UNITED STATES INTERNATIONAL TRADE COMMISSION

CIRCULAR WELDED CARBON QUALITY LINE PIPE
Investigation No. TA-201-70

DETERMINATION AND VIEWS OF THE COMMISSION
(USITC Publication No. 3261, December 1999)

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CIRCULAR WELDED CARBON QUALITY LINE PIPE

DETERMINATION

On the basis of the information in the investigation, the Commission--

(1) determines, pursuant to section 202(b) of the Trade Act of 1974, that circular welded carbon quality line pipe (hereinafter line pipe)[1] is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or the threat of serious injury[2] to the domestic industry producing an article like or directly competitive with the imported article; and

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[1] The imported article covered by this investigation is welded carbon quality line pipe of circular cross section, of a kind used for oil and gas pipelines, whether or not stencilled. For purposes of this investigation, "carbon quality" is defined to mean: products in which (1) iron predominates, by weight, over each of the other contained elements, (2) the carbon content is 2 percent or less, by weight, and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium

Such line pipe is currently classified in subheadings 7306.10.10 and 7306.10.50 of the Harmonized Tariff Schedule of the United States (HTS). Although the HTS categories are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive. The investigation excludes certain merchandise described as arctic grade line pipe, defined as welded line pipe that (1) has an outer diameter of 4.5 inches or more and a wall thickness equal to or less than 0.75 inches; and (2) when subjected to a Charpy V-notch test performed at minus 50 degrees Fahrenheit or below applied to three specimens taken from the well area, has a ft-lbs rating of no less than 17 ft-lbs for each sample, with an average for all three at no less than 19 ft-lbs; and (3) using at least three samples, has a minimum average shear area of 85 percent in the base metal and 50 percent in the weld; and (4) when subjected to a hydrogen induced cracking test to be performed as per NACE (National Association of Corrosion Engineers) TM0284 test with solution A, has a crack length ratio that does not exceed 15 percent, a crack sensibility ratio that does not exceed 2 percent, and a crack thickness ratio that does not exceed 5 percent.

[2] Vice Chairman Marcia E. Miller and Commissioners Jennifer A. Hillman and Stephen Koplan found serious injury. Chairman Lynn M. Bragg and Commissioner Thelma J. Askey found a threat of serious injury. Commissioner Carol T. Crawford made a negative determination.

(2) makes negative findings, pursuant to section 311(a) of the North American Free-Trade Agreement (NAFTA) Implementation Act (19 U.S.C. 3371(a)), with respect to imports of line pipe from Canada and Mexico.[3]

RECOMMENDATIONS WITH RESPECT TO REMEDY[4]

The Commission[5] **(Vice Chairman Miller and Commissioners Hillman and Koplan)** recommends:

(1) that the President impose a tariff-rate quota for a 4-year period on imports of line pipe, with the in-quota amount set at 151,124 short tons in the first year, and with that amount to be increased by 10 percent in each of the second, third, and fourth years, with over-quota imports to be subject to a duty of 30 percent ad valorem in addition to current U.S. tariffs;

(2) that the President, if he determines to allocate the overall quota, recognize the disproportionate growth and impact of the imports from Korea;

(3) that the President initiate international negotiations with Korea to address the underlying cause of the import surge and the serious injury to the domestic industry;

(4) having made negative findings with respect to imports of line pipe from Canada and Mexico under section 311(a) of the NAFTA Implementation Act, that such imports be excluded from the tariff-rate quota; and

(5) that the tariff-rate quota not apply to imports of line pipe from Israel, or to any imports of line pipe entered duty-free from beneficiary countries under the Caribbean Basin Economic Recovery Act or the Andean Trade Preference Act.

Chairman Bragg and Commissioner Askey recommend:

(1) that the President impose a duty, in addition to the current rate of duty, for a 4-year period, on imports of line pipe that are within the scope of this investigation as follows: 12.5 percent ad valorem in the first year of relief, 11 percent ad valorem in the second year of relief, 9.5 percent ad valorem in the third year of relief, and 8 percent ad valorem in the fourth year of relief;

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[3] Chairman Bragg dissenting with respect to Mexico. Chairman Bragg finds that imports of welded line pipe from Mexico account for a substantial share of total imports and contribute importantly to the threat of serious injury to the domestic industry.

[4] Commissioner Crawford, having made a negative determination on injury, was not eligible to vote on remedy. In light of her negative determination, Commissioner Crawford does not believe any import relief is appropriate in this investigation.

[5] The Commission notes that, pursuant to section 330(d)(2) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(2)), the remedy recommendation of Vice Chairman Miller and Commissioners Hillman and Koplan in this investigation is to be treated as the remedy finding of the Commission for purposes of section 203 of the Trade Act.

(2) that the increased rates of duty not apply to imports of line pipe from Canada, Israel, or to any imports of line pipe that entered duty-free from beneficiary countries under the Caribbean Basin Economic Recovery Act or the Andean Trade Preference Act;

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(3) Commissioner Askey, having made a negative finding with respect to imports of line pipe from Mexico under section 311(a) of the NAFTA Implementation Act, recommends that such imports from Mexico be excluded from the increased duty. Chairman Bragg, having made an affirmative finding under section 311(a) of the NAFTA Implementation Act, recommends that imports of line pipe from Mexico be subject to the duty increase.

The Commissioners find that the respective actions that they have recommended will address the serious injury or threat of serious injury found to exist and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition.

BACKGROUND

Following receipt of a petition properly filed on June 30, 1999, by counsel on behalf of Geneva Steel, Vineyard, UT; IPSCO Tubulars, Inc., Camanche, IA; Lone Star Steel Company, Dallas, TX; LTV Steel Tubular Products Company, Youngstown, OH;[6] Maverick Tube Corporation, Chesterfield, MO; Newport Steel, Newport, KY; Northwest Pipe Company, Portland, OR; Stupp Corporation, Baton Rouge, LA; and the United Steelworkers of America, AFL-CIO, Pittsburgh, PA, the Commission instituted investigation No. TA-201-70, *Circular Welded Carbon Quality Line Pipe*, under section 202 of the Trade Act of 1974 to determine whether circular welded carbon quality line pipe is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Notice of the institution of the Commission's investigation and of the scheduling of public hearings to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of August 4, 1999 (64 F.R. 42414). The hearing in connection with the injury phase of the investigation was held on September 30, 1999, and the hearing on the question of remedy was held on November 10, 1999. Both hearings were held in Washington, DC; all persons who requested the opportunity were permitted to appear in person or by counsel.

[6] Petitioners amended the petition on Sept. 14, 1999, to include LTV Steel.

VIEWS ON INJURY OF CHAIRMAN LYNN M. BRAGG, VICE CHAIRMAN MARCIA E. MILLER , AND COMMISSIONERS JENNIFER A. HILLMAN, STEPHEN KOPLAN, AND THELMA J. ASKEY[1]

Introduction

Pursuant to section 202(b) of the Trade Act of 1974 (Trade Act) (19 U.S.C. § 2252(b)), we make an affirmative determination in this investigation. Vice Chairman Miller and Commissioners Hillman and Koplan determine that circular welded carbon quality line pipe (hereinafter "line pipe") is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic line pipe industry. Chairman Bragg and Commissioner Askey determine that line pipe is being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to that industry.

In addition, pursuant to section 311(a) of the North American Free Trade Agreement (NAFTA) Implementation Act (19 U.S.C. § 3371(a)), we make negative findings with respect to Canada and Mexico.[2] Specifically, we find that imports of line pipe from Canada do not contribute importantly to the serious injury or the threat of serious injury to the domestic industry.[3] [4] We find that imports of line pipe from Mexico account for a substantial share of total imports, but find that such imports from Mexico do not contribute importantly to the serious injury or the threat of serious injury.[5]

Background

The Commission instituted this investigation effective June 30, 1999, following receipt of a petition filed by seven domestic producers of line pipe and the United Steelworkers of America, AFL-CIO. The petition alleged that line pipe is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or the threat of serious injury to the domestic line pipe industry.

Scope of investigation

The line pipe subject to this investigation is 16 inches or less in outside diameter and of a kind used for oil and gas pipelines. Line pipe for use in oil and gas pipelines is generally produced to American Petroleum Institute (API) specifications, which require higher hydrostatic test pressures and more restrictive weight tolerances than pipe used in low pressure conveyances of water or steam. This latter type

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[1] For the separate views of Chairman Bragg and Commissioner Askey relating to threat of serious injury and causation, see their separate views that follow. Chairman Bragg and Commissioner Askey join in the portions of these views addressing the scope of investigation, the domestic like product and domestic industry, the applicable legal standard, and increased imports, except to the extent noted.

[2] Chairman Bragg dissenting with respect to Mexico.

[3] We do not make a finding on whether imports from Canada account for a substantial share of total imports of line pipe.

[4] Chairman Bragg finds that imports from Canada account for a substantial share of total imports of line pipe.

[5] Chairman Bragg dissenting. Chairman Bragg made an affirmative finding with regard to Mexico.

of pipe is commonly known as "standard" pipe.[6] Line pipe has either a black (lacquered) finish or bare surface finish.[7] It is typically marked or "stenciled" with paint on the outside surface by the manufacturer to indicate the specification in conformance with which it has been manufactured.[8] Because line pipe that complies with API specifications is automatically in conformance with less demanding American Society for Testing and Materials (ASTM) standard pipe specifications, it is often dual stenciled so that it may be used for either type of application.[9] Most line pipe is not threaded or coupled, but rather has a beveled end for welding in the field. The subject line pipe in this investigation is most commonly sold in "double random lengths" of 40-45 feet.[10]

Line pipe is made from "carbon quality" steel. "Carbon quality" steel includes both carbon steel and carbon steel that has been mixed with small amounts of alloys.[11] Line pipe is most commonly manufactured by the electric-resistance-welded (ERW) process.[12] However, the continuous weld (CW) process can be used for pipe up to 4.5 inches in outer diameter.[13] The manufacture of line pipe by the ERW process begins with coils of hot-rolled steel sheet, which are cut by a slitting machine into strips of the precise width needed to produce a desired diameter of pipe. The slit coils are fed into the tube mills, which cold-form the flat ribbon of steel into a tubular cylinder by a series of tapered forming rolls. The formed pipe is then welded along the joint axis, and inside and outside flash from the welding process is removed. After post-weld heat treatment, sizing rolls shape the tube to accurate diameter tolerances. The product is cooled and then cut at the end of the tube mill by a flying shear or saw.[14] Line pipe and standard pipe can be produced on the same equipment by the same production workers.[15]

Certain line pipe known in the trade as "Arctic grade" line pipe was initially included within the scope of the investigation. Arctic grade line pipe is used principally in Alaska and is characterized by superior low-temperature toughness and resistance to sour (high sulfur) environments. In their prehearing brief on injury and at the injury hearing Japanese respondents argued that domestic producers cannot make

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[6] *Circular Welded Carbon Quality Line Pipe, Report on Investigation No. TA-201-70* (hereinafter Report) at II-7. (Page references are to the confidential version of the report that was transmitted to the President.)

[7] Report at II-6.

[8] Report at II-6.

[9] Report at II-7.

[10] Report at II-6.

[11] For purposes of this investigation, the Commission defined "carbon quality" to mean products in which (1) iron predominates, by weight, over each of the other contained elements, (2) the carbon content is 2 percent or less, by weight, and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent of vanadium, or 0.15 percent of zirconium. *See* the Commission's notice of investigation, published in the *Federal Register* of Aug. 4, 1999, 64 F.R. 42414.

[12] Report at II-8.

[13] Report at II-8-9.

[14] Report at II-9.

[15] Report at II-9. A third type of product, oil country tubular goods (OCTG), can also be produced in the same facilities as line pipe and standard pipe. OCTG are typically used in the initial drilling and "gathering" stage of oil and natural gas operations.

Arctic grade line pipe.[16] At the injury hearing, petitioners stated that they intended to exclude from the scope of investigation any product that the U.S. industry could not produce.[17] Petitioners subsequently requested that the Commission amend the scope of investigation to exclude Arctic grade line pipe and, after petitioners and Japanese respondents agreed to a technical definition of Arctic-grade line pipe, the Commission amended the scope of investigation to exclude line pipe falling within that definition.[18]

The German respondents argued that there is no domestic production of high frequency induction (HFI)[19] welded line pipe over 6 inches in diameter or any domestically produced substitute for use in demanding deepwater applications.[20] They argued that imports of such line pipe therefore cannot be causing or threatening serious injury and should be excluded from the scope of investigation.[21] The German respondents argued that use of the HFI method allows them to meet the "most demanding" customer specifications, that their HFI deepwater pipe has "extra endurance," that it is higher priced, and that line pipe produced by the conventional method is not substitutable for the HFI deepwater line pipe.[22] Petitioners argued that domestic line pipe is like imported HFI deepwater line pipe from Germany and, therefore, there is no basis for exclusion of the German product.[23] Petitioners argued that the industry does not distinguish between line pipe on the basis of the welding.[24] Petitioners argued that they use the HFI method in the production of smaller diameter line pipe (5 inches and below) because it is more energy efficient, but that they do not employ it on larger diameter pipe (6 5/8th inches and above) because it is less energy efficient.[25] Petitioners indicated that they use a different welding method, the high-frequency-contact welding method, in producing larger diameter line pipe.[26]

While there is evidence that some customers prefer line pipe produced by the HFI method for deepwater applications,[27] we are not persuaded that HFI deepwater line pipe over 6 inches in diameter is sufficiently different from the domestic product to warrant its exclusion from the scope of the investigation.

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[16] *See* Japanese and Korean Respondents' Prehearing Brief on Injury at 53-63 (Sept. 24, 1999), and their Posthearing Brief on Injury at 45-47 (Oct. 6, 1999).

[17] Transcript of Injury Hearing (Sept. 30, 1999) at 30, 73-74 (Mr. Schagrin).

[18] *See* petitioners' request of Oct. 6, 1999; and the Commission's notice amending the scope of investigation approved on Oct. 28, 1999, and published in the *Federal Register* of Nov. 8, 1999 (64 F.R. 60831).

[19] The term HFI refers to one of three welding methods used in producing line pipe under the ERW process. For a description of this method and the low frequency and high frequency contact methods, see the report at II-8, n. 27.

[20] German Respondents' Prehearing Brief on Injury at 9 (Sept. 24, 1999).

[21] German Respondents' Prehearing Brief on Injury at 9-10; Transcript of Injury Hearing at 187, 189 (Mr. Von Conrad, Mr. Schreiber).

[22] Transcript of injury hearing at 188-89 (Mr. Schreiber). The German respondents also pointed to several factors besides the welding method that they claimed distinguished their product from domestically produced line pipe, including edge milling, close attention to the quality of raw material, special heat treatment (double-annealing with intermediate water quenching), tight tolerances, and heavy wall thickness. German Respondents' Posthearing Brief on Injury at 8-9 (Oct. 6, 1999).

[23] Transcript of Injury Hearing at 129 (Mr. Schagrin, Mr. Fisher).

[24] Transcript of Injury Hearing at 129 (Mr. Fisher).

[25] Transcript of Injury Hearing at 129 (Mr. Fisher).

[26] Transcript of Injury Hearing at 129 (Mr. Fisher).

[27] Report at II-81.

Domestic Industry

Like or Directly Competitive Product

Statutory framework and Commission practice. The statute requires that we determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat of serious injury, to "the domestic industry producing an article that is like or directly competitive with the imported article."[28]

The legislative history of the Trade Act defines the term "like" to mean those articles that are "substantially identical in inherent or intrinsic characteristics (i.e., materials from which made, appearance, quality, texture, etc.)," and the term "directly competitive" to mean those articles that are "substantially equivalent for commercial purposes, that is, are adapted to the same uses and are essentially interchangeable therefor."[29] The decision regarding the like or directly competitive product is a factual determination.[30]

In determining what constitutes the like or directly competitive domestic product, the Commission traditionally has taken into account such factors as the physical properties of the product, its customs treatment, its manufacturing process (e.g., whether products are manufactured in separate facilities), its uses, and the marketing channels through which the product is sold.[31] Each of the factors is relevant, but the weight given to each factor will depend upon the facts in the particular case.[32] In identifying the like or directly competitive product, the Commission has looked for clear dividing lines among possible products, and has disregarded minor variations.[33]

Arguments of the parties. According to petitioners, domestically produced line pipe is both like and directly competitive with imported line pipe. They argued that both imported and domestic line pipe products are manufactured to the same API specifications, have the same physical properties, and are substantially identical in inherent characteristics. They argued that the vast majority, 90 percent or more, of both imported and domestic line pipe is used in the same applications–in oil and natural gas pipelines and as gathering lines in oil and natural gas fields. They further asserted that domestic and imported line pipe are equivalent for commercial purposes, adapted to the same uses, and essentially interchangeable.[34]

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[28] Section 202(b)(1)(A), 19 U.S.C. § 2252(b)(1)(A).

[29] *Trade Reform Act of 1973, Report of the Committee on Ways and Means . . . on H.R. 10710*, H.R. Rep. No. 571, 93rd Cong., 1st Sess., at 45 (1973); and *Trade Reform Act of 1974, Report of the Committee on Finance . . . on H.R. 10710*, S. Rep. No. 1298, 93rd Cong., 2nd Sess., at 121-22 (1974).

[30] *See, e.g., Certain Steel Wire Rod*, Inv. No. TA-201-69, USITC Pub. 3207 (July 1999) at I-8; *Lamb Meat*, Inv. No. TA-201-68, USITC Pub. 3176 (April 1999) at I-10; *Wheat Gluten*, Inv. No. TA-201-67, USITC Pub. 3088 (March 1998) at I-9.

[31] *See, e.g., Certain Steel Wire Rod* at I-9, I-34; *Lamb Meat*, at I-10; *Wheat Gluten* at I-9.

[32] *See, e.g., Certain Steel Wire Rod* at I-9; *Lamb Meat*, at I-10; *Wheat Gluten* at I-9.

[33] *See, e.g., Certain Steel Wire Rod* at I-9, I-34; *Lamb Meat*, at I-10; *Stainless Steel Table Flatware*, Inv. No. TA-201-49, USITC Pub. 1536 (June 1984) at 4-5.

[34] Petitioners' Prehearing Brief on Injury at 5 (Sept. 24, 1999). Petitioners also argued that standard pipe is not like or directly competitive with line pipe. They argued that standard and line pipe have different physical characteristics, are not interchangeable, and are sold through different channels of distribution. Id. at 7-11. They

(continued...)

Respondents did not contest petitioners' like product definition.[35]

Finding. We find that domestic line pipe is "like" the imported line pipe that is the subject of this investigation and that there is one like product. In terms of physical properties, imported and domestic line pipe as a group share the same basic physical attributes and are generally interchangeable.[36] The evidence indicates that imported line pipe consists mainly of the same range of grades and sizes as domestic line pipe.[37] For most line pipe, there is not a high degree of differentiation between foreign and domestically produced pipe based on the type of production process or on the basis of quality.[38] Both foreign and domestic mills for the most part use the same ERW process to manufacture line pipe.[39] Individual foreign and domestic mills typically produce a range of sizes of line pipe, depending on the equipment in the mill. However, the range of sizes produced varies from mill to mill, and there is no clear dividing line within the continuum of sizes.[40] Imported line pipe is used for the same general end uses as the domestic product.[41] Domestic and imported welded line pipe are similarly distributed–U.S. producers indicated that they shipped over half of their line pipe to distributors and service centers, while importers indicated that well over 80 percent of their U.S. shipments went to distributors and service centers.[42] We find that the various grades and sizes of line pipe are of a continuum, with no clear dividing line between any particular products within the continuum. In view of the above, we find that there is one domestic product that is "like" the imported line pipe.

Domestic mills produce other products, such as standard pipe and oil country tubular goods (OCTG), on the same production equipment used to manufacture line pipe.[43] The evidence indicates that standard pipe and OCTG are distinct products with different applications, and therefore are not "like" imported line pipe.[44] Line pipe and standard pipe have different physical characteristics in that line pipe is manufactured to withstand much greater hydrostatic pressures and physical strength specifications. Consequently, line pipe may be used in standard pipe applications, but standard pipe may not be used in line pipe applications unless it also meets the higher line pipe specifications.[45] Most of the largest producers of standard pipe do not produce line pipe.[46] Most line pipe is not threaded or coupled, but rather

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[34] (...continued)
also noted that while most domestic line pipe producers can produce lower specification standard pipe, more than half of domestic standard pipe producers cannot produce higher specification line pipe. Petitioners' Posthearing Brief on Injury at 56-58 (Oct. 6, 1999).

[35] *See, e.g.*, Japanese and Korean Respondents' Prehearing Brief on Injury at 18: "Respondents do not contest the like product definition selected by petitioners, since the various pipe products are sold into entirely separate end-user markets to very different customers . . . ."

[36] Report at II-9.

[37] Report at II-9-10.

[38] Report at II-10.

[39] Report at II-10.

[40] Transcript of Injury Hearing at 39 (Mr. Carroll) , 42 (Mr. Hamilton), 44 (Mr. Barnes), 116 (Mr. Fisher), 174, 186 (Mr. Smith).

[41] Report at II-10.

[42] Report at II-10.

[43] Report at II-9-10.

[44] No party advocated including standard pipe or OCTG in the "like" product.

[45] Report at II-11.

[46] Petition at 4 (June 30, 1999).

is welded together in the field after special coatings are applied.[47] Standard pipe, on the other hand, is often galvanized and threaded.[48] OCTG is produced to meet specifications that relate to its use in the extraction of crude oil and natural gas, and it is regarded as a higher value-added product than line pipe.[49] [50]

Several products were reported as possible substitutes for welded line pipe. We do not find that these products are "like" imported line pipe.[51] While seamless line pipe can be used for the same applications as welded line pipe, as it is produced to the same API 5L specification used for welded line pipe,[52] it is produced by a significantly different process than welded line pipe[53] and in different mills.[54] The evidence also indicates that seamless line pipe is more expensive than welded line pipe[55] and that welded line pipe and seamless line pipe have distinct applications, serve distinct markets, and are sold by different sales forces.[56] Other possible substitutes for line pipe in some low-pressure applications include polyethylene pipe and copper pipe. However, these products have different physical properties than line pipe, they do not meet the specifications for line pipe, and they are made in different facilities on different equipment.[57]

Accordingly, we find that domestically produced line pipe is "like" the imported line pipe covered by the scope of the investigation, and that there is one domestic like product consisting of the various grades of line pipe.

Domestic Industry

Statutory framework, Commission practice, and arguments of the parties. The Trade Act defines the term "domestic industry" to mean "the domestic producers as a whole of the like or directly competitive article or those producers whose collective production of the like or directly competitive article constitutes a major proportion of the total domestic production of such article."[58]

In this part of its analysis, the Commission focuses on which firms and workers produce the like or directly competitive product. If it has found that there is domestic production of one like or directly competitive product, it will find a single industry and evaluate the impact of the pertinent imports on facilities and workers producing that product.[59]

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[47] Petitioners' Prehearing Brief on Injury at 9.
[48] Petitioners' Posthearing Brief on Injury at 56-58.
[49] Transcript of Injury Hearing at 93 (Mr. Dunn).
[50] Standard pipe and OCTG are classified under different HTS subheadings.
[51] No party advocated including any of the possible substitute products in the "like" product.
[52] Report at II-10.
[53] The API specification defines the seamless process as a "method of hot working steel to form a tubular product without a welded seam." Specification for Line Pipe, API Specification 5L, 41st ed., 1995, at 3, attached as Exhibit 1 to the Petition.
[54] Transcript of Injury Hearing at 46-47 (Mr. Hamilton).
[55] Report at II-10.
[56] Transcript of Injury Hearing at 47 (Mr. Hamilton).
[57] Report at II-10.
[58] Section 202(c)(6)(A)(i), 19 U.S.C. § 2252(c)(6)(A)(i).
[59] *See, e.g., Certain Steel Wire Rod*, Inv. No. TA-201-69, USITC Pub. 3207 (July 1999) at I-10, I-36.

Finding. Having found one like product, we find that there is one domestic industry producing line pipe like the imported line pipe. We find that this industry includes the firms and workers producing line pipe.[60]

Legal Standard

In determining whether the domestic industry has been seriously injured or threatened with serious injury under section 202, the Commission analyzes the three criteria set forth in the statute. Specifically, the Commission must determine whether–

(1) imports of the subject article are in *increased quantities* (either actual or relative to domestic production);

(2) the domestic industry producing an article that is like or directly competitive with the imported article is *seriously injured or threatened with serious injury*; and

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[60] Commissioner Askey concurs with the Commission's finding that the domestic producers of line pipe comprise the members of the domestic industry producing articles that are "like or directly competitive" with the imported articles. In this regard, she agrees with, and joins in, the Commission's discussion of the significant differences between line pipe and other forms of pipe (such as seamless pipe and OCTG) with respect to physical properties, manufacturing processes, tariff classifications, uses and marketing channels. She further finds that these differences indicate that domestic line pipe products are the only products that are "like or directly competitive" with the articles subject to this investigation.

Commissioner Askey does not, however, join the Commission majority's discussion insofar as it suggests that the Commission may choose not to include in the industry firms that produce articles that are not "like" but are only "directly competitive" with the imported articles subject to investigation. In this regard, Commissioner Askey notes that the statute specifically requires the Commission to analyze whether imports are causing or threatening to cause serious injury to a domestic industry producing articles that are "like or directly competitive with" those imported articles. 19 U.S.C. § 2252(b)(1)(A). This language clearly requires the Commission to include in the domestic industry all domestic companies that produce articles that are either "like" the imported articles subject to investigation or that are "directly competitive" with those imported articles. In other words, the production of either a "like" or a "directly competitive" product is a sufficient qualification for a firm to be included in the domestic industry. Accordingly, the Commission's analysis is not complete once it finds that there are producers of a "like" product in the United States; it must also assess whether any domestic firms produce merchandise that is "directly competitive" with the imported articles before it can conclude that it has identified all of the members of the domestic industry.

To put it another way, nothing in the statutory language suggests that the Commission may end its analysis once it has found that one or more firms produce articles "like" the imported articles subject to investigation. In this regard, Commissioner Askey notes that the legislative history of section 201 explicitly states that articles will be considered "directly competitive" with the subject imports if they are "substantially equivalent for commercial purposes, that is, [if they are] adapted to the same uses and ... [are] essentially interchangeable" for the subject imports. See *Trade Reform Act of 1973, Report of the Committee on Ways and Means on H.R. 10710*, H.R. Rep. No. 571, 93d Cong., 1st Sess., at 45 (1973); *Trade Reform Act of 1974, report of the Committee on Finance on H.R. 10710*, S. Rep. No. 1298, 93d Cong. 2d Sess., at 121-22 (1974). Given this definition of "directly competitive" articles, it is clear that the Commission's analysis would be inadequate as an economic matter if that analysis focused solely on domestic firms producing "like" articles and ignored firms producing "directly competitive" articles, because such an analysis would permit the Commission to ignore one entire segment of domestic producers that directly compete with the imported articles. Such a limited focus is not in keeping with the explicit language of the statute, the legislative history, or the policy underlying the statute.

(3) the article is being imported in such increased quantities as to be a *substantial cause* of serious injury or threat of serious injury to the domestic industry.

The Commission must find that all three criteria are satisfied in order to make an affirmative injury determination.

Increased Imports

Statutory framework and Commission practice. The first of the three statutory criteria concerns whether there are "increased quantities" of imports under investigation. Under the statute, the increase can be "either actual or relative to domestic production."[61] The Commission considers imports from all sources in determining whether imports have increased. The Commission traditionally has considered import trends over the most recent 5 full years, and partial year data for most recent or current year if available. There is no minimum amount by which imports must have increased. A simple increase is sufficient.

Finding. We find that this statutory criterion is met. While imports fell between 1994 and 1995, they increased each year thereafter, reaching their highest annual level in 1998. Imports were *** tons in 1994 and declined to *** tons in 1995; imports then rose to *** tons in 1996, *** tons in 1997, and then rose sharply to *** tons in 1998.[62] Although imports declined from *** tons in interim (January-June) 1998 to *** tons in interim 1999,[63] they remained at a very high level in interim 1999, exceeding in just 6 months the level of *full* year 1995 and 1996 imports.

The ratio of imports to production also rose during the investigation, and was at its highest level in January-June 1999. Like actual imports, the ratio declined from 1994 to 1995 and then rose each year thereafter. The ratio was *** percent in 1994 and fell to *** percent in 1995; it then increased to *** percent in 1996 and *** percent in 1997, and then nearly doubled to *** percent in 1998.[64] It rose to its highest level, *** percent, in interim 1999 (as compared to *** percent in interim 1998).[65]

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[61] Section 202(c)(1)(C), 19 U.S.C. § 2252(c)(1)(C).

[62] These data have been adjusted to exclude imports of certain Arctic-grade and alloy line pipe that is outside the scope of this investigation; publication of these data would disclose confidential business information. The adjusted data reflect (1) total imports of line pipe as presented in Table C-1 in Appendix C of the report, (2) less imports of excluded Arctic-grade line pipe presented on page II-13 of the report, (3) less imports of alloy line pipe classified under HTS subheading 7306.10.50 that is outside the scope of this investigation. The excluded Arctic-grade line pipe as well as the included alloy line pipe are described on page I-3 of this report. The Commission considers the import data for Arctic-grade line pipe, which reflect the exports of three Japanese firms, the purchases of two U.S. firms, and the single purchase of alloy line pipe by another U.S. firm, to be confidential business information. Because the unadjusted import data are published public data, disclosure of the adjusted data would disclose the operations of these firms. However, it can be stated that the excluded Arctic-grade and alloy line pipe account for less than 10 percent of the unadjusted import data, and the adjusted data follow similar trends as the unadjusted data presented in Table C-1 of the report.

[63] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.

[64] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.

[65] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.

In view of the above, we find that imports are in increased quantities and that the first statutory criterion is satisfied.

Serious Injury or Threat of Serious Injury[66]

Statutory framework. The second of the three statutory criteria concerns whether the domestic industry is seriously injured or threatened with serious injury. The statute defines "serious injury" to mean "a significant overall impairment in the position of a domestic industry,"[67] and "threat of serious injury" to mean "serious injury that is clearly imminent."[68]

The statute sets out a list of economic factors that the Commission must consider. With respect to serious injury, the Commission must take into account all economic factors that it considers relevant, including but not limited to (1) a significant idling of productive facilities in the domestic industry,[69] (2) the inability of a significant number of firms in the industry to carry out domestic production operations at a reasonable level of profit, and (3) significant unemployment or underemployment within the domestic industry.[70] In this investigation, as in previous investigations,[71] we have also considered domestic industry production, shipments, sales, market share, inventory levels, wages, productivity, capital expenditures, and research and development expenses. The statute states that the presence or absence of any of the statutory factors is "not necessarily dispositive" of whether there is serious injury or threat of serious injury.[72]

We disagree with the argument made by Japanese and Korean respondents that we must find that the domestic industry has suffered "structural problems" such that injury has become "an integral and continuing condition of the affected industry," in order to find serious injury or the threat of serious injury.[73] There is no such express requirement in U.S. law, nor are we aware of one in the WTO Safeguards Agreement,[74] as respondents imply. As stated above, "serious injury" is defined in the Trade Act to mean "a significant overall impairment in the position of a domestic industry." This definition tracks the definition in article 4.1(a) of the Safeguards Agreement ("serious injury shall be understood to mean a significant overall impairment in the position of a domestic industry"). In making our decision, we are required under U.S. law to consider all the evidence relating to the relevant economic factors, including the factors listed in the statute, and decide whether, based on that evidence, the domestic industry is seriously injured or threatened with serious injury. Safeguard actions are not limited to cases involving "continuing" structural difficulties. However, any proven structural problems would be one of the factors considered by the Commission in its injury analysis.

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[66] Chairman Bragg and Commissioner Askey do not join the remainder of these views. As indicated above, they found that the domestic industry is threatened with serious injury. Their separate views relating to threat of serious injury and causation follow these views.

[67] Section 202(c)(6)(C), 19 U.S.C. § 2252(c)(6)(C).

[68] Section 202(c)(6)(D), 19 U.S.C. § 2252(c)(6)(D).

[69] The statute provides that the term "significant idling of productive facilities" includes the closing of plants or the underutilization of production capacity. Section 202(c)(6)(B), 19 U.S.C. § 2252(c)(6)(B).

[70] Section 202(c)(1), 19 U.S.C. § 2252(c)(1).

[71] *See, e.g.*, *Certain Steel Wire Rod*, Inv. No. TA-201-69, USITC Pub. 3207 (July 1999) at I-12-14, I-37.

[72] Section 202(c)(3), 19 U.S.C. § 2252(c)(3).

[73] Japanese and Korean Respondents' Prehearing Brief on Injury at 3-4.

[74] The Agreement on Safeguards can be found in Annex 1A of the Agreement Establishing the World Trade Organization.

Finding. For the reasons set forth below, we find that the domestic industry is seriously injured.[75]

–Overview of the domestic line pipe industry

Fifteen domestic firms reported that they produced line pipe during the period of investigation. Two of the firms are relatively new entrants, having started production in 1998.[76] Most domestic mills use the same ERW (electric-resistance-welded) process to manufacture line pipe.[77] Domestic mills produce a mix of sizes of line pipe that is largely determined by market demand, but not all firms produce line pipe in all sizes.[78] The majority of domestic producers are capable of producing other types of pipe, such as standard pipe, OCTG, and structural pipe, and they report that only minimal adjustments or modifications to production equipment are necessary to produce these other types of pipe.[79] As discussed below, most industry indicators were at their highest level in 1997 and then fell substantially in 1998. These indicators all fell more sharply during interim (January-June) 1999.

–Analysis of factors

Domestic production of line pipe rose irregularly during the first 4 years of the period of investigation, and then fell sharply in 1998 and interim 1999. Production increased from 635,815 tons in 1994 to 770,011 tons in 1995, declined to 694,663 tons in 1996, increased to 881,946 tons in 1997, and then dropped to 669,876 tons in 1998.[80] Production in interim 1999 fell sharply to 282,247 tons from 412,872 tons in interim 1998.[81] Production in interim (January-June) 1999 was running at a rate significantly below that for full year 1994. Thus, production was at its lowest annual levels in 1998 and interim 1999.

Total capacity showed only a slight increase during the investigation period, rising from 1994 to 1997, falling in 1998, and then rising again in interim 1999. Domestic industry capacity increased from 1,056,948 tons in 1994 to 1,192,259 tons in 1997, and then fell to 1,137,382 tons in 1998.[82] Capacity rose in interim 1999 to 708,952 tons from 656,714 tons in interim 1998.[83]

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[75] Japanese and Korean respondents asserted that many of the industry performance indicators are of limited usefulness in this investigation because 14 of the 15 domestic producers of line pipe also produce other pipe products on the same equipment using the same workers. Japanese and Korean Respondents Prehearing Brief on Injury at 18. The Commission carefully evaluated company allocation methods in the course of tabulating questionnaire and other data. In the case of line pipe that was double or triple stenciled, allocations were made on the basis of the product's end use and other acceptable accounting methodologies. *See* report at II-31. Commission staff verified the allocations of two of the largest firms and found them satisfactory.

[76] Report at II-14.

[77] Report at II-8-9.

[78] Report at II-26.

[79] Report at II-26.

[80] Report at II-25.

[81] Report at II-25.

[82] Report at II-27. For example, *** upgraded its mill in 1997, which increased its annual production capacity by *** tons, and *** reported a *** upgrade of its production facility in 1997. Report at II-24, II-26.

[83] Report at II-27. Prudential Steel made its initial startup in January 1999, but LTV shut down its Cleveland plant welder in *** 1999, reducing its production capacity by *** tons annually. Report at II-14, II-26; Transcript of Injury Hearing at 42 (Mr. Carroll).

Capacity utilization in the industry fluctuated during the first 4 years of the investigation period, reaching its highest level in 1997 and then falling sharply in 1998 to its lowest annual level. It fell further in interim 1999. Capacity utilization rose from 60.2 percent in 1994 to 71.7 percent in 1995, fell to 59.7 percent in 1996, and rose to 74.0 percent in 1997. It then fell sharply to 58.9 percent in 1998, and even more sharply to 39.8 percent in interim 1999 (as compared to 62.9 percent in interim 1998).[84] We consider the recent decline to be significant even taking into account the increase in domestic capacity. In this regard, we note that even if capacity had not increased, but had remained at the 1994 level, capacity utilization still would have declined substantially in 1998 and interim 1999.[85] In view of this information, we find a significant idling of productive facilities in the industry.

The quantity and value of U.S. shipments followed a trend similar to that of domestic production, increasing irregularly during 1994-1997 and then declining sharply in 1998 and again in interim 1999. U.S. shipments rose from 611,883 tons in 1994 to 722,329 tons in 1995, declined to 664,950 tons in 1996, increased to 752,824 tons in 1997, and then fell sharply to 640,061 tons in 1998,[86] barely above the 1994 level.[87] Shipments in interim 1999 were 265,757 tons, significantly below the 388,844 tons in interim 1998.[88] The value of U.S. shipments followed a similar trend, and was at its highest level in 1997 and lowest in 1994, with interim 1999 data showing a rate significantly below that for full year 1994.[89] The value of U.S. shipments declined sharply from $379 million in 1997 to $323 million in 1998.[90] This trend continued into 1999, with the value of U.S. shipments falling from $198.2 million in interim 1998 to $109.7 million in interim 1999, a drop of 45 percent.[91] Average unit value per ton was at its highest level in 1995 and has declined irregularly since then. Average unit value was $516.47 per ton in 1995, $486.45 per ton in 1996, $503.66 per ton in 1997, and $504.13 in 1998, and then fell sharply to $412.85 in interim 1999 (as compared to $509.70 per ton in interim 1998).[92]

Total domestic sales of line pipe also rose irregularly from 1994 to 1997 and then fell sharply in 1998 and again in interim 1999.[93] As measured in quantity, total sales rose from 628,286 tons in 1994 to 742,474 tons in 1995, declined to 694,710 tons in 1996, rose to 837,562 tons in 1997, and then fell sharply to 728,416 tons in 1998.[94] In interim 1999, total sales fell to 272,636 tons, compared to 396,773 tons in

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[84] Report at II-27.

[85] We also recognize that capacity utilization may not be as certain a measure of injury in this industry as compared to others, given the ability of domestic producers to shift production among various pipe products. Nevertheless, the sharp decline in capacity utilization is consistent with other indicators of poor domestic industry performance in 1998 and interim 1999 and supports an affirmative determination of serious injury.

[86] Report at II-17.

[87] Total shipments, which include exports, followed a similar trend during the period. The decline in total shipments between 1997 and 1998 was even greater than for U.S. shipments because of a spike in exports in 1997. Report at II-28.

[88] Report at II-17.

[89] Report at II-17.

[90] Report at II-17.

[91] Report at II-17.

[92] Report at II-28.

[93] The differences between sales and shipments data largely reflect the fact that sales data are reported on a fiscal year basis, whereas shipments data are reported on a calendar year basis.

[94] Report at II-34.

interim 1998.[95] As measured in value, total sales increased from $294.1 million in 1994 to $383.2 million in 1995, fell to $341.8 million in 1996, increased to $429.7 million in 1997, and fell sharply to $370.2 million in 1998.[96] Total sales fell sharply again in interim 1999 to $112.3 million, compared to $201.9 million in interim 1998.[97]

The share of the domestic market held by U.S. producers (as measured by quantity of shipments) increased initially from *** percent in 1994 to *** percent in 1995, and then fell each year thereafter to reach *** percent in 1998, the lowest level of the period.[98] The bulk of this decline occurred between 1997 and 1998, when U.S. producers' share fell by *** percentage points. U.S. producers' market share was also lower in interim 1999 than in interim 1998 (*** percent vs. *** percent).[99] The market share of U.S. shipments as measured in value followed a similar trend, also reaching its lowest level in 1998.[100]

We also examined profit and loss data for domestic producers on their line pipe operations. In 1998, five of the 14 reporting domestic producers operated at a loss in their line pipe operations, and in interim 1999 ten of the 14 reporting producers operated at a loss.[101] Industry performance in 1998 and interim 1999 was in marked contrast to performance in 1995 through 1997, when the industry as a whole operated more profitably and fewer or no producers operated at a loss.[102] Total operating income from line pipe sales peaked in 1997, with 12 of 13 reporting producers operating at a profit.[103] In 1998, only four producers reported increased operating income compared to 1997, while the remaining ten reported either reduced operating income or losses.[104] All 14 producers showed reduced operating income or increased losses in interim 1999 as compared to interim 1998[105] and one producer, Geneva Steel, filed for protection under chapter 11 of the bankruptcy code in early 1999.[106]

The ratio of industry operating income to net sales was negative 0.6 percent in 1994, then increased to (positive) 4.3 percent in 1995, 5.1 percent in 1996, and 8.1 percent in 1997.[107] The ratio then declined sharply to 2.9 percent in 1998 and plummeted to negative 11.4 percent in interim 1999, as compared to (positive) 6.7 percent in interim 1998.[108] The much stronger financial performance in interim 1998 than in full year 1998 shows that industry financial performance declined sharply in the second half of 1998, indicating that the very depressed financial condition of the domestic industry evident from the interim 1999 data extends back into mid-1998. On the basis of this information, we find that a significant

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[95] Report at II-34.
[96] Report at II-34.
[97] Report at II-34.
[98] U.S. shipments as compared to imports, measured in quantity. Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.
[99] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.
[100] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.
[101] Report at II-34.
[102] Report at II-34.
[103] Report at II-34.
[104] Report at II-39-40.
[105] Report at II-39-40.
[106] Report at II-32.
[107] Report at II-34.
[108] Report at II-34.

number of firms in the industry are unable to carry out their domestic line pipe operations at a reasonable level of profit.

Employment, hours worked, and total wages paid increased each year during 1994-1997, and then fell sharply in 1998 and again in interim 1999. The average number of production and related workers (PRWs) employed in welded line pipe production increased from 1,234 in 1994 to 1,519 in 1997, and then fell to 1,286 in 1998.[109] The average number of PRWs then fell to 1,055 in interim 1999 (as compared to 1,476 in interim 1998),[110] a decline of almost 30 percent from the 1997 level, indicating along with the 1998 decline that a significant number of workers in the industry had become unemployed in line pipe operations. The number of hours worked followed a similar trend, rising from 2.6 million hours in 1994 to 3.4 million hours in 1997, and then falling to 2.6 million hours in 1998.[111] The decline continued in 1999, with the number of hours worked falling to 1.1 million in interim 1999, compared to 1.6 million in interim 1998.[112] Total wages paid followed the same pattern, rising from $46.6 million in 1994 to $67.9 million in 1997, and then falling to $54.3 million in 1998, with a further decline evident from interim 1998 to interim 1999 (from $32.4 million to $21.6 million).[113] Hourly wages, which increased modestly each year during 1994 to 1998, rising from $18.00 to $20.57, fell in interim 1999 to $19.15 (as compared to $20.26 in interim 1998).[114]

Industry productivity as measured in tons per hour fluctuated during the period of investigation, with no apparent trend. Productivity was highest in 1995, at 289.6 tons per hour, and lowest in 1996 at 242.4 tons per hour.[115] Productivity was higher in 1998, at 253.8 tons per hour, than in 1994, when it was 245.5 tons per hour.[116] Productivity in interim 1999 was lower (249.4 tons per hour) than in interim 1998 (258.7 tons per hour).[117]

We also considered several other possible indicators of injury. Inventories rose irregularly during the period of investigation and were at their highest level in 1998.[118] Inventories remained high in interim 1999.[119] The ratio of inventories to domestic production rose irregularly from 8.3 percent in 1994 to 10.9 percent in 1998, the highest annual level of the period.[120] This ratio rose further to 14.1 percent in interim 1999, as compared to 9.7 percent in interim 1998.[121] Industry capital expenditures rose during the period of investigation but fluctuated widely from year to year; they were at their highest level in 1998.[122]

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[109] Report at II-30.
[110] Report at II-30.
[111] Report at II-30.
[112] Report at II-30.
[113] Report at II-30.
[114] Report at II-30.
[115] Report at II-30.
[116] Report at II-30.
[117] Report at II-30.
[118] Report at II-29.
[119] Report at II-29.
[120] Report at II-29.
[121] Report at II-29.
[122] Report at II-48. Respondents argued that the high level of investment by the domestic industry indicates that it is not injured. Japanese and Korean Respondents' Prehearing Brief on Injury at 11-12. However, petitioners

(continued...)

However, there is evidence that the decline in profitability since the middle of 1998 has caused the postponement or elimination of discretionary capital spending.[123] On the other hand, industry R&D expenses, which were small relative to capital expenditures, fell each year and were at their lowest level in 1998.[124]

In view of the sharp declines in 1998 and interim 1999 in virtually all domestic industry indicators, including domestic industry production, capacity utilization, shipments, sales, market share, financial performance, employment, hours worked, and wages paid, and the increase in inventories, we find that the domestic industry is seriously injured.

Causation

The third statutory criterion under section 202 of the Trade Act is that subject imports are being imported in such increased quantities as to be a "substantial cause" of serious injury or the threat of serious injury to the domestic industry. The term "substantial cause" is defined in the statute as "a cause which is important and not less than any other cause."[125] Thus, the increased imports must be both an important cause of the serious injury or threat of serious injury *and* a cause that is at least equal to any other cause.

In determining whether increased imports are a substantial cause of serious injury, the statute directs that we take into account all relevant economic factors, including but not limited to ". . .an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers."[126] It directs that we are to consider the condition of the domestic industry over the course of the relevant business cycle and that we may not aggregate the causes of declining demand associated with a recession or economic downturn in the U.S. economy into a single cause of serious injury.[127] The statute also directs that we examine factors other than imports that may be a cause of serious injury or the threat of serious injury and include such findings in our report.[128]

Arguments of parties. Petitioners asserted that increased imports are a substantial cause of serious injury to the domestic industry. They asserted that imports have taken a large and increasing share of the domestic market, and that foreign suppliers have consistently undersold domestic producers at significant margins. They also argued that imports are directly responsible for the sharp declines in prices, that the

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[122] (...continued)
reported that 1998 investment expenditures reflect pre-import surge analysis and decisions. Petitioners' Posthearing Brief on Injury at 23-24. Petitioners cited several examples, including that of IPSCO Tubulars, which purchased property in 1993, began commercial discussions on a new small diameter mill in late 1995, started placing equipment orders in 1997, and began commissioning the mill in mid-1999. Transcript of Injury Hearing at 50 (Mr. Barnes).

[123] Transcript of Injury Hearing at 44 (Mr. Carroll).

[124] Report at II-48.

[125] Section 202(b)(1)(B), 19 U.S.C. § 2252(b)(1)(B).

[126] Section 202(c)(1)(C), 19 U.S.C. § 2252(c)(1)(C).

[127] Section 202(c)(2)(A), 19 U.S.C. § 2252(c)(2)(A).

[128] Section 202(c)(2)(B), 19 U.S.C. § 2252(c)(2)(B). The legislative history of the Trade Act provides as examples of other possible causes, "changes in technology or in consumer tastes, domestic competition from substitute products, plant obsolescence, or poor management." *Trade Reform Act of 1974, Report of the Committee on Finance . . . on H.R. 10710,* S. Rept. 93-1298, 93rd Cong., 2d Sess. (1974) at 121.

surge in imports corresponds precisely to the time of the injury, and that there is no cause of serious injury to the domestic line pipe industry more important than increased imports.[129] In particular, petitioners asserted that the recent decline in oil and natural gas prices and in drilling and production activities is not a more important cause of the serious injury than increased imports. They argued that the vast majority of all line pipe consumption is in the transmission and distribution of natural gas, and that this part of the market was not depressed.[130]

Respondents argued that the principal cause of any serious injury to the domestic industry is the decline in oil and natural gas prices and in oil and natural gas drilling and production activities that began in late 1997 and continued through early 1999.[131] They contended that the demand and pricing of line pipe are driven by oil and gas drilling and production activities, and that the downturn in the market for line pipe coincided with the downturn in drilling and production activities.[132] In particular, the Japanese and Korean respondents asserted that more than 57 percent of all subject line pipe is used in the gathering segment of the market for line pipe, as opposed to the transmission and distribution segments. They argued that the effect of the oil and natural gas price declines on the gathering segment was sufficiently powerful to produce an overall decline in the apparent consumption of line pipe in the second half of 1998.[133] They also argued that imports of line pipe from Korea are overstated because a significant portion, including approximately 70-80 percent of the amount imported into the West Coast, is actually used for low-pressure standard pipe applications.[134] German respondents similarly asserted that the downturn in oil production and excess domestic capacity are the real causes of any serious injury.[135]

Japanese and Korean respondents asserted that other developments, some created by domestic producers themselves, also caused problems for the domestic industry, including: (1) competition among U.S. producers as they fought for market position in the falling market; (2) changes in the OCTG market that caused U.S. line pipe producers to switch production out of OCTG;[136] (3) declines in U.S. producers' exports, as other countries also suffered oil and natural gas market declines; (4) increases in allocated

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[129] Petitioners' Prehearing Brief on Injury at 26-32.

[130] Petitioners' Posthearing Brief on Injury at 39-40. Petitioners asserted that of the 1.3 million miles of gas pipeline in place in 1997, there were only 43,100 miles of field and gathering pipe in use.

[131] Japanese and Korean Respondents' Prehearing Brief on Injury at 39; *see also* the letter on behalf of South African interests at 1 (Sept. 23, 1999).

[132] In particular, they cited data indicating that the price of oil declined by 49 percent (per barrel) between October 1997 and December 1998; that as of April 1999, the number of active U.S. drilling rigs in the United States had declined to the lowest level recorded since tracking began in 1944; and that 24 percent of total operating wells in 1997 were closed between November 1997 and January 1999. Japanese and Korean Respondents Prehearing Brief on Injury at 36-37.

[133] Japanese and Korean Respondents' Posthearing Brief on Injury at 29.

[134] Japanese and Korean Respondents' Prehearing Brief on Injury at 66-67; *see also* their Posthearing Brief on Injury at 50. A 1992 antidumping duty order covers standard pipe from Korea but excludes dual specification pipe that meets both line pipe and standard pipe specifications. Respondents argued that, in response, Korean producers shifted their exports to the United States from standard pipe to dual stenciled pipe. Prehearing brief on injury of Japanese and Korean respondents at 67, citing *Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea, Mexico, and Venezuela* (57 F.R. 49453) (1992).

[135] German Respondents' Prehearing Brief on Injury at 9.

[136] South African respondents also made this argument. *See* letter of Sept. 23, 1999 at 1.

overhead and SG&A resulting from declines in overall production; and (5) increases in raw material costs.[137]

Finding. There are two principal causes of injury in this case: (1) the substantial increase in low-priced imports in 1998-99, and (2) the decrease in line pipe demand in 1998-99 as a consequence of falling oil and natural gas prices, which, in turn, resulted in decreases in oil and natural gas drilling and production activities in the United States. Both factors significantly contributed to the domestic industry's poor health beginning in the second half of 1998. For the reasons discussed below, we conclude that the impact of increased imports is as great or greater than the effect of the downturn in demand. Consequently, we find that the statute's causation criterion is met.

–Conditions of competition

We have taken into account a number of factors that affect competition between domestic and imported line pipe in the U.S. market. First, most producers and importers agree that because of precise specifications that line pipe must meet to be able to carry oil and natural gas, often at high pressure, there are few substitutes for welded line pipe.[138] Thus, overall demand for line pipe is not likely to change significantly in response to changes in the price of line pipe.[139]

Second, while the degree of substitutability between imported and domestic line pipe depends upon its use, imported and domestic line pipe are, in general, highly substitutable. Indeed, within particular specifications, line pipe is a commodity product that is sold mainly on the basis of price.[140]

Third, welded line pipe is used for gathering, transmitting, and distributing oil and natural gas. In the gathering phase, crude oil and natural gas are collected from oil and natural gas wellheads and transported to a transmission pipeline terminus. In the transmission phase, gas and liquid hydrocarbons are transported in greater quantities over longer distances, generally in larger diameter pipelines. In the distribution phase, gas and liquid hydrocarbons are delivered from a pipeline terminus or other distribution point to the end-user.[141] Demand for welded line pipe used in the gathering of oil and natural gas is the most sensitive to changes in oil and natural gas prices; the demand is less sensitive for transmission and least sensitive for distribution.[142]

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[137] Japanese and Korean Respondents' Prehearing Brief on Injury at 46-49.

[138] Report at II-78. Most agreed that line pipe could be used as a substitute for standard pipe, but not vice versa. However, because of cost differences, it generally is uneconomical to do so.

[139] Report at II-74.

[140] Factors tending to enhance the degree of substitution include the fact that imported and domestic line pipe are generally viewed as interchangeable. All producers and almost three-fourths of importers indicated that imported and domestic line pipe could be used interchangeably. The importers who felt that the imported and domestic products were not interchangeable indicated that the domestic pipe does not have a good reputation for use in extreme conditions, such as deepwater and Arctic conditions. Report at II-81. As indicated above, the scope of the Commission's investigation as amended late in the investigation to exclude imports of certain Arctic-grade line pipe. Factors moderating the degree of substitution include the importance of factors other than price, such as quality, availability, and credit/sales terms. Report at II-81.

[141] Japanese and Korean Respondents Posthearing Brief on Injury at 29-30.

[142] Report at II-74.

Finally, demand (apparent consumption) for line pipe increased irregularly through 1997, then fell slightly in 1998, and declined further in interim 1999. Apparent consumption was *** tons in 1994, rose to *** tons in 1995, fell to *** tons in 1996, rose sharply to *** tons in 1997, and fell slightly to *** tons in 1998.[143] Apparent consumption fell to *** tons in interim (January-June) 1999 from *** tons in interim 1998.[144] Despite this decline, in interim 1999 apparent consumption remained above the 1994 and 1996 levels on an annualized basis.

–Analysis of Causation

–Increased Imports

In determining whether increased imports are an important cause of serious injury, we considered the size of the increase in imports in both actual terms and relative to domestic production, and the timing of the increase. We also considered the share of the domestic market held by imports and comparable pricing data for domestic and imported line pipe. In addition, we considered whether imports from Korea (and therefore total imports) are overstated on the ground that a significant portion are dual stenciled and actually used in low-pressure standard pipe applications.

Imports increased by a total of *** percent during the investigation. Imports have increased substantially in each year since 1996 from *** tons in that year to *** tons in 1998, and the bulk of this increase occurred in 1997 and 1998, when imports increased by *** and *** percent, respectively. The 1998 *increase* in import volume alone, *** million tons, was about three quarters of *total* imports in each of 1995 and 1996. While imports in interim 1999 were *** percent below the interim 1998 level, imports in the first 6 months of 1999 still were above *full* year 1995 and 1996 import levels, and were running at an annual rate greater than annual import levels from 1995 to 1997.[145]

The ratio of imports to domestic production nearly doubled over the period, from *** percent in 1994 to *** percent in 1998. The ratio increased each year since 1996, and the largest one year increase occurred from 1997 to 1998, when the ratio soared from *** percent to *** percent. This ratio increased further in interim 1999, to *** percent (compared to *** percent in interim 1998).[146]

The share of the domestic market held by imports also increased significantly, especially during 1998 and interim 1999, at the same time that the domestic industry's condition deteriorated. The largest one year change in market share occurred between 1997 and 1998, when the share held by imports increased by over *** percentage points, notwithstanding substantial excess production capacity within the domestic industry.[147] Import market share, which was *** percent in 1994, fell to *** percent in 1995, and then increased to *** percent in 1996, *** percent in 1997, and *** in 1998. Import market share further increased to *** percent in interim 1999 (compared to *** percent in interim 1998). Thus, the surge in

[143] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.
[144] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.
[145] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe. Data refer to quantity of imports as measured in tons.
[146] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.
[147] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.

imports and consequent shift in market share from the domestic industry to imports occurred at the same time that the domestic industry went from healthy performance to very poor performance.

Imports from Korea in particular surged during the period of investigation. Imports from Korea more than doubled from 76,671 tons in 1997 to 157,997 tons in 1998, their highest annual level over the period of investigation.[148] Despite a decline in apparent domestic consumption and overall imports in interim 1999, imports from Korea continued to increase, rising to 84,013 tons from 79,318 tons in interim 1998.[149] The disproportionate surge in imports from Korea is reflected by the large increase in Korea's share of overall imports. In 1998 and interim 1999, Korea was by far the largest import source of line pipe, with imports from Korea more than triple the level of the next largest supplier.[150] Korea accounted for *** percent of total imports in 1997, *** percent in 1998, and *** percent in interim 1999.[151]

In addition to taking substantial market share from the domestic industry, the evidence also suggests that imports depressed domestic prices to a significant degree. The average unit value per ton of imports was relatively stable during 1994-1997, and then declined by almost 10 percent in 1998 and by a further 24 percent in interim 1999 (compared to interim 1998). The average unit value of imports increased irregularly from *** per ton in 1994 to *** per ton in 1997, and then dropped to *** per ton in 1998 and *** per ton in interim 1999.[152] The interim 1999 average price was *** per ton below the interim 1998 price.[153] While we recognize that the average price is affected by changes in product mix, no party has suggested, nor is there any evidence in the record, that a substantial part of this steep price decline can be explained by such changes. Moreover, quarterly data the Commission collected for six individual line pipe products show similar trends, with prices fluctuating during 1994-1997 with an upward trend, and then falling in 1998 and reaching their lowest levels in 1999.[154] In the 276 instances in which quarterly prices for imported and domestic line pipe could be compared for a particular product, imports were priced below the domestic product in 226 instances (about 82 percent).[155] Korea accounted for by far the largest number of instances of underselling (95 of the 226), and the margins of underselling by imports from Korea ranged up to 32.7 percent.[156] With the exception of one of the six products surveyed (product #5, a 12-inch line pipe), imports from Korea undersold the domestic product in all four quarters of 1998 and the first two quarters of 1999, generally by double-digit percentages.[157]

The conclusion that imports had significant adverse price effects is supported by virtually all industry participants that responded to the Commission's questionnaire. During the investigation the Commission asked domestic producers to indicate which of 14 possible causes of injury were "very

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[148] Report at II-19.
[149] Report at II-19.
[150] Report at II-19.
[151] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.
[152] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.
[153] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.
[154] Report at II-88.
[155] Report at II-103.
[156] Report at II-110.
[157] Report at II-104-109. In 1998 and interim 1999 imports from Korea undersold the comparable domestic product in 29 of the 33 quarters for which data were available (there were no reported imports from Korea of product #6 in three quarters during this period). Imports from Korea undersold the domestic product by a margin of 10 percent or more in 20 of the 29 quarters.

important," "important," "somewhat important," or "not important." Similarly, importers and purchasers were asked to indicate which of 14 factors were "very important," "important," "somewhat important," and "not important" causes of the price declines for line pipe.[158] Thirteen of 14 responding domestic producers said that import competition was a "very important" cause of injury, and the fourteenth indicated it was "somewhat important."[159] Four of 15 responding importers indicated that import competition was "very important" and seven said it was "important" in causing the price declines, and four indicated that the increased level of imports was "very important" and six said it was "important."[160] Only two of the 15 importers responded that import competition and the increased level of imports were "not important" in causing line pipe price declines.[161] Even more significantly, 16 of 23 responding purchasers indicated that import competition was "very important" in causing price declines; four said it was "important," and 11 said that the increased level of imports was "very important" and seven said it was "important."[162] None of the responding purchasers said that competition from imports was "not important," and only one said that the increased level of imports was "not important."[163]

We do not agree that the official import statistics overstate line pipe imports from Korea due to dual stenciling. The record contains no concrete data showing the extent to which Korean dual stenciled line pipe actually is used in standard pipe applications. Respondents asserted that 70-80 percent of dual stenciled line pipe imported into the West Coast is used in standard pipe applications. However, at the Commission's public hearing, the witness who was the source for this claim conceded that the share could be substantially less and that the only way to know the actual end use with certainty would be by making a sale-by-sale analysis, which he had not done.[164] Petitioners testified that the amount of dual stenciled line pipe used in standard pipe applications is much lower than 70-80 percent,[165] and in particular argued that there is a large demand for line pipe in the West Coast market.[166] On balance, we are not persuaded that most line pipe imports from Korea into the West Coast are used in standard pipe applications.[167]

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[158] The list of possible causes varied in several respects for each of the groups. For example, the questionnaire sent to domestic producers included government regulations and environmental causes, but these possible causes were not in the questionnaires sent to importers and purchasers. Moreover, the questionnaires sent to the domestic producers did not include "increased level of imports" as a possible cause, while the questionnaires sent to importers and purchasers did. However, all three questionnaires included "competition from imports" and several other possible causes.

[159] Report at II-111.

[160] Report at II-115.

[161] Report at II-115.

[162] Report at II-116.

[163] Report at II-116. We note that, in contrast, only nine of the purchasers indicated that decreases in oil and natural gas drilling activities was an important factor in explaining the line pipe price declines. We recognize, as respondents argue (*see* Transcript of Injury Hearing at 232-34 (Mr. Cameron)), that changes in oil and natural gas operations was not listed as a possible cause. Nevertheless, purchasers were asked to identify "other" causes of the line pipe price declines and one would expect that many purchasers would have done so if changes in the level of oil and natural gas drilling activities were the overriding cause of the very sharp decline in line pipe prices in 1998-99, as respondents contend.

[164] Transcript of Injury Hearing at 216 (Mr. Smith in response to questions by Commissioner Koplan). The estimate of *** is likewise unsubstantiated. *See* Japanese and Korean Posthearing Brief on Injury, Exhibit 2.

[165] Transcript of Injury Hearing at 28.

[166] Petitioners' responses to questions of Commissioner Askey, Oct. 12, 1999, at 7-8.

[167] We also note that there was a dramatic shift in the geographic distribution of imports from Korea during the

(continued...)

Moreover, even if a significant portion of Korean multiple-stenciled line pipe actually is used in standard pipe applications, because such pipe still enters as line pipe and can be used as line pipe, its presence in the domestic market can affect the domestic price of line pipe. Accordingly, we find no basis for discounting the volume of imports of line pipe imports from Korea or their effect on the domestic industry.

In conclusion, the sharp increase in imports in 1998 and interim 1999, and the simultaneous import-led decline in prices, have caused a significant loss of sales, market share, and revenue on the part of the domestic industry, as well as a decline in other key indicators of the industry's health, such as capacity utilization and employment. Accordingly, we find that increased imports are an important cause of serious injury.[168]

–Oil and Natural Gas Declines

We gave careful consideration to respondents' principal argument, that the decline in line pipe demand caused by reduced oil and natural gas drilling and production activities was a more important cause of the line pipe industry's serious injury than increased imports. Specifically, respondents argued that the demand for line pipe is tied closely to crude oil and natural gas drilling and production activities. They estimated that over *** percent of domestic line pipe is consumed in the "gathering" of crude oil and natural gas (i.e., the line pipe application closest to the wellhead) with the remainder consumed in the "transmission" (i.e., conveyance nationally and regionally) and "distribution" (i.e., conveyance at the local level to end users) of natural gas and, to a much lesser extent, crude oil.[169] They argued that the substantial decline in crude oil and natural gas prices in 1998 and 1999 resulted in significantly less drilling and production activities in the United States, which in turn, caused a substantial decline in line pipe demand, especially in gathering applications.[170]

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[167] (...continued)
period of investigation from the West Coast to the Gulf Coast. Report at D-4, Table D-2. The Gulf Coast is the largest regional market for line pipe in the United States.

[168] We note that we would have reached the same result had we excluded imports from Canada and Mexico from our analysis. Imports from non-NAFTA sources increased significantly over the period of investigation, in absolute terms and as a percentage of domestic production. Non-NAFTA imports fell from *** tons in 1994 to *** tons in 1996, but then rose sharply to *** tons in 1997 and *** tons in 1998. While non-NAFTA imports fell from *** tons in interim 1998 to *** tons in interim 1999, they remained at a very high level in interim 1999, exceeding in just 6 months the level of *full* year 1995 and 1996 imports. These imports also increased significantly in terms of market share at the end of the period of investigation, rising from *** percent in 1996 to *** percent in 1998, and from *** percent in interim 1998 to *** percent in interim 1999. Moreover, the non-NAFTA imports were among the lowest-priced imports. Except for 1994, the average unit value of imports from Canada exceeded the average import unit value throughout the period of investigation, and the volume of imports was relatively small. The average unit value of imports from Mexico exceeded the average for all imports in 1998 and interim 1999, the period in which the serious injury occurred, and the volume of imports from Mexico declined during this period. Moreover, in the 244 possible product-specific price comparisons, non-NAFTA imports undersold domestic line pipe in 194 instances (about 80 percent), and Korean product accounted for by far the largest number of instances of underselling (95 of the 194). Data are based on those in Table C-1 adjusted to exclude certain imports of Arctic-grade and alloy line pipe.

[169] Japanese and Korean Respondents' Posthearing Brief on Injury at 29 (citing estimate of ***).

[170] Japanese and Korean Respondents' Posthearing Brief on Injury at 29

As an initial matter, we note that it is not clear whether line pipe demand is as closely tied to oil and gas drilling and production activities as respondents contend. The respondents' estimate of the percentage of line pipe used in gathering applications is based on the views of a single industry source. This source based his estimate on the likely use of particular grades of line pipe, rather than any empirical analysis of actual uses of those line pipe grades.[171] Petitioners argued that, while the demand for OCTG products is closely linked to oil and natural gas drilling, the demand for line pipe is much broader and generally is linked to overall economic activity.[172] Affidavits of industry sources submitted by petitioners indicate between *** and *** percent of domestic line pipe is consumed in "gathering" activities.[173]

While it is unclear to what extent line pipe is used in each of gathering, transmission, and distribution activities, there is no dispute that the vast majority (in excess of 90 percent) of line pipe is used in natural gas applications and the remainder is used in crude oil and other applications.[174] We note that the recent declines in prices, production, and drilling activities (as evidenced by the active rotary rig count) were much less severe for natural gas than for crude oil.[175]

Nevertheless, we recognize that apparent consumption of line pipe in 1999 was significantly lower than in 1998.[176] We presume that this decline in demand largely resulted from reduced oil and natural gas drilling and production activity, as respondents argued.[177] There is no question that such a substantial decline in demand contributed to the serious injury experienced by the domestic industry in 1998-99.[178]

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[171] This source did not testify at the Commission's hearing. In a discussion with a member of the Commission's staff, this source conceded that those line pipe grades that he treated as being used in "gathering" activities could, in fact, also be used in the transmission of natural gas. Report at II-75, note 106.

[172] Report at II-18, notes 55 and 56.

[173] Petitioners' Posthearing Brief on Injury, Exhibits 3 and 16. Based on an analysis of existing pipeline mileage, petitioners separately estimated that as much as 95 percent of domestic pipelines, by length, are used for transmission and distribution, and only 5 percent is used in gathering activities. *Id.* at 39-40. However, petitioners were unable to show the extent to which these pipelines are made from welded line pipe as opposed to other types of pipe (e.g., seamless steel or plastic).

[174] Staff interview with ***, Oct. 20, 1999; *see also* Petitioners' Posthearing Brief on Injury at 39-40. Unlike natural gas, crude oil is transmitted and distributed mainly by trucks, rather than by pipeline. Report at II-74.

[175] Report at II-76-78; Staff Memorandum INV-W-247 (Oct. 27, 1999) (showing oil and natural gas rotary drilling rigs in operation).

[176] Report at II-18 (reporting that apparent consumption declined by over 27 percent in the first half of 1999 as compared to the first half of 1998); also, based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.

[177] Petitioners argued that actual consumption declined very little and that the drop in apparent consumption can be explained by a large buildup of purchasers' inventories. Petitioners' Posthearing Brief on Injury at 34. However, the inventory data they submitted are mostly for products other than line pipe. Moreover, questionnaire responses contain only one brief comment on inventories and we are unaware of any contemporary industry publications that mention a significant inventory buildup. Japanese and Korean respondents argued that Commission data confirm that the domestic line pipe industry has not had a significant build-up of inventories in 1999 and operates with a relatively low and stable level of inventories. Japanese and Korean Respondents Prehearing Brief on Injury at 15.

[178] Indeed, as discussed in our views on Remedy, the fact that demand has improved since the first half of 1999, and is not expected to weaken in the foreseeable future, was an important element in our decision to recommend a remedy that is substantially less restrictive than the remedy proposed by petitioners.

For several reasons, however, we are not persuaded that the decline in oil and natural gas activities was a greater contributing factor to the industry's serious injury than the imports.

First, although there was a substantial decline in apparent consumption from 1998 to 1999, this decline was from unusually high levels. Apparent consumption in 1997 and 1998 greatly exceeded apparent consumption in 1994 through 1996. On an annualized basis, interim 1999 consumption is comparable to the level of apparent consumption in 1994 through 1996. Although the domestic industry had slight operating losses in 1994, the industry's financial performance in 1995 and 1996 was healthy.[179]

This prior experience suggests that the reduced level of demand would not be expected to generate the severe financial losses suffered by the industry in the second half of 1998 and first half of 1999, and that other factors therefore must account for this very different level of industry performance. The most significant difference in market conditions between interim 1999 and the 1994 through 1996 period is the market presence of imports. In 1995 and 1996, for example, when the industry had healthy operating profits, import market share was approximately *** percent. In interim 1999, import market share had more than doubled to *** percent, notwithstanding significant excess capacity among domestic suppliers.[180]

Second, reduced line pipe demand due to reduced oil and natural gas drilling and production activity does not explain the dramatic shift in market share from domestic suppliers to imports. A decline in demand for a standardized product like line pipe should impact all sources of supply in roughly proportional amounts. Respondents attempted to explain the transfer of market share from the domestic suppliers to the imports on the ground that imports have much longer order lead times than domestic product and, therefore, respond more slowly to a decrease in demand.[181] They argued that the very high monthly import volumes in late 1998 and through January 1999 are therefore a reflection of orders that were made earlier in 1998, before the substantial decline in drilling activity occurred.[182] Respondents pointed to the fact that monthly import volumes in February, March, and April 1999 were much lower than the 1998 and January 1999 monthly volumes.[183]

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[179] Report at II-34, Table 9.

[180] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe. The conclusion that reduced demand was not the most significant problem facing the domestic industry is supported by the testimony of the domestic producers at the Commission's hearing. The producers stated that substantially lower prices, rather than reduced demand, was the major problem they faced in interim 1999. Transcript of Injury Hearing at 40 (Mr. Evans) ("[T]he problem is not decline in demand, but an overwhelming import supply devastating the market.") This conclusion is also supported by the Commission's variance analysis, which indicates that the substantial decline in domestic prices accounts for the industry's dismal financial performance in interim 1999 to a much greater extent than reduced shipment volumes. Report at II-46, Table 12.

[181] Respondents asserted that there is a 4- to 6-month lag time between import order and entry. Japanese and Korean Respondents' Posthearing Brief on Injury at 40. Information gathered by the Commission show that lead times, on average, for domestic producers were less than two months as compared to approximately four months for importers. Report at II-85.

[182] Japanese and Korean Respondents' Posthearing Brief on Injury at 40.

[183] Japanese and Korean Respondents' Posthearing Brief on Injury at 40.

In May, June and July 1999, however, monthly import volumes were again at levels comparable to the very high monthly levels in 1998.[184] Under respondents' theory, these substantial volumes of imports would have been ordered in late 1998 and the first quarter of 1999 when drilling activity was at its very lowest, which is inconsistent with their argument that the extraordinarily high import volumes in late 1998 and January 1999 were merely the reflection of unusually strong demand earlier in 1998. These monthly data undermine the notion that imports simply had a delayed reaction to the decline in line pipe demand. Rather, the data show that imports have the ability to take and maintain substantial market share even at a time of decreased demand.

Lastly, the decline in oil and gas drilling and production activity does not explain the substantial decreases in line pipe prices that occurred in 1998 and interim 1999. These price declines appear to have been across the board. The record does not indicate that the price declines mainly affected those line pipe grades that are typically used in "gathering" applications, as respondents' theory would suggest.[185] And, as discussed earlier, there is a consensus among producers, importers, and purchasers that imports played the major role in the decline in domestic line pipe prices in 1998 and interim 1999.[186]

In sum, while the decline in line pipe demand resulting from reduced oil and natural gas drilling and production activities undoubtedly played a role in the industry's poor performance in 1998 and interim 1999, we find that the effect of the imports on the domestic industry was as great or greater.

--Other Possible Causes of Serious Injury

We also considered several other possible causes of serious injury alleged by respondents, including competition among domestic producers; changes in the OCTG market that caused domestic line pipe producers to switch production out of OCTG; declines in U.S. producers' export markets; increases in per-unit overhead and SG&A resulting from declines in overall production; and declines in raw material costs. Respondents also argued that we may not attribute injury caused by these factors to the imports.[187] We have not done so. As required by the statute, after evaluating all possible causes of injury, we have determined that the imports are an important cause of serious injury and are not less than any other cause.

With respect to competition among domestic producers, we considered that two firms began production of line pipe in 1998 and that industry capacity increased over the period of the investigation. However, from 1994 to 1998 industry capacity increased by only a modest amount, less than 8 percent, considerably less than the *** percent increase in domestic consumption of line pipe during that period, indicating that the increase in capacity was reasonable in view of growing consumption. Moreover, competition between domestic producers has always been a factor in the market and does not explain the

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[184] Staff Memorandum INV-W-247 (Oct. 27, 1999) (attaching monthly carbon steel line pipe import data).

[185] Report at II-88-103.

[186] Report at II-111-115. Again, this evidence, especially that of the purchasers, cannot be dismissed on the ground that questionnaire recipients were not expressly asked whether reduced oil and natural gas drilling and production activity was a cause of line pipe price declines. The purchaser questionnaire responses clearly indicate the purchasers' awareness of the overall importance of oil and gas drilling and production activities to line pipe demand. *See* Japanese and Korean Respondents' Posthearing Brief on Injury at 21-23, 56 (summarizing purchaser responses). Yet, purchasers consistently identified imports as the major cause of the sharp decline in line pipe prices.

[187] Japanese and Korean Respondents' Prehearing Brief on Injury at 46-49.

severe decline in domestic prices and shipments.[188] Thus, we conclude that competition among domestic producers was not a more important cause of serious injury.

The record does not support a finding that domestic producers shifted from OCTG production to line pipe production in such substantial quantities as to be a more important cause of the serious injury. While it appears that some domestic producers switched from production of OCTG to other products, it is not clear that they switched to line pipe–as opposed to standard pipe or another type of pipe–in substantial quantities. Petitioners argued that any change would have been relatively small.[189] There is no contrary evidence in the record.[190]

While the decline in export markets in 1998 and interim 1999 served to worsen the serious injury caused by increased imports, it was not a more important cause of the serious injury than increased imports. U.S. line pipe exports fluctuated during 1994-1998, reaching their highest level in 1997 at 118,791 tons and then falling sharply to 21,115 tons in 1998, the lowest level of the period;[191] exports were lower in interim 1999 than in interim 1998.[192] However, the increase in imports in 1998 was considerably larger than the decline in exports, so any impact on the domestic industry from the drop in exports was dwarfed by the impact of the rise in imports. Morever, 1997 was an anomalous year for exports–the next highest annual export level was 42,251 tons in 1996. Except in 1997, when exports equaled 13.5 percent of domestic production, exports have not exceeded 6 percent of domestic production throughout our period of investigation.

We are satisfied that increases in per-unit allocated overhead and SG&A resulting from declines in the production of other pipe products such as OCTG were not mistakenly or disproportionately attributed to line pipe. Increases in per-unit overhead and SG&A were allocated by the domestic producers in proportion to their sales of end products or based on other acceptable allocation methodologies. As indicated above, the Commission verified the data furnished by two of the largest domestic producers of line pipe and found the allocations made to be reasonable.[193]

Finally, we considered raw material costs, and whether and to what extent the decline in the price of hot-rolled carbon steel in 1998 and interim 1999 caused the decline in line pipe prices. While the evidence shows that the price of hot-rolled carbon steel, the main raw material used in the production of

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[188] A number of purchasers identified competition among domestic producers as a "very important" or "important" cause of the price decline. However, even more purchasers identified imports as a "very important" or "important" cause of the price decline. Report at II-116.

[189] Transcript of Injury Hearing at 110 (Mr. Schagrin).

[190] There is no dispute that demand for OCTG is closely linked to oil and natural gas drilling and production activities. Thus, to the extent that domestic producers did switch production from OCTG to line pipe, it undercuts respondents' theory that line pipe demand is overwhelmingly dependent on oil and natural gas drilling and production activity. Moreover, any switch from OCTG to line pipe would have been another form of increased intra-industry competition. For the reasons discussed above, we are satisfied that increased domestic competition, while a factor, is not a more important cause of serious injury than the increased imports.

[191] Table C-1, report at C-4.

[192] Table C-1, report at C-4.

[193] While the financial data strongly support a finding of serious injury, we reiterate that we considered a number of other factors in reaching that conclusion.

line pipe, fell sharply during 1998 and early 1999,[194] Commission questionnaire data show that overall raw material costs were stable during 1994-1998 (except for a temporary increase in 1995).[195] Although the data indicate that raw material costs were lower in interim 1999 than in the same period of 1998, these lower costs were partially offset by increased labor and other factory costs.[196] The decline in the unit cost of goods sold, which gives a truer picture of industry production costs, was less than 5 percent between interim 1998 and interim 1999.[197] This was considerably less than the almost 25 percent decline in the unit value of imports between interim 1998 and interim 1999. Further, there is some evidence that raw material costs, particularly for hot-rolled steel, have increased in recent months.[198] Thus, the decline in raw material costs and cost of goods sold in interim 1999 does not come anywhere close to explaining the decline in prices that occurred in interim 1999. Accordingly, we do not find that a decline in raw material costs was a more important cause of serious injury than increased imports.

Finding With Respect to Imports From NAFTA Countries

Statutory framework. Section 311(a) of the NAFTA Implementation Act provides that if the Commission makes an affirmative injury determination under section 202 of the Trade Act it must also find whether--

(1) imports of the article from a NAFTA country, considered individually, account for a substantial share of total imports; and

(2) imports of the article from a NAFTA country, considered individually or, in exceptional circumstances, imports from NAFTA countries considered collectively, contribute importantly to the serious injury, or threat thereof, caused by imports.[199]

Section 311(b)(1) states that imports from a NAFTA country "normally" will not be considered to account for a substantial share of total imports if that country is not among "the top 5 suppliers of the article subject to the investigation, measured in terms of import share during the most recent 3-year period."[200] Section 311(c) defines "contribute importantly" to mean "an important cause, but not necessarily the most important cause."[201] In determining whether imports have contributed importantly to the serious injury or threat, the Commission is directed to consider "such factors as the change in the import share of the NAFTA country or countries, and the level and change in the level of imports from a NAFTA country or countries."[202] Imports from a NAFTA country or countries "normally" will not be considered to contribute importantly to the serious injury or threat "if the growth rate of imports from such

[194] Report at II-84.
[195] Report at II-36.
[196] Report at II-36.
[197] Report at II-36.
[198] Petitioners' Posthearing Brief on Injury at 30-31.
[199] 19 U.S.C. § 1371(a).
[200] 19 U.S.C. § 1371(b)(1).
[201] 19 U.S.C. § 1371(c).
[202] 19 U.S.C. § 1371(b)(2).

country or countries during the period in which an injurious increase in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period."[203]

Arguments of the parties. Petitioners alleged that imports from Mexico account for a substantial share of total imports and contribute importantly to the serious injury or threat of serious injury, but did not allege that imports from Canada contribute importantly to the serious injury or threat of serious injury.[204] Petitioners asserted that imports from Mexico, while declining from 1997 to 1998, have not grown at a rate that is "appreciably lower" than the growth of total imports, but rather have increased at a rate that is appreciably higher than the total growth rate.[205] In addition, they argued that if the Commission makes an affirmative serious injury determination under section 202, but finds that imports from Mexico are not contributing importantly to the serious injury, it must separately determine whether imports from Mexico are contributing importantly to a *threat* of serious injury.[206]

The Mexican respondents argued that imports from Mexico did not contribute importantly to any serious injury or threat of serious injury. They claimed that the growth in imports from Mexico paralleled the profitability of the domestic industry, rising through 1997, and then falling sharply in 1998.[207] They asserted that imports from Mexico are moving in the opposite direction of total imports, having fallen by 40 percent between 1997 and 1998, while total imports doubled,[208] and that the growth rate of imports from Mexico was "substantially lower" than the growth rate of total imports during the period in which the alleged injurious increase in imports occurred.[209] The Mexican respondents also argued that any threat of serious injury from imports from Mexico is speculative, and in any event a Commission finding with regard to threat of injury under section 311(a) would be contrary to the statutory scheme if there was a finding of serious injury (as opposed to threat of serious injury) under section 202. They also noted that section 312(c) of the NAFTA Implementation Act establishes a surge mechanism that can be invoked if a surge in imports from a NAFTA country subsequently undermines the effectiveness of the section 201 remedy.[210]

The Government of Canada argued that Canada was not among the top five suppliers during 1996-1998, and thus does not account for a substantial share of total imports.[211] It further argued that the growth rate in imports from Canada during the last 3 years was "appreciably lower" than the growth rate for all imports and thus did not contribute importantly to any serious injury or threat of serious injury.[212] It states that imports from Canada declined by 9.6 percent between 1995 and 1998, while total imports

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[203] Id.

[204] Petition at 25-26, and Petitioners' Posthearing Brief on Injury at 51.

[205] Petitioners argued that imports from Mexico increased by 107 percent between 1994 and 1998, while total imports grew by 83 percent and that the ratio of imports from Mexico to domestic production increased between January-June 1998 and January-June 1999. Petitioners' Posthearing Brief on Injury at 52-53.

[206] Petitioners' Posthearing Brief on Injury at 55.

[207] Transcript of Injury Hearing at 249 (Mr. Winton).

[208] Transcript of Injury Hearing at 249-50 (Mr. Winton).

[209] Mexican Respondents' Posthearing Brief on Injury at 1 (Oct. 6, 1999).

[210] Mexican Respondents' Posthearing Brief on Injury at 6-8, and Transcript of Injury Hearing at 250-52 (Mr. Winton).

[211] Government of Canada Prehearing Brief on Injury at 2 (Sept. 24, 1999).

[212] Id. at 3.

increased by 159.2 percent during the same period.[213] Finally, the Government of Canada noted that the average unit value of imports from Canada was well above the average unit value of total imports.[214]

Finding. We find that imports of line pipe from Mexico account for a substantial share of total line pipe imports but do not contribute importantly to the serious injury. We also find that imports from Canada do not contribute importantly to the serious injury.

Mexico has been among the top five suppliers during each of the 3 most recent years. It was the largest supplier in 1997 and the second largest supplier in 1996, 1998, interim (January-June) 1998, and interim 1999.[215] Mexico also accounted for between *** and *** percent of total imports during this period.[216] Thus, we find that the first prong of the NAFTA test is satisfied in the case of Mexico. However, we do not find that the second prong of the test is met. Imports from Mexico fell significantly in 1998 and interim 1999 at the same time that imports from other countries were surging and when the domestic industry was seriously injured. Imports from Mexico were 80,129 tons in 1997, but then fell sharply to 48,180 tons in 1998.[217] This decline continued into 1999, with imports falling from 32,468 tons in interim 1998 to 23,245 tons in interim 1999.[218] The share of total imports accounted for by imports from Mexico declined substantially, from *** percent in 1997 to *** percent in 1998, and from *** percent in interim 1998 to *** percent in interim 1999.[219] Thus, imports from Mexico declined substantially during the period in which the injurious increase in imports occurred. Pricing data also support a finding that imports from Mexico are not contributing importantly to the serious injury. The average unit value of imported Mexican welded line pipe, while trending downward, fell at a slower rate than the average for all imports.[220] Moreover, the specific product pricing data that the Commission collected show that imports from Mexico were generally priced above line pipe from other foreign sources.[221]

We also considered petitioners' argument that, if we find serious injury under section 202 of the Trade Act and find that imports from Mexico do not contribute importantly to that serious injury, we must consider whether imports from Mexico contribute importantly to a *threat* of serious injury. Petitioners argued that because the phrase "serious injury, or threat thereof," in section 311(a) of the NAFTA Implementation Act is expressed in the disjunctive, we must make a separate threat of serious injury determination with respect to Mexico alone.[222] We disagree with petitioners' interpretation. Sections 311 and 312 of the NAFTA Implementation Act implement a U.S. obligation in chapter 8 of the NAFTA to

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[213] Id.
[214] Id.
[215] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.
[216] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.
[217] Report at II-19.
[218] Report at II-19.
[219] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.
[220] Report at II-20.
[221] Report at II-89-97.
[222] Petitioners' Posthearing Brief on Injury at 56. Petitioners compared this provision to provisions in the U.S. antidumping and countervailing duty laws under which the Commission analyzes whether an industry is threatened with material injury in cases where the Commission determines that the industry is not materially injured. The analogy is inapposite, however, because the Commission here has made an *affirmative* serious injury determination. Accordingly, consistent with our antidumping and countervailing duty practice, there is no basis for making a separate determination of threat.

exclude imports from a NAFTA country from a global safeguard action unless such imports are found to account for a substantial share of total imports *and* to contribute importantly to the serious injury or threat thereof caused by imports. Thus the finding that we make under section 311(a)(2) of the NAFTA Implementation Act relates to the question of whether imports from Mexico "contribute importantly to the serious injury, or threat thereof," that we found under section 202 of the Trade Act. The Commission is not authorized to make a new determination of serious injury or threat thereof under section 311. The statutory language plainly supports this conclusion. Section 311(a)(2) refers to "the" serious injury or threat thereof caused by imports, referring to a finding already made. In addition, section 312(a)(2), which concerns Presidential action regarding NAFTA imports, also refers to the Commission's injury determination under section 202. It requires that the President determine, *inter alia*, whether imports from a NAFTA country "contribute importantly to the serious injury, or threat thereof, found by the International Trade Commission."[223]

We do not find that imports from Canada contributed importantly to the serious injury.[224] Imports from Canada were small during the period in which the surge in total imports occurred and indicators of industry performance dropped. Canada's share of total imports was *** percent in 1997 and then rose to *** percent in 1998, but Canada's share fell from *** percent in interim 1998 to *** percent in interim 1999.[225] The average unit value of imports from Canada has been well above the average for all imports since 1995.[226] Also, the specific product pricing data show that when imports from Canada undersold domestic line pipe, it was by relatively small margins.[227]

Finally, we are unaware of any "exceptional circumstances" that would lead us to combine imports from Canada and Mexico in our section 311(a)(2) analysis.

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[223] 19 U.S.C. § 1372(a)(2).

[224] We make no finding on whether Canada accounts for a substantial share of total imports. We note that Canada was the fourth largest supplier in 1996 and the fifth largest in interim 1999. However, Canada's share of total imports has been less than *** percent since 1997.

[225] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.

[226] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.

[227] Report at II-110.

SEPARATE VIEWS ON INJURY OF CHAIRMAN LYNN M. BRAGG AND COMMISSIONER THELMA J. ASKEY

CIRCULAR WELDED CARBON QUALITY LINE PIPE
TA-201-70

As noted, we join in the background discussion for this investigation with our three colleagues who determined that circular welded carbon quality line pipe ("line pipe") is being imported in such increased quantities as to be a substantial cause of serious injury to the domestic industry. Chairman Bragg also joins their domestic like product and domestic industry analysis while Commissioner Askey engages in her own domestic industry analysis. We further join in the analysis of the first of the three statutory criteria, *i.e.* that imports have entered the United States in "increased quantities." However, because we find that increased imports are a substantial cause of the threat of serious injury to the domestic industry, and not present serious injury, we set forth our separate views regarding injury below.

Threat of Serious Injury

Statutory framework. The second of the three statutory criteria concerns whether the domestic industry is seriously injured or threatened with serious injury. The term "serious injury" is defined in the statute to mean "a significant overall impairment in the position of a domestic industry,"[1] and the term "threat of serious injury" is defined to mean "serious injury that is clearly imminent."[2]

The statute sets out certain economic factors that must be taken into account. With respect to the threat of serious injury, these factors are: (1) a decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, productivity, or employment (or increasing underemployment) in the domestic industry; (2) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development; and, (3) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets.[3] These factors are not exclusive; the statute instead directs consideration of all economic factors that are found to be relevant, including the listed factors. Also, the statute directs that the presence or absence of any of these factors shall not be considered "necessarily dispositive."[4]

The Commission has developed no set formula for determining whether an industry is seriously injured or threatened with serious injury, but instead has examined the relevant facts in the record of each investigation and made its determination on the basis of the totality of these facts. The Commission

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[1] Section 202(c)(6)(B).

[2] Section 202(c)(6)(D). This definition is also consistent with the legislative history, which defines a "threat" of serious injury to exist "when serious injury, although not yet existing, is clearly imminent if imports [sic] trends continued unabated." *Trade Reform Act of 1974, Report of the Committee on Finance . . . on H.R. 10710*, S. Rep. 93-1298, 93d Cong., 2d Sess. (1974), at 121.

[3] Section 202(c)(1).

[4] Section 202(c)(3).

examines data for the entire period of investigation ("POI"), focusing in particular on the most recent data so as to assure itself whether the domestic industry is in fact seriously injured or threatened with serious injury at the time it makes its determination.[5]

Finding. As described below, we find that the domestic line pipe industry is threatened with serious injury, *i.e.* we find that serious injury is clearly imminent.

–Overview of the domestic circular welded carbon quality line pipe industry

In 1998, there were 14 domestic producers of circular welded carbon quality line pipe matching the scope of the instant investigation; a fifteenth domestic producer commenced production of line pipe in 1999.[6] Three firms are owned in whole or in part by firms located outside of the United States.[7] Eight firms, accounting for 60 percent of reported domestic production in 1998, are petitioners in the instant investigation; joining them as co-petitioner are the United Steelworkers of America, AFL-CIO.[8]

–Analysis of factors

As discussed below, the data collected in this investigation indicate a precipitous drop in the financial health and operating performance of the domestic industry beginning in the latter half of 1998 and extending into the first half of 1999. When viewed together, such data establish that serious injury to the domestic line pipe industry is clearly imminent.

First, with regard to *market share*, we note that as measured by quantity, the share of apparent U.S. consumption held by domestic producers increased slightly between 1994 and 1997, from *** percent to *** percent, before declining in 1998 to *** percent; between interim 1998 and interim 1999, domestic producers' U.S. market share declined from *** percent to *** percent.[9] Commensurately, total import market share increased from *** percent to *** percent between 1994 and 1998, and was *** percent in interim 1999.[10] The record thus reflects an increasingly significant presence of subject imports in the U.S.

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[5] *See, e.g., Wheat Gluten*, Inv. No. TA-201-67, USITC Pub. 3088 (Mar. 1998) at I-12.

[6] Report at II-14 and Table 1, at II-15.

[7] Report at II-14.

[8] Report at II-3 and II-14.

[9] Table C-1, Report at C-3 (adjusted). As noted in the background discussion of the majority's views, the Commission amended the scope of the investigation to exclude arctic grade line pipe. As a result, we excluded data for arctic grade line pipe from the aggregate data compiled in the Commission's Report, in reaching our determination that subject imports are a substantial cause of the threat of serious injury to the domestic industry. We also excluded data regarding alloy line pipe outside the scope of the investigation in reaching our affirmative threat determination. Data for arctic grade line pipe are found in the Report at II-12 to II-13 and data for out-of-scope alloy line pipe are accounted for by imports from Japan under HTS subheading 7306.10.50. Accordingly, our citations to "Table C-1, Report at C-3 to C-4 (adjusted)" refer to aggregate data as adjusted to account for these two exclusions.

[10] Table C-1, Report at C-3 (adjusted).

market over the course of the POI, and in particular, a dramatically increased presence beginning in the latter six months of 1998 and extending into the first six months of 1999.[11]

Second, with regard to domestic producers' *U.S. shipments*, we note that although domestic producers' U.S. shipments increased 23.0 percent between 1994 and 1997 (from 611,883 short tons to 752,824 short tons), they then declined 15.0 percent between 1997 and 1998 (to 640,061 short tons).[12] Interim data also depict a sharp decline, with U.S. shipments declining from 388,844 short tons in interim 1998 to 265,757 short tons in interim 1999.[13]

Given the interim and full year data for 1998, it is apparent that domestic producers' U.S. shipments were only 251,217 short tons during the latter six months of 1998. In other words, domestic producers' U.S. shipments declined 35.4 percent between the first six months and the latter six months of 1998, before increasing 5.8 percent between the last six months of 1998 and the first six months of 1999. Between interim periods alone, domestic producers' U.S. shipments declined by almost one-third. The record thus indicates significant overall declines in both shipments and market share for the domestic industry, particularly during the most recent twelve months for which data were collected. We further note that *sales* data evidences similar trends; sales data for the domestic industry indicate a 33.3 percent increase between 1994 and 1997 (by quantity), followed by a 13.0 percent decline between 1997 and 1998, and a 31.3 percent decline between interim 1998 and interim 1999.[14]

Third, with regard to *inventories*, we note that domestic producers' end-of-period inventories increased from 52,506 short tons in 1994 to 73,340 short tons in 1998, or by 39.7 percent.[15] Interim data show a slight decline, from 79,996 short tons in interim 1998 to 79,639 short tons in interim 1999, or by 0.4 percent.[16] In addition, the ratio of end-of-period inventories to U.S. shipments for domestic producers increased over the POI, from 8.6 percent in 1994 to 11.5 percent in 1998.[17] Interim data also show an increase in this ratio, from 10.3 percent in interim 1998 to 15.0 percent in interim 1999, reflecting the sharp decline in U.S. shipments between interim periods.[18]

Ending inventories of total imports in the U.S. also increased over the POI, albeit from low levels. For all imports, inventories increased from 1,591 short tons in 1994 to 6,251 short tons in 1998, *i.e.* almost

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[11] We further note in this regard that, as measured by value, the share of U.S. apparent consumption held by domestic producers increased slightly from *** percent in 1994 to *** percent in 1997, and then declined to *** percent in 1998; between interim 1998 and interim 1999, this measure of domestic producers' U.S. market share declined from *** percent to *** percent. Table C-1, Report at C-3 (adjusted). Commensurately, as measured by value, total import market share increased from *** percent to *** percent between 1994 and 1998, and was *** percent in interim 1999. *Id.*

[12] Table C-1, Report at C-4 (adjusted).

[13] *Id.* We note that there was no captive production of line pipe in the United States during the POI. *See* Report at II-27.

[14] Table C-1, Report at C-4 (adjusted).

[15] *Id.*

[16] *Id.*

[17] *See id.*

[18] *See id.*

three-fold. Although interim data do show a decline from 4,321 short tons in interim 1998 to 3,017 short tons in interim 1999,[19] ending inventories of total imports still increased 56.3 percent between the latter six months of 1998 and the first six months of 1999.

The record thus indicates significant increases in inventories for U.S. producers, particularly when measured as a ratio of U.S. shipments, as well as a substantial percentage increase in inventories of total imports, over the POI.

Fourth, with regard to *production*, we note that production of line pipe by U.S. producers increased from 635,815 short tons in 1994 to 881,946 short tons in 1997, an increase of 38.7 percent; between 1997 and 1998, however, U.S. production decreased 24.0 percent to 669,876 short tons.[20] Interim data also evidence a sharp decline in U.S. production, from 412,872 short tons in interim 1998 to 282,247 short tons in interim 1999, a decrease of 31.6 percent.[21]

By way of reference, apparent U.S. consumption increased from *** short tons in 1994 to *** short tons in 1997, or by *** percent.[22] Apparent U.S. consumption then declined in 1998 by *** percent, to *** short tons.[23] Between interim 1998 and interim 1999, however, apparent U.S. consumption declined by *** percent, from *** short tons to *** short tons.[24]

The record thus indicates that declines in apparent U.S. consumption do not account for the entirety of the sharp decreases in U.S. production evidenced during the latter part of the POI.

Fifth, with regard to *profits*, we note that the industry as a whole reported an operating loss of $1.7 million in 1994; subsequently, the industry became progressively profitable, to the point where it posted an operating profit of $34.7 million in 1997.[25] The profitability of the domestic industry then began to deteriorate, with aggregate operating profits declining to $10.8 million for all of 1998.[26] Interim 1998 data show an operating profit of $13.5 million, which indicates an operating loss of $2.7 million for the latter

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[19] *Id.*

[20] Table C-1, Report at C-4 (adjusted).

[21] *Id.* The record further indicates that the domestic industry's capacity utilization rate increased from 60.2 percent in 1994 to 74.0 percent in 1997, before declining to 58.9 percent in 1998; interim data show a decline from 62.9 percent in interim 1998 to 39.8 percent in interim 1999. *Id.* We note that average annual capacity declined 4.6 percent between 1997 and 1998, before increasing roughly 8.0 percent between interim 1998 and interim 1999. *See id.* Thus, although the decline in capacity utilization between interim periods is due in part to an increase in total capacity, the same cannot be said of the decline in capacity utilization between 1997 and 1998. Moreover, even when the increase in capacity between interim periods is taken into account, there remains a significant decline in capacity utilization; for example, even if interim 1999 capacity remained at the same level as in interim 1998, based upon interim 1999 production the domestic industry's capacity utilization rate would have been only 43.0 percent. *See id.*

[22] Table C-1, Report at C-3 (adjusted).

[23] *Id.*

[24] *Id.*

[25] Table C-1, Report at C-4 (adjusted).

[26] *Id.*

half of 1998.[27] This financial deterioration accelerated significantly, with the industry as a whole sustaining an operating loss of $12.8 million in interim 1999.[28] [29]

These trends are reflected in the number of individual firms reporting operating losses during the POI. In 1994, seven responding firms reported operating losses; this declined to only one firm in 1997 before increasing to five firms in 1998 and ten firms in interim 1999.[30] In other words, over 71 percent of responding firms (accounting for over 75 percent of domestic production during interim 1999), reported operating losses for interim 1999.[31] We find significant the fact that the domestic industry's aggregate operating loss during the first six months of 1999 was more than seven times the operating loss evidenced for full year 1994, and that in interim 1999, for the first time during the POI, a majority of the individual members of the domestic industry sustained operating losses.[32] The magnitude and rapid acceleration of the domestic industry's operating losses during the latter part of the POI contribute significantly to our determination that the domestic line pipe industry currently is in a vulnerable state.

Sixth, with regard to *wages, productivity, and employment in the domestic industry*, we note that wages paid increased from $46.6 million in 1994 to $67.9 million in 1997, or by 45.6 percent, before declining 20.0 percent in 1998, to $54.3 million.[33] Between interim 1998 and interim 1999, wages paid declined 33.2 percent, from $32.4 million to $21.6 million.[34] Hourly wages paid, however, increased from $18.00 in 1994 to $20.11 in 1997, and $20.57 in 1998.[35] Between interim 1998 and interim 1999, hourly wages declined from $20.26 to $19.15.[36] On the whole, then, recent declines in wages paid appear largely attributable to significant declines in employment levels within the domestic industry.

Specifically, between 1994 and 1997, the number of production and related workers ("PRWs") increased from 1,234 to 1,519 (or by 23.1 percent), and hours worked increased by 30.4 percent.[37] Between 1997 and 1998, however, the number of PRWs declined from 1,519 to 1,286 (or by 15.3 percent),

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[27] *See id.*

[28] *Id.* These trends are similarly reflected in the operating margins attained by the domestic industry. Specifically, the domestic industry's operating margin increased from negative 0.6 percent in 1994 to 8.1 percent in 1997, before declining to 2.9 percent in 1998; interim data show a decline from 6.7 percent in interim 1998 to negative 11.4 percent in interim 1999. *Id.*

[29] The record thus reflects a $23.6 million absolute decline in the fortunes of the domestic industry between calendar year 1998 and interim 1999, with the operating results for interim 1999 entirely offsetting the operating results posted for calendar year 1998. Contributing to this decline was the bankruptcy of Geneva Steel in the first quarter of 1999. Report at II-24.

[30] Table 9, Report at II-34.

[31] *See* Table 11, Report at II-37 to II-45 (indicating that 10 out of 14 responding firms posted operating losses in interim 1999).

[32] *See id.*

[33] Table C-1, Report at C-4 (adjusted).

[34] *Id.*

[35] *Id.*

[36] *Id.*

[37] *Id.*

and hours worked declined by 21.8 percent.[38] Interim data show even greater declines: between interim 1998 and interim 1999, the number of PRWs declined from 1,476 to 1,055 (or by 28.5 percent), and hours worked declined by 29.3 percent.[39]

We further note that, as measured by short tons per hour, productivity increased by 6.4 percent between 1994 and 1997, from 245.5 short tons to 261.2 short tons.[40] Productivity then declined by 2.8 percent in 1998, to 253.8 short tons. Between interim 1998 and interim 1999, productivity declined by 3.6 percent, from 258.7 short tons to 249.4 short tons.[41] In addition, unit labor costs (per short ton) increased from $73.32 in 1994 to $76.98 in 1997, and $81.06 in 1998.[42] Between interim 1998 and interim 1999, however, unit labor costs declined from $78.32 to $76.78.[43]

We find that the foregoing record evidence demonstrates significant declines in wages, productivity, and employment in the domestic industry during the latter portion of the POI, and that these data further demonstrate that the domestic industry currently is in a vulnerable state.

Seventh, with regard to *capital expenditures* for plant and equipment, as well as *research and development ("R&D") expenses*, we note that total capital expenditures for the domestic industry declined 38.8 percent between 1994 and 1997, from $30.1 million to $18.4 million, before increasing 97.1 percent in 1998, to $36.3 million.[44] This sharp increase between 1997 and 1998 appears to be due entirely to ***.[45] Between interim 1998 and interim 1999, total capital expenditures increased by 30.7 percent, from $20.0 million to $26.1 million.[46] This increase between interim periods also appears to be due entirely to ***.[47] We note that capital investment projects in the steel industry generally require long lead times in order to afford sufficient time for project approval, securing of financing, installation, and start-up operations.

In addition, we note that total research and development expenses for the domestic industry declined 45.4 percent between 1994 and 1997, from *** to ***, before declining an additional 7.3 percent in 1998, to ***.[48] Between interim 1998 and interim 1999, R&D expenditures declined by 1.0 percent, from *** to ***.[49]

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[38] *See id.*

[39] *See id.*

[40] *Id.*

[41] *Id.*

[42] *Id.*

[43] *Id.*

[44] Table C-1, Report at C-4 (adjusted).

[45] *See* Report at II-47 to II-49.

[46] Table 13, Report at II-48.

[47] *See* Report at II-47 to II-49.

[48] Table 13, Report at II-48.

[49] *Id.* Excluding the capital expenditures of ***, the record evidences a *** percent decline in capital expenditures between interim periods for the remainder of the domestic industry. *See id.*

The foregoing record evidence demonstrates a general trend of declining R&D expenses and fluctuating capital expenditures during the POI. Although capital expenditures did increase between 1997 and 1998, and between interim 1998 and interim 1999, such increases appear entirely due to ***. Absent the expenditures by ***, total capital expenditures evidence a precipitous drop between interim periods. We find that declining trends in capital expenditures and R&D expenses among existing members of the domestic industry[50] further indicate that the domestic industry currently is in a vulnerable state, particularly when viewed against the size and extent of operating losses sustained by individual firms within the domestic industry in interim 1999.

Eighth, we note that the record contains no evidence that the U.S. market is a focal point for the diversion of any exports by reason of restraints on such exports to third country markets.

Ninth, we note in addition that the Commission's Report contains quarterly pricing data for six specific products.[51] These data indicate that domestic prices generally trended upward between the first quarter of 1994 and the latter half of 1997, before trending downward until reaching the lowest levels evidenced during the entire POI in the second quarter of 1999.[52] Indeed, quarterly data indicate that prices in the second quarter of 1999 for each of the six products were between 9.0 percent and 21.0 percent lower than the lowest quarterly price levels evidenced during the period 1994-1998 for these products.[53] These trends are mirrored to some extent in average unit value ("AUV") data for the domestic industry.

Specifically, we note that the average unit value of domestic producers' U.S. shipments increased by 6.1 percent between 1994 and 1997, from $474.74 per short ton to $503.66 per short ton; the AUV for domestic producers increased a further 0.1 percent in 1998, to $504.13 per short ton.[54] Between interim 1998 and interim 1999, however, the AUV for domestic producers declined from $509.70 per short ton to $412.85 per short ton, or by 19.0 percent.[55]

Although the probative value of AUV data may be somewhat limited by differences in product mix, we conclude that when viewed in conjunction with the quarterly pricing data, the magnitude of the decline in AUV's between interim periods (*i.e.* roughly $90 per short ton) is significant notwithstanding any differences in product mix. Based upon the entirety of the record evidence, we find that the financial performance of the domestic industry worsened in the latter half of 1998 and the first half of 1999 due largely to falling prices.

The record reflects a precipitous decline in the financial health and operating performance of the domestic industry beginning in the latter half of 1998 and extending into the first six months of 1999. We

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[50] *See id.*

[51] Tables 27-32, Report at II-89 to II-98.

[52] We note that for four of the products, the highest quarterly price level occurred during the latter half of 1997; as for the remaining two products, the highest quarterly price level for product 5 occurred in the fourth quarter of 1995 and the highest quarterly price level for product 6 occurred in the second quarter of 1998. *See id.; see also* Figures 7-12, Report at II-99 to II-101.

[53] *See* Tables 27-32, Report at II-89 to II-98.

[54] Table C-1, Report at C-4 (adjusted).

[55] *Id.*

find significant the declines in the domestic industry's U.S. market share (as measured by both quantity and value); U.S. shipments; production levels; capacity utilization rates; profitability (as measured by operating income and operating margins, as well as the number of firms posting operating losses and the extent of such losses); employment; wages paid; productivity; R&D expenses; capital expenditures (for a number of domestic producers); and price levels. In addition, we find a significant increase in inventories for U.S. producers, particularly when measured as a ratio of U.S. shipments.

In light of the foregoing evidence and, in particular, the precarious financial condition of the domestic line pipe industry in 1998 and interim 1999 as evidenced by the significant and increasing number of domestic producers that sustained operating losses during these periods as well as the extent of such losses, we find that the indicia discussed above demonstrate that the domestic line pipe industry is threatened with serious injury–that is, we find that serious injury is clearly imminent.

Causation

Statutory framework. The third statutory criterion concerns whether the subject article is being imported in such increased quantities as to be a "substantial cause" of serious injury or threat thereof. The term "substantial cause" is defined in section 202(b)(1)(B) to mean "a cause which is important and not less than any other cause."[56] Thus, increased imports must be both an important cause of the serious injury or threat thereof *and* a cause that is equal to or greater than any other cause.

In determining whether increased imports are a substantial cause of serious injury or threat thereof, the statute instructs that all relevant economic factors be taken into account, including but not limited to "an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers."[57] In addition, the statute directs that the condition of the domestic industry be considered over the course of the relevant business cycle.[58] The statute further directs the Commission to "examine factors other than imports" that may be a cause of serious injury or threat to the domestic industry, and to include such findings in the Commission's report.[59]

Finding. As described below, we find that increased imports of line pipe are both an important cause of the threat of serious injury and a cause that is not less than any other cause. Thus, we find that increased imports of line pipe are a "substantial cause" of the threat of serious injury to the domestic line pipe industry under section 202(b)(1)(B).

–Conditions of competition

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[56] Section 202(b)(1)(B).

[57] Section 202(c)(1)(C).

[58] Section 202(c)(2)(A).

[59] Section 202(c)(2)(B). The legislative history of the Trade Act includes examples of other causes "such as changes in technology or in consumer tastes, domestic competition from substitute products, plant obsolescence, or poor management," which, if found to be more important causes of injury than increased imports, would require a negative determination. *Trade Reform Act of 1974, Report of the Committee on Finance . . . on H.R. 10710,* S. Rep. 93-1298, 93d Cong., 2d Sess. (1974), at 121.

We have considered the relevant conditions of competition in the domestic line pipe market for purposes of our causation analysis. Fifteen domestic producers responded to the Commission's questionnaire; of these, one firm that already produced standard pipe began production of line pipe in 1998, and one new entrant to the U.S. market began line pipe production in 1999.[60] The remaining firms produced line pipe throughout the POI. In total, fourteen of the domestic line pipe producers also manufactured other products such as standard pipe, oil country tubular goods ("OCTG"), and structural pipe, in the same facilities.[61] For the most part, these firms reported that minimal adjustments or modifications to production equipment were necessary to produce other types of pipe; product mix is determined largely by market demand, and by the fact that not all firms produce pipe in all sizes.[62]

Welded line pipe is used for the transmission of gas, oil, or water, generally in pipeline or utility systems.[63] Welded line pipe intended for use in oil and gas pipelines is generally produced to API specifications, which require higher hydrostatic test pressures and more restrictive weight tolerances than standard pipe, which is produced to ASTM specifications; consequently, line pipe meeting a more restrictive API specification is often dual-stenciled to indicate conformance with both specifications.[64] Although line pipe can be used for the same applications as standard pipe, the reverse is not true unless the standard pipe also meets line pipe specifications.[65] Notwithstanding some differences between the domestic product and imported line pipe, the record indicates a relatively high degree of substitutability between the two.[66]

Because welded line pipe is used to transport gas and oil, demand for welded line pipe is sensitive to changes in gas and oil prices, depending on its use. Welded line pipe is used for gathering, transmitting, and distributing gas and oil, and is most sensitive to changes in gas and oil prices when used for gathering, less sensitive when used for transmitting, and least sensitive when used for distributing, gas and oil.[67] The parties disagree as to the distribution of line pipe consumption among these three end-uses; however, given the more stringent specifications and concomitantly higher cost of line pipe vis-à-vis standard pipe, we rely upon record evidence indicating proportionately greater uses of line pipe for gathering and transmitting gas and oil, as opposed to distributing gas and oil.[68]

Chairman Bragg further notes that the record contains some evidence that most welded line pipe is now being used in gas lines, as opposed to oil lines.[69]

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[60] Report at II-14.

[61] *Id.*

[62] Report at II-26.

[63] Report at II-7.

[64] *Id.*

[65] Report at II-11.

[66] Report at II-79 and II-81.

[67] Report at II-74.

[68] Report at II-75.

[69] Memorandum to File from James Fetzer, Applied Economics Division (Oct. 21, 1999) (stating that ***).

Commissioner Askey further notes that the latter portion of the POI coincided with an unprecedented collapse in the crude oil industry, with prices and production reaching record lows. Crude oil prices were relatively high in 1997 before beginning to slide in early 1998, dropping to their lowest level in late 1998 and early 1999 before rebounding.[70] Likewise, the number of rotary oil drilling rigs in operation were at period highs in 1997, began dropping off in early 1998 and reached a deep trough in early 1999 before beginning to climb again.[71] Similarly, data from AISI reporting companies also show both line pipe and OCTG shipments following virtually identical patterns: Shipments of both were strong in 1997 and declined in 1998, reaching their lowest points in very late 1998 and early 1999 before beginning to recover.[72]

With respect to foreign supply in the domestic market, we note in particular that Korea has been by far the largest source of imports into the United States over the course of the POI.[73] Korea accounted for the largest share of imports in each year of the POI, including interim 1999, with the exception of 1996 when Korea had the second largest share.[74] Korean imports are also noteworthy in that they continued to increase during interim 1999, even as imports into the United States from virtually all other countries decreased and apparent consumption in the U.S. declined; the volume of imports from all sources declined by *** percent between interim 1998 and interim 1999, while Korean imports alone rose 5.9 percent between interim periods.[75]

–Analysis of Causation

In the context of the foregoing conditions of competition, we find that the financial performance of the domestic industry sharply worsened in the latter half of 1998 and first half of 1999 due largely to falling prices. For the reasons set forth below, we find that increasing volumes of imports contributed significantly to this price decline, and that future increases in import volume will be the chief cause of further negative effects on the domestic industry's prices, shipment volumes, and financial condition, in the imminent future.

First, we find that increased imports are an important cause of the threat of serious injury to the domestic line pipe industry. Subject imports into the United States increased *** percent in actual terms between 1994 and 1998, although interim data indicate a decline of *** percent between interim 1998 and interim 1999.[76] Notwithstanding this decline between interim periods, subject imports during the first six months of 1999 exceeded the total annual import volume registered in either 1995 or 1996, and are well over half the total annual import volume registered in either 1994 or 1997.[77] Total import market share in

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[70] Figure 3, Report at II-77.

[71] Staff Memorandum, INV-W-247 (Oct. 27, 1999).

[72] *Id.*

[73] *See* Table C-1, Report at C-3 to C-4 (adjusted).

[74] *See id.*

[75] *See* Table C-1, Report at C-4 (adjusted).

[76] *See id.* Although the total volume of subject imports declined between interim periods, subject imports from Korea, the largest import source in the U.S. market, increased 5.9 percent between interim 1998 and interim 1999, after more than doubling between 1997 and 1998. *See id.*

[77] *See id.*

the U.S. increased from *** percent to *** percent between 1994 and 1998. After having declined in 1995 and 1996, imports surged between 1997 and 1998, jumping from *** percent U.S. market share in 1997 to *** percent in 1998.[78] Between interim periods, total import market share increased from *** percent in interim 1998 to *** percent in interim 1999.[79] This increased presence of imports in 1998 and interim 1999 coincided with declines in the domestic industry's financial performance, particularly in interim 1999.

We note that the Commission collected quarterly pricing data for six products. Pricing data compiled in the Commission Report permit a total of 276 quarterly pricing comparisons between domestic and imported products during the POI, of which there are 226 instances where the imported product undersold the domestic product (*i.e.* underselling is evidenced in about 82 percent of comparisons).[80] Data for 1998 and interim 1999 alone permit 80 pricing comparisons, of which 57 indicate underselling (*i.e.* a 71.3 percent incidence of underselling).[81] In particular, the record permits 33 quarterly pricing comparisons between the domestic product and imports from Korea, of which 29 indicate underselling (*i.e.* an 87.9 percent incidence of underselling).[82]

Although of somewhat less probative value when viewed in isolation (due to possible differences in product mix), we also note that the average unit value of total subject imports in the U.S. market increased by *** percent between 1994 and 1997, from *** per short ton to *** per short ton, before declining by *** percent in 1998, to *** per short ton.[83] Between interim 1998 and interim 1999 the AUV of total subject imports declined from *** per short ton to *** per short ton, or by *** percent.[84] Coupled with evidence of pervasive underselling, we find that low-priced subject imports exacerbated the magnitude of U.S. price declines that may otherwise have occurred during the latter part of the POI as a result of significantly declining apparent U.S. consumption.[85]

As noted, there is a relatively high degree of substitutability between imported line pipe and the domestic product.[86] Thus, given the importance of maximizing production in order to spread fixed costs over the broadest possible production base in a capital-intensive industry such as this, domestic line pipe producers are constrained to lower prices in response to the availability of lower-priced imports (as long as variable costs are still being covered)[87] in order to maintain or limit the loss of market share. This is particularly true in a market characterized by sharply declining apparent consumption, as is evidenced between interim periods in this investigation.

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[78] Table C-1, Report at C-3 (adjusted).

[79] *Id.*

[80] Report at II-103.

[81] *See* Tables 27-32, Report at II-89 to II-98.

[82] *Id.*

[83] Table C-1, Report at C-4 (adjusted).

[84] *Id.*

[85] *See* Table C-1, Report at C-3 (adjusted) (apparent U.S. consumption declined *** percent between interim 1998 and interim 1999).

[86] Report at II-79 and II-81.

[87] For example, although *** began production of welded line pipe in January 1999, the company ***. Report at II-14, II-31, and II-49.

We are satisfied that domestic prices for line pipe have declined to the point where the domestic industry is clearly threatened with serious injury, and if sustained,[88] will quickly result in serious injury; furthermore, in light of the import trends evidenced in the record, and in particular the substantially increased U.S. market share captured by subject imports by the end of the POI, we find that increased imports are an important cause of this threat of serious injury. We note in this regard that domestic producers have experienced a disproportionate decline in sales relative to imports in the face of declining apparent consumption over the latter portion of the POI.[89] Thus, even in the event of an increase in apparent U.S. consumption, the substantially increased presence of predominantly lower-priced subject imports in the U.S. market, and the likely increase in such imports if consumption increases, will significantly curb the potential benefit to the domestic industry that would otherwise result from any such increase in consumption.

Although we find that the existing increase in imports is a cause no less than any other cause of the threat of serious injury to the domestic line pipe industry, we further find that, notwithstanding the decline in subject import volume evidenced between interim periods, subject imports are likely to increase in the foreseeable future. In this regard, we note that there is significant unused capacity projected to be available in 1999 and 2000 among foreign line pipe producers located in Korea, Japan, United Kingdom, Venezuela, and Turkey.[90] Chairman Bragg further notes that there is significant unused capacity projected to be available in 1999 and 2000 among foreign line pipe producers in Mexico.[91]

Indeed, projected unused capacity for the foregoing six countries in 1999 is equivalent to roughly 32 percent of apparent U.S. consumption in 1998; excluding the projection for Mexico, the figure is about 24 percent.[92] Similarly, projected unused capacity for the foregoing six countries in 2000 is equivalent to roughly 22 percent of apparent U.S. consumption in 1998; excluding the projection for Mexico, the figure is about 16 percent.[93] At a minimum, then, we find a very real potential for increased imports from these sources, notwithstanding the modest decline in import volume evidenced between interim periods.

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[88] We note that several domestic producers have announced price increases in 1999. Report at II-88 n.118. We further note, however, that most of these price increases were to have taken effect in August 1999, which coincides with the imposition of antidumping duties on imports of hot-rolled steel from Japan and is generally contemporaneous with the entry into effect of suspension agreements covering hot-rolled steel imports from Brazil and Russia. *See* 64 Fed. Reg. 38642 (July 19, 1999); 64 Fed. Reg. 38792 (July 19, 1999); 64 Fed. Reg. 38797 (July 19, 1999); 64 Fed. Reg. 34778 (June 29, 1999). Hot-rolled carbon steel is the main raw material used in the production of line pipe. Report at II-84. We are persuaded that, to the extent any such announced price increases may have "stuck" in the marketplace, they are attributable in significant part to anticipated increases in raw materials costs by domestic producers.

[89] Although apparent U.S. consumption declined *** percent between interim periods, *see* Table C-1, Report at C-3 (adjusted), domestic shipments declined 31.7 percent while subject imports declined only *** percent. *See id.* at C-4 (adjusted).

[90] We also note that monthly import data show an increase in imports toward the end of interim 1999. Staff Memorandum, INV-W-247 (Oct. 27, 1999).

[91] *See* Tables 14-16 and 19-21, Report at II-51 to II-57 and II-65 to II-69.

[92] *See id.*

[93] *See id.*

Second, we find that increased imports are not less important than any other cause of the threat of serious injury to the domestic line pipe industry. In this regard, we have considered each of the alternative explanations posited by respondents for the deteriorating condition of the domestic line pipe industry, *i.e.* a downturn in the oil and gas industries; competition between U.S. producers; changes in the market for OCTG; declining U.S. export shipments; increases in allocated overhead and SG&A for the domestic industry; and, decreases in raw material costs. Upon review, we find that none of these is more important than increased imports in causing the threat of serious injury to the domestic industry.

Respondents argue that the principal cause of any injury to the domestic industry was the recent glut in the supply of oil and the associated decline in oil prices; according to respondents, these factors resulted in reduced oil and gas drilling activity and hence a reduced demand for line pipe, which caused prices to decline for line pipe in the U.S. market.[94] Respondents further argue that with the recent improvement in oil prices and increased gathering and transmission activity both in the U.S. market and globally, the prospects for the domestic line pipe industry are good and thus the domestic industry is not threatened with serious injury.[95]

We note that prices for crude oil and natural gas began declining in late 1997 through the end of 1998, before recovering somewhat in interim 1999.[96] Coinciding with these price declines were declines in crude oil and natural gas production.[97] The decline in natural gas production over this period, however, was significantly less than the decline in crude oil production.[98] Respondents argue that conditions in the oil and gas industries have been the predominant cause of any deterioration in the domestic industry's financial condition; this argument rests in large part on the unprecedented collapse in crude oil prices and crude oil production activity evidenced during the latter portion of the POI.

Chairman Bragg is not persuaded that, given the modest decline in natural gas production evidenced over the latter portion of the POI, the downturn in the oil and gas industries is a more important cause of threat of injury to the domestic industry than increased imports. Chairman Bragg notes that record evidence indicates most welded line pipe is now being used to transport natural gas, rather than oil.[99] Chairman Bragg further notes that prices for both crude oil and natural gas have rebounded in 1999, possibly presaging an increase in domestic line pipe consumption. Thus, recent events indicate that conditions in the oil and gas industries do not pose a threat of serious injury to the domestic line pipe industry; rather, as noted, Chairman Bragg finds that it is the significant increase in subject import volume, and likely increase in import volume, which chiefly threaten serious injury to the domestic industry, even in the face of increased domestic line pipe consumption.

Commissioner Askey notes that although the record contains mixed evidence concerning the relative effects of the gas and oil industries on the line pipe industry, the collapse in crude oil prices and production coincided with recent declines in the domestic line pipe industry. She sees the close correlation

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[94] Prehearing Brief of Japanese and Korean Respondents (Injury) at 36, (Sept. 24, 1999).

[95] *See* Post-Hearing Brief of Japanese and Korean Respondents (Injury) at 71, (Oct. 6, 1999).

[96] *See* Figure 3, Report at II-77.

[97] *See* Figure 4, Report at II-77.

[98] *See* Figures 4 and 5, Report at II-77 and II-78.

[99] Memorandum to File from James Fetzer, Applied Economics Division (Oct. 21, 1999) (stating that ***).

between trends in the oil industry and in the line pipe industry throughout the POI as a strong indicator that oil industry declines have been a significant cause of the domestic industry's current condition. Prices for both crude oil and natural gas have rebounded in 1999, presaging an increase in domestic line pipe consumption. Thus, recent events indicate that current conditions in the oil and gas industries do not pose a threat of serious injury to the domestic line pipe industry; rather, as noted, she finds that it is the significant increase in subject import volume, and likely increased import volume, which constitute a substantial threat of serious injury to the domestic industry, even in the face of increased domestic line pipe consumption.

–Other Proposed Alternative Causes

With regard to the remaining alternatives posited by respondents, we note initially that these arguments are directed more to the question of whether the domestic industry has suffered present serious injury, and do not directly implicate our threat analysis. Nevertheless, to the extent that: *(i)* competition between domestic producers; *(ii)* changes in the market for OCTG; *(iii)* declines U.S. line pipe export shipments; *(iv)* increases in allocated overhead and SG&A; and, *(v)* declines in raw materials costs,[100] may have adversely impacted the domestic line pipe industry during the latter portion of the POI, the evidence of record which indicates a rebound in the oil and gas industry (and concomitant increase in the demand for welded line pipe) suggests to us that none of these factors will serve as a cause of serious injury to the domestic industry in the imminent future.

–Conclusion

In conclusion, we find that the increased imports are an important cause, and a cause no less important than any other cause, of the threat of serious injury to the domestic line pipe industry. Our finding is based upon the increase in imports that has already occurred and which we find likely to continue, the increase in the share of the domestic market taken by imports, the depression of line pipe prices due in large part to the increase in imports, and our certainty that the increased imports will have a serious negative effect on the volume and prices of the domestic industry's sales of line pipe. In short, we are satisfied that serious injury, although not yet existing, is clearly imminent if import trends continue unabated.[101]

Findings with Respect to NAFTA Country Imports

Statutory framework. Section 311(a) of the NAFTA Implementation Act[102] provides that if the Commission makes an affirmative injury determination in an investigation under section 202 of the Trade

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[100] The main raw material used in the production of welded line pipe is hot-rolled carbon steel. The price of this raw material increased by roughly 12 percent between 1994 and mid-1995, before declining by roughly the same amount between mid-1995 and mid-1998; the price continued to decline by over 10 percent between mid-1998 and mid-1999. *See* Report at II-84. As noted, however, the imposition of antidumping duties on imports of hot-rolled steel from Japan and the entry into effect of suspension agreements covering hot-rolled steel imports from Brazil and Russia during the summer of 1999 may presage increased raw materials costs for domestic line pipe producers. *See supra* n.88.

[101] *See Trade Reform Act of 1974, Report of the Committee on Finance . . . on H.R. 10710*, S. Rep. 93-1298, 93d Cong., 2d Sess. (1974), at 121.

[102] 19 U.S.C. § 1371(a).

Act, or if the Commission is equally divided, the Commission must also find whether (1) imports of the article from a NAFTA country, considered individually, account for a substantial share of total imports; and (2) imports of the article from a NAFTA country, considered individually or, in exceptional circumstances, imports from NAFTA countries considered collectively, contribute importantly to the serious injury, or threat thereof, caused by imports. Section 311(b)(1) states that imports from a NAFTA country "normally" will not be considered to account for a substantial share of total imports if that country is not among "the top 5 suppliers of the article subject to the investigation, measured in terms of import share during the most recent 3-year period." Section 311(c) defines "contribute importantly" to mean "an important cause, but not necessarily the most important cause." In determining whether imports have contributed importantly to the serious injury or threat, the Commission is directed to consider "such factors as the change in the import share of the NAFTA country or countries, and the level and change in the level of imports from a NAFTA country or countries.[103] Imports from a NAFTA country or countries "normally" will not be considered to contribute importantly to the serious injury or threat "if the growth rate of imports from such country or countries during the period in which an injurious increase in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period."[104]

Findings by Chairman Bragg: I find that imports of welded line pipe from Canada account for a substantial share of total imports but do not contribute importantly to the threat of serious injury to the domestic industry. First, I note that Canada was the *fourth* largest source of subject imports in 1996, the eighth largest in 1997, and the sixth largest in 1998; interim data indicate that Canada was the sixth largest source of subject imports in interim 1998, and the *fifth* largest source in interim 1999.[105] Based upon the foregoing, I find that Canada accounted for a substantial share of total line pipe imports.

I further find, however, that imports from Canada do not contribute importantly to the threat of serious injury to the domestic line pipe industry. In this regard, I note that Canada accounted for *** percent of total imports in 1994, *** percent in 1995, *** percent in 1996, *** percent in 1997, and *** percent in 1998; interim data indicate that Canada accounted for *** percent of total imports in interim 1998, and *** percent in interim 1999.[106] Thus, since 1996, imports from Canada have constituted a diminishing portion of total imports, and currently account for only a minimal portion of total imports.[107] Those imports which have entered the United States from Canada during the POI appear to have been priced higher than other comparable imports.[108] In addition, I note that total capacity in Canada is projected to decline from *** short tons in 1998 to *** short tons in both 1999 and 2000.[109] Based upon

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[103] Section 311(b)(2) of the NAFTA Implementation Act.

[104] *Id.*

[105] *See* Table C-1, Report at C-3 and C-4 (adjusted).

[106] *See* Table 3, Report at II-19 to II-21.

[107] Indeed, the largest absolute volume of imports from Canada in any one year occurred in 1994, the first year of the POI. *See id.* at C-3.

[108] *See* Table 27, Report at II-89 to II-90.

[109] *See* Table 18, Report at II-63.

the foregoing, I find that imports from Canada do not contribute importantly to the threat of serious injury to the domestic line pipe industry.[110]

With regard to Mexico, I find that imports of welded line pipe from Mexico account for a substantial share of total imports, and do contribute importantly to the threat of serious injury to the domestic industry. First, I note that the record indicates that Mexico has been among the top five sources of subject imports during each year of the period 1996-1998, as well as during interim 1999.[111] Accordingly, I find that imports from Mexico account for a substantial share of total imports.

Second, I note that although subject imports from Mexico increased 107 percent in absolute terms between 1994 and 1998, Mexican imports did decline 28.4 percent between interim 1998 and interim 1999; in comparison, total imports increased *** percent between 1994 and 1998, and declined *** percent between interim 1998 and interim 1999.[112]

Pursuant to the NAFTA Implementation Act, imports from a NAFTA country "normally" will not be considered to contribute importantly to serious injury or the threat thereof if the growth rate of imports from that country during the period in which an injurious increase in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period.[113] Although the increase in imports from Mexico outpaced the increase in imports from all sources between 1994 and 1998, between interim periods imports from Mexico declined to a greater extent than did imports from all sources.

More significant, in my view, is the fact that Mexico was the second largest source of subject imports (next to Korea) in 1996, 1998, and both interim 1998 and interim 1999; in addition, Mexico was the largest single source of imports in 1997.[114] Also significant is the fact that annual production capacity in Mexico has been quite large, vacillating between roughly 225,000 short tons and 254,000 short tons during the POI; moreover, although capacity in Mexico is projected to remain above 240,000 short tons in both 1999 and 2000, capacity utilization is projected to be only 67.3 percent in 1999 and 75.1 percent in 2000.[115] Notably, subject imports from Mexico in both 1999 and 2000 are projected to exceed the annual import volume evidenced in 1998.[116] Consequently, I find that Mexico will remain a significant source of line pipe imports both in the imminent future and beyond.

In light of my determination that U.S. prices for welded line pipe have been depressed due in large part to the increase in imports, and that imports will likely continue to increase and will have a substantial negative effect on the volume and prices of the domestic industry's sales of line pipe (thereby causing further financial deterioration in a domestic industry which has already sustained a significant aggregate

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[110] Accordingly, Chairman Bragg would have reached the same conclusion in this investigation had she excluded subject imports from Canada in evaluating whether line pipe imports are a substantial cause of the threat of serious injury to the domestic line pipe industry.

[111] *See* Table C-1, Report at C-3 and C-4 (adjusted).

[112] *Id.*

[113] Section 311(b)(2) of the NAFTA Implementation Act.

[114] *See* Table C-1, Report at C-3 and C-4 (adjusted).

[115] Table 16, Report at II-57.

[116] *Cf.* Table 16, Report at II-57 *with* Table C-1, Report at C-3 (adjusted).

operating loss in interim 1999), I find that imports from Mexico contribute importantly to the threat of serious injury to the domestic line pipe industry, notwithstanding any difference in import trends between interim periods.[117]

Findings by Commissioner Askey: First, I find that Canadian imports, considered individually, did not account for a substantial share of total imports. The statute provides that a country "normally" will not be considered to account for a substantial share of imports if it is not among the top five suppliers in the most recent three year period. Of total imports during 1996-98, Canada represented the seventh largest individual source.[118] Accordingly, Canada was not among the top five sources of imports in 1996-98. I find no other circumstances in the record that would nevertheless compel a finding that Canadian imports made up a significant share of total imports and otherwise contributed importantly to the threat of serious injury to the domestic industry.

Second, I find that while Mexican imports individually account for a substantial share of total imports of line pipe they are not contributing importantly to the threat of serious injury. Mexico was one of the top three suppliers to the United States of line pipe during 1996-98[119] and its imports individually accounted for a substantial share of total imports during that period. However, Mexico's imports are not contributing importantly to the threat of injury to the domestic industry because Mexico's import pattern differs appreciably from that of the other major importing countries.

Overall imports, including those from Mexico, increased after 1995. However, while Mexican imports peaked in 1997 -- at the time when the domestic industry remained profitable and healthy -- and then declined thereafter; imports from each of the other major importing countries peaked in 1998 before declining in interim 1999.[120] Accordingly, because Mexican imports have been declining since 1997 even as imports overall continued to increase substantially,[121] the Mexican import "growth rate" was appreciably lower than that of imports from other countries during 1998 and interim 1999, when overall imports surged and domestic industry performance began to decline. Therefore, I find that Mexican imports should be excluded from the remedy recommendation because Mexican imports do not contribute importantly to the threat of serious injury to the domestic line pipe industry.

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[117] In this regard, I note that pricing comparisons on the record indicate that imports from Mexico predominantly undersell the domestic like product; moreover, the extent of underselling by imports from Mexico is comparable to other sources of low-priced imports. *See, e.g.*, Table 39, Report at II-110.

[118] *See* Table C-1, Report at C-3 (adjusted).

[119] Table C-1, Report at C-3 (adjusted).

[120] The only other exception was Korea, whose import level continued to climb in 1999 even as imports from all other significant sources of imports fell. Table C-1, Report at C-3 (adjusted).

[121] Overall imports increased from *** short tons in 1997 to *** short tons in 1998, a *** percent increase. Table C-1, Report at C-4 (adjusted).

DISSENTING VIEWS OF COMMISSIONER CAROL T. CRAWFORD ON INJURY

Introduction

Pursuant to section 202(b) of the Trade Act of 1974 (Trade Act) (19 U.S.C. 2252(b)), I determine that circular welded carbon quality line pipe ("line pipe") is not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The basis for my negative injury determination is set forth below.

Background

The Commission instituted this investigation effective June 30, 1999, following receipt of a petition filed by eight U.S. line pipe producers and the United Steel Workers of America. The petition alleged that certain line pipe is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or the threat of serious injury to the domestic line pipe industry.

The line pipe subject to this investigation[1] is produced from slit "carbon quality" steel sheets, often referred to as skelp. Carbon quality steel includes certain grades of steel that have been modified through the addition of small amounts of alloying elements but specifically excludes all products, proprietary or otherwise, based on an alloy specification of the American Petroleum Institute (API). The skelp passes through a series of tapered rollers which impart a circular shape. The product is welded along the joint axis, then beveled on either end. The finished pipe is tested, inspected, and certified as meeting the appropriate standards of the API. It is then sold, typically through distributors but also directly to end users, for use in oil and gas pipelines and for gathering lines in oil and gas fields.[2]

Overview

Line pipe is one of several steel tubular products manufactured for the oil and gas industry. Line pipe is used primarily for gathering, transmitting, and, in some instances, distributing oil and natural gas. Other related products include, for example, casing and tubing (oil country tubular goods or OCTG) and standard pipe. Casing and tubing are used in the extraction of oil and gas, while standard pipe is used for low pressure transmission and distribution of liquids or gases. Demand for line pipe and the other related products is dependent upon oil and gas production and transmission as well as the overall health of the U.S. economy.

Line pipe is sold in a highly competitive market characterized by a large number of producers with substantial production capabilities. Producers have capacity dedicated to line pipe production as well as substantial additional capacity in use for the production of other welded tubular products but available to produce line pipe when market conditions warrant. Traditional mills, with a long history in the production and sales of energy-related tubular products, have faced increasing competition from new domestic producers. Some of these new producers are new participants in the industry. Others are producers of related products that have expanded their product lines to include line pipe. The result is that buyers have

[1] Imports of "Arctic grade" line pipe are excluded from the scope of this investigation.

[2] Petitioners estimate that 90 percent of all products that are carbon quality and stenciled to an API specification are used in oil and gas pipelines and for gathering lines in oil and gas fields. *Petition* at 3.

more sources from which to purchase their line pipe. In addition, purchasers have long considered imported line pipe to be an integral part of the U.S. market for energy-related tubular products.[3] In recent years, U.S. purchasers have sourced line pipe from NAFTA-partners Canada and Mexico, as well as Korea, Japan, Germany, and Turkey.

Demand for line pipe grew for much of the period under review. The market absorbed the new and increased production of domestic line pipe and the increased (though fluctuating) volume of imported line pipe. Although the domestic industry's share of the U.S. market varied over the period reviewed, U.S. line pipe producers prospered. U.S. producers increased capacity and production, and added workers. The domestic industry's net sales increased on an annual basis, generating substantial profits and encouraging significant investment.

In 1998, the oil and gas industry experienced drastic price declines, followed by steep reductions in oil and gas production in the United States and elsewhere around the world. Declining oil and gas production quickly deflated the demand for energy-related tubular products, including line pipe. U.S. line pipe producers lost large portions of their domestic and export markets. At the same time, producers of other energy-related tubular products (*e.g.*, OCTG) also lost their markets, and sought to shift some additional production into line pipes. Thus the line pipe market experienced a temporary but intense imbalance in supply and demand in 1998 and into 1999, causing the domestic line pipe industry financial hardship during the period.[4]

The oil and gas industry has now rebounded. Oil and gas prices, drilling activity, and production are up, and with their recovery, demand for line pipe is regaining strength. Domestic line pipe producers have continued their expansion plans, and shipments have increased steadily since the Spring of 1999. Line pipe prices have stabilized and are now rising.

Most industries enjoy a diverse customer base, which helps to insulate them from downturns in any one purchaser industry. Line pipe producers, in contrast, depend upon a single industry for virtually all their sales. When that industry suffers, the line pipe industry necessarily suffers. These effects are similar on imported line pipe. Long in demand by the U.S. oil and gas industry and a significant presence in the U.S. market, imported line pipe cannot itself be viewed as a substantial cause of the domestic industry's financial hardship as defined in the statute.

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[3] In its most recent prior investigation on line pipe (resulting in a negative determination), the Commission found that U.S. imports of line pipe averaged 378,262 short tons between 1984 and 1986, accounting for nearly 44 percent of the U.S. market during that period. *Certain Line Pipes and Tubes from Canada*, Inv. No. 731-TA-375 (Preliminary), USITC Pub. 1965, March 1987, at a-13.

[4] It is clear from previous investigations that the line pipe industry is not immune to the business cycle. In its 1987 investigation of Canadian line pipe, the Commission found that the U.S. industry reported declining prices, idled capacity, a devastated workforce, and consistent and substantial losses in the face of falling demand between 1984 and 1986. *Certain Line Pipes and Tubes from Canada*, Inv. No. 731-TA-375 (Preliminary), USITC Pub. 1965, March 1987, at a-14-17, a-20, and a-30.

Domestic Industry

Statutory Framework and Commission Practice

Section 202(b)(1)(A) of the Trade Act requires that I determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to "the domestic industry producing an article that is like or directly competitive with the imported article." The term "domestic industry" is defined in section 202(c)(6)(A)(i) of the Trade Act to mean "the domestic producers as a whole of the like or directly competitive article or those producers whose collective production of the like or directly competitive article constitutes a major proportion of the total domestic production of such article."

In order to identify the domestic industry, the Commission must identify the domestic article or articles like or directly competitive with the imported article. The phrase "like or directly competitive" is defined in the legislative history of the Trade Act. The term "like" means those articles that are "substantially identical in inherent or intrinsic characteristics (i.e., materials from which made, appearance, quality, texture, etc.)," and the term "directly competitive" means those articles that are "substantially equivalent for commercial purposes, that is, are adapted to the same uses and are essentially interchangeable therefor."[5] In some instances, more than one domestic article may be like or directly competitive with the imported article, in which case the Commission may find that more than one domestic industry is involved in the investigation.

In determining what constitutes the like or directly competitive domestic article, the Commission traditionally has taken into account such factors as the physical properties of the article, its customs treatment, where and how it is made (*e.g.*, whether products are manufactured in separate facilities), its uses, and the marketing channels through which the product is sold.[6] Each of the factors is relevant, but the weight given to each particular factor will depend upon the facts in the specific case. The Commission traditionally has looked for clear dividing lines among possible products, and has disregarded minor variations.[7]

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[5] H.R. Rep. No. 93-571 at 45 (1973); S. Rep. No. 93-1298 at 121-122 (1974).

[6] *See* Views of Chairman Watson and Commissioners Crawford and Bragg in *Fresh Winter Tomatoes*, Inv. No. TA-201-64 (Provisional Relief Phase), USITC Pub. 2881 (April 1995) at I-7.

[7] *See, e.g., Stainless Steel Table Flatware*, Inv. No. TA-201-49, USITC Pub. 1536 (June 1984) at 4-5, where the Commission concluded that differences in weight, length, gauge, grading, finish, knife construction and refinement, alloy of stainless steel used, and price of stainless steel table flatware did not constitute sufficient differences in characteristics to warrant a finding of different like products.

Finding

I find that the article like or directly competitive with the imported article is line pipe commensurate with the scope of the investigation.[8] I have given serious consideration to two product-related issues. First, should the like or directly competitive product encompass two distinct products, (1) high-frequency induction welded (HFI) pipe as defined by the German Respondents and (2) all other welded line pipe? On the basis of the record in this investigation, I concur in both the reasoning and the conclusion of my colleagues that HFI pipe in the size range established by the German Respondents does not constitute a distinct product. Second, should the like or directly competitive product include standard pipe? Unlike my colleagues, I find that the record in this investigation might well justify defining the like or directly competitive product to include both welded standard and line pipe. However, I join my colleagues in concluding that, on balance, the evidence collected in this investigation supports a finding that the article like or directly competitive with the imported article is line pipe. My analysis on this issue follows.

Physical properties: Line pipe is typically produced to the specifications of the API, while standard pipe is produced to various less-exacting specifications of the American Society for Testing and Materials (ASTM). Petitioners estimate that 50 percent of their line pipe shipments are stenciled to both API and ASTM specifications.[9] However, most line pipe is sold in sizes more than 4.5 inches in outside diameter, while most standard pipe is sold in sizes up to 4.5 inches in outside diameter. Line pipe tends to be sold in lengths of 40-45 feet, while standard pipe sales are concentrated in 20-foot lengths. Both types of pipe are frequently sold "black," but standard pipe is also frequently galvanized (especially for fencing applications). While both types of pipes are often sold "plain end," it is not uncommon for standard pipe to be sold "threaded & coupled." Because line pipe is often welded in the field, it is less likely to be sold "threaded & coupled."[10]

Customs treatment: Welded line pipe is provided for in subheadings 7306.10.10 and 7306.10.50 of the HTS. Welded standard pipe is provided for in subheadings 7306.30.10 and 7306.30.50 of the HTS.

Where and how made: Fourteen of fifteen reporting line pipe producers (every company other than ***) manufacture standard pipe on the same production lines and with the same employees that produce line pipe. The same raw material -- skelp -- is used for production and the same principal manufacturing processes are employed: electric resistance welding (ERW) and continuous welding (CW), although CW line pipe is quite limited in volume.[11]

Uses: Welded line pipe is intended for the conveyance of oil and natural gas or other fluids in pipelines. Welded standard pipe is intended for the low temperature and pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air conditioning units,

[8] I do not base my analysis on the Commission's findings regarding the domestic like product in the 1996 antidumping investigations under title VII of the Tariff Act of 1930 (*See Circular Welded Nonalloy Steel Pipe from Romania and South Africa*, Invs. Nos. 731-TA-732 & 733 (Final), USITC Pub. 2973, July 1996, at 5-6). While those investigations covered certain multiple-stenciled pipe, the statutory definitions and factors traditionally considered by the Commission in section 201 actions differ from those in title VII investigations.

[9] *Response to the Questions of Chairman Bragg, Commissioner Crawford, and Commissioner Askey*, submitted by Petitioners on October 12, 1999, at 16.

[10] *Confidential Report* ("CR") at I-6-7, *Public Report* ("PR") at II-5.

[11] CR at I-8-9, PR at II-7.

automatic sprinkler systems, and other related uses.[12] Purchasers report that while line pipe can be used in certain standard pipe applications, standard pipe cannot be used in line pipe applications.[13] Based on Petitioners' estimates and data from the 1996 investigation on welded carbon steel pipe, 10-15 percent of U.S.- produced line pipe is multiple-stenciled pipe sold for standard pipe applications.[14]

Marketing channels: The majority -- 50 to 70 percent -- of domestically produced line pipe is sold to distributors and service centers.[15] Based on the record of the 1996 investigation on welded carbon steel pipe, 84 percent of domestically produced standard pipe was sold to distributors in 1995.[16]

Although information related to production could support a conclusion that standard pipe is like line pipe, U.S. mills manufacture a variety of welded pipe products on the same production lines, not just standard and line pipe. Moreover, purchasers' observations tend to support the view that the two pipe products are not directly competitive. This case presents one-way substitutability, and even that is sporadic. While one-half of U.S.-produced line pipe is multiple-stenciled, implying the potential for substantial equivalence for commercial purposes, only 10-15 percent of line pipe is actually sold for standard pipe applications. On balance, my evaluation of the record in this investigation leads to a conclusion that standard pipe is not like or directly competitive with line pipe. Because I find that the domestic article like or directly competitive with the imported article is limited to line pipe commensurate with the scope of the investigation, I find that the domestic industry consists of all U.S. producers of line pipe.

Increased Imports

Statutory Framework and Commission Practice

The first of the three statutory criteria for an affirmative determination under section 201 is that imports must be entering the United States in "increased quantities." Under section 202 of the Trade Act, increased quantities of imports may be "either actual or relative to domestic production."[17] In determining whether imports have increased, the Commission considers imports from all sources. The Commission traditionally has considered imports over the most recent 5-year period as a framework for its analysis, but may consider longer or shorter periods as it deems appropriate. A simple increase in imports is sufficient to satisfy this statutory requirement.

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[12] Standard pipe is also used for load-bearing applications, scaffolding, fencing, and electrical conduit.

[13] CR at I-11, PR at II-8.

[14] *Petition* at 3; *Circular Welded Nonalloy Steel Pipe from Romania and South Africa*, Invs. Nos. 731-TA-732 & 733 (Final), USITC Pub. 2973, July 1996, at A-3-A-8.

[15] CR at I-10, PR at II-8.

[16] *Circular Welded Nonalloy Steel Pipe from Romania and South Africa*, Invs. Nos. 731-TA-732 & 733 (Final), USITC Pub. 2973, July 1996, at I-9.

[17] Section 202(c)(1)(C).

Finding

I find that imports of line pipe have increased both in actual terms and relative to domestic production. Imports increased from *** short tons in 1994 to *** short tons in 1998, an increase of *** percent. The quantity of imports increased erratically over the years covered by the investigation, declining in 1995 and stabilizing at low levels in 1996, then recovering in 1997 and continuing to increase in 1998. However, imports of line pipe were *** short tons in the first half of 1999, *** short tons less than the quantity of imports in the first half of 1998 (*** short tons).[18]

The ratio of imports to domestic production also increased during the period examined, rising from *** percent in 1994 to *** percent in 1998. The ratio of imports to domestic production rose from *** percent in the first half of 1998 to *** percent in the second half of 1998, then retreated to *** percent in the first half of 1999.[19]

Serious Injury or Threat

Statutory Framework and Commission Practice

The second of the three statutory criteria requires the Commission to determine whether the domestic industry is seriously injured or threatened with serious injury. Section 202(c) of the Trade Act defines "serious injury" as "a significant overall impairment in the position of a domestic industry,"[20] and "threat of serious injury" as "serious injury that is clearly imminent."[21]

The statute directs the Commission to take into account all economic factors that it finds relevant, including but not limited to the following:

> (i) the significant idling of productive facilities in the domestic industry,
> (ii) the inability of a significant number of firms to carry out domestic production operations at a reasonable level of profit, and
> (iii) significant unemployment or underemployment within the domestic industry.[22]

[18] *See* Table I of the addendum to these views. I note that the inclusion in the official imports statistics of nonsubject alloy (including stainless steel) line pipe somewhat overstates the quantity and value of imports subject to this investigation. Moreover, the inclusion of high-value alloy line pipe in the import data contributes to certain anomalies in data derived from quantity and value (*e.g.*, average unit values).

[19] *Compare* the level of U.S. imports calculated above *with* the level of production reported in Table 5, CR at I-27, PR at II-22.

[20] Section 202(c)(6)(B).

[21] Section 202(c)(6)(D).

[22] Section 202(c)(1)(A).

The "significant idling of productive facilities" includes the closing of plants or the underutilization of production capacity.[23] The presence or absence of any of these factors is not necessarily dispositive of the question of injury.[24]

Finding

For reasons set forth below, I find that the domestic industry is not seriously injured and is not threatened with serious injury. That is, I do not find "a significant overall impairment in the position" of the industry, nor do I find that serious injury is "clearly imminent."

The Domestic Industry Is Not Seriously Injured

In determining that the domestic industry is not seriously injured, I considered evidence relating to the specifically enumerated statutory factors, as well as evidence relating to domestic production, sales, inventories, productivity, capital expenditures, and research and development (R&D) expenditures.[25] Some factors demonstrated improvement, while others demonstrated mixed performance. Considered in their entirety, these factors do not indicate that the domestic industry is seriously injured.

No significant idling of productive facilities. The record indicates that the number of mills reporting production of line pipe in the United States increased over the period examined. Thirteen companies operating 16 production facilities produced line pipe in 1994. By 1998, 14 companies operating 17 production facilities were producing line pipe. By early 1999, the domestic line pipe industry consisted of 15 companies operating 18 production facilities.[26] [27]

In addition to establishing new production capacity in the Western United States, several domestic mills invested heavily in the modernization of their domestic plants and equipment. Most notably, IPSCO and Stupp upgraded their line pipe production capabilities in 1997.[28] Over the period examined in this investigation, nine U.S. producers made capital expenditures in excess of $1 million in at least one fiscal

[23] Section 202(c)(6)(B).

[24] Section 202(c)(3).

[25] I address the domestic industry's sales, inventories, capital expenditures, and research and development (R&D) expenditures in detail in my finding that the domestic industry is not threatened with serious injury.

[26] Northwest Pipe, a standard pipe producer, expanded the product line in its Portland, OR, facility to include line pipe in the second half of 1998. Prudential Steel built a new facility in Longview, WA, and began line pipe production in early 1999. CR at I-14, PR at II-11 and *Transcript* at 194 (Mr. Smith, President, Palomar Pipe).

[27] In mid-1999, IPSCO commissioned its new small-diameter welded pipe mill in Blytheville, AR. This facility, which does not yet have its API license, will have an annual production capacity of *** short tons. CR at I-24-26 and n. 67, PR at II-21 and n. 67. LTV shut down its ***-short ton small-diameter standard and line pipe and tube welding line in Cleveland, OH, in mid-1999, then acquired structural tubing producers Copperweld Corp. and Welded Tube Co. of America. CR at I-24, PR at II-21 and *Transcript* at 42 (Mr. Carroll, Vice President and General Manager, LTV).

[28] CR at I-24-26, PR at II-21.

year. Moreover, the trend is continuing. Maverick recently invested in a structural pipe mill that it will relocate and re-engineer to produce several types of tubular products, including line pipe.[29]

Actual production by the U.S. industry tended to follow overall U.S. consumption trends. U.S. mills raised production levels by 5.4 percent between 1994 and 1998, from 635,815 short tons to 669,876 short tons. Production peaked in 1997 at 881,946 short tons. U.S. mills produced 282,247 short tons of line pipe in the first half of 1999 compared to 412,872 short tons in the first half of 1998.[30] Reflecting the extensive capital investment in new facilities and new equipment by U.S. producers over the period examined, the domestic industry increased its productive capacity by 7.6 percent between 1994 and 1998. Mill capacity was 8.0 percent higher in the first half of 1999 than in the first half of 1998. Nominal mill capacity utilization fluctuated markedly, standing at 59-60 percent in 1994, 1996, and 1998 and at 72-74 percent in 1995 and 1997. Capacity utilization was 40 percent in the first half of 1999 compared to 63 percent in the first half of 1998.[31]

The domestic industry is composed of more firms operating more production facilities today than in 1994. The entrance of new producers into the line pipe market, the substantial levels of capital expenditures (especially later in the period examined), the generally-increasing levels of production and capacity, and the absence of any remarkable drop in capacity utilization until the first half of 1999 suggest that there is no significant idling of productive facilities in the industry.

Accordingly, I do not find that there is a significant idling of productive facilities in the industry.

No inability of a significant number of firms to operate at a reasonable level of profit. The domestic industry as a whole reported gross profits in each full fiscal year between 1994 and 1998, before reporting a gross loss for the six-month period January-June 1999.[32] In 1998, 9 of 14 mills reported operating income. Although not as favorable as 1996 and 1997 (when 12 and 13 mills, respectively, reported operating income), 1998 was not divergent from 1994 and 1995 (when 6 and 9 mills, respectively, reported operating income). Most firms in the industry experienced financial difficulties in January-June 1999, with only 4 of 14 mills reporting operating income, but this appears to be a short-term phenomenon rather than a multi-year, ongoing trend.[33] As in the recent *Wire Rod* safeguard investigation, in 1997 many of the firms in the domestic industry (10 of 13) reported their best or second-best operating income of the

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[29] CR at I-24, PR at II-19-21.

[30] Table 5, CR at I-27, PR at II-22. Similarly, apparent U.S. consumption of line pipe increased markedly between 1994 and 1998 (peaking in 1997), before declining sharply in the first half of 1999. *See* Table I of the addendum to these views.

[31] Table 5, CR at I-27, PR at II-22.

[32] Gross profits were $28.3 million in 1998, generally comparable to levels reported in 1995 and 1996, substantially higher than the level reported for 1994 ($11.4 million), but substantially lower than the level reported for 1997 ($51.0 million). U.S. mills reported a gross loss of $5.6 million in the first half of 1999 compared to a gross profit of $21.8 million in the first half of 1998. Table 9, CR at I-34, PR at II-27.

[33] Operating income was $10.8 million in 1998, somewhat lower than the levels reported in 1995 and 1996 ($16-17 million), substantially higher than the level reported for 1994 (a loss of $1.7 million), but substantially lower than the level reported for 1997 ($34.7 million). U.S. mills reported an operating loss of $12.8 million in the first half of 1999 compared to operating income of $13.5 million in the first half of 1998. Table 9, CR at I-34, PR at II-27.

period examined. Moreover, in many ways the domestic industry's performance in fiscal year 1998 was comparable to its performance in 1995 and 1996. It was clearly superior to the results for 1994.

The first half of 1999 was a difficult period for U.S. producers, as was the second half of 1998. However, the recent poor performance of the domestic industry essentially reflects only a one-year decline. The data on the record therefore do not indicate that a significant number of firms in the line pipe industry cannot operate at a reasonable level of profit.

I note that the 1998 operating income on the record may be somewhat misleading. In 1998, Lone Star allocated *** of charges for *** (primarily a reduction in operating its *** in favor of ***). The results of this decision appear to have been felt most keenly in the second half of 1998.[34] This decision had a marked impact on SG&A for the company and for the industry as a whole, reducing the industry's level of operating income to $10.8 million in 1998.[35]

I also note that Geneva Steel temporarily shut down one of its two blast furnaces between December 1998 and September 1999, and filed for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code in February 1999. While I do not discount the negative effects that these actions have had on the company's cost structure and on its employment levels, I find that they reflect the competitive conditions faced by Geneva Steel in its primary markets of hot-rolled sheet and cut-to-length plate.[36]

Thus, I find that the financial situation indicated by the 1999 data reflects a temporary condition and the overall profitability in 1998-99 to be understated and misleading. Based on this record, I do not find that a significant number of firms are unable to operate at a reasonable level of profit.

No significant unemployment or underemployment. I similarly do not find evidence of significant unemployment and underemployment in the industry. The number of workers increased each year between 1994 and 1997, increasing from 1,234 to 1,519, then decreased in 1998 to 1,286 (a net increase of 4.2 percent (52 workers) between 1994 and 1998). The number of workers employed in the first half of 1999 was 28.5-percent lower than the number of workers employed in the first half of 1998: 1,055 as compared to 1,476.[37] The number of hours worked and wages paid exhibited similar trends, peaking in 1997 and declining in 1998 and the first half of 1999. I also do not find evidence of significant underemployment. Worker productivity fluctuated in a generally-upward trend from 246 tons per 1,000 hours in 1994 to 254 tons per 1,000 hours in 1998. The number of hours worked per worker over the course of a year exceeded 2,000 throughout the period examined, rising to 2,223 in 1997 before retreating to 2,053 in 1998. The

[34] *Compare* the ratio of SG&A expenses to sales for fiscal year 1998 *with* that of Jan.-June 1998. Table 11, CR at I-39, PR at II-28.

[35] Moreover, it is likely that this change in operating procedure had an impact on Lone Star's COGS (***). *See* CR at I-31 n.71; I-34; I-38; I-41; and I-43, PR at II-25-28.

[36] *See, e.g., Transcript* at 51-52 (Mr. Johnsen, Executive Vice President and General Counsel, Geneva Steel) and CR at I-32, PR at II-25.

[37] Table 8, CR at I-30, PR at II-24.

number of hours worked per worker in the first half of 1999 was comparable to the number of hours worked in the first half on 1998.[38]

In sum, the evidence does not show a "significant overall impairment" in the position of the industry. The domestic industry expanded through the addition of new producers in late 1998 and early 1999. Production rose between 1994 and 1998, and there is no evidence of a significant idling of productive facilities or significant unemployment or underemployment. Capital expenditures have resulted in increased capacity. Subsequent to 1994, the overall financial performance of the domestic industry was generally positive, with the exception of performance in the second half of 1998 and the first half of 1999. However, these financial results represent only a one-year decline (following an extremely strong 1997 performance), likely reflect a temporary situation, and likely understate the health of the domestic industry. As a result, and consistent with the overall record, I do not find that the U.S. line pipe industry is seriously injured.

The Domestic Industry Is Not Threatened With Serious Injury

In considering whether the industry is threatened with serious injury, I considered the statutory threat factors:

> (i) a decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, productivity, or employment (or increasing underemployment) in the domestic industry,
> (ii) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development,
> (iii) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets.[39]

I find that these factors do not indicate any clearly imminent threat of serious injury.

Mixed trends in sales. From 1994 to 1998, the domestic industry's net sales increased irregularly in both quantity and value. Net sales quantity fluctuated during the period examined but rose overall, from 628,286 short tons in 1994 to 728,416 short tons in 1998. Net sales value also fluctuated, rising from $294.1 million in 1994 to $370.2 million in 1998. However, while the quantity of net sales rose by 15.9 percent and the value of net sales rose by 25.9 percent between 1994 and 1998, the level of net sales was markedly lower in the first half of 1999 compared to the first half of 1998. The quantity of net sales in the first half of 1999 was 31.3-percent lower than in the first half of 1998, and the value of net sales in the first half of 1999 was 44.4-percent lower than in the first half of 1998.[40] Overall, these data show mixed trends. Furthermore, after facing declining sales in the second half of 1998 and the first half of 1999, several

[38] Calculated from Table 8, CR at I-30, PR at II-24.

[39] Section 202(c)(1).

[40] Table 9, CR at I-34, PR at II-27.

producers recently have announced price increases that have already begun to take effect.[41] In addition, the volume of U.S. mill shipments of line pipe stabilized during the first half of 1999 and has been recovering notably since April 1999.[42]

Fluctuating market shares. The market share held by U.S. mills increased between 1994 and 1995, but declined throughout the remainder of the period examined. U.S. mills held about *** percent of the market in 1998 and the first half of 1999, compared to *** percent in 1994 and 1997 and *** percent in 1995 and 1996. Overall, the market share held by U.S. mills decreased by *** percentage points over the period 1994-98, with the largest decline occurring in 1998. The market share held by U.S. mills was *** percentage points lower in the first half of 1999 than in the first half of 1998.[43] However, rising U.S. mill shipments and declining U.S. imports suggest that the U.S. mills are once again tightening their grip on the U.S. market.[44]

Mixed trends in inventories. U.S. mill inventories increased from 52,506 to 73,412 short tons over the period 1994-98, and were equivalent to 11.1 percent of total shipments in 1998. Much of this growth occurred between 1994 and 1995, as inventories held by U.S. mills expanded by more than 20,000 short tons to 73,362 short tons, then fluctuated erratically thereafter. Inventories as of June 1999 were 0.4-percent lower than inventories as of June 1998, and were equivalent to 14.6 percent of annualized sales.[45]

In contrast, only four U.S. importers maintained inventories of imported line pipe in the United States. Such inventories increased unevenly from 1,591 short tons in December 1994 to 6,251 short tons in December 1998, but were 3,017 short tons by June 1999 (compared to 4,321 short tons in June 1998). Importers typically held inventories equivalent to 2-3 percent of the U.S. shipments, except in 1996 (when inventory levels were equivalent to 5.4 percent of U.S. shipments).[46] Foreign manufacturers of line pipe reported holding inventories of 55,019 short tons as of December 1998, a decrease of 11,352 short tons (17.1 percent) from the volume held as of December 1994.[47] [48]

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[41] CR at I-88 n.118, PR at II-55 n. 118. Respondents provided an *American Metal Market* article reporting price increases by Lone Star ($30/ton effective August 1999) as well as correspondence from Lone Star ($25/ton effective November 1999 and $25/ton effective February 2000); Maverick ($50/ton effective August 1999); and Newport Steel ($30/ton effective August 1999). *Posthearing Brief on Injury of the Japanese and Korean Respondents* at exh. 1.

[42] Net shipments of welded line pipe by reporting companies began to decline in May 1998 and fell dramatically between August 1998 and February-March 1999. However, reporting mills recorded sharply higher monthly volumes in April, May, June, July, and August of 1999. *See* Memorandum INV-W-247, compiled by Commission staff from data of the American Iron and Steel Institute.

[43] *See* Table I of the addendum to these views.

[44] Monthly import volumes peaked in September 1998, and have fluctuated in a downward trend since January 1999. Import volumes in August 1999 were the second lowest since September 1996. *See* Memorandum INV-W-247, compiled by Commission staff from data of the U.S. Department of Commerce.

[45] Table 7, CR at I-29, PR at II-24.

[46] Table 22, CR at I-70, PR at II-41.

[47] Tables 14-21, CR at I-51-69, PR at II-32-40.

[48] The data collected in this investigation indicate that line pipe production has been reaching the intended customer base of distributors and end users, rather than being stockpiled by producers or importers. It is less clear

(continued...)

No indication of a threat of material injury based on other economic factors. The domestic industry's production increased irregularly over the period examined, and was 5.4- percent higher in 1998 than in 1994. The level of production in the first six months of 1999 was higher than that of the preceding six months, but well below the robust level of the first half of 1998. Profits fluctuated over the period examined. The industry was profitable in 1995, 1996, 1997, and 1998, but operated at a loss in 1994 and the first six months of 1999. The industry improved its operating performance dramatically in 1995, 1996, and 1997, and maintained a high level of operating income in the first half of 1998, before weakening in the second half of 1998 and the first half of 1999. In sum, the data do not show a sustained downward trend.

Hourly wages rose steadily between 1994 and 1998, climbing from $18.00 to $20.57, an increase of 14.3 percent. Hourly wages were $19.15 during January-June 1999, 5.5 percent lower than during January-June 1998. Total wages paid also peaked in 1998, increasing by 16.5 percent between 1994 and 1998. However, total wages were 33.2 percent lower during January-June 1999 than during January-June 1998. Worker productivity fluctuated in a generally-upward trend from 246 tons per 1,000 hours in 1994 to 254 tons per 1,000 hours in 1998, increasing by 3.4 percent before declining in the first half of 1999. The number of workers increased each year between 1994 and 1997, increasing from 1,234 to 1,519, then decreased in 1998 to 1,286 (a net increase of 4.2 percent (52 workers) between 1994 and 1998). The number of workers employed in the first half of 1999 was 28.5-percent lower than the number of workers employed in the first half of 1998: 1,055 as compared to 1,476. The number of hours worked per worker over the course of a year exceeded 2,000 throughout the period examined, rising to 2,223 in 1997 before retreating to 2,053 in 1998. The number of hours worked per worker in the first half of 1999 was comparable to the number of hours worked in the first half on 1998.[49] These changes in employment and hours worked do not indicate a threat of serious injury.

No evidence of inability to generate adequate capital or maintain R&D expenditures. The evidence does not show that firms in the industry have been unable to generate adequate capital to finance modernization of plants or maintain levels of R&D expenditures. Capital expenditures declined between 1994 and 1996, then increased sharply in 1997 and peaked in 1998 at $36.3 million. Capital expenditures in the first half of 1999 were $26.1 million, 30.7 percent greater than the level of capital expenditures in the first half of 1998. The industry financed $125.5 million of capital expenditures over the period examined, building new mills and expanding and modernizing their domestic plants and equipment. Book value grew markedly from about $100 million during 1994-97 to $128 million in 1998 and $132 million in the first half of 1999. The domestic industry reduced R&D expenditures from $326,000 in 1994 to $178,000 in 1996, then maintained R&D expenditures at a stable level for the remainder of the period examined.[50]

No indication that U.S. market is focal point for diverted exports. Finally, I do not find evidence that the U.S. market is the focal point for the diversion of exports by reason of restraints on exports to or imports in third country markets. Venezuela initiated antidumping actions against imports of welded and

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[48] (...continued)
whether distributors' inventory levels have increased over the period examined. On this issue, I do not rely on inventory data for carbon tubing collected by the Steel Service Center Institute, since such data are reported for pressure, mechanical, and structural tubing, rather than for line pipe.

[49] Calculated from Table 8, CR at I-30, PR at II-24.

[50] Table 13, CR at I-48, PR at II-31. R&D expenditures were *** in 1996 and 1997 and *** in 1998. U.S. producers maintained R&D expenditures at *** in the first half of 1999 compared to *** in the first half of 1998. Id.

seamless line pipe from Japan in April 1999.[51] On June 7, 1999, the U.S. Department of Commerce revoked a countervailing duty against line pipe from Turkey (effective January 1, 2000) because no domestic interested party responded to its notice of initiation by the applicable deadline.[52] No other orders are in place.

Based on the foregoing discussion, I conclude that the domestic industry is not threatened with material injury.

Causation

Even were I to assume, *arguendo*, that the industry is seriously injured or threatened with serious injury, the evidence in the record indicates that increased imports are not a substantial cause of any actual or threatened injury. I find that the decline in demand for pipe in the oil and gas industry is the most important cause of any injury or threat of injury facing the domestic line pipe industry.

Statutory Framework and Commission Practice

The statue's third criterion for an affirmative determination is that the subject merchandise be imported in such increased quantities as to be a "substantial cause" of serious injury or threat thereof. The statutory definition of "substantial cause" is "a cause which is important and not less than any other cause."[53] Thus, the increased imports must be *both* an important cause of the serious injury or threat *and* a cause that is equal to or greater than any other cause.[54]

In determining whether increased imports are a substantial cause of serious injury or threat, the statute requires that I take into account all economic factors that I find relevant, including but not limited to ". . . an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers."[55] The statute further directs me to consider "the condition of the domestic industry over the course of the relevant business cycle."[56] Also, the statute requires me to "examine factors other than imports" that may be a cause of serious injury or threat to the domestic industry and to include such findings in my report.[57]

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[51] CR at I-55 and I-66, PR at II-35 and II-40.

[52] 64 F.R. 30305, June 7, 1999.

[53] Section 202(b)(1)(B).

[54] Section 202(b)(1)(B) defines the term "substantial cause" to mean "a cause" that is important and not less than any other cause, indicating that I am to consider individual causes, and not to combine causes. This interpretation is supported by section 202(c)(2)(A), which provides instruction with respect to how I am to consider the issue of causation in the context of an economic recession. Section 202(c)(2)(A) states that I am to consider the condition of the industry over the course of the business cycle "but may not aggregate the causes of declining demand associated with a recession or economic downturn in the United States economy into a single cause of serious injury or threat of serious injury." Accordingly, I have not combined possible causes into one cause.

[55] Section 202(c)(1)(C).

[56] Section 202(c)(2)(A).

[57] Section 202(c)(2)(B). The legislative history of the Trade Act includes examples of other causes "such as changes in technology or in consumer tastes, domestic competition from substitute products, plant obsolescence, or

(continued...)

Finding

As discussed earlier, imports of line pipe generally increased over the period examined. Imports increased from *** short tons in 1994 to *** short tons in 1998. However, imports of line pipe were *** short tons in the first half of 1999, *** short tons less than the quantity of imports in the first half of 1998 (*** short tons).[58] The ratio of imports to domestic production also increased during the period examined, rising from *** percent in 1994 to *** percent in 1998. The ratio of imports to domestic production rose from *** percent in the first half of 1998 to *** percent in the second half of 1998, then retreated to *** percent in the first half of 1999.[59] The market share held by U.S. mills increased between 1994 and 1995, but declined throughout the remainder of the period examined. U.S. mills held about *** percent of the market in 1998 and the first half of 1999, compared to *** percent in 1994 and 1997 and *** percent in 1995 and 1996.[60]

For purposes of this discussion, I have considered Petitioners' arguments that increased imports are an important cause of injury and there is no cause of injury to the domestic line pipe industry that is more important than increased imports.[61] I have likewise considered the multiple causes of injury alleged by Respondents and otherwise indicated by the record. The various Respondents identify a number of causes of varying degrees of importance. The primary cause of any injury, they assert, is the oil glut that led to declining oil and gas prices, causing reduced drilling and production, which translated into lower demand for line pipe.[62]

I conclude that the decline in demand for welded pipe in the oil and gas industry is the most important cause of any injury or threat of injury facing the domestic industry. This conclusion is based on several considerations.

The U.S. industry producing line pipe is heavily dependent upon its sales in the United States. For the most part, U.S. line pipe producers have been unable to maintain a consistent presence in markets

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[57] (...continued)
poor management," which, if found to be more important causes of injury than increased imports, would require a negative determination. *Trade Reform Act of 1974, Report of the Committee on Finance. . . on H.R.. 10710,* S. Rep. No. 93-1298, at 121 (1974).

[58] *See* Table I of the addendum to these views.

[59] *Compare* the level of U.S. imports calculated above *with* the level of production reported in Table 5, CR at I-27, PR at II-22.

[60] *See* Table I of the addendum to these views.

[61] *Petitioners' Prehearing Brief on Injury* at 26-32.

[62] *See, e.g., Posthearing Brief on Injury of Japanese and Korean Respondents* at 29-37. The Respondents also assert that, while the oil and gas decline was overwhelmingly the principal cause of problems for the domestic industry, other developments, some of which were created by the domestic producers themselves, also caused problems for the domestic industry. These include (1) competition among U.S. producers as they fought for market position in the falling market; (2) changes in the OCTG market that caused U.S. welded line pipe producers to switch production either into or out of OCTG; (3) declines in U.S. producers' export markets, as these markets reacted to oil and gas price declines; (4) increases in allocated overhead and SG&A resulting from declines in overall production; and (5) increases in raw material costs. *Prehearing Brief on Injury of Japanese and Korean Respondents* at 46-49.

outside the United States.[63] Therefore, demand for line pipe in the United States is a primary determinant of the domestic industry's performance. While Petitioners and Respondents recognize this fact, they focus most of their arguments on quantifying the factors that influence demand. While this is helpful, it skirts an issue of central importance -- how much line pipe is being purchased by distributors and end users?

Apparent U.S. consumption of line pipe increased by *** percent in 1995, decreased by *** percent in 1996, increased by *** percent between in 1997, and decreased by *** percent in 1998. Similarly, U.S. shipments of line pipe by the domestic industry increased by 18.1 percent in 1995, decreased by 7.9 percent in 1996, increased by 13.2 percent in 1997, and decreased by 15.0 percent in 1998.[64] As discussed above, the domestic industry showed strong improvement throughout most of this period, until the second half of 1998.

U.S. consumption of line pipe was *** short tons lower in the second half of 1998 than in the first half of 1998. U.S. imports decreased by *** short tons, while U.S. shipments fell by 137,627 short tons. In the first half of 1999, apparent U.S. consumption fell by an additional *** short tons. U.S. shipments of line pipe increased by only 14,540 short tons from the diminished level of the second half of 1998, while U.S. imports decreased noticeably by an additional *** short tons.[65] Thus, for the U.S. industry to have simply maintained its collective output at the same levels as the first half of 1998, virtually all imported line pipe would have had to have been eliminated from the U.S. market.

Declining demand for line pipe in the United States and abroad,[66] coming at a time when U.S. pipe producers were struggling to absorb a sharp reduction in sales of welded OCTG[67] as well as accommodate the entry into the line pipe market of two new producers, had a significant adverse impact on operating performance. Production and sales expenses had to be spread over substantially fewer tons of actual production and sales revenues.[68] Domestic producers faced an unappealing choice in the second half of 1998: accept lower output or reduce prices in order to stimulate production and sales. To complicate matters further, demand conditions in the line pipe market essentially dictated that increased output by

[63] During the period examined, U.S. exports of line pipe typically ranged from 20,000 to 40,000 short tons. The notable exception occurred in 1997, when exports reached 118,791 short tons. Table 6, CR at I-28, PR at II-23. Events in Canada likely contributed significantly. A work stoppage crippled Canadian producer Stelpipe's operations from November 1996 until October 1997, seriously diminishing its ability to supply the Canadian market or to export to the United States. *See* Table 18, CR at I-63, PR at II-39 (reduced home market shipments by Stelpipe) and Table 4, CR at I-25, PR at II-20 (sizable reduction in U.S. imports of Canadian line pipe).

[64] *See* Table I of the addendum to these views.

[65] *See* Table I of the addendum to these views.

[66] As noted above, U.S. exports peaked in 1997 and bottomed out in 1998 and January-June 1999.

[67] Net shipments of welded OCTG products by reporting companies began to decline markedly in May 1998 and collapsed altogether between September 1998 and March 1999. *See* Memorandum INV-W-247, compiled by Commission staff from data of the American Iron and Steel Institute.

[68] *See, e.g.*, Table 10, CR at I-36, PR at II-28. Despite only a modest ($5, or 0.9 percent) decrease in per-ton net sales in fiscal year 1998, per-ton operating income fell by $26, as unit labor, factory overhead, and SG&A expenses increased by 10-20 percent. Per-ton raw material costs remained stable, despite a steep decline in the nominal price of hot-rolled steel in the second half of 1998. Figure 6, CR at I-84, PR at II-51.

individual U.S. producers brought about by price reductions could only come at the expense of other suppliers.[69] As noted earlier, the majority of the U.S. market is supplied by U.S. producers.[70]

The domestic industry began to reduce prices for line pipe in 1998. While prices initially declined modestly in the first or second quarter of 1998, the trend accelerated rapidly beginning in the third quarter of 1998, throughout the fourth quarter of 1998, and into the first half of 1999. Petitioners attribute the decline in U.S. line pipe prices to the suppressing and depressing effects of a "surge" of low-priced imports,[71] but overlook a number of important factors.

First, supply conditions determine how producers respond to a change in demand for their product, and also affect whether producers can institute price increases and make them stick. For example, unused capacity exerts price discipline in a competitive market, because no individual producer can make a price increase stick. Any attempt at a price increase by any one producer would be beaten back by competitors who have available capacity and are willing to sell more at a lower price. As a result of the steep decline in demand for line pipe, the domestic industry's capacity utilization in 1998 stood at 58.9 percent, and declined to 39.8 percent in the first half of 1999.[72] Thus, a substantial share of capacity was unused and available to increase production.

Moreover, the available capacity reported by the domestic industry does not fully reflect the capability of most of the U.S. producers to shift production between and among various forms of welded pipe, particularly standard pipe and OCTG. As noted above, the pronounced decline in demand for OCTG in the oil and gas industry led to a collapse in U.S. shipments of welded OCTG, freeing up capacity and increasing the responsiveness of U.S. producers to changes in the level of demand for line pipe.[73]

In addition, the level of competition in the domestic market has a critical effect on producer responses to changes in the level of demand. A competitive market is one with a number of suppliers in which no one producer has the power to influence price significantly. In the U.S. market, there are at least fifteen companies that produce line pipe, and there is intense competition within the domestic industry.

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[69] Key factors that influence the willingness of purchasers to alter the quantity of their purchases if the price of the product changes are the importance of the product to purchasers and the significance of its cost relative to overall production costs. Demand for line pipe used in gathering lines at the wellhead and in cross-country transmission lines is sensitive to the price of oil and gas, according to virtually all (14 of 15) U.S. producers and most (15 of 20) U.S. importers. Line pipe is a large cost component in petroleum transport products. However, the majority of purchasers indicated there are few substitutes for welded line pipe (seamless pipe and, in some instances, plastic and polyethylene pipe). The limits on the availability and substitutability of alternative products offset the high cost share of line pipe and reduces the elasticity of demand. For this reason, purchasers will not alter significantly the amount of line pipe they buy in response to a general change in the price of line pipe. *See* CR at I-74-79, PR at II-45-47.

[70] Moreover, according to their questionnaire responses, approximately one-half of responding distributors and end users expressed a preference for U.S.-produced line pipe. Many of these companies purchased only domestic line pipe in 1998.

[71] *See, e.g., Petitioners' Prehearing Brief on Injury* at 13, 17-18.

[72] Table 5, CR at I-27, PR at II-22.

[73] The U.S. industry maintains only moderate levels of inventory, but has demonstrated some flexibility in shifting production between U.S. and alternative markets. *See* Tables 6-7, CR at I-28-29, PR at II-23-24. These factors tend to offset each other in evaluating the responsiveness of U.S. producers to changes in demand.

Given the competitive nature of the U.S. industry and the large amount of available capacity, price movements tend to reflect jockeying for market share (as each producer attempts to "fill the mill"). Therefore, one direct consequence of low and declining levels of demand was the price decline that reduced the domestic industry's revenue stream in the first half of 1999. However, I also note that the price decline in line pipe coincided with a steep reduction in the nominal price of hot-rolled carbon steel, which decreased by more than 10 percent between mid-1998 and mid-1999.[74]

Finally, Petitioners attribute the injury suffered by the domestic industry to the lower prices ("underselling") of imported line pipe.[75] However, while price is nearly always important in purchasing decisions, non-price factors that differentiate products determine the value that purchasers receive for the price they pay. If products are close substitutes, their value to purchasers is similar, and thus purchasers will respond more readily to relative price changes. On the other hand, if products are not close substitutes, relative price changes are less important and are therefore less likely to induce purchasers to switch from one source to another.

All producers and most importers agree that domestically-produced and imported line pipe can be used interchangeably.[76] However, even this very general conclusion should be qualified. While all line pipe must meet or exceed API specifications, U.S.-produced line pipe is typically produced to API grades X-42 and above, with approximately one-half of the industry's line pipe sales in 1998 in grades X-52 and above.[77] In contrast, a large share of imported line pipe is only certified to the API standards closest to standard pipe (API 5L-A or 5L-B).[78] Furthermore, imports of German line pipe, which constituted *** percent and *** percent of subject imports in 1997 and 1998, respectively, were comprised primarily of HFI pipe in a size range not produced by the domestic industry. Finally, there are indications that the domestic industry cannot supply high strength and/or heavy-walled pipe available from some importers.[79]

Quality is the primary factor considered by purchasers, followed by price and availability.[80] Several U.S. producers identified lead time, availability, and quality as distinguishing features of domestically produced line pipe, while importers cited quality, meeting severe requirements, availability, technical support, and product range.[81] While all line pipe must meet API specifications, many customers require additional supplier qualifications.

Moreover, as noted above, many purchasers prefer domestic line pipe, and some purchasers will only purchase U.S.-produced pipe. Other purchasers simply expect and accept a price differential between

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[74] Figure 6, CR at I-84, PR at II-51.

[75] *See, e.g., Petitioners' Brief on Injury* at 28.

[76] CR at I-81, PR at II-48.

[77] *See, e.g., Transcript* at 118 (Mr. Schagrin, Counsel for Petitioners, estimating that 75-80 percent of all line pipe used in the United States is in the X-42/X-52 range) and CR at I-75-76 and n. 106 and 109, PR at II-44-45 and n. 106 and 109.

[78] *Posthearing Brief on Injury of the Japanese and Korean Respondents* at exh. 12 (providing data showing that *** percent of 1998 Korean exports were certified to API 5L-A or 5L-B).

[79] *Posthearing Brief on Injury of the Japanese and Korean Respondents* at 49.

[80] CR at I-80, PR at II-48.

[81] CR at I-82, PR at II-49.

U.S.-produced line pipe and imported product.[82] For all of these reasons, I find U.S.-produced line pipe and imported line pipe to be only moderate substitutes. I therefore place less emphasis on persistent "underselling" by imported line pipe.

Finally, while underselling by imports was widespread, it was not any more prevalent during 1998 and 1999 than in prior periods. In fact, while Korean suppliers continued to undersell U.S. producers by varying degrees, suppliers such as Mexico and Turkey tended to sell line pipe at prices higher than the domestic industry's prices.[83]

In the final analysis, the impact of imports on the output and prices, and therefore revenues of the domestic industry, must be measured against changes in U.S. demand. Three different possible measurements of U.S. demand are available. The Petitioners' favored data show sharply increased pipe usage in pipelines in 1997, moderate increases in 1998, and projected declines in 1999.[84] The Respondents' favored data show sharply increased rig counts (and therefore pipe usage) in 1997, an overall decrease in 1998 after a strong first quarter, and declines through much of the first half of 1999, followed by a recovery.[85] Apparent U.S. consumption data show a strong increase in 1997, stable consumption levels in 1998 (divided into a strong first half and a weak second half), and a marked decrease in the first half of 1999. Pulling all of these data together, it appears likely that the companies supplying line pipe to the U.S. market benefitted from an extraordinary 18-month period of rising demand between, roughly, January 1997 and June 1998. This period was followed by a sharp decline in demand for the next 12 months between, roughly, July 1998 and June 1999. There are signs that demand has now begun to recover, although it is unlikely that 1999 as a whole will be characterized by the high levels of demand observed in 1997 and the first half of 1998.

In conclusion, having found that the decline in demand for pipe in the oil and gas industry is a greater cause of any injury or threat of injury than increased imports, I find that imports are not a substantial cause of any such injury or threat of injury. Accordingly, because I find that the domestic industry is not seriously injured or threatened with serious injury, and that imports are not a substantial cause of any injury being experienced by the domestic industry, I therefore make a negative determination.

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[82] *See, e.g., Transcript* at 144 (Mr. Brock, Line Pipe Manager for distributor Wilson Supply, noting that the majority of his end user customers ask for domestic-only material, but that he will offer both a domestic price and a price for non-U.S. pipe).

[83] Tables 33-38, CR at I-104-109, PR at II-64.

[84] *Posthearing Brief on Injury of the Petitioners* at exh. 20.

[85] *Posthearing Brief on Injury of the Japanese and Korean Respondents* at exh. 8. As measured by the Baker Hughes rig count, the U.S. oil and gas industry saw a substantial decline in active oil and gas rigs beginning in February/March 1998. However, a recovery has been underway since late April 1999. *See* Memorandum INV-W-247, compiled by Commission staff from data of Baker Hughes.

ADDENDUM TO THE DISSENTING VIEWS OF COMMISSIONER CAROL T. CRAWFORD ON INJURY

Table I
Line pipe: U.S. producers' U.S. shipments of domestic product, U.S. imports, apparent U.S. consumption, and market shares, 1994-98 and Jan.-June 1998, July-Dec. 1998, and Jan.-June 1999

Source	1994	1995	1996	1997	1998
	Quantity (*short tons*)				
U.S. producers' U.S. shipments	611,883	722,329	664,950	752,824	640,061
Imports from all countries	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
	Share of Quantity (*percent*)				
U.S. producers' U.S. shipments	***	***	***	***	***
Imports from all countries	***	***	***	***	***
Apparent U.S. consumption	100.0%	100.0%	100.0%	100.0%	100.0%

Source	Jan.-June 1998	July-Dec. 1998	Jan.-June 1999
	Quantity (*short tons*)		
U.S. producers' U.S. shipments	388,844	251,217	265,757
Imports from all countries	***	***	***
Apparent U.S. consumption	***	***	***
	Share of Quantity (*percent*)		
U.S. producers' U.S. shipments	***	***	***
Imports from all countries	***	***	***
Apparent U.S. consumption	100.0%	100.0%	100.0%

Source: U.S. imports of non-alloy and alloy line pipe as compiled from official statistics of Commerce, less (1) positively identified imports of alloy line pipe as compiled from official statistics of Commerce and (2) imports of "Arctic grade" line pipe that are excluded from the scope of this investigation by the request of the Petitioners. *See* Table 3, CR at I-19-21, PR at II-15-17, and CR at I-12-13, PR at II-10. U.S. shipments are compiled from Table 6, CR at I-28, PR at II-23.

VIEWS ON REMEDY OF THE COMMISSION[1]

Findings and Recommendations

For the reasons set forth below, we recommend the following actions, which we find will address the serious injury we have found to exist and will be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition:

(1) That the President impose a tariff-rate quota for a 4-year period on imports of line pipe, with the in-quota amount set at 151,124 tons in the first year, and with that amount to be increased by 10 percent in each of the second, third, and fourth years; with over-quota imports to be subject to a duty of 30 percent ad valorem in addition to current U.S. tariffs;

(2) That the President, if he determines to allocate the overall quota, recognize the disproportionate growth and impact of the imports from Korea;

(3) That the President initiate international negotiations with Korea to address the underlying cause of the import surge and the serious injury to the domestic industry;

(4) Having made negative findings with respect to imports of line pipe from Canada and Mexico under section 311(a) of the NAFTA Implementation Act, that such imports be excluded from the tariff-rate quota; and

(5) That the tariff-rate quota not apply to imports of line pipe from Israel, or to any imports of line pipe entered duty-free from beneficiary countries under the Caribbean Basin Economic Recovery Act or the Andean Trade Preference Act.

We find that the action described above will not exceed the amount necessary to remedy the serious injury we find to exist.

Introduction

Having found that increased imports are a substantial cause of serious injury to the domestic line pipe industry, we must now recommend to the President the action that will address the serious injury and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition. In deciding what relief to recommend, we took into account the considerations set forth in section 202(e)(5)(B) of the Trade Act, including the form and amount of action that will, in our view, remedy the serious injury we have found to exist; commitments submitted by petitioners and firms in the industry during the course of the investigation; information available to the Commission concerning the

[1] Pursuant to section 330(d)(2) of the Tariff Act of 1930 (19 U.S.C. § 1330(d)(2)), the remedy findings and recommendations of Vice Chairman Miller and Commissioners Hillman and Koplan in this investigation will be treated as the remedy findings and recommendations of the Commission by the President for purposes of section 203 of the Trade Act.

conditions of competition in domestic and world markets and likely developments affecting such conditions during the period for which action is being requested; whether international negotiations may be constructive to address the serious injury or to facilitate adjustment; and the arguments of the parties.

The action we recommend must conform to certain statutory limitations with respect to the amount and duration of the relief. In addition, we must state whether our recommendations include imports from Canada and Mexico and whether and to what extent our recommendations apply to imports from Israel (with which the United States has a free trade agreement) and from beneficiary Caribbean Basin and Andean countries. We must also describe the likely short- and long-term effects of taking or not taking the recommended action on the petitioning industry and its workers, other industries, and consumers.

Conditions of Competition

We considered the conditions of competition in the domestic market and likely developments affecting such conditions during the next several years in evaluating the various remedy options. As an initial matter, we note that the U.S. line pipe market is highly competitive, with a large number of suppliers, both domestic and foreign, selling line pipe.

Demand Conditions

Apparent consumption was relatively stable during 1994, 1995, and 1996. Apparent consumption increased substantially from 1996 to 1997 (by *** percent), fell slightly (by *** percent) in 1998, and then fell sharply (by *** percent) in interim (January-June) 1999 (as compared with interim 1998). Unit values for both domestic and imported line pipe trended upwards through 1997. The average unit value for domestic line pipe rose in 1998 but only by a very small amount (0.1 percent), and then fell by 19.0 percent in interim 1999 (as compared with interim 1998). The average unit value for imported line pipe, on the other hand, fell in 1998 (by *** percent) and fell again, by a much larger amount, in interim 1999 (by *** percent, as compared with interim 1998).[2]

Producers, importers, and purchasers generally agree that there are no substitutes for line pipe in most applications. Line pipe is used for gathering, transmitting, and distributing natural gas, crude oil and other liquids and gases. Thus, there are three major categories or segments of line pipe usage: "gathering" (*i.e.*, the line pipe application closest to the wellhead), "transmission" (*i.e.*, conveyance nationally or regionally), and "distribution" (*i.e.*, conveyance at the local level to end users). Consequently, the extent of natural gas and crude oil drilling and production activities in the United States is an important component of line pipe demand when the pipe is used in gathering applications. The extent of natural gas and crude oil drilling and production activities is in turn affected by natural gas and crude oil prices. As discussed in detail in the views on injury, crude oil and, to a lesser extent, natural gas prices decreased significantly in late 1998 and early 1999, which led to a decrease in crude oil and natural gas drilling and production activity. This decline in drilling and production activity contributed to decreased demand for line pipe in 1998-99. Natural gas and oil prices have increased since early 1999, leading to increased drilling and production activity and hence increased demand for line pipe.[3]

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[2] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.

[3] *Platts Oilgram News and the Petroleum Economist*, various issues; Japanese Respondents' Prehearing Brief on (continued...)

The demand for line pipe used in the transmission and distribution of natural gas and (to a much lesser extent) crude oil is much less related to prices for natural gas and crude oil. Line pipe demand in these segments is tied to general economic growth.

In light of the long-term shift toward use of natural gas and away from other forms of energy, petitioners estimated that growth in line pipe demand will slightly exceed the growth rate of the economy. They predicted that if the economy grows at a 3-4 percent annual rate, line pipe consumption should grow by 4-5 percent.[4] U.S. economic growth in 1999 is predicted to be approximately 3.8 percent and 3.1 percent in 2000.[5]

Domestic Supply Conditions

The U.S. line pipe industry comprises 15 producers. Domestic capacity to produce line pipe increased throughout 1994-97 and then declined somewhat in 1998, but to a level approximately eight percent above 1994. Production capacity increased eight percent in interim 1999 compared to interim 1998. Domestic line pipe producers' capacity utilization increased irregularly between 1994 and 1997, from 60.2 percent to 74.0 percent, and then fell sharply to 58.9 percent in 1998 and 39.8 percent in interim 1999.[6] Thus, U.S. producers have substantial unused capacity with which they could increase production of line pipe in the event of price changes or significantly increased domestic demand. In fact, domestic capacity exceeded domestic consumption throughout our investigation.[7]

Import Supply Conditions

Line pipe is produced in many countries around the world.[8] Imported line pipe is generally interchangeable with U.S. produced line pipe.[9] Imports of line pipe into the United States increased by *** percent between 1994 and 1998 and decreased by *** percent between interim 1998 and interim 1999. Even with this decrease between interim periods, however, interim 1999 imports were still running at an annual rate greater than that for 1994-1997, and near the 1998 level.[10]

Korea's share of total imports rose during the period of the investigation, and Korea was the largest import source in 1998 and interim 1999 when industry economic performance was at its worst.

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[3] (...continued)
Remedy at 4-6 (Nov. 3, 1999).

[4] Petitioners' Posthearing Brief on Remedy at 44 (Nov. 17, 1999).

[5] OECD, December 1999.

[6] Tables 5-6, *Circular Welded Carbon Quality Line Pipe*, Investigation No. TA 201-70, (hereinafter "Report") at II-27-28.

[7] Id.

[8] The Commission received foreign producer questionnaires from producers in eight countries–Canada, Germany, Japan, Korea, Mexico, Turkey, the United Kingdom, and Venezuela.

[9] Report at II-79.

[10] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.

Korea accounted for *** percent of total imports in 1998 and *** percent in interim 1999.[11] Prices for six types of line pipe imported from Korea and for which pricing data was collected by the Commission fell by *** percent to *** percent over the period of investigation. Much of this drop was experienced in the first half of 1999; during that period alone, the prices of these products imported from Korea fell by between *** and *** percent.

Korea's production capacity nearly doubled during the period of investigation,[12] and while capacity utilization fluctuated between 1994 and 1998 it was down sharply in 1998 to 79.8 percent (from 93.4 percent in 1997), indicating that Korea has considerable unused capacity.[13] Further, Korean producers are heavily dependent on export markets, with more than 90 percent of Korean production exported each year during 1994-98. Korean firms exported 57.8 percent of their production to the U.S. market in 1998, the highest level of the period of investigation, and double their 1997 level.[14]

While foreign producer data for countries other than Korea show a limited amount of unused capacity, we note that the United States is only one of many potential markets, and therefore foreign producers have the ability to shift product between markets.[15] In addition, reported capacity levels for line pipe producers are actually a lower bound on their actual capacity since most producers can further increase their line pipe production by shifting production away from other products that they produce, such as standard pipe and OCTG.[16]

Industry Adjustment Plan

We carefully examined the individual petitioning companies' adjustment plans.[17] These plans consist of investments that allegedly will improve the domestic industry's ability to adjust to import competition.[18] Petitioners stated that the planned investments are intended to enhance each producer's competitiveness, but that the specific objectives vary by producer. Specific plans include replacing and/or upgrading existing equipment, expanding production of line pipe for deepwater applications, developing

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[11] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.

[12] Report at II-51.

[13] Report at II-51.

[14] Report at II-51. Korean producers allege that these recent trends will reverse course in 1999 and 2000.

[15] Report at II-51-69.

[16] Report at II-26.

[17] We note that section 202(a)(4) of the Trade Act provides for any such plans to be filed with the Commission "either with the petition, or at any time within 120 days after the date of filing of the petition." Petitioners did not file a plan as part of their petition or in a separate document described as an industry adjustment plan. Petitioners indicated that the plan in their prehearing brief reflected the adjustment plans contained in their individual company questionnaire responses (which were submitted within the 120-day period). The prehearing brief on remedy was filed on the 125th day after the filing of the petition. The statute does not require that an industry file a plan, but strongly encourages that an industry do so. The statute also does not prevent us from considering a plan or plans filed after the 120th day. Accordingly, we have taken into account the plans submitted by the industry as part of its prehearing and posthearing briefs on remedy as well as the individual company plans outlined in their questionnaire responses.

[18] For a more detailed description of petitioners' commitments, *see* Petitioners' Prehearing Brief on Remedy at 16-21 (Nov. 3, 1999), and Petitioners' Posthearing Brief on Remedy at 24-34.

high grade thin wall pipe and abrasion-resistant pipe, increasing line speed, reducing production downtime, and increasing capacity. Petitioners reported that temporary import relief would also allow some domestic line pipe producers to expand their product ranges. Finally, petitioners reported that many line pipe producers have already made capital expenditures or improvements that they believed were necessary to remain competitive. However, these producers have reportedly not reaped the full benefits of these investments due to the import surge and, according to petitioners, temporary import relief would enable these firms to reach anticipated efficient production levels. The proposed investments, by improving efficiency, lowering costs, and expanding product lines, should strengthen the domestic industry and make it better able to withstand import competition in the future.

Recommended Relief

The statute authorizes the Commission to recommend several forms of import relief, including tariffs, quotas, tariff rate quotas, and adjustment measures, as well as a combination of these remedies. In determining which of these forms would be most effective in remedying the serious injury and facilitating positive adjustment to import competition, we have examined closely the costs and benefits of each. We have determined that a tariff-rate quota will provide the domestic industry with the most appropriate form of relief.

Petitioners asked the Commission to recommend that the President impose a quantitative restriction (quota) for a 4-year period on imports of line pipe. They proposed that the quota be limited to 82,081 tons in the first year, with the quota to increase by 5 percent in each subsequent year. Petitioners calculated the base quota amount by taking the average share of U.S. consumption that imports from Korea, Japan, and other "included" countries[19] each accounted for in 1995 and 1996, multiplying those market shares by estimated U.S. consumption in 1999,[20] and combining the resulting country amounts.[21] Petitioners asserted that the most recent representative period for purposes of establishing the base quota level is the 2 year period 1995-1996, claiming that there is no most recent 3-year representative period, and that use of the 2-year period 1995-1996 is "clearly justified." Petitioners also proposed that separate quota allocations be made for Korea, Japan, and for all other "included" countries, based on their respective shares of imports during 1995-1996. Petitioners requested that no more than 60 percent of the annual quota be permitted to enter in 2 consecutive quarters.[22] In response to criticism from respondents and questions from the Commission, petitioners in their posthearing brief took the position that if a quota were to be based on a 3-year period, then the years 1994-1996 would be the appropriate representative period.[23]

Respondents generally argued that no import relief should be provided in view of improving market conditions and prices. Japanese respondents argued that, if the Commission recommends a quota, it should be in place for no more than 2 years, and that 1994-1996 would be the most recent 3-year period that is representative of imports. As discussed below, Japanese respondents also urged the Commission to

[19] Canada and Mexico were excluded.

[20] Based on a doubling of first half 1999 U.S. consumption.

[21] Petitioners' Prehearing Brief on Remedy at 4.

[22] Petitioners' Prehearing Brief on Remedy at 1-4.

[23] Petitioners' Posthearing Brief on Remedy at 12-14.

exclude certain specialty line pipe products from any import relief.[24] Korean respondents challenged the legality of petitioners' proposal, particularly their selection of a 2-year representative period and their use of market share data in making their calculation. They suggested that 1996-1998 would be the appropriate 3-year representative period if the Commission were to recommend a quota.[25] As discussed below, German respondents argued that the Commission's remedy recommendation should exclude line pipe imported from Germany for use in deepwater applications.[26]

We considered the quota proposed by petitioners, but we believe that such a quota would exceed the amount necessary to prevent or remedy the serious injury.[27] As originally proposed, the petitioners' quota would reduce imports from all countries (other than Canada and Mexico) to 82,081 tons, or *** percent of the 1998 level. As revised, petitioners' quota would reduce imports from all countries (other than Canada and Mexico) to 105,849 tons, or *** percent of the 1998 level.[28] Our economic analysis indicates that such restrictions would be excessive. We note in this regard that natural gas and crude oil prices have increased since early 1999 and, consequently, drilling and production activity, as measured by the active rotary rig count, has improved.[29] Thus, demand in an important component of the line pipe market–the "gathering" segment–has improved and is not expected to weaken.[30]

We considered, but decided against, recommending an alternative quota remedy. The major drawback of a quota in this case is that there are several specialty grades of line pipe for which demand to date has been satisfied primarily by imports. A quota could severely restrict or eliminate imports of these products, thereby imposing significant burdens on U.S. purchasers.

We also considered a straight tariff increase. Our economic analysis indicates that a tariff at relatively low levels would not be sufficiently restrictive to prevent imports, which are generally lower-priced, from continuing to cause the serious injury we found. On the other hand, while a relatively high tariff would be effective in remedying the serious injury, it would likely have the unintended consequence of

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[24] Japanese Respondents' Posthearing Brief on Remedy at 1-7, 20-21 (Nov. 17, 1999); Japanese Respondents' Prehearing Brief on Remedy at 31-32 (Nov. 3, 1999).

[25] Korean Respondents' Posthearing Brief on Remedy at 1-4 (Nov. 17, 1999).

[26] German Respondents' Posthearing Brief on Remedy at 22-23 (Nov. 17, 1999).

[27] We consider petitioners' original proposed remedy to be inconsistent with the statute. Petitioners proposed a 2-year period instead of a 3-year period for purposes of calculating the minimum quota level allowed, which is inconsistent with section 203(e)(4) of the Trade Act, 19 U.S.C. § 2253(e)(4). Also, the quota that petitioners originally proposed is lower than the average quantity of line pipe entered during 1995 and 1996, the 2 years that they claim are the most recent period representative of imports, and they did not argue that such a lower amount is "clearly justified" to prevent or remedy serious injury.

[28] Calculations from Petitioners' Prehearing Brief on Remedy at 4, Petitioners' Posthearing Brief on Remedy, Exhibit 5, and data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe. This is a conservative estimate of the effect of petitioners' proposed quota since petitioners do not adjust for the excluded arctic grade and alloy line pipe when calculating their proposed quota allocation.

[29] "Rotary Drilling Rigs in Operation," Confidential Memorandum, INV-W-247 (hereinafter "INV-W-247").

[30] Shipments of line pipe have increased since the first quarter of 1999. *See* "Net shipments of welded line pipe, 16 inches and under, by AISI reporting companies, by month, 1994-1999," INV-W-247. *See also* Transcript of Remedy Hearing (Nov. 10, 1999) at 14-15 (Mr. Price).

falling relatively less heavily on imports from Korea, the country that is the main source of the injurious imports,[31] and relatively more heavily on less injurious, higher priced imports.[32]

We also considered whether to recommend adjustment measures, such as the trade adjustment assistance programs administered by the U.S. Department of Commerce and the U.S. Department of Labor. The assistance and funding that these programs offer is limited in amount and scope. In the context of the record in this case, trade adjustment assistance would not provide the amount or type of assistance that would remedy the serious injury and facilitate adjustment. In particular, trade adjustment assistance would not limit the influx of imports that we have found is a substantial cause of serious injury. However, such adjustment assistance may prove useful in conjunction with import relief and, pursuant to section 202(a) of the Trade Act, we have notified the Secretary of Labor and the Secretary of Commerce of our affirmative determination. Under section 202(a) of the Trade Act, applications for adjustment assistance by firms or workers in the domestic line pipe industry are to be given expedited consideration once the Commission has reached an affirmative determination.

In this case we believe that a tariff-rate quota will provide the most stable, predictable, and appropriate form of remedy. Under our recommendation, in-quota imports will be subject to the current rates of duty and over-quota imports will be subject to an additional 30 percent ad valorem rate of duty. Our recommended base quota level will still allow significant participation by imports in the U.S. market. While the size of the over-quota tariff will likely discourage over-quota imports, it will not prohibit them from entering should domestic demand for line pipe rise sharply above projected levels. In addition, specialty grades of line pipe that may be in short domestic supply would still be able to enter even after the quota is filled, albeit at the over-quota rates of duty. As one importer of specialty line pipe, Shell Oil, testified at the Commission's remedy hearing, the availability of certain high-end specialty line pipe, such as line pipe used in deepwater drilling and production activities, is more important than the price of the pipe.[33]

Amount of relief; digressivity

The recommended in-quota volume of 151,124 tons in the first year is equivalent to the average level of imports that entered during ***. The in-quota amount would increase by 10 percent in each of the second, third, and fourth years -- to 166,236 tons, 182,860 tons, and 201,146 tons, respectively. Imports of line pipe up to that amount (in-quota imports) would be subject to the current rate of duty, and imports over that amount (over-quota imports) would be subject to an additional duty of 30 percent ad valorem during all 4 years of the remedy period. Our economic analysis shows that this remedy should increase the price of the domestic product by between 1 and 2 percent over 1998 levels, increase domestic sales volumes by 8 to 12 percent, and increase sales revenues by 10 to 14 percent. We estimate that imports subject to our proposed remedy would decline by about 38 percent to *** tons in the first year of relief, which would

[31] As discussed in our views on injury, Korea is the largest source of imports and imports from Korea are generally the lowest-priced of all imports.

[32] We considered German respondents' arguments that we should recommend a tariff remedy with a value break. *See* German Respondents' Posthearing Brief on Remedy at 22-29. We find that, in this case, there would be significant difficulties in establishing and maintaining an appropriate level for such a value break and in administering such a remedy.

[33] Transcript of Remedy Hearing at 198-199 (Mr. Patterson).

be approximately equivalent to the average level of imports in 1996-98, during which time the domestic industry was generally profitable.[34] Thus, imports should fall below the level in 1998, the year in which imports surged and profitability and other indicators of industry performance fell sharply. Our economic analysis shows that this remedy would restore the domestic industry to a reasonable level of profitability, i.e., with a net income margin of approximately 3 to 5 percent.

The 10 percent annual growth for the in-quota amount represents a reasonable phase down of the remedy. Petitioners estimated that line pipe demand will increase over the long-term and will grow at a somewhat higher rate than the economy overall. Thus, petitioners estimated that line pipe demand may grow as much as 3-5 percent annually.[35] Respondents did not challenge this estimate. Thus, our proposed growth rate is well in excess of likely demand growth and, therefore, fully satisfies the requirement that the remedy be phased down at regular intervals during a recommended relief period of more than one year.[36] Our recommended growth rate will also encourage the domestic industry to implement its adjustment plan expeditiously. The in-quota level in the fourth year will be at approximately the level of annualized 1999 imports.

Duration

We believe that a remedy of 4 years duration is needed in order to give the domestic industry sufficient time both to generate the profits needed to complete the investments called for in its adjustment plans, as well as to implement the plans themselves. The domestic industry has indicated that almost all of the anticipated investments would be implemented within 4 years.[37]

Allocation

In the event the President adopts our tariff-rate quota recommendation and also determines to allocate the in-quota volume, we further recommend that the President take into account Korea's disproportionate share of the increase in imports that occurred during the period in which the domestic industry was seriously injured. The increase in imports from Korea in 1998 accounted for 70 percent of the increase in total imports that year, and imports from Korea continued to increase in interim 1999 (as compared with interim 1998) even though total imports declined between interim 1998 and interim 1999. Imports from Korea more than doubled between 1997 and 1998, and imports from Korea in interim 1999 alone exceeded *full year* imports from Korea in 1994 through 1996. Korea was the largest source of imports in 1998 and interim 1999, accounting for *** percent of total imports in 1998 and *** percent in interim 1999. Korea's share of imports in both 1998 and interim 1999 was more than three times that of

[34] Thus, our economic analysis indicates that small volumes would be imported at the over-quota rate. We note that imports from Canada and Mexico are likely to increase and are expected to be about *** tons during the first year of the remedy. Thus, total imports would be approximately *** tons, equivalent to their 1997 level.

[35] Petitioners' Posthearing Brief on Remedy at 44.

[36] Section 203(e)(5) of the Trade Act, 19 U.S.C. § 2253(e)(5).

[37] We note that a remedy of more than 3 years duration will trigger a mid-point report by the Commission under section 204(a)(2) of the Trade Act. Such a review would provide the Commission with an opportunity to formally review the industry's progress in implementing its adjustment plans.

the next largest supplier.[38] In addition, the average unit value (per ton) of imports from Korea was one of the lowest among foreign suppliers, and significantly below the average for all imports in 1998 and interim 1999.[39] Specific line pipe product pricing data also show imports from Korea to be among the lowest priced. Moreover, these data show prices of imports from Korea dropping sharply toward the end of our period of investigation.[40] Thus, Korea has demonstrated the ability to underprice both domestic line pipe and line pipe from other foreign suppliers. Lastly, Korea's production capacity nearly doubled since 1994,[41] and Korea had considerable unused capacity in 1998,[42] indicating that Korea retains the ability to fill a very large share of the in-quota volume.

Exclusions

Having made negative findings with respect to imports from Canada and Mexico under section 311(a) of the NAFTA Implementation Act for the reasons set out in our injury views, we recommend that the President exclude Canada and Mexico from any remedy action. We also recommend that the President exclude imports from Israel and beneficiary countries under the Caribbean Basin Economic Recovery Act and the Andean Trade Preference Act. The only imports during the period of investigation from these countries were from Colombia and Israel, and they were small and sporadic.[43]

We also considered whether to exclude certain grades of deepwater and cold climate line pipe as urged by German and Japanese respondents, who alleged that such line pipe is not produced by domestic line pipe firms. The German respondents urged that we exclude HFI line pipe over six inches in outside diameter, certified to meet the specifications and criteria for deepwater use and actually used for such deepwater installation.[44] They asserted that such line pipe is not made in the United States, and cited testimony by petitioners at the remedy hearing that respondents argued supports their claim.[45] They argued that the manufacturing processes they use to produce line pipe with the HFI method[46] "are essentially different" from the processes used to produce line pipe with the ERW method and pointed to 12 differences in production and testing processes to support this claim.[47] They cited testimony from a large oil and natural gas producer to the effect that the firm would use seamless pipe in lieu of domestic line pipe if the imported HFI line pipe were not available.[48] Petitioners argued against such an exclusion, claiming that there is "complete substitution" between the induction welded and contact welded methods of producing

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[38] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.

[39] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe.

[40] Report at II-88-II-103.

[41] Report at II-51.

[42] Report at II-51.

[43] Report at D-5, table D-3.

[44] German Respondents' Posthearing Brief on Remedy at 1.

[45] German Respondents' Posthearing Brief on Remedy at 8-9.

[46] Although respondents suggested that HFI and ERW are different processes; as indicated in our injury views, HFI is a weld method under the ERW process.

[47] German Respondents' Posthearing Brief on Remedy at 10-11.

[48] German Respondents' Posthearing Brief on Remedy at 12.

line pipe,[49] and that the proposed exclusion was based "more on ***'s own marketing propaganda than on any scientific support."[50] Petitioners further asserted that two domestic producers routinely provide high quality ERW line pipe for deepwater uses.[51]

The Japanese respondents urged that we exclude three specialty grades of line pipe from any remedy. Two of the three specialty grades are intended for low-temperature service: miscible injection welded line pipe and vertical support member (VSM) welded line pipe. The third specialty grade is referred to as high strength line pipe for sour service application (*i.e.*, it is intended for the transportation of crude oil with high sulfur content).[52] They cited testimony to the effect that the two low-temperature grades are essential to the Alaskan operations of a petroleum producer and are not available from domestic producers.[53] They asserted that demand for such line pipe is so small that it is unlikely that domestic producers will invest the time and resources to become capable of supplying such line pipe.[54] They asserted that the sour service line pipe is made from a special grade of corrosion-resistant steel that is unavailable in the United States, and that there will likely be a growing demand for such line pipe as oil fields mature over time and become increasingly "sour."[55] Petitioners argued that the domestic industry can produce each of these products, and that each of these products are available from domestic producers.[56]

Although the evidence is mixed concerning the ability of the domestic industry to produce such line pipe, we are not persuaded that the domestic producers do not and cannot produce these products. Accordingly, we are not recommending that these products be excluded from the remedy.[57] Nevertheless, under the remedy we are proposing, domestic consumers of such specialty grades of line pipe would still retain the ability to import these grades, either at the lower in-quota rate of duty, or at the higher over-quota rate of duty.

International Negotiations

We recommend that the President consider undertaking international negotiations with Korea to address the underlying cause of the increase in imports of line pipe or otherwise to alleviate the serious injury to the domestic industry. As discussed above, imports from Korea have surged much more rapidly than other imports, and have been among the lowest priced imports. Over our period of investigation, Korean producers have nearly doubled their capacity and now have very significant unused capacity. In

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[49] Transcript of Remedy Hearing at 104 (Mr. Schagrin).

[50] Petitioners' Posthearing Brief on Remedy at 70-71.

[51] Petitioners' Posthearing Brief on Remedy at 71.

[52] Japanese Respondents' Posthearing Brief on Remedy at 3, 6.

[53] Japanese Respondents' Posthearing Brief on Remedy at 3.

[54] Japanese Respondents' Posthearing Brief on Remedy at 4.

[55] Japanese Respondents' Posthearing Brief on Remedy at 6-7.

[56] Petitioners' Posthearing Brief on Remedy at 68-69; and transcript of remedy hearing at 104 (Mr. Schagrin).

[57] It appears that all or nearly all of the imports from Germany consist of the products for which the German respondents are seeking exclusion. These volumes are significant. See Table C-1, Report at C-4. However, the volume of imports from Japan for which exclusion is being requested is small, with only 5,495 tons imported during the entire period of investigation. Japanese Respondents' Posthearing Brief on Remedy at 4.

addition, the vast majority of Korean producers' shipments are exported–96.8 percent in 1998, of which 57.8 percent were exported to the United States in 1998.[58]

Steel issues are already the subject of negotiations and discussions between the U.S. and the Korean Governments, both bilaterally and in multilateral fora such as the Organization for Economic Cooperation and Development. We recommend that the President take full advantage of such negotiations to address issues related to the Korean line pipe industry and its impact on the U.S. industry.

Short and Long-Term Effects of Our Recommended Remedy

We believe that the tariff-rate quota that we are recommending will address the serious injury to the domestic line pipe industry and will be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition. It also does not exceed the amount necessary to remedy such serious injury.

Our remedy is intended to restore domestic prices and industry profitability to reasonable levels, as the industry continues its investment efforts to modernize production facilities, add new product lines, and increase its level of capacity utilization. It gives the industry the time needed to make positive adjustment efforts while not excluding imports from the domestic market.

Based on 1998 data, we estimate that the recommended tariff-rate quota will initially raise the price of the domestic product by between 1 and 2 percent over 1998 levels, raise domestic sales volumes by 8 to 12 percent, and increase sales revenues by 10 to 14 percent. In conjunction with improved demand for line pipe, these additional sales should allow the domestic industry again to become profitable, increasing the percentage of net income to approximately 3 to 5 percent. We estimate that sales prices for imports subject to the remedy will increase by about 18 percent over 1998 prices, and that their volume will fall by about 38 percent from approximately *** tons to approximately *** tons in the first year of the remedy.

At the same time, our proposal would ensure a substantial amount of competition in the U.S. market and pose little likelihood of supply problems for domestic consumers. First, our proposed remedy would still permit a significant quantity of imports at the current low rate of duty. This amount exceeds the average amount entered in 1996 and 1997. Second, there is more than sufficient unused domestic capacity to offset the projected reduction in imports. Third, as discussed earlier, we recommend that the President exclude imports from Canada and Mexico from the remedy, pursuant to the NAFTA Implementation Act. Imports from Canada and Mexico accounted for about *** percent of 1998 imports and are projected to increase to approximately *** tons in the first year of our remedy proposal.[59] Finally, to the extent that any

[58] Report at II-51.

[59] Based on data in Table C-1 adjusted to exclude imports of certain Arctic-grade and alloy line pipe. Thus, we estimate that total import levels, including imports from Canada and Mexico, would decline by about 29 percent, from a 1998 level of *** tons, to about *** tons, which represents almost *** percent of total 1998 domestic consumption of line pipe. This amount is approximately the same U.S. market share held by imported line pipe in 1994 and 1997 and more than that held by imported line pipe in 1995 and 1996.

specialty grades of line pipe are in short domestic supply, purchasers would still be able to obtain their products even after the quota is filled, albeit at the over-quota rates of duty.[60]

While this remedy may result in some initial negative impact on end users of line pipe, primarily in the form of modestly increased prices in the domestic market and some restrictions in import volumes, we believe this effect will be limited. The increased price of line pipe will not significantly affect the natural gas and crude oil industries or consumers of natural gas and crude oil, since line pipe makes up only a moderate percent of the cost of the final product.[61] This remedy should also provide a modest benefit to domestic industries that supply raw materials to the line pipe industry, particularly hot rolled steel, as a result of the expected increase in domestic line pipe production.

It is not possible to predict market effects with precision following the initial year of relief . In general, we would expect that as prices increase the domestic industry will be able to respond to predicted increasing demand with greater production. In addition, we would expect the domestic industry to be able to respond to increasing demand with sufficient supply as it undertakes its investment programs and utilizes existing unused capacity. After the initial year of the relief, we also expect overall imports to grow in absolute terms with increased demand, but at a stable market share a little above their 1997 level of *** percent.

Short and Long-Term Effects of Not Taking the Recommended Action

In the absence of appropriate relief, we are convinced that the recent operating losses experienced by the domestic industry will continue. In particular, the price depression evident in the market in the most recent period will remain a major adverse market factor, and line pipe imports, particularly from Korea, will continue to capture an increasing share of the domestic market. Without appropriate relief, this trend is likely to worsen in its price and revenue impact on the domestic industry. Continued operating losses will prohibit the domestic industry from implementing its proposed investments, thereby leaving it less viable and less able to compete with imports. Over the longer term, a significant portion of the industry would be forced to shut down. Our assessment is based on the fact that the industry incurred substantial losses in 1998 and 1999, and is not likely to survive if such losses continue unabated.[62] Such closings and partial closings will lead to increased layoffs of workers in the industry. Many domestic line pipe mills are located in small towns and communities where the closing of a mill would have a significant impact on the local economy.

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[60] As one importer of specialty line pipe, Shell Oil, testified at the Commission's remedy hearing, the availability of certain high-end specialty line pipe, such as deepwater line pipe, is more important than the price of the pipe. Transcript of Remedy Hearing at 198 (Mr. Patterson).

[61] Report at II-79.

[62] We note that Geneva Steel is already operating under the protection of the bankruptcy court and other producers testified that they would likely exit line pipe production if relief is not provided. Transcript of Remedy Hearing at 32-34 (Mr. Cannon), at 36-38 (Mr. Barnes), and at 78-79 (Mr. Shagrin).

VIEWS ON REMEDY OF CHAIRMAN LYNN M. BRAGG AND COMMISSIONER THELMA J. ASKEY

CIRCULAR WELDED CARBON QUALITY LINE PIPE
TA-201-70

Findings and Recommendations

For the reasons set forth below, we recommend the following action, which we find will address the threat of serious injury to the domestic line pipe industry and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition without disrupting the U.S. line pipe market more than is necessary:

(1) We recommend that the President impose a duty, in addition to the current rate of duty, for a four-year period, on all imports of line pipe that are within the scope of this investigation, as follows:

12.5 percent *ad valorem* in the first year of relief;
11.0 percent *ad valorem* in the second year of relief;
9.5 percent *ad valorem* in the third year of relief; and,
8.0 percent *ad valorem* in the fourth year of relief;

(2) Based on our negative finding with respect to imports of line pipe from Canada under section 311(a) of the NAFTA Implementation Act, we recommend that such imports be excluded from the increase in duty;

(3) Chairman Bragg, having made an affirmative finding with respect to imports of line pipe from Mexico under section 311(a) of the NAFTA Implementation Act, recommends that such imports be subject to the increase in duty;

(4) Commissioner Askey, having made a negative finding with respect to imports of line pipe from Mexico under section 311(a) of the NAFTA Implementation Act, recommends that such imports be excluded from the increase in duty;

(5) We further recommend that the increase in duty not apply to imports of line pipe entered duty-free from beneficiary countries under either the Caribbean Basin Economic Recovery Act or the Andean Trade Preference Act;

(6) Finally, we recommend that the increase in duty not apply to imports of line pipe from Israel.

Introduction

Having determined that increased imports are a substantial cause of the threat of serious injury to the domestic industry, we are required, pursuant to section 202(e)(1) of the Trade Act, to recommend action to the President that will address the threat of serious injury to the domestic industry and be most

effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition.

In deciding the form and amount of relief to recommend, we took into account the factors enumerated in section 202(e)(5) of the Trade Act, including: the threat of serious injury that we found to exist; the objectives and actions specified in proposed adjustments outlined by petitioners; information available to the Commission concerning market conditions in domestic and world markets; and likely developments affecting such conditions during the period for which action is requested. We further considered the evidentiary basis for our injury determination in this investigation, the impact relief may have on the line pipe market, and the administrative feasibility of implementing a given action.

Market Conditions

Demand conditions. Apparent U.S. consumption of line pipe by volume increased *** percent between 1994 and 1998, before declining by *** percent between interim 1998 and interim 1999.[1] Apparent U.S. consumption of line pipe by value increased *** percent between 1994 and 1998, before declining *** percent between interim 1998 and interim 1999.[2] The larger decline in U.S. consumption by value between interim periods reflects the fact that overall demand for line pipe will not change significantly in response to changes in price; the fact that there are few, if any, products that can substitute for welded line pipe contributes to this low degree of price sensitivity.[3]

Demand in the United States has generally been strong over most of the period of investigation ("POI"), with a sharp decline in apparent U.S. consumption evidenced only in interim 1999. Demand in markets other than the United States also appears to have weakened during the latter part of the POI as a result of the financial crisis in Asia.[4]

Welded line pipe is produced in different grades and to various specifications. While there are some differences between domestic and imported line pipe and there may be some special types of line pipe that U.S. producers do not manufacture, there is nevertheless a high degree of substitutability between line pipe from the United States and from import sources.[5]

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[1] Table C-1, Report at C-3 (adjusted). As noted in the background discussion of the majority's views addressing injury, the Commission amended the scope of the investigation to exclude arctic grade line pipe. As a result, we excluded data for arctic grade line pipe from the aggregate data compiled in the Commission's Report, in reaching our determination that subject imports are a substantial cause of the threat of serious injury to the domestic industry. We also excluded data regarding alloy line pipe outside the scope of the investigation in reaching our affirmative threat determination. Data for arctic grade line pipe are found in the Report at II-12 to II-13 and data for out-of-scope alloy line pipe are accounted for by imports from Japan under HTS subheading 7306.10.50. Accordingly, our citations to "Table C-1, Report at C-3 to C-4 (adjusted)" refer to aggregate data as adjusted to account for these two exclusions.

[2] Table C-1, Report at C-3 (adjusted).

[3] *See* Report at II-83.

[4] *See, e.g.*, Report at II-112.

[5] Report at II-79.

Domestic supply conditions. U.S. production increased 5.4 percent between 1994 and 1998, before decreasing 31.6 percent between interim periods,[6] while U.S. producers' total capacity increased 7.6 percent between 1994 and 1998, and an additional 8.0 percent between interim periods. Capacity utilization among domestic producers declined from 60.2 percent in 1994 to 58.9 percent in 1998 and 39.8 percent in interim 1999.[7] As a ratio to total shipments, U.S. producers' inventories of line pipe were between 7.7 percent and 11.1 percent during the period 1994-1998, and rose to 14.6 percent in interim 1999.[8] Domestic capacity has exceeded total average domestic demand throughout the POI.[9]

Import supply conditions. Total imports of line pipe increased *** percent between 1994 and 1998, with imports increasing *** percent between 1996 and 1997 and by *** percent between 1997 and 1998, before declining by *** percent between interim periods.[10] For those foreign producers that responded to the Commission's questionnaires,[11] exports to the United States increased 112.1 percent over the entire POI, with such exports increasing 90 percent between 1997 and 1998 alone. Although projected data show exports to the United States declining in 1999 and 2000, we find such projections undermined by the fact that during the first six months of 1999, actual imports into the United States from the largest single source, *i.e.* Korea, were already equivalent to 91.5 percent of projected total exports from Korea to the United States for all of 1999.[12]

Aggregate capacity utilization for responding foreign producers increased from 58.4 percent in 1994 to 79.3 percent in 1997, before declining to 70.5 percent in 1998; aggregate capacity utilization is projected to remain at 70.5 percent in 1999 before increasing to 79.6 percent in 2000.[13]

The record demonstrates that export shipments are an important component of foreign producers' sales; during the period 1994-1998, aggregate export shipments accounted for over 60 percent of foreign production.[14] In 1998, one-third of reporting foreign producers' production was exported to the United States.[15] In some countries, more than 90 percent of production was sent to export markets in certain years.[16] Yearly shipments to markets other than the United States accounted for between 39.9 percent and 50.8 percent of total shipments for those foreign producers that responded to the Commission's

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[6] *See* Table 5, Report at II-27.

[7] *Id.*

[8] Table 7, Report at II-29.

[9] *See* Table 2, Report at II-17; Table 5, Report at II-27.

[10] Table C-1, Report at C-3 (adjusted).

[11] We note that this aggregate data represents responding foreign producers located in the eight countries that constitute the principle sources of line pipe imports into the United States. These countries are Canada, Germany, Japan, Korea, Mexico, South Africa, Turkey and the United Kingdom. We further note that producers from Venezuela, who responded to the Commission's questionnaire but whose exports to the U.S. were either zero or negligible in each year of the POI, are not included in these aggregate numbers. Aggregate data is derived from aggregating the data contained in Tables 14-21, Report at II-51 to II-69.

[12] *Cf.* Table 14, Report at II-51 *with* Table C-1, Report at C-3 (adjusted).

[13] *See* Tables 14-21, Report at II-51 to II-69.

[14] *Id.*

[15] *Id.*

[16] Table 14, Report at II-51; Table 15, Report at II-54.

questionnaire. Aggregate exports for responding foreign producers to the United States increased from 15.7 percent of production to 34.4 percent between 1996 and 1998,[17] while exports to countries other than the United States declined by 7 percent and foreign home market consumption decreased by 11.6 percent,[18] reflecting reduced global demand during the latter part of the POI and the redirection of exports to the U.S. market.

Based upon the foregoing, and notwithstanding the decline in the volume of imports into the United States between interim 1998 and interim 1999, we find that the supply of imported line pipe in the U.S. market is likely to increase in the imminent future.

Industry Adjustment Proposals

Petitioners presented to the Commission proposed adjustments, indicating that the industry plans to further modernize its equipment to produce line pipe more efficiently, and to develop new types of products constructed from lighter steel, as well as other specialized products, in order to be able to offer a broader product range and thereby enhance competitiveness.[19] Petitioners provided specific examples of the capital investments the domestic producers plan to make,[20] and indicated that for the most part, such investments are contingent upon obtaining temporary relief from the President.

Recommended Relief

Selection of a temporary increased tariff on line pipe imports. Pursuant to section 202(e) of the Trade Act of 1974, we are recommending action to the President that, in our view, will address the threat of serious injury to the domestic line pipe industry and that will most effectively facilitate efforts by the domestic industry to make a positive adjustment to import competition. We have examined the different forms of relief that the Commission is authorized to recommend in this investigation,[21] and we have sought to develop a remedy that would be most effective in facilitating the domestic industry's efforts to adjust to import competition while not disrupting the U.S. line pipe market more than is necessary. The simple tariff increase that we recommend, as described above, is designed to provide domestic producers the modest price increases necessary to facilitate the domestic industry's adjustment plan, albeit to a lesser degree than that sought by petitioners.[22] We believe this will provide relief to allow the domestic industry to adjust to current and threatened market conditions without imposing unnecessarily harsh effects upon the U.S. economy as a whole.[23]

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[17] *See* Tables 14-21, Report at II-51 to II-69.

[18] *Id.*

[19] *See, e.g.*, Petitioner's Post Hearing Remedy Brief at 24-26.

[20] *Id.*

[21] As the Commission noted in *Wheat Gluten*, a simple tariff increase generally is preferred over tariff-rate quotas and quantitative restrictions because a simple tariff increase tends to be less distortive of trade and is easiest to administer. *Views of the Commission on Remedy, Wheat Gluten*, Inv. No. TA-201-67, USITC Pub. 3088 (March 1998), at I-26.

[22] *Cf.* Commission Remedy Memorandum EC-W-071, (Dec. 1, 1999) *with* Additional Commission Remedy Memorandum EC-W-074 (Dec. 7, 1999).

[23] *See* Additional Commission Remedy Memorandum EC-W-074 (Dec. 7, 1999).

In this investigation, we recommend a four-year relief period. The capital investment projects outlined in the domestic industry's adjustment plan require sufficient time for project approval, securing of financing, installation, and start-up operations. This latter consideration is significant; even after a capital investment project is completed, a producer inevitably requires additional time to develop the expertise necessary to become an efficient producer. As a result, such production efforts are often at an initial competitive disadvantage compared to established producers. The relatively modest tariff increase that we recommend will aid the competitiveness of domestic producers during the critical initial stages of their capital investment programs, such that by the end of the relief period they should be more capable of competing successfully with import competition.

Commissioner Askey also notes that the recent upturn in the oil and gas industries, the line pipe industry's principal customers, should assist the domestic industry in its efforts to respond to competition from imports.

As noted, in developing our remedy recommendation we considered the evidentiary basis for our injury determination in this investigation. We wish to stress that in formulating our remedy recommendation in this case, we relied upon the written description of the merchandise subject to this investigation. Accordingly, we consider the written description of the scope of this investigation to be dispositive; any references to HTS subheadings are provided merely for convenience.

For the reasons set forth in our views on injury, we both recommend that imports of line pipe from Canada be excluded from the increase in duty outlined above. Chairman Bragg finds that imports from Canada account for a substantial share of total imports but do not contribute importantly to the threat of serious injury to the domestic industry. Commissioner Askey finds that imports from Canada do not account for a substantial share of total imports and do not contribute importantly to the threat of serious injury to the domestic industry.

With regard to Mexico, Chairman Bragg finds that imports from Mexico account for a substantial share of total imports and do contribute importantly to the threat of serious injury to the domestic industry; consequently, Chairman Bragg recommends that imports from Mexico be subject to the increase in duty outlined above. Commissioner Askey finds that while imports from Mexico account for a substantial share of total imports, they do not contribute importantly to the threat of serious injury to the domestic industry; therefore, Commissioner Askey recommends that imports from Mexico be excluded from the increase in duty outlined above.

In addition, we both note that the Carribean Basin Economic Recovery Act, the Andean Trade Preference Act, and the U.S.-Israel Free Trade Agreement Act, require the Commission to state whether and to what extent its findings and recommendations apply to an article that is the subject of an affirmative determination under section 202 of the Trade Act when imported from beneficiary Caribbean Basin or Andean countries, or from Israel.[24] The record shows no imports from any beneficiary Andean country and only negligible imports from Israel and from one beneficiary Caribbean Basin country.[25] Accordingly, we recommend that the tariff increase described above not apply to imports of line pipe from Israel, nor to

[24] 19 U.S.C. §§ 2112 note, 2703(e)(2), 3203(d)(2).

[25] *See* Commission Remedy Memorandum EC-W-071, Table D-2 at p. 15 (Dec. 1, 1999). Columbia was the only beneficiary Caribbean Basin country with exports to the United States during the POI.

imports of line pipe entered duty-free from beneficiary countries under the Andean Trade Preference Act and the Caribbean Basin Economic Recovery Act.

Conclusion. We believe that the tariff increase described above will most effectively address the threat of serious injury to the domestic line pipe industry and facilitate efforts by the domestic industry to make a positive adjustment to import competition without unnecessary adverse effects on the domestic economy. Our recommendation would result in modest price increases for line pipe in the U.S. market, as well as substantially increased revenues for the domestic industry due to increased shipment levels.[26] We are satisfied that these results will assist domestic producers in regaining profitability and in implementing the domestic industry's adjustment proposals without unduly increasing the costs incurred by line pipe purchasers and on the economy as a whole.

Short- and Long-term Effects of the Recommended Remedy

The tariff increase that we are proposing will provide the level of relief that is necessary to address the threat of serious injury to the domestic line pipe industry and that will be the most effective, in our view, in facilitating the domestic industry's efforts "to make a positive adjustment to import competition and provide greater economic and social benefits than costs."[27]

As discussed above, the challenge facing the domestic industry is to regain profitability and to engage in substantial capital investments to improve its competitiveness in order to better serve its customers' needs. Our remedy recommendation would result in the modest price increases necessary to permit the domestic industry to overcome these challenges, while not unduly disrupting the U.S. line pipe market and harming the industries that use line pipe. Estimates by Commission staff indicate that our recommended remedy will result in increased revenues to the domestic industry through a combination of increased prices and sales volumes, although not to the degree sought by petitioners.[28] The increase in sales volumes should lead to increased cost-efficiency for domestic producers, and the increase in revenues should improve the profitability of the domestic industry. Again, these improvements should come without significantly adversely affecting downstream industries and consumers; a viable, competitive, modern line pipe industry is critical to that industry's principal customers, *i.e.* the oil and gas industries. As described above, we further recommend that the increase in duty be reduced over the course of the relief period, reflecting the anticipated improvement in the competitiveness of the domestic line pipe industry.

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[26] *See* Additional Commission Remedy Memorandum EC-W-074 (Dec. 7, 1999).

[27] 19 U.S.C. § 2253(a)(1)(A).

[28] *Cf.* Commission Remedy Memorandum EC-W-071, (Dec. 1, 1999) *with* Additional Commission Remedy Memorandum EC-W-074 (Dec. 7, 1999).

Short- and Long-term Effects of Not Taking the Recommended Action

In the absence of the relief that we recommend, we believe that imports will continue to capture a significant and increasing share of the U.S. market, resulting in a continuing decline in capacity utilization, and hence the efficiency, of domestic producers, as well as continued price suppression or depression in the U.S. market for line pipe. Such conditions would likely continue to depress the profitability of domestic producers, thereby serving as an impetus for contraction, both in terms of production and employment, in the domestic industry. Line pipe production facilities are substantial operations that are an important component of their local economies, so any partial shut-downs or plant closings would likely have a significant adverse impact on the communities in which such facilities are located.

In addition, the likely conditions resulting in the absence of our recommended relief would likely make it difficult, if not impossible, for the domestic industry to undertake all of the needed capital investments to modernize equipment and improve product quality that are necessary for domestic producers to remain competitive. Finally, any prolonged decline in the competitiveness of domestic line pipe producers would also likely impact adversely their principal customers, *i.e.* the oil and gas industries, due to an ensuing reduction in the number of alternative sources for line pipe in the U.S. market.

DISSENTING VIEWS OF COMMISSIONER CAROL T. CRAWFORD ON REMEDY

Petitioners in this investigation have requested the application of a quantitative restriction on imports of line pipe for a period of four years.[1] Petitioners initially requested a quota based on 1994-95 market shares and January-June 1999 apparent U.S. consumption, but subsequently focused their analysis on a quota based on import levels during 1994-96.[2] The requested remedy encompasses all countries other than Canada, Israel, Mexico, and the countries provided for in the Andean Trade Preferences Act and the Caribbean Basin Economic Recovery Act.

On October 28, 1999, I announced that I had determined that increased imports of certain circular welded carbon quality line pipe are not a substantial cause of serious injury, or threat thereof, to the domestic industry producing such line pipe. Section 202(e)(6) of the Trade Act of 1974 invites all members of the Commission to submit separate views regarding what action, if any, the President should take under section 203 of the Trade Act. I recommend that he take no import relief action. These comments address three elements of the statute that govern the selection of a remedy.

- Any remedy may not exceed the amount necessary to prevent or remedy the serious injury or the threat of serious injury.
- Any remedy must consider the national economic interest of the United States, and specifically the effects on consumers and on competition in domestic markets.
- Any remedy must provide greater economic and social benefits than costs.

I address each of these questions in turn.

I. The proposed remedy exceeds the amount necessary to prevent or remedy any injury or threat of injury that may have existed.

Normally, the adjustment plan proposed by the Petitioners is the best guide to the priorities of the domestic industry and therefore identifies the areas in which any import relief could best be justified. In this investigation, Petitioners did not submit an adjustment plan on behalf of the domestic industry. Instead, individual U.S. producers identified efforts undertaken by their companies in the 1990s to compete more effectively in the U.S. line pipe market as well as adjustments that they intend to make to compete more effectively with line pipe imports.[3] U.S. producers submitted adjustment plans that stress additional investment in facilities and equipment in order to increase productive capacity, enter new product lines, enhance quality, and lower production costs to increase profits.[4] However, there is no evidence that the domestic industry requires relief from fairly traded imports in order to accomplish these goals.

As noted earlier, the domestic line pipe industry invested heavily in facilities and equipment between January 1994 and June 1999. The industry financed $125.5 million of capital expenditures over

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[1] *Petitioners' Prehearing Brief on Remedy* at 2.

[2] Memorandum EC-W-071 at 13.

[3] Despite the continuous presence of imported line pipe in the U.S. market, only one company, ***, reported that any of its efforts to compete more effectively were made primarily to compete with sales of imported line pipe. *See* responses to producers' questionnaires at 20-21.

[4] *See* responses to producers' questionnaires at 20-22.

the period examined, building new mills and expanding and modernizing their domestic plants and equipment. Book value grew markedly from about $100 million during 1994-97 to $128 million in 1998 and $132 million in the first half of 1999.[5] At the same time, the domestic industry increased its productive capacity by 7.6 percent between 1994 and 1998. Mill capacity was 8.0 percent higher in the first half of 1999 than in the first half of 1998.[6] Therefore, there is no indication that the industry requires additional incentives to invest; indeed, short-term relief could tend to distort the capital allocation decisions made by U.S. producers.

Likewise, the domestic industry has shown that it recognizes the necessity of meeting the specific needs of its customers through new product development. Industry-wide research and development expenditures have remained stable since 1996.[7] Moreover, while U.S. producers were unable to meet potential customers' needs in certain product lines,[8] at least one producer, Maverick, is already moving to fill gaps in its product line.[9] Further, U.S. producers have demonstrated the ability to compete in some of the most demanding product lines. Indeed, about one-half of the industry's line pipe sales in 1998 were in the top API grades (X-52 and above).[10]

Finally, the domestic industry generated approximately $76 million in operating income between January 1994 and June 1999, posting industry-wide operating profits in four of the five fiscal years examined.[11] In every year except fiscal year 1994 and the six-month period of January-June 1999, a large majority of U.S. producers reported operating profits.[12] In addition, the recent upward trends in oil and gas prices, exploration, and production have begun to restore U.S. demand for line pipe. This renewed U.S. demand is already resulting in increased production and shipments of line pipe by U.S. producers.[13] There are also some indications that a rebound in worldwide line pipe consumption (*e.g.*, an easing of "Asia crisis") is already underway.[14]

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[5] Table 13, CR at I-48, PR at II-31.

[6] Table 5, CR at I-27, PR at II-22.

[7] Table 13, CR at I-48, PR at II-31. R&D expenditures were *** in 1996 and 1997 and *** in 1998. U.S. producers maintained R&D expenditures at *** in the first half of 1999 compared to *** in the first half of 1998. Id.

[8] These customer needs include "Arctic grade" line pipe, HFI pipe larger than 6 inches in outside diameter, and high strength and/or heavy-walled pipe.

[9] CR at I-24, PR at II-21.

[10] CR at I-75-76 and n. 106 and 109, PR at II-44-45 and n. 106 and 109.

[11] Table 9, CR at I-34, PR at II-27.

[12] Table 9, CR at I-34, PR at II-27. This includes, of course, companies such as *** and ***, whose operating income levels in fiscal year 1998 and fiscal year 1999, respectively, reflect decisions made with respect to raw material production operations.

[13] Reporting U.S. mills recorded sharply higher monthly volumes in April, May, June, July, and August of 1999. *See* Memorandum INV-W-247, compiled by Commission staff from data of the American Iron and Steel Institute.

[14] Line pipe exports from Korea and Japan to non-U.S. markets have increased markedly in 1999, a trend that Respondents assert will continue in light of rising oil and gas prices and recent devastating earthquakes in Turkey and Taiwan. *Posthearing Brief on Injury of the Japanese and Korean Respondents* at 71.

II. The national economic interest of the United States and the effects on consumers and on competition in domestic markets outweigh the needs of the domestic line pipe industry.

The primary downstream industry purchasing energy-related tubular products such as line pipe is, not surprisingly, the domestic oil and gas industry. The U.S. energy sector as a whole faces intense global competition.[15] Any import relief granted to line pipe producers would have an immediate adverse impact on the domestic oil and gas industry, which itself has just weathered a major crisis, placing it at a disadvantage relative to major competitors located outside the United States. In the short term, import relief would raise line pipe prices and could also restrict the supply of line pipe available to the domestic oil and gas industry. In the longer term, additional price effects would be passed on to customers further downstream, and to virtually every business and every person in the United States. While the effects on individual businesses and consumers would likely be very small, the cumulative effect on the economy could be significant.

In addition, with the product and country exclusions included in the petition and in the Commission's findings with respect to NAFTA partners Canada and Mexico, import relief would hardly be global. It would therefore result in trade diversion in addition to trade depression, favoring certain suppliers and certain purchasers over others. Two of the main beneficiaries would be Mexico and Canada, the second and the sixth largest suppliers of line pipe to the United States during the second half of 1998 and the first half of 1999. Moreover, the exclusion of at least two major suppliers likely would diminish any benefit to the domestic industry of an import restraint.

In short, any remedy that restricts imports of line pipe cannot be viewed in isolation. Import restrictions would impose serious costs on the oil and gas industry, placing it at a significant disadvantage relative to non-U.S. competitors, and on U.S. consumers of petroleum products used throughout the economy.

III. The proposed remedy does not provide greater economic and social benefits than costs.

The Petitioners have requested the most draconian form of relief against fairly traded imports available under U.S. law -- the imposition of quantitative restrictions. As is well known, the welfare costs of quotas are higher than those for tariffs. A quota such as the Petitioners request, based on import levels during the period 1994-96 and applied against market conditions in 1998, would provide a benefit to domestic producers of $5-12 million. However, the quota's cost to consumers would amount to $34-76 million. The quota therefore would, on balance, produce a net national welfare loss of $29-64 million.[16] These high net costs reflect the fact that quotas not only allow foreign manufacturers to capture economic rents but also restrict the domestic market's ability to respond to unanticipated changes in demand conditions. Thus, an additional cost in the form of serious distortions in the balance between supply and demand must be acknowledged and anticipated.

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[15] *Prehearing Brief on Injury of the German Respondents* at 3-4.

[16] Memorandum EC-W-071 at 18 and A-3-6. To place these numbers in perspective, a quota based on import levels during the period 1994-96 and applied against market conditions in 1998 would have resulted in consumer welfare losses with a dollar value approaching or exceeding the value of the entire domestic industry's operating income in its record-setting year of 1997. In contrast, the dollar value of U.S. producer welfare gains are equivalent to only one-quarter to one-half of the reduction in operating income from 1997 to 1998. *Compare* Memorandum EC-W-071 *with* Table 9, CR at I-34, PR at II-27.

Tariff-rate quotas (TRQs) restore a semblance of flexibility in the market and allow participants additional options, albeit at a high cost, for dealing with unanticipated changes in demand conditions. Like traditional quotas, however, TRQs permit the capture of economic rents by foreign manufacturers at the expense of U.S. consumers. Also like traditional quotas, the costs to consumers would markedly exceed any benefits to U.S. producers. Thus, the application of a TRQ to the line pipe market would also result in significant net welfare losses.[17]

Finally, while tariffs are the most flexible form of import relief, and *relatively* the least costly, even tariffs that exclude imports originating in Canada and Mexico and imports of "Arctic grade" and alloy pipe will entail significant consumer losses. Like traditional quotas and TRQs, import restraints based on tariffs alone virtually always result in net consumer costs that far exceed any benefits to U.S. producers.[18]

In short, even small tariffs result in the costs to consumers that exceed any benefits to U.S. producers, while the net welfare losses from a quota would be excessive, and out of proportion to the benefits producers would realize. The requested quota not only would shift costs from producers to consumers and the rest of the economy, but those costs would exceed the potential benefit to producers many times over. Import restraints, as a practical matter, would not only put the interests of the line pipe industry above those of the oil and gas industry and the public as a whole, they would impose a net cost on the economy of up $29-64 million.

U.S. Trade Representative Charlene Barshefsky recently pointed to the importance of imports in our economy, noting that an "open American economy means competition." She specifically cited choice, price, and competition as the key elements that raise our standard of living. Imports, she said, "give businesses access to inputs ... that reduce overall costs and therefore improve efficiency and competitiveness" of our domestic industries.[19]

The present situation in the line pipe industry is a textbook example of that admonition. The U.S. oil and gas industry has long considered imported line pipe to be an important source of vital equipment. Imports not only satisfy overall demand levels but also supply dimensions and grades of pipe that are not produced by the U.S. line pipe industry.

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[17] *See, e.g.*, Memorandum EC-W-071 at 22-23; Memorandum EC-W-073 at 4-5; and Memorandum EC-W-074 (page numbers not identified).

[18] In each of the tariff scenarios examined by the Commission staff, consumer costs exceed producer benefits. Revenues generated by relatively low tariffs can provide the government with proceeds roughly equal to the losses borne by consumers. Thus, net welfare loss or gain may appear as neutral. Progressively higher tariffs produce little or no government revenue, as they reduce or even block imports altogether. In the line pipe market, larger increases in the tariff consistently yield net welfare losses, even after considering government revenue. Memorandum EC-W-071 at 20-23; Memorandum EC-W-073 at 1,3, and 4; and Memorandum EC-W-074 (page numbers not identified).

Of course, calculations regarding government revenue do not include the additional costs of administration, monitoring, and enforcement. As proposed remedy options incorporate greater amounts of detail, they also increase in their level of complexity. A complex package of import relief with multiple country and product exclusions would entail high administration, monitoring, and enforcement costs that ultimately would be assumed by U.S. citizens as taxpayers and as consumers.

[19] "The Road From Seattle," National Press Club, November 23, 1999.

As oil and gas production increases, the U.S. oil and gas industry will need access both to increased overall volumes of line pipe and also to the full range of options in dimensions, grades, and prices, in order to respond optimally to the rising demand for oil and gas. Any import restraint – tariffs, quotas, or TRQs – will impede the ability of the U.S. oil and gas industry to respond to increased demand, to maximize efficiency and productivity, and to compete effectively with other producers.

IV. Conclusion

As I have determined that increased imports of line pipe are not a substantial cause of serious injury, or threat thereof, to the domestic industry producing line pipe, I do not believe any import relief is appropriate in this investigation. I urge the President to adopt this conclusion. Any action that restricts imports would exceed the amount of relief necessary to prevent or remedy any injury experienced by the domestic industry, would have substantial short- and long-term effects on other domestic industries and consumers, and would create greater social and economic costs than benefits.