information regarding the specificity of the program. The Department stated that, because the determination was reached while lacking certain important information, the finding of non-countervailability would not carry over to future investigations.

In this investigation, information provided by the GOI shows that the steel industry received 25% of the benefits under the program. Furthermore, at verification, we found that in the years Dalmine took out loans on which it received exchange rate guarantees under this program, the steel industry received virtually all the benefits under the program. Based on this information, the Department determines that the steel industry was a dominant user of exchange rate guarantees under Law 796/76 and, thus, that benefits received by Dalmine under this law are being provided to a specific enterprise or industry or group of enterprises or industries. (*See* section 355.43(b)(2)(iii) of the *Proposed Regulations*). Therefore, we determine that the exchange rate guarantees offered under the program are countervailable to the extent they are provided on terms inconsistent with commercial considerations.

Dalmine provided information that it could have purchased an exchange rate guarantee from commercial sources. However, Dalmine's information pertained to 1993, not to the period when the government guarantees were provided. The GOI's response indicates that commercial exchange rate guarantees were not available in 1986, the year in which the loans and the guarantees were received. Therefore, we determine the benefit to be the total amount of payments to Dalmine made during the POI by the GOI. (Because the amount the government will pay in any given year will not be known until that year, benefits can only be calculated on a year-by-year basis.) We divided the GOI's payments in 1993 by Dalmine's

1993 total sales. On this basis, we determine the estimated net subsidy from this program to be 0.20 percent ad valorem for all manufacturers, producers, and exporters in Italy of the subject merchandise.

II. Programs Determined To Be Not Countervailable

A. 1988/89 Equity Infusion

In November 1989, Dalmine completed an equity rights offering which allowed existing shareholders to purchase 7 new shares for every 10 shares they already owned. The new shares were offered at a price of LIT 300 per share. At that time, ILVA owned 81.7 percent of Dalmine's equity, with the remaining 18.3 percent owned by private investors. Pursuant to the rights offering, ILVA subscribed to its full allotment of the new shares issued. The remainder of the new shares were purchased by private shareholders. All shares were purchased at LIT 300 per share.

Petitioner argues that, although Dalmine's shares were nominally publicly traded, the vast majority of Dalmine shares were indirectly owned by the GOI and, therefore, shares were not purchased in adequate volume by private investors to establish a valid benchmark. Specifically, petitioner contends that, in 1991, ILVA owned 99.9 percent of Dalmine and, therefore, Dalmine's shares were in fact not publicly traded. Consequently, because essentially no private purchases were being made, the market price at the time of the equity infusion cannot serve as a valid benchmark. Furthermore, petitioner asserts that it is highly likely that the remaining shares not purchased by ILVA were purchased indirectly by the GOI through other holding companies.

In response to our questionnaire, Dalmine provided a list of all purchasers of shares in the 1989 offering. There was no evidence to indicate that the shares not purchased by ILVA were purchased by other government controlled or owned entities, as petitioner suggests.

Moreover, the extent of ILVA's ownership in 1991 is not relevant to the choice of a benchmark for the equity investment in 1989.

Therefore, in our preliminarily determination, we determined that, because 18.3 percent of the equity infusion was purchased by private shareholders, the sale of these shares provides the market-determined price for Dalmine's equity. Furthermore, in accordance with section 355.44 (e)(1) of the Department's *Proposed Regulations*, we preliminarily determined that the equity infusion is not countervailable because the market-determined price for equity purchased from Dalmine is not less than the price paid by ILVA for the same form of equity. We did not learn anything at verification that would lead us to reconsider our preliminary determination. Therefore, we continue to find that the equity infusion is not countervailable.

B. European Social Fund ("ESF") Grants

The ESF was established by the 1957 European Economic Community Treaty to increase employment and help raise worker living standards.

As described in *Grain-Oriented Electrical Steel*, the ESF receives its funds from the EC's general budget of which the main revenue sources are customs duties, agricultural levies, value-added taxes collected by the member states, and other member state contributions.

The member states are responsible for selecting the projects to be funded by the EC. The EC then disburses the grants to the member states which manage the funds and implement the projects. According to the EC, ESF grants are available to (1) people over 25 who have been unemployed for more than 12 months; (2) people under 25 who have reached the minimum school-leaving age and who are seeking a job; and (3) certain workers in rural areas and regions characterized by industrial decline or lagging development.

The GOI has stated that the ESF grants received by Italy have been used for vocational training. Certain regions in the South are also eligible for private sector re-entry and retraining schemes. Since 1990, the vocational training grants have been available to unemployed youths and long-term unemployed adults all over Italy, according to the GOI. Before 1990, however, the GOI gave preference to certain regions in Italy.

In *Grain-Oriented Electrical Steel*, we determined that this program was not regionally specific and not otherwise limited to a specific enterprise or industry, or group of enterprises or industries. Furthermore, we noted that to the extent there is a regional preference (*i.e.*, southern Italy) in the distribution of ESF benefits, it has not resulted in a countervailable benefit to the production of the subject merchandise, which is produced in northern Italy.

Information provided by the GOI in this investigation is consistent with the information provided in *Grain-Oriented Electrical Steel*. Therefore, we determine that this program is not limited to a specific enterprise or industry, or group of enterprises or industries, and therefore, is not countervailable.

C. ECSC Article 54 Loans

Under Article 54 of the 1951 ECSC Treaty, the European Commission provides loans directly to iron and steel companies for modernization and the purchase of new equipment. The loans finance up to 50 percent of an investment project. The remaining financing needs must be met from other sources. The Article 54 loan program is financed by loans taken by the Commission, which are then re-lent to iron and steel companies in the member states at a slightly higher interest rate than that at which the Commission obtained them.

Consistent with the Department's finding in *Grain-Oriented Electrical Steel*, we determine that this program is limited to the iron and steel industry. As a result, loans under this program are specific.

Of the Article 54 loans Dalmine had outstanding during the POI, some were denominated in U.S. dollars and others were in Dutch guilders ("NLG"). To determine whether the loans were provided on terms inconsistent with commercial considerations, we used the benchmark interest rates for the currencies in which the loans were denominated. That is, for the U.S. dollar loans we used the average interest rate on long-term fixed-rate U.S. dollar loans obtained in the United States, as reported by the Federal Reserve. For the NLG denominated loan, we used the average long-term bond rate for private borrowers in the Netherlands, as reported by the Organization for Economic Cooperation and Development ("OECD").

Because the interest rates paid on Dalmine's Article 54 loans are higher than the benchmark interest rates, the Department determines that loans provided under this program are not inconsistent with commercial considerations and, therefore, not countervailable.

D. 1989 Provisional Payment in Connection With 1989 Equity Infusion

In March 1989, ILVA made a payment to Dalmine in anticipation of purchasing new shares in Dalmine. The payment was provisional in nature because EC authorization of the capital increase was necessary and, if authorization was not granted, the money would have been repaid to ILVA. The capital increase was not finalized until November 1989, due to delays in EC approval. At that time, the payment became equity capital.

Consistent with the Department's position in *Grain-Oriented Electrical Steel*, we determine that the funds provided by ILVA to Dalmine are countervailable.

During the period March-November 1989, Dalmine had use of the money and paid no interest on it. Therefore, we have treated the funds provided by ILVA to Dalmine as an interest-free short-term loan from March 1989 to November 1989.

Because any benefit from this interest-free loan would be allocable entirely to 1989, no benefit is attributable to the POI.

III. Programs Determined To Be Not Used

We established at verification that the following programs were not used during the POI.

1. Preferential IMI Export Financing Under Law 227/77
2. Preferential Insurance Under Law 227/77
3. Retraining Grants under Law 181/89
4. Benefits under ECSC Article 56

Verification

In accordance with section 776(b) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, examination of relevant accounting records and examination of original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B-099 of the Main Commerce Building).

Suspension of Liquidation

In accordance with our affirmative preliminary determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of seamless pipe from Italy, which were entered or withdrawn from warehouse for consumption, on or after November 28, 1994, the date our preliminary determination was published in the **Federal Register**. This final countervailing duty determination was aligned with the final antidumping duty determination of seamless pipe from Italy, pursuant to section 606 of the Trade and Tariff Act of 1984 (section 705(a)(1) of the Act).

Under article 5, paragraph 3 of the GATT subsidies Code, provisional measures cannot be imposed for more than 120 days without a final affirmative determination of subsidization and injury. Therefore, we instructed the U.S. Customs Service to discontinue the suspension of liquidation on the subject merchandise entered on or after March 28, 1995, but to continue the suspension of liquidation of all entries, or withdrawals from warehouse, for consumption of the subject merchandise between November 28, 1994, and March 27, 1995. We will reinstate suspension of liquidation under section 703(d) of the Act, if the ITC issues a final affirmative injury determination, and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated below.

Seamless Pipe

Country-Wide *Ad Valorem* Rate 1.47 percent.

ITC Notification

In accordance with section 705(c) of the Act, we have notified the ITC of our determination. The ITC will make its determination whether these imports materially injure, or threaten injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that material injury or threat of material injury does exist, the Department will issue a countervailing duty order.

Return of Destruction of Proprietary Information

This notice 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 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act and 19 CFR 355.20(a)(4).

Dated June 12, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-14934 Filed 6-16-95; 8:45 am]

BILLING CODE 3510-DS-P

[Investigation No. 731–TA–710 (Final)]

Certain Seamless Carbon and Alloy Standard, Line, and Pressure Steel Pipe From Italy

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–710 (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 of certain seamless carbon and alloy standard, line, and pressure steel pipe [1] from Italy. Such imports are provided for in subheadings 7304.10.10, 7304.10.50, 7304.31.60, 7304.39.00, 7304.51.50, 7304.59.60, and 7304.59.80 of the Harmonized Tariff Schedule of the United States. The Commission will make its final injury determination within 75 days after receipt of Commerce's notification of its final determination (19 U.S.C. 1673d(b)).

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's rules of practice and procedure, part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: June 14, 1995.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202–205–3184), 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. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

The subject antidumping investigation is being instituted as a result of the affirmative final determination by the Department of Commerce (60 FR 31981, June 19, 1995) that imports of certain seamless carbon and alloy standard, line, and pressure steel pipe from Italy are being sold in the United States at less than fair value (LTFV) within the meaning of section 733 of the Act (19 U.S.C. 1673b). Commerce's preliminary determination of sales at LTFV was negative (60 FR 5358, January 27, 1995). This investigation was requested in a petition filed on June 23, 1994, on behalf of the Gulf States Tube Division of Quanex Corp., Rosenberg, TX. The schedule for the subject investigation will be identical to that of the Commission's ongoing countervailing and antidumping duty investigations of the subject product (60 FR 11110, March 1, 1995).

Participation in the Investigation and Public Service List

Any person having already filed an entry of appearance in the related countervailing duty investigation is considered a party in this antidumping investigation. Any other 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 the investigations upon the expiration of the period for filing entries of appearance.

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

Pursuant to § 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.

A prehearing staff report applicable to this investigation was placed in the nonpublic record on June 7, 1995, and a public version was issued on June 8, 1995, pursuant to § 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the ongoing countervailing and antidumping duty investigations (Invs. Nos. 701–TA–362 and 731–TA–707–709 (Final)) of the subject product, beginning at 9:30 a.m. on June 20, 1995, at the U.S. International Trade Commission Building. At that hearing, the Commission will hear testimony and receive evidence regarding the antidumping investigation instituted herein. 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.

Requests for a separate hearing in this investigation for the limited purpose of supplementing the June 20, 1995, hearing record with testimony and evidence solely related to the antidumping duty investigation, should be filed in writing with the Commission not later than June 27, 1995. If such a hearing is requested, parties will be contacted regarding dates for the hearing and for the filing of briefs.

Written Submissions

Parties may 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 June 28, 1995; witness testimony must be filed

[1] The imports subject to investigation are seamless carbon and alloy (other than stainless) steel pipes, of circular cross-section, not more than 114.3mm (4.5 inches) in outside diameter, regardless of wall thickness, manufacturing process (hot-finished or cold-drawn), end finish (plain end, bevelled end, upset end, threaded, or threaded and coupled), or surface finish. The subject imports are further defined in the U.S. Department of Commerce's notice of final determination of sales at less than fair value (60 FR 31981, June 19, 1995).

no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before June 28, 1995. 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 investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: 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.

Issued: June 19, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–15425 Filed 6–22–95; 8:45 am]

BILLING CODE 7020–02–P

APPENDIX B

LIST OF PARTICIPANTS IN THE HEARING

CALENDAR OF HEARING

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

Subject:	Certain Seamless Carbon and Alloy Standard, Line and Pressure Steel Pipe from Argentina, Brazil, Germany and Italy
Inv. Nos.:	701-TA-362 and 731-TA-707-710 (F)
Date and Time:	June 20, 1995 - 9:30 a.m.

Sessions were held in connection with the investigations in the main hearing room 101, 500 E Street, S.W., Washington, D.C.

OPENING REMARKS

Petitioner (Mr. Roger B. Schagrin, Schagrin and Associates)

Respondent (Mr. David Palmeter, Mudge, Rose, Guthrie, Alexander, and Ferndon)

In Support of Imposition of Antidumping Duties:

Schagrin Associates
Washington, D.C.
on behalf of

Gulf States Tube Division of Quanex Corporation

James Hill, President, Quanex Tube Group

Les Whitver, General Manager, Gulf States Tube Division of Quanex Corporation

Lynn Branan, General Manager (retired), Gulf States Tube Division of Quanex Corporation

James T. Snedecor, Supervisor, Order Department of Quanex Tube Group

In Support of Imposition of Antidumping Duties cont'd:

Bart F. Niemeyer, Vice President, Sales and Marketing, Koppel Steel Corporation

Dr. Robert A. Blecker, Associate Professor, Department of Economics, The American University

Dr. Robert E. Scott, Associate Director, Center for Business Education and Research, College of Business and Management, The University of Maryland

Roger B. Schagrin)
)--OF COUNSEL
R. Alan Luberda)

In Opposition to Imposition of Antidumping Duties:

Sutherland, Asbill and Brennan
Washington, D.C.
on behalf of

Mannesmannroehren-Werke AG
Mannesmann S.A.
Mannesmann Pipe and Steel Corporation

Michael Herminghaus, Vice President, Tubular Sales, Mannesmann Pipe and Steel

Richard Thypin, Executive Vice President, Thypin Steel Company, Inc.

Mark D. Herlach)
Christer L. Mossberg)--OF COUNSEL
Monique M. LaForce)

In Opposition to Imposition of Antidumping Duties cont'd:

Rogers and Wells
Washington, D.C.
on behalf of

Dalmine S.p.A.

William Silverman)--OF COUNSEL

Mudge, Rose, Guthrie, Alexander and Ferdon
Washington, D.C.
on behalf of

Siderca S.A.I.C. and Siderca Corporation
(collectively "Siderca")

Alfredo Indaco, President, Siderca Corporation

David P. Houlihan)
N. David Palmeter)--OF COUNSEL
Richard G. King)

ECONOMIST PRESENTATION

Dr. Seth T. Kaplan, Trade Resources Company

Richard Boltuck, Trade Resources Company

Dr. Robert A. Leone, Putnam, Hayes & Bartlett

Dr. John C. Staines, Jr., Putnam, Hayes & Bartlett

APPENDIX C

PRODUCT COMPARISONS

CHARACTERISTICS AND USES COMPARISONS

QUESTIONNAIRE RESPONSES

The Commission's questionnaires in these investigations requested comments regarding the differences and similarities in the physical/metallurgical characteristics and uses of selected seamless steel pipe and tube products. The following comments were received:

Carbon vs. Alloy

***

Characteristics.--"(C)hemical composition is different. Carbon steel pipe has no alloy content. Alloy has chrome and/or moly. Purpose of alloy is for elevated temperature service and affords higher creep strength. Mechanical properties are similar, but there is some difference."

Uses.--"Carbon & alloy are not interchangeable due to ASME code requirements. Carbon products can be used in conveyance of gases & liquids etc. at low temperature to moderate temperatures...Alloy is used primarily for higher temperature applications in the petro-chemical, refining, and power related industries."

***

Characteristics.--"Carbon products tend to have lower physical attributes and are destined for low/minimal working environments requiring lower physical strength levels, lower hydrostatic pressures, and/or applications calling for minimal physical characteristics. From a chemical standpoint, carbon products relate generally to AISI 1000 & 1500 series chemistries. Alloy products have higher physical attributes and are destined for high/upper range working environments requiring higher physical strength levels either in as-rolled conditions or heat-treated conditions. Alloys are added to chemistry to achieve particular strength or metallurgical characteristics to satisfy engineered end use."

Uses.--"Carbon and alloy products are similar in that they generally convey liquids. Fluids are conveyed or transported under varying environmental conditions and/or pressures. Engineering requirements will dictate whether carbon level or alloyed products be specified."

***

"Other than strength as attributed to size, there would be no difference."

***

Characteristics.--"Alloy pipe and tube can be heat treated to provide greater strength and toughness than carbon grades. Some alloy grades are also more heat resistant."

Uses.--"There is no interchangeability. Specifications will require either a carbon or an alloy grade."

***

Characteristics.--Subject products "are generally supplied in the as-rolled condition (A333 specifies heat treatment), but may be heat treated (i.e., stress relieve, normalize, quenched temper) to enhance the mechanical properties of the finished product...Physical pipe characteristics such as OD size and wall do not dictate the use of carbon vs. alloy steel. Alloy steel is used to obtain finished pipe performance properties not attainable with carbon steel. Typical examples would be increased strength, high temperature strength and/or creep resistance (A335), corrosion resistance and resistance to brittle fracture (improved charpy impact properties) at low temperatures (A333 alloy)."

Uses.--"Carbon steel seamless pipe is used in a variety of weldable standard, line pressure, and structural applications. Uses include those defined in the questionnaire as well as piling pipe, railings, fence pipe, columns, bridge and roof trusses, and other structural applications. The chemical analysis used for production of these products permits easy interchangeability between grades. In fact, many carbon steel items are sold with multiple certifications to A53, A106, and API5L specifications as Dual, Triple and Quad Stencil grades. Conversely, the service conditions (pressure, temperature, corrosive atmosphere, etc.) that necessitate the use of alloy steel preclude cross application with the carbon grades."

***

Characteristics.--"Alloy products have a different chemical analysis than carbon steels. Alloys, in addition to elements of carbon steels, contain certain percentages of chromium and molybdenum."

Uses.--"Alloy products are used for high temperature service. Carbon steel products cannot be used for such high temperature service (i.e., above 950°F). Carbon and alloy pipes are not interchangeable, i.e., carbon pipe could not be used where an alloy pipe is needed."

***

Characteristics.--"In general, the type of steel is defined by the relevant standard (e.g., ASTM, API, etc.). Carbon steel in general has a content of carbon $\leq$ 2.0%. To produce alloy steel, *** adds various alloy elements, such as chromium, molybdenum, and nickel. These elements change the metallurgical properties of the steel produced."

Uses.--"Alloy elements allow the pipes to be used at higher or lower temperatures than the carbon pipes, and improve physical characteristics, such as yield strength, tensile strength, and elongation. Impact tests and "creep" properties are better for alloy steels...Pipe is always used with regard to the relevant official standards. It is technically possible (but economically infeasible) to use a higher grade product as a substitute for a lower grade product. However, the contrary is not technically feasible. Because alloy pipes cost substantially more than carbon pipes, it would be economically unreasonable for a customer to use an alloy pipe in an application in which a carbon pipe is sufficient."

***

Characteristics.--"Different chemical analysis, higher tensile strength at high temperatures for alloyed products."

Uses.--"Alloyed steel pipes are used for higher temperature applications."

***

"By definition, alloy steels have a different chemical analysis than carbon steels."

***

Characteristics.--"The main physical characteristic of alloy pipes is that they have a higher strength than carbon pipes. Certain elements such as chromium, boron, molybdenum, nickel and vanadium make a steel of an alloy grade."

Uses.--"Alloy pipes are used for higher temperature services, for example in heavy crude oil processing, as well as service under corrosive environments."

***

Characteristics.--"The principal difference in the physical and metallurgical characteristics of carbon vs. alloy products is due to the additional chromium used in alloy products. Other technical and engineering design criteria, further distinguish the two types of products."

Uses.--"There are significant differences in uses for carbon and alloy products. Most carbon products (A106, A53, 5L) are used for conveying substances, such as water, gas, and oil...In contrast, most alloy products (A335) are used for process applications, such as main steam and hot reheat systems, process heater tubing, heater drawing systems, delayed cokers, hydrocrackers, cat reformers, fluid cat crackers and crude distillation units, and thermal cooking furnaces."

Standard vs. Line vs. Pressure

***

Characteristics.--"The A-53, A-106 & API5L chemical specifications are almost identical with only a slight variator. You can easily choose a chemistry that conforms to all 3 types. The physical properties are the same."

Uses.--"If the products are multiple stenciled and multiple certified to A53, API5L and A-106 they are completely interchangeable. Service conditions and code requirements will require that the pipe meet certain requirements for the end uses..." as defined in questionnaire.

***

Characteristics.--Subject products "fit into a general category of material that is subcategorized according to end use:

Standard pipe -- pipe intended for use at low pressure and low or ambient temperatures for conveyance of various gases and liquids in general piping systems (plumbing, heating, sprinkler, etc.).

Line pipe -- pipe intended for transportation of oil, natural gas, and other fluids in pipe lines.

Pressure pipe -- pipe intended for use at elevated temperature and pressure for conveyance of various gases and liquids in industrial piping systems.

With the exception of pipe produced to A333 to meet notch ductility requirements at low temperature, and alloy material made to A335 for elevated temperature (greater than 800°F) application, standard, line and pressure pipe is commonly produced to the requirements of ASTM A53, API5L, and ASTM A106 respectively. Similarities in these specifications regarding chemical analysis, minimum yield and tensile strength, dimensional tolerances, and inspection and testing requirements permit easy cross application of product. For maximum utilization of inventory, distributors order material certified to multiple specifications."

***

Characteristics.--"The chemical analysis and physical characteristics of all three products (carbon grades) are very similar, which allow manufacturers to dual or triple certify this material."

Uses.--"Unless there are specific requirements from the end user (e.g., pipe has to be API certified) the three carbon products are essentially interchangeable."

***

Characteristics.--"A-53 standard pipe is either seamless or welded. Similarly, line pipe can also be welded or seamless. Pressure pipe is only seamless. Tolerances on OD and wall thickness

are not substantially different among the three types. Metallurgically, any difference is based upon the steel grade required."

Uses.--"A-53 standard pipe is used for the conveyance of low pressure fluids and gases, and are either seamless or welded. Seamless and welded standard pipes are interchangeable with each other in almost all end uses. Welded pipes have been widely accepted due to a lower price for the same final use. The price gap between seamless and welded has narrowed because of the high degree of interchangeability.

Line pipe is produced under API standards, and it can be seamless or welded. Typically line pipe is used for the conveyance of oil and gas, and is above 2" OD. Line pipe typically has an OD from 2" to 20" and beyond.

Pressure pipe is only seamless, is certified to ASTM A-106, and in the vast majority of cases is below 2" OD. This pipe is used on steam lines, process lines and in other refinery applications."

***

Characteristics.--"All have the same physical and metallurgical characteristics."

Uses.--"Standard, line, and pressure pipe are used to convey a substance, such as water, steam, petrochemicals, chemicals, oil products, natural gas, and other liquids and gas."

$\leq$ 2" O.D. vs. > 2" and $\leq$ 4.5" O.D.

***

Characteristics.--"Physical and metallurgical properties are the same."

Uses.--"All sizes through 4.5" OD are used by the same type end user. However, service conditions and code requirements dictate size requirements, and pipes must be replaced with pipes of the same size."

***

"Differences and similarities in physical (excluding dimensions) and metallurgical characteristics of these products are not distinguishable by OD size. Use is generally dictated by the engineering and physical constraints of the piping system and the volume of liquid or gas to be conveyed. Product in the size range greater than 2" but not more than 4.5" OD has its greatest usage in standard and pressure pipe systems and to a lesser extent in line pipe applications."

***

Characteristics.--"Similar grades will have similar physical and metallurgical characteristics."

Uses.--"No interchangeability. The engineering requirements for the application determine the size."

***

Characteristics.--"The chemical analysis and physical characteristics are identical."

Uses.--"Other than size, the products are essentially interchangeable."

***

Characteristics.--"There are no differences..."

Uses.--"Use of a specific pipe size is based on the design of the project or the intended use of the product."

***

"There is no difference in physical and metallurgical characteristics and use."

***

Characteristics.--"The chemical analysis and physical characteristics are identical."

Uses.--"They are not interchangeable because the end user specifies a certain size based on his needs of through put and/or pressure. Other than size, the products are essentially interchangeable."

***

Characteristics.--"(P)ipe below 2 inches is normally purchased for use in pressure pipe applications, and will have physical and metallurgical characteristics necessary for those applications. In contrast, pipe above 2 inches is normally purchased for use in line pipe applications, which require different physical characteristics."

Uses.--"(P)ipe below 2 inches is used almost exclusively as pressure pipe, and therefore is normally stenciled to the ASTM A-106 standard. (Normally, this pipe is stenciled only to ASTM A-106, and is not normally multiple-stenciled.) Pressure pipe occurs almost exclusively below 2 inches because of the unique characteristics of such sized pipe. Pressure pipe has a certain line capacity, operating pressure and structural integrity necessary to withstand certain temperatures and stress levels. In contrast, a purchaser will expect pipe above 2 inches to be suitable for line pipe applications. Pipe above 2 inches therefore normally is stenciled to the API5L standard. (The pipe often is triple stenciled to API5L, ASTM A-106 and A-53, but the predominant use is as line pipe.)"

***

"Usually pipes below 2" OD are seamless, produced to A-106 for pressure pipe applications. Above 2" OD is generally line pipe, either seamless or welded. Pipe below 2" OD is often cold-drawn, a process that tightens the tolerances of the pipe (and increases the cost significantly). Pipe above 2" OD is hot finished with only very rare exceptions."

MANUFACTURING COMPARISONS

QUESTIONNAIRE RESPONSES

The Commission's questionnaires in these investigations requested comments regarding the differences and similarities in the manufacturing processes of selected seamless steel pipe and tube products. The following comments were received:

Carbon vs. Alloy

***

"Subject seamless carbon and alloy are produced on the same equipment and require the same labor skills."

***

"Carbon and alloy steel tubular products are produced on the *** mill with virtually no difference in processing."

***

"MFG process is similar, the difference arises from the end use of product."

***

"Most important differences are raw material, technical treatment and inspection. Both pipes are produced in the same equipment with the same labor/personnel."

***

"Different pre-material, additional processes for alloyed steel pipe (e.g., heat treatment)."

***

"Carbon and alloy steel pipes are different because the mechanical properties of the steel used to produce these products are different. As a result, carbon and alloy steel pipes are usually employed in different applications, at different levels of pressure, and at different temperatures... From the production point of view, carbon and alloy pipes are produced with the same machinery and equipment and by the same workers. Alloy pipes must be heat-treated after the rolling stage, while carbon pipes generally do not require this operation."

Standard vs. Line vs. Pressure

***

"Nondestructive testing (depending on customer requirements) would be more stringent for pressure products."

$\leq$ 2" O.D. vs. > 2" and $\leq$ 4.5" O.D.

***

"*** produces *** OD on Hot Mill equipment but finish product from *** NPS on adjoining Cold Draw equipment. Some foreign manufacturers are believed to be able to produce 1/2" through 4.5" NPS on the same manufacturing equipment."

***

"There is no difference except for tooling."

***

"Smaller billets required for smaller tubing requires additional rolling."

***

"The *** mill produces products in a range of *** OD through *** on a standard *** mill set up. We do not produce hot finished products off the seamless mill less than *** OD. Standard and line pipe have common OD's that fall between 1.900" and 4.500". Personnel skill levels are similar for all three product types...Production profile between standard and line pipe is similar and all three product types have similar finishing production unit characteristics."

***

"Labor and equipment would be the same. The larger the tube the slower the product through put."

***

"With *** mill, there will be no significant differences."

***

"Input and labor fully interchangeable: rolling and finishing in the same facilities."

***

"There are no differences between production of pipes...Pipes having an OD of more or less than 2" are produced on the same production lines using the same equipment and workers...only the 4.5" pipes are produced on a different mill, while all other sizes subject to this investigation are produced on the same continuous mill. Many other producers manufacture 4.5" pipe on the same facility that they use to produce other sizes of small diameter pipe because the upper range of their facilities extend up to 5 or 6 inches."

***

"A large portion of the pipe below two inches is made on entirely different cold drawn facilities to achieve a certain combination of the physical characteristics of outside diameter and wall thickness. In contrast, pipe above 2 inches in size is hot finished unless a customer makes a highly irregular request for cold drawn pipe in a larger size; thus, pipe below 2 inches often is produced on different production lines from pipe above 2 inches. *** notes that there is a significant decrease in productivity for pipe in sizes under 2 inches for all products, while pipe above 2 inches within the subject size range enjoy a sharp improvement in productivity which is almost uniform among products in that range...cold-drawing requires a two-stage process, and adds greatly to the cost of producing pipe."

COMPETITION COMPARISONS

QUESTIONNAIRE RESPONSES

The Commission's questionnaires in these investigations requested comments regarding competition between various pipe and tube products. The following comments were received:

Carbon vs. Alloy

***

"We are not aware of any competition...Carbon products are generally used for lower temperature application and Alloy products for higher temperature applications. Although it would be possible to substitute alloy for carbon, if code allows. You could not substitute carbon for alloy. Basically alloy is a continuum of carbon as service temperature increases."

***

"When carbon products are heat treated they can compete with alloy. Requirements of application, i.e., pressure, temperature, corrosive atmosphere, etc., are consideration in determining whether carbon or alloy steel products are specified."

***

"In general applications, alloy products may be substitutes for carbon products vis a vis competition, but are not likely due to alloy pricing/cost structures. By engineering design carbon products generally do not compete with alloy products."

Standard vs. Line vs. Pressure

***

"Multiple stenciled products compete with each other and with single or dual stenciled products in all applications."

***

"Pressure pipe is usually more expensive due to additional testing. Standard and pressure can be substituted for each other, but normally they would not compete."

***

"Similarities between standard (A53), line (API5L Gr. B or X42) and pressure (A106) permit sourcing from one product which is Quad Stenciled. Requirements for A333 to meet notch ductility and alloy material made to A335 for elevated temperatures do not compete with Quad Stenciled."

***

"They have distinct end uses; however, producers manufacture pipes to meet specifications for all three purposes so that distributors only need to carry one inventory of sizes. For this reason there is no competition in a commercial sense because these products all belong to a single group of merchandise."

***

"The most important difference is that standard pipe and line pipe can be either seamless or welded, but pressure pipe is only seamless. Standard and line pipe do compete when the spec is not mandatory and are suitable for the same application. But the competition not only occurs between standard and line pipe but also between seamless and welded, the latter having the largest share of the market. From the application standpoint, it is always possible to substitute standard pipe with pressure pipe (seamless) because it is a superior product, but does not make sense to have a higher value product (more expensive) substituting a lower value one."

$\leq$ 2" O.D. vs. > 2" and $\leq$ 4.5" O.D.

***

"You cannot substitute one size for another size essentially due to service and code requirements. However, there is Line, Standard and Pressure pipe both under and over 2" for the same uses."

***

"Size is generally dictated by the customers engineering standards."

***

"Various pipe sizes do not compete with each other. The pressure, flow and volume of fluid determine the pipe sizes needed."

***

"Typically, size is not a competitive factor. Size is generally dictated by the engineering and physical constraints of the piping system and the volume of liquid or gas to be conveyed."

***

"There is very little competition between subject pipe below and above 2". Pipe below 2" is used in pressure applications and is certified to A-106, while ASTM pipe above 2" OD is API pipe and in the vast majority of cases is used as line pipe even when triple stenciled. Pipe below 2" is more expensive to produce and prices are higher per ton than pipe above 2 inches."

***

"All pipe products of differing sizes do not compete with each other due to specific end uses. In addition, pipes of different sizes are distributed through the same channels of distribution."

Hot-Finished vs. Cold-Drawn

***

"On small sizes there is competition between hot-finished and cold-drawn sizes and there is no differentiation by spec. Customers recognize no difference between hot and cold-drawn and the specs do not recognize any difference."

***

"Hot-finished pipe can in many instances be used as a direct replacement for cold-drawn products. These two groupings are in constant competition with each other."

***

"These processes do not compete. The specification states that either process is acceptable. Therefore, the buyer selects the specification and not the manufacturing process."

***

"Competition between hot finished and cold drawn is limited. Hot finished is normally cheaper, and cold drawn provides a better surface and dimensional tolerance. The application determines whether hot finished or cold drawn should be specified."

***

"For certain sizes and grades, cold drawn pipe products compete with hot finished pipe products in the market. The reason for this competition is that some producers, including petitioner, have limited capabilities to manufacture using the hot finished process. In order to supply a complete size range to customers, those manufacturers with limited hot finishing capabilities produce the sizes which they cannot produce hot finished as cold-drawn. Since the cost to produce a cold drawn pipe is significantly higher than the cost to produce a hot finished pipe, the manufacturer of the hot finished pipe has a distinct competitive advantage for those sizes."

***

"It is difficult for cold drawn to compete with hot finished because the production costs are higher. Therefore, if there is a mill limitation to achieve certain sizes, the producer will define the process needed to achieve the final dimensions on the pipe. Pipes below 2 inches OD often are cold drawn."

***

"Unless specific tolerances obtainable only through cold finished process are required, which appears to be seldom, both types of production method do compete. Hot finished products are cheaper to produce than their cold finished counterpart."

***

"*** has a world class facility that produces hot-finished products to very tight size tolerances. As such, *** hot-finished products can be used interchangeably for cold-drawn pipe in many applications."

Subject vs. > 4.5" OD

***

"Multiple stenciled products compete below 4.5", however most goes into pressure pipe applications. When you get above 4.5", this product, based on our experience, leans more toward line pipe applications and end uses."

***

"(P)ipe over 4.5" OD is used primarily by oil and gas transmission companies."

Subject vs. Boiler vs. Mechanical vs. Structural

***

"NONE except in some limited offshore oil rig applications where A-106 has been used in structural applications."

***

"Other products generally do not compete with subject products due to extensive finishing, incompatible size, or lack of application due to specification."

***

"Pipe products are usually less expensive than are the boiler products. Mechanical and structural are not produced to pipe specs., therefore there would be no competition between these two categories."

***

"Subject products do not compete with boiler tubing, mechanical tubing, and structural tubing due to different engineering specifications and end uses."

Subject vs. OCTG

***

"Certain subject sizes that *** does not produce are known to be used in OCTG applications, however, our knowledge of that competition is unknown."

***

"In *** experience, there is no head to head competition."

Subject vs. Welded

***

"It is impossible to substitute welded for seamless due to code requirements. It might be possible to substitute seamless for welded but unlikely due to price consideration."

***

"By nature of engineering design requirements, welded products do not compete with subject products."

***

"Pipe produced to A106 or A335 by specification must be seamless. The degree of competition between other subject products and welded, in general, is predicated on the liability/risk assessment based, in part, on regulatory requirements."

***

"Competition between carbon seamless and welded increases every year with welded gaining market share particularly for simple conveyance applications. The cost of welded product is decreasing, the quality of welded is increasing. Designers use welded product with no fear of product liability except in process applications for alloy or low temp. The United States is the leading country in the trend shifting seamless pipe conveyance applications to welded pipe."

***

"A welded product does compete with subject products only when the same size is requested, the specification calls for A-53 or API-L in seamless or welded condition and when price is of utmost concern."

***

"The competition between seamless and welded line and standard pipe is clear and head to head. Almost no distributor, for example, stocks only welded or only seamless. The standards for STANDARD pipe and LINE pipe allow both seamless or welded pipes for these particular type of pipes with an increasing participation of welded pipes over seamless. (However, PRESSURE pipes, which are almost always below 2" OD have to be seamless only)."

***

"Depending on design criteria and/or specifications, if welded product are acceptable, they usually take the market away from seamless for cost reasons (welded is cheaper than seamless if weld is not required to be X-rayed)."

PIPE AND TUBE COMPARISONS

QUESTIONNAIRE RESPONSES

The Commission's questionnaires in these investigations requested comments regarding the differences and similarities between pipe and tube products. The following comments were received:

***

"Generally steel tubing is used to manufacture components while pipe is used to carry fluids. Pipe mills are usually designed to produce high volumes of long length and standard sizes. Tube mills are designed more for low volume, shorter lengths, and many more size combinations. Because of the different target markets, products from pipe mills are produced at relatively lower cost than products from tube mills."

***

"There are 2 distinctions. Sizes below 2.0" OD in seamless are considered pressure tubes. Generally pipe refers to a set group of ODs and walls whereas a tube can be any incremental outside diameter or incremental wall thickness. Typically a tube would be specified for a fit up to a specific diameter and wall thickness. Conventional pipe sizes are sold to distributors for inventory whereas 'tubes' are usually sold direct to end users."

***

"Pipe is made to standard sizes and is more of a commodity product. Tubing is produced to any size, can be ordered in many grades, and is more of an engineered product. Our manufacturing would be very similar for these two products with the exception of size tolerances and nondestructive testing requirements."

***

"Tube products are generally considered to have other machining, or value added, by our customers and are not generally used as furnished. Production processes, finishing, etc., are generally equivalent."

***

"Historically 'pipes' referred to products made to standardized wall thicknesses and outside diameters. In addition 'pipes' are generally referred to in terms of nominal sizes which roughly correspond to the inner diameter of the pipe. The actual outside diameter is larger than the nominal size, accounting for the thickness of the wall (2" NPS measures 2.375" O.D.). 'Tubes' are referred to as products that are produced to customer or industry specifications. They are generally ordered to

specific outside diameters and wall thicknesses in decimal or metric. The terms 'Pipe' and 'Tube' are less easily distinguishable today."

***

"Tubes are often made to customers' required dimensions and specs and generally with tighter tolerances than pipe. This is frequently a customer engineered product. Pipes are produced based on sizes under ANSI/ASME B36-10M and covered by various industry standards. It is accepted by the industry standards. It is accepted by the industry that standard, line and pressure tubulars are PIPES, and mechanical and boiler tubulars are TUBES."

***

"The term pipe refers to products made to standardized wall thicknesses and outside diameters, as defined by ANSI B36.10. ANSI B36.10 is the basic design standard that engineers use to design pipe systems for the conveyance of substances under pressure/temperature or both pressure and temperature...The Scope to ANSI B36.10 states that "standard covers the standardization of dimensions for welded and seamless wrought steel pipe for high or low temperatures and pressures." The size of all pipe is identified by the nominal pipe size, which roughly corresponds to the inner diameter of the pipe....If the pipe appears in the Standard, it is defined as a pipe. Conversely, if a size does not appear in the Standard, then it is considered a tube. Tubes are generally ordered to specific outside diameters and wall thicknesses and are produced to customer or industry specifications."

***

"Pipe is identified by a nominal diameter (Nominal Pipe Size) which can be different than the actual OD and by a standardized wall thickness like Schedule 40. Tube is identified by the actual OD or ID and by the actual wall thickness."

APPENDIX D

SUMMARY DATA TABLES

Table D-1

CERTAIN seamless carbon and alloy standard, line, and pressure steel pipe: Summary data concerning the U.S. market, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

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

Item	Reported data					Period changes			
				Jan.-Mar.--					Jan.-Mar.
	1992	1993	1994	1994	1995	1992-94	1992-93	1993-94	1994-95
U.S. consumption quantity:									
Amount	170,057	225,584	205,247	50,116	46,535	+20.7	+32.7	-9.0	-7.1
Producers' share[1]	62.8	64.2	67.2	74.6	77.2	+4.4	+1.4	+3.1	+2.6
Importers' share:[1]									
Argentina	***	***	***	***	***	***	***	***	***
Brazil	***	***	***	***	***	***	***	***	***
Germany	***	***	***	***	***	***	***	***	***
Italy	***	***	***	***	***	***	***	***	***
Subtotal	21.0	25.4	23.2	17.4	1.0	+2.1	+4.4	-2.2	-16.4
Other sources	16.1	10.4	9.6	8.0	21.8	-6.6	-5.8	-0.8	+13.8
Total	37.2	35.8	32.8	25.4	22.8	-4.4	-1.4	-3.1	-2.6
U.S. consumption value:									
Amount	123,653	145,966	133,079	31,891	33,790	+7.6	+18.0	-8.8	+6.0
Producers' share[1]	63.8	65.8	68.9	73.7	76.5	+5.1	+2.0	+3.1	+2.8
Importers' share:[1]									
Argentina	***	***	***	***	***	***	***	***	***
Brazil	***	***	***	***	***	***	***	***	***
Germany	***	***	***	***	***	***	***	***	***
Italy	***	***	***	***	***	***	***	***	***
Subtotal	20.5	24.3	21.6	17.4	1.6	+1.1	+3.8	-2.7	-15.7
Other sources	15.7	9.9	9.5	9.0	21.9	-6.3	-5.8	-0.4	+12.9
Total	36.2	34.2	31.1	26.3	23.5	-5.1	-2.0	-3.1	-2.8
U.S. imports from--									
Argentina:									
U.S. shipments quantity	***	***	***	***	***	***	***	***	***
U.S. shipments value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Brazil:									
U.S. shipments quantity	***	***	***	***	***	***	***	***	***
U.S. shipments value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Germany:									
U.S. shipments quantity	***	***	***	***	***	***	***	***	***
U.S. shipments value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***
Italy:									
U.S. shipments quantity	***	***	***	***	***	***	***	***	***
U.S. shipments value	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***

Table continued.

Table D-1--Continued

CERTAIN seamless carbon and alloy standard, line, and pressure steel pipe: Summary data concerning the U.S. market, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

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

Item	Reported data					Period changes			
				Jan.-Mar.--					Jan.-Mar.
	1992	1993	1994	1994	1995	1992-94	1992-93	1993-94	1994-95
U.S. imports from--Continued									
Subject sources:									
U.S. shipments quantity	35,792	57,383	47,602	8,726	484	+33.0	+60.3	-17.0	-94.5
U.S. shipments value	25,334	35,485	28,771	5,539	550	+13.6	+40.1	-18.9	-90.1
Unit value	$708	$618	$604	$635	$1,136	-14.6	-12.6	-2.3	+79.0
Ending inventory quantity	608	529	375	516	358	-38.3	-13.0	-29.1	-30.6
Other sources:									
U.S. shipments quantity	27,444	23,428	19,652	4,010	10,140	-28.4	-14.6	-16.1	+152.9
U.S. shipments value	19,475	14,470	12,620	2,863	7,404	-35.2	-25.7	-12.8	+158.6
Unit value	$710	$618	$642	$714	$730	-9.5	-13.0	+4.0	+2.3
Ending inventory quantity	7	17	33	0	148	+371.4	+142.9	+94.1	(3)
All sources:									
U.S. shipments quantity	63,236	80,811	67,254	12,736	10,624	+6.4	+27.8	-16.8	-16.6
U.S. shipments value	44,809	49,955	41,391	8,402	7,954	-7.6	+11.5	-17.1	-5.3
Unit value	$709	$618	$615	$660	$749	-13.1	-12.8	-0.4	+13.5
U.S. producers'--									
Average capacity quantity	296,925	292,750	292,650	72,348	73,713	-1.4	-1.4	(4)	+1.9
Production quantity	108,242	147,641	138,295	39,547	39,004	+27.8	+36.4	-6.3	-1.4
Capacity utilization[1]	36.5	50.4	47.3	54.7	52.9	+10.8	+14.0	-3.2	-1.7
U.S. shipments:									
Quantity	106,821	144,773	137,993	37,380	35,911	+29.2	+35.5	-4.7	-3.9
Value	78,844	96,011	91,688	23,489	25,836	+16.3	+21.8	-4.5	+10.0
Unit value	$738	$663	$664	$628	$719	-10.0	-10.1	+0.2	+14.5
Export shipments:									
Quantity	1,430	2,098	453	145	497	-68.3	+46.7	-78.4	+242.8
Exports/shipments[1]	1.3	1.4	0.3	0.4	1.4	-1.0	+0.1	-1.1	+1.0
Value	849	997	259	79	285	-69.5	+17.4	-74.0	+260.8
Unit value	$594	$475	$572	$545	$573	-3.7	-20.0	+20.3	+5.3
Ending inventory quantity	13,823	14,410	14,095	16,404	16,691	+2.0	+4.2	-2.2	+1.7
Inventory/shipments[1]	12.8	9.8	10.2	10.9	11.5	-2.6	-3.0	+0.4	+0.5
Production workers	241	296	264	268	292	+9.5	+22.8	-10.8	+9.0
Hours worked (*1,000s*)	568	679	642	157	175	+13.0	+19.5	-5.4	+11.5
Wages paid (*$1,000*)	9,260	12,437	12,318	3,010	3,482	+33.0	+34.3	-1.0	+15.7
Total compensation (*$1,000*)	12,969	16,540	16,679	4,203	4,604	+28.6	+27.5	+0.8	+9.5
Hourly wages	$16.30	$18.32	$19.19	$19.13	$19.87	+17.7	+12.4	+4.8	+3.8
Hourly total compensation	$22.83	$24.36	$25.98	$26.73	$26.27	+13.8	+6.7	+6.7	-1.7
Productivity (*short tons per 1,000 hours*)	190.6	217.4	215.4	251.6	222.5	+13.0	+14.1	-0.9	-11.6
Unit labor costs	$119.81	$112.03	$120.60	$106.28	$118.04	+0.7	-6.5	+7.7	+11.1

Table continued.

Table D-1--Continued

CERTAIN seamless carbon and alloy standard, line, and pressure steel pipe: Summary data concerning the U.S. market, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

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

Item	Reported data			Jan.-Mar.--		Period changes			Jan.-Mar.
	1992	1993	1994	1994	1995	1992-94	1992-93	1993-94	1994-95
U.S. producers'--Continued									
Net sales--									
Quantity	107,734	147,948	138,390	37,517	36,384	+28.5	+37.3	-6.5	-3.0
Value	79,476	97,439	91,788	23,544	26,062	+15.5	+22.6	-5.8	+10.7
Unit sales value	$738	$659	$663	$628	$716	-10.1	-10.7	+0.7	+14.1
Cost of goods sold (COGS)	75,989	90,805	87,314	23,888	23,408	+14.9	+19.5	-3.8	-2.0
Gross profit (loss)	3,487	6,634	4,474	(344)	2,654	+28.3	+90.2	-32.6	+871.5
SG&A expenses	4,332	5,830	4,597	1,046	1,009	+6.1	+34.6	-21.1	-3.5
Operating income or (loss)	(845)	804	(123)	(1,390)	1,645	+85.4	+195.1	-115.3	+218.3
Capital expenditures	5,069	2,029	1,276	592	340	-74.8	-60.0	-37.1	-42.6
Unit COGS	$705	$614	$631	$637	$643	-10.5	-13.0	+2.8	+1.0
Unit SG&A expenses	$40	$39	$33	$28	$28	-17.4	-2.0	-15.7	-0.5
Unit operating income or (loss)	($8)	$5	($1)	($37)	$45	+88.7	+169.3	-116.4	+222.0
COGS/sales[1]	95.6	93.2	95.1	101.5	89.8	-0.5	-2.4	+1.9	-11.6
Operating income or (loss)/sales[1]	(1.1)	0.8	(0.1)	(5.9)	6.3	+0.9	+1.9	-1.0	+12.2

[1] "Reported data" are in percent and "period changes" are in percentage points.

[2] An increase of less than 0.05 percentage points.

[3] Not applicable.

[4] A decrease of less than 0.05 percent.

Note.--Period changes are derived from the unrounded data. Period changes involving negative period data are positive if the amount of the negativity decreases and negative if the amount of the negativity increases. Because of rounding, figures may not add to the totals shown. Employment ratios are calculated using data where both comparable numerator and denominator information were supplied. Part-year inventory ratios are annualized.

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

Table D-2
Certain seamless **CARBON** standard, line, and pressure steel pipe: Summary data concerning the U.S. market, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

Table D-3
Certain seamless **ALLOY** standard, line, and pressure steel pipe: Summary data concerning the U.S. market, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

Table D-4
Certain seamless carbon and alloy standard, line, and pressure steel pipe **NOT MORE THAN 2" OD**: Summary data concerning the U.S. market, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

Table D-5
Certain seamless carbon and alloy standard, line, and pressure steel pipe **MORE THAN 2" OD BUT NOT MORE THAN 4.5" OD**: Summary data concerning the U.S. market, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

Table D-6
CERTAIN seamless carbon and alloy standard, line, and pressure steel pipe **(WITH COMPARABLE 1991 DATA)**: Summary data concerning the U.S. market, 1991-94

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APPENDIX E

ADDITIONAL INFORMATION REGARDING FINISHERS/REDRAWERS

Table E-1
Certain seamless carbon and alloy standard, line, and pressure steel pipe: Summary data excluding ***, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

Table E-2
Certain seamless pipe: *** operations on hot-finished and cold-drawn products, 1992-94, Jan.-Mar. 1994, and Jan.-Mar. 1995

* * * * * * *

APPENDIX F

COMMENTS RECEIVED FROM U.S. PRODUCERS ON THE IMPACT OF IMPORTS OF CERTAIN SEAMLESS PIPE FROM ARGENTINA, BRAZIL, GERMANY, AND ITALY ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, AND DEVELOPMENT AND PRODUCTION EFFORTS

The Commission requested U.S. producers to describe and explain the actual and potential negative effects, if any, of imports of the subject pipes from Argentina, Brazil, Germany, and Italy on their growth, investment, ability to raise capital, and/or existing development and production efforts (including efforts to develop a derivative or improved version of the subject products). Their responses are shown below:

Actual Negative Effects

Gulf States

***

Koppel

***

Plymouth Tube

***

Sharon Tube

***

USS/Kobe

***

USX

***

Anticipated Negative Effects

Gulf States

***

Koppel

***

Plymouth Tube

***

Sharon Tube

***

USS/Kobe

***

USX

***

Influence of Imports on Capital Investments

Koppel

***

Plymouth Tube

***

Quanex

***

Sharon Tube

***

USS/Kobe

***

USX

***

APPENDIX G

U.S. SELLING PRICES AND QUANTITIES OF SPECIFIED SEAMLESS PIPE PRODUCTS REPORTED ONLY BY U.S. PRODUCERS OR ONLY BY U.S. IMPORTERS BASED ON TOTAL QUARTERLY SALES DATA

Table G-1
U.S.-produced products 2 and 3, cold-drawn: Weighted-average net U.S. f.o.b. selling prices for sales reported by U.S. producers, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Figure G-1
Products 2 and 3, cold-drawn: Weighted-average net U.S. f.o.b. selling prices of the seamless cold-drawn pipe products 2 and 3 produced in the United States, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table G-2
Imported German product 1, hot-finished: Weighted-average net U.S. f.o.b. selling prices reported by U.S. importers, by quarters, Oct. 1993-Dec. 1994

* * * * * * *

Table G-3
Imported Italian products: Weighted-average net U.S. f.o.b. selling prices reported by U.S. importers, by quarters, July 1992-Dec. 1994

* * * * * * *

Figure G-2
Product 1, hot-finished: Weighted-average net U.S. f.o.b. selling prices of the seamless hot-finished pipe product 1 imported from Germany and Italy, by quarters, July 1992-Dec. 1994

* * * * * * *

Figure G-3
Products 3, 5, and 6, meter-run: Weighted-average net U.S. f.o.b. selling prices of the seamless meter-run pipe products 3, 5, and 6 imported from Italy, by quarters, July 1992-Dec. 1994

* * * * * * *

APPENDIX H

U.S. SELLING PRICES AND QUANTITIES OF SPECIFIED SEAMLESS PIPE PRODUCTS REPORTED BY U.S. PRODUCERS AND IMPORTERS BASED ON LARGEST QUARTERLY SALES DATA

Table H-1
Product 1, cold-drawn: Weighted-average net U.S. f.o.b. selling prices reported by U.S. producers and importers and margins of under/(over)selling, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table H-2
Product 2, hot-finished: Weighted-average net U.S. f.o.b. selling prices reported by U.S. producers and importers and margins of under/(over)selling, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table H-3
Product 3, hot-finished: Weighted-average net U.S. f.o.b. selling prices reported by U.S. producers and importers and margins of under/(over)selling, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table H-4
Product 4, hot-finished: Weighted-average net U.S. f.o.b. selling prices reported by U.S. producers and importers and margins of under/(over)selling, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table H-5
Product 5, hot-finished: Weighted-average net U.S. f.o.b. selling prices reported by U.S. producers and importers and margins of under/(over)selling, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table H-6
Product 6, hot-finished: Weighted-average net U.S. f.o.b. selling prices reported by U.S. producers and importers and margins of under/(over)selling, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table H-7
Product 7, hot-finished: Weighted-average net U.S. f.o.b. selling prices reported by U.S. producers and importers and margins of under/(over)selling, by quarters, Jan. 1992-Mar. 1995

* * * * * * *

Table H-8
U.S.-produced products 2 and 3, cold-drawn: Weighted-average net U.S. f.o.b. selling prices for sales reported by U.S. producers, by quarters, Jan. 1992-Mar. 1995

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Table H-9
Imported German product 1, hot-finished: Weighted-average net U.S. f.o.b. selling prices reported by U.S. importers, by quarters, Oct. 1993-Dec. 1994

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Table H-10
Imported Italian products: Weighted-average net U.S. f.o.b. selling prices reported by U.S. importers, by quarters, July 1992-Dec. 1994

* * * * * * *