

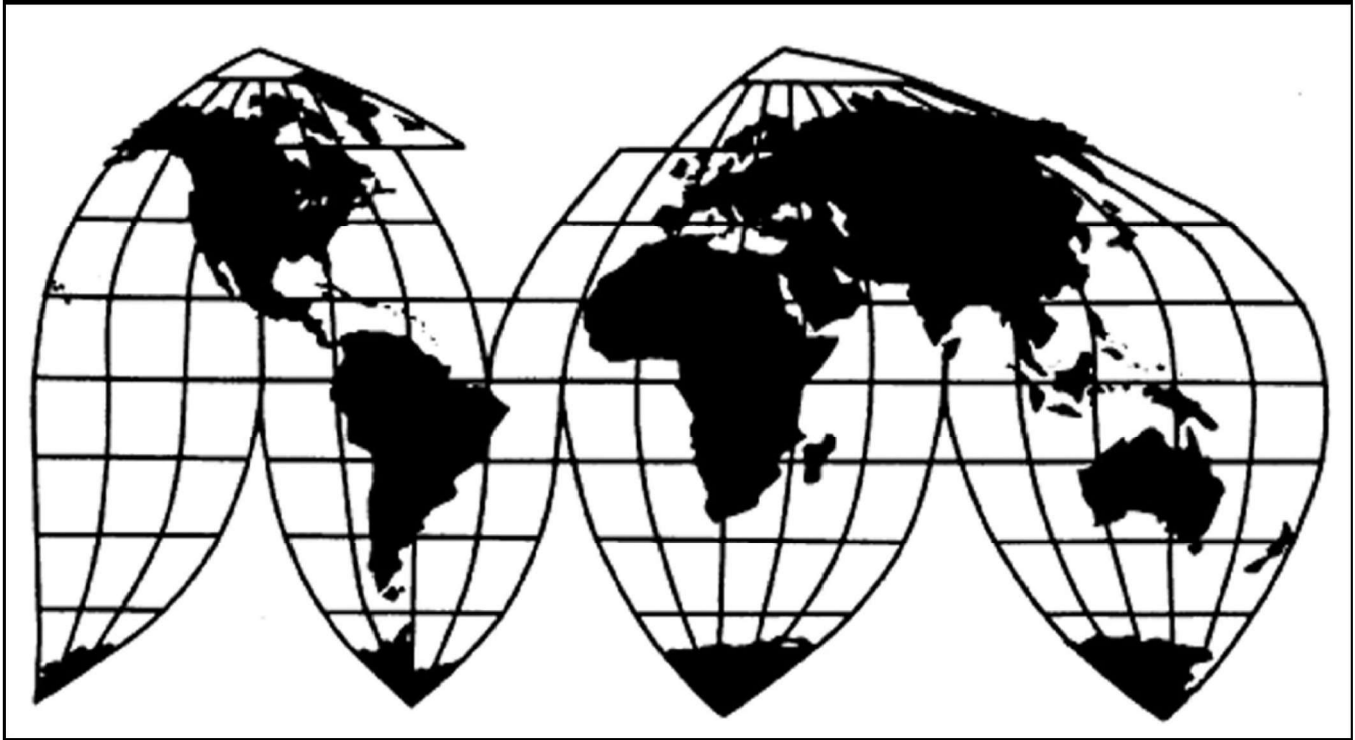
# Refillable Stainless Steel Kegs from Mexico

Investigation No. 731-TA-1427 (Final)

Publication 4976

October 2019

**U.S. International Trade Commission**



Washington, DC 20436

# U.S. International Trade Commission

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# U.S. International Trade Commission

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Note.—Information that would reveal confidential operations of individual concerns may not be published. Such information is identified by brackets in confidential reports and is deleted and replaced with asterisks (\*\*\*) in public reports.

## UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1427 (Final)

Refillable Stainless Steel Kegs from Mexico

### DETERMINATION

On the basis of the record<sup>1</sup> developed in the subject investigation, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that the establishment of an industry in the United States is materially retarded by reason of imports of refillable stainless steel kegs from Mexico, provided for in subheadings 7310.10 and 7310.29 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”).<sup>2 3 4</sup>

### BACKGROUND

The Commission, pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), instituted this investigation effective September 20, 2018, following receipt of a petition filed with the Commission and Commerce by American Keg Company, LLC, Pottstown, Pennsylvania. The Commission scheduled the final phase of the investigation following notification of preliminary determinations by Commerce that imports of refillable stainless steel kegs were being subsidized by the government of China<sup>5</sup> within the meaning of section 703(b) of the Act and that imports of refillable stainless steel kegs from China,<sup>6</sup> Germany,<sup>7</sup> and Mexico<sup>8</sup> were being sold at LTFV within the meaning of section 733(b) of the Act. Notice of the scheduling of the final phase of the Commission’s investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of June 17, 2019 (84 FR 28070). The hearing was held in Washington, DC, on August 14, 2019, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).

<sup>2</sup> 84 FR 42894 (August 19, 2019) (final determination).

<sup>3</sup> The Commission also finds that imports subject to Commerce’s affirmative critical circumstances determination are not likely to undermine seriously the remedial effect of the antidumping duty order on Mexico.

<sup>4</sup> Commissioners Randolph J. Stayin and Amy A. Karpel did not participate in this investigation.

<sup>5</sup> 84 FR 13634 (April 5, 2019) (preliminary determination and alignment).

<sup>6</sup> 84 FR 25745 (June 4, 2019) (preliminary determination and postponement).

<sup>7</sup> 84 FR 25736 (June 4, 2019) (preliminary determination and postponement).

<sup>8</sup> 84 FR 25738 (June 4, 2019) (preliminary determination).



## Views of the Commission

Based on the record in the final phase of this investigation, we find that the establishment of an industry in the United States is materially retarded by reason of imports of refillable stainless steel kegs (“steel kegs”) from Mexico that are sold in the United States at less than fair value.<sup>1</sup> We also find that critical circumstances do not exist with respect to imports of steel kegs from Mexico subject to the U.S. Department of Commerce’s (“Commerce”) affirmative critical circumstances determination.<sup>2</sup>

### I. Background

American Keg Company LLC (“American Keg” or “Petitioner”), a domestic producer of steel kegs, filed the petitions in these investigations on September 20, 2018. It appeared at the hearing and filed prehearing and posthearing briefs and final comments.<sup>3</sup> Several respondent entities participated in the final phase of these investigations: Blefa GmbH, a producer and exporter of steel kegs in Germany, and Blefa Kegs, Inc., an importer of subject merchandise (collectively “Blefa”); Penglai Jinfu Stainless Steel Products Co., Ltd., Ningbo Major Draft Beer Equipment Co., Ltd., and Qingdao Henka Precision Technology Co., Ltd., each a producer/exporter of subject merchandise in China (collectively “Chinese Respondents”); Thielmann Mexico S.A. de C.V., a producer/exporter of steel kegs in Mexico, and Thielmann US LLC, a U.S. importer of subject merchandise (collectively “Thielmann”); and Anheuser-Busch, LLC (“Anheuser”), a U.S. importer of subject merchandise and a U.S. purchaser of steel kegs. The four respondent entities appeared individually at the hearing with counsel and also submitted prehearing and posthearing briefs and final comments.<sup>4</sup>

Except as noted, U.S. industry data are based on the questionnaire response of one domestic firm that accounted for all U.S. production of steel kegs during 2018. U.S. import data

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<sup>1</sup> Commissioners Randolph J. Stayin and Amy A. Karpel did not participate in this investigation.

<sup>2</sup> Although petitions for antidumping duty and countervailing duty investigations for China, Germany, and Mexico were filed on the same day, the investigations became staggered when Commerce did not postpone and issued only its final antidumping duty determination regarding subject imports from Mexico, thereby necessitating an earlier final Commission determination in the investigation regarding Mexico. Commerce’s final determinations concerning subject imports from the other two subject countries (China and Germany) are expected on or about October 17, 2019. Pursuant to the statutory provision on staggered investigations (19 U.S.C. § 1677(7)(G)(iii)), when the Commission cumulates subject imports, the record for the remaining investigations is the same record as that in the current investigation regarding Mexico except that the final Commerce determinations regarding China and Germany, and the parties’ final comments concerning those determinations, will be added to the record of those proceedings.

<sup>3</sup> See Petitioner’s Prehearing Brief; Petitioner’s Posthearing Brief; Petitioner’s Final Comments.

<sup>4</sup> See Anheuser’s Prehearing Brief; Anheuser’s Posthearing Brief; Anheuser’s Final Comments; Blefa’s Prehearing Brief; Blefa’s Posthearing Brief; Blefa’s Final Comments; Chinese Respondents’ Prehearing Brief; Chinese Respondents’ Posthearing Brief; Chinese Respondents’ Final Comments; Thielmann’s Prehearing Brief; Thielmann’s Posthearing Brief; Thielmann’s Final Comments.

are based on questionnaire responses from 30 firms that account for approximately \*\*\* percent of reported exports from China, approximately \*\*\* percent of reported exports from Germany, and approximately \*\*\* percent of reported exports from Mexico, as well as the majority of exports from nonsubject countries in 2018. Foreign industry data are based on questionnaire responses from 8 firms whose exports are equivalent to virtually all reported U.S. imports from China, Germany, and Mexico.<sup>5</sup>

## II. Domestic Like Product

### A. In General

In determining whether the establishment of an industry in the United States is materially retarded by reason of imports of subject merchandise, the Commission first defines the “domestic like product” and the “industry.”<sup>6</sup> Section 771(4)(A) of the Tariff Act of 1930, as amended (“the Tariff Act”), defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>7</sup> In turn, the Tariff Act defines “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation.”<sup>8</sup>

The decision regarding the appropriate domestic like product in an investigation is a factual determination, and the Commission has applied the statutory standard of “like” or “most similar in characteristics and uses” on a case-by-case basis.<sup>9</sup> No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.<sup>10</sup> The Commission looks for clear dividing lines among possible like products and disregards minor variations.<sup>11</sup> Although the Commission must accept

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<sup>5</sup> Confidential Report, Memorandum INV-RR-087 (Sept. 4, 2019) (“CR”) at I-6, Public Report (“PR”) at I-5.

<sup>6</sup> 19 U.S.C. § 1677(4)(A).

<sup>7</sup> 19 U.S.C. § 1677(4)(A).

<sup>8</sup> 19 U.S.C. § 1677(10).

<sup>9</sup> See, e.g., *Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int’l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Torrington Co. v. United States*, 747 F. Supp. 744, 749 n.3 (Ct. Int’l Trade 1990), *aff’d*, 938 F.2d 1278 (Fed. Cir. 1991) (“every like product determination ‘must be made on the particular record at issue’ and the ‘unique facts of each case’”). The Commission generally considers a number of factors, including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. See *Nippon*, 19 CIT at 455 n.4; *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996).

<sup>10</sup> See, e.g., S. Rep. No. 96-249 at 90-91 (1979).

<sup>11</sup> *Nippon*, 19 CIT at 455; *Torrington*, 747 F. Supp. at 748-49; see also S. Rep. No. 96-249 at 90-91 (Congress has indicated that the like product standard should not be interpreted in “such a narrow (Continued...)”).

Commerce's determination as to the scope of the imported merchandise that is subsidized or sold at less than fair value,<sup>12</sup> the Commission determines what domestic product is like the imported articles Commerce has identified.<sup>13</sup>

## B. Product Description

In its final antidumping duty determination with respect to Mexico, Commerce defined the imported merchandise within the scope of the investigation as follows:

{K}egs, vessels, or containers with bodies that are approximately cylindrical in shape, made from stainless steel (*i.e.*, steel containing at least 10.5 percent chromium by weight and less than 1.2 percent carbon by weight, with or without other elements), and that are compatible with a "D Sankey" extractor (refillable stainless steel kegs) with a nominal liquid volume capacity of 10 liters or more, regardless of the type of finish, gauge, thickness, or grade of stainless steel, and whether or not covered or encased in other materials. Refillable stainless steel kegs may be imported assembled or unassembled, with or without all components (including spears, couplers or taps, necks, collars, and valves), and be filled or unfilled.

"Unassembled" or "unfinished" refillable stainless steel kegs include drawn stainless steel cylinders that have been welded to form the body of the keg and attached to an upper (top) chime and/or lower (bottom) chime. Unassembled refillable stainless steel kegs may or may not be welded to a neck, may or may not have a valve assembly attached, and may be otherwise complete except for testing, certification, and/or marking.

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fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

<sup>12</sup> See, e.g., *USEC, Inc. v. United States*, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) ("The ITC may not modify the class or kind of imported merchandise examined by Commerce."); *Algoma Steel Corp. v. United States*, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd*, 865 F.3d 240 (Fed. Cir.), *cert. denied*, 492 U.S. 919 (1989).

<sup>13</sup> *Hosiden Corp. v. Advanced Display Mfrs.*, 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); *Cleo*, 501 F.3d at 1298 n.1 ("Commerce's {scope} finding does not control the Commission's {like product} determination."); *Torrington*, 747 F. Supp. at 748-52 (affirming the Commission's determination defining six like products in investigations in which Commerce found five classes or kinds).

Subject merchandise also includes refillable stainless steel kegs that have been further processed in a third country, including but not limited to, attachment of necks, collars, spears or valves, heat treatment, pickling, passivation, painting, testing, certification or any other processing that would not otherwise remove merchandise from the scope of investigation if performed in the country of manufacture of the in-scope refillable stainless steel keg.

Specifically excluded are the following: (1) vessels or containers that are not approximately cylindrical in nature (e.g., box, “hopper,” or “cone” shaped vessels); (2) stainless steel kegs, vessels, or containers that have either a “ball lock” valve system or a “pin lock” valve system (commonly known as “Cornelius,” “corny,” or “ball lock” kegs); (3) necks, spears, couplers or taps, collars, and valves that are not imported with the subject merchandise; and (4) stainless steel kegs that are filled with beer, wine, or other liquid and that are designated by the Commissioner of Customs as Instruments of International Traffic within the meaning of section 332(a) of the Tariff Act of 1930, as amended.

Refillable stainless steel kegs are currently classified under Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7310.10.0010, 7310.10.0050, 7310.29.0025, and 7310.29.0050. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of these investigations is dispositive.<sup>14</sup>

Steel kegs within the scope of these investigations are commonly known as “beer kegs” and are used for the storage and transport of various beverages, including beer, wine, and soda.<sup>15</sup> Steel kegs are made from stainless steel and come in a variety of sizes, with 1/2 barrel and 1/6 barrel (also known as a sixtel) steel kegs being the most common sizes in the U.S. market.<sup>16</sup> Steel kegs are typically sold with an extractor or “spear,” which is used along with a coupler to extract liquid contained in the steel keg.<sup>17</sup> Most steel kegs in the United States are “Sankey” style kegs, with domed tops and bottoms and straight sides to facilitate automatic filling and cleaning.<sup>18</sup>

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<sup>14</sup> Refillable Stainless Steel Kegs from Mexico: Final Affirmative Determination of Sales at Less than Fair Value and Final Determination of Critical Circumstances, 84 Fed. Reg. 42,894 (August 19, 2019).

<sup>15</sup> CR at I-14, PR at I-11.

<sup>16</sup> CR at I-15, PR at I-12.

<sup>17</sup> CR at I-18 to I-19, PR at I-15 to I-16.

<sup>18</sup> CR at I-20 to I-21, PR at I-16 to I-17.



### C. Analysis

In our preliminary determinations, the Commission defined a single domestic like product consisting of all steel kegs, coextensive with the scope of investigations.<sup>19</sup> In the final phase of these investigations, no interested party requested data on alternative products in comments on the draft questionnaires.<sup>20</sup> American Keg continues to advocate that the Commission define the domestic like product as all steel kegs, coextensive with the scope of investigations.<sup>21</sup> Blefa,<sup>22</sup> Chinese Respondents,<sup>23</sup> and Thielmann<sup>24</sup> do not contest the Commission's definition of a single domestic like product from the preliminary determinations. Further, the record of the final phase of these investigations does not contain any information about the characteristics of steel kegs that deviates from that of the preliminary phase to warrant a different definition.<sup>25</sup> Accordingly, we continue to define a single domestic like product consisting of all steel kegs, coextensive with the scope of these investigations.

### III. Domestic Industry

The domestic industry is defined as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."<sup>26</sup> In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

There are two domestic industry issues in these investigations. The first issue concerns whether the domestic industry is established. If we find that the domestic industry is not yet established, we will need to determine whether its establishment has been materially retarded by reason of the subject imports. The second issue concerns whether appropriate circumstances exist to exclude any producer from the domestic industry pursuant to the related parties provision.

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<sup>19</sup> *Refillable Stainless Steel Kegs from China, Germany, and Mexico*, Inv. Nos. 701-TA-610 and 731-TA-1425-1427 (Preliminary), USITC Pub. 4844 (Nov. 2018) at 7-8 ("Preliminary Determinations"). Specifically, the Commission found that all domestically produced steel kegs share the same general physical characteristics and uses, have distinct manufacturing processes from other products, and have at most limited interchangeability with other types of kegs, such as plastic kegs. It also noted that the vast majority of steel kegs were sold to small and craft brewers. *Id.*

<sup>20</sup> CR at I-28, PR at I-22.

<sup>21</sup> Petitioner's Prehearing Brief at 3-12.

<sup>22</sup> Blefa's Prehearing Brief at 18.

<sup>23</sup> Chinese Respondents' Prehearing Brief at 4.

<sup>24</sup> Thielmann's Prehearing Brief at 9.

<sup>25</sup> See generally CR at I-14 to I-27, PR at I-11 to I-21.

<sup>26</sup> 19 U.S.C. § 1677(4)(A).

## A. Material Retardation and Whether the Domestic Industry is Established

In antidumping and countervailing duty investigations, the statute provides that as an alternative to material injury and threat of material injury determinations, the Commission may make a determination concerning whether “the establishment of an industry in the United States is materially retarded” by reason of subject imports.<sup>27</sup> The Commission has previously found that material retardation and material injury/threat forms of injury are mutually exclusive standards, whereby a determination concerning whether the domestic industry is materially retarded is appropriate only when the Commission finds that the domestic industry is not yet established.<sup>28</sup> If a domestic industry is found to be established, however, then it no longer qualifies as a “nascent” industry, and the analysis instead turns on the issues of material injury or threat thereof.

In our preliminary determinations, the Commission observed that these investigations raised the question of whether the material retardation provision applies because the domestic industry might not yet be established. Despite the parties’ arguments that the industry was established, the Commission found that the record was mixed with respect to this determination, and stated its intention to consider further the applicability of the material retardation provision in any final phase of these investigations.<sup>29</sup> However, in analyzing material injury, the Commission considered American Keg’s status as a relatively new entrant to the U.S. steel kegs market as a pertinent condition of competition. The Commission also asked the parties to address data collection pertaining to the issue of material retardation in comments on the draft final phase questionnaires.<sup>30</sup>

### 1. Historical Overview

The issue of material retardation has arisen infrequently in antidumping/countervailing duty original investigations, and the Commission has reached the question of material retardation in approximately five investigations.<sup>31</sup>

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<sup>27</sup> 19 U.S.C. § 1671d(b)(1)(B); 19 U.S.C. § 1673d(b)(1)(B).

<sup>28</sup> *Laminated Woven Sacks from China*, Inv. Nos. 701-TA-450 and 731-TA-1122 (Preliminary), USITC Pub. 3942 (Aug. 2007) at 21.

<sup>29</sup> *Preliminary Determinations*, USITC Pub. 4844 at 10 n.45.

<sup>30</sup> *Preliminary Determinations*, USITC Pub. 4844 at 10 n.45. Also, at the Commission’s public hearing, petitioner was questioned concerning the applicability of the provision to these investigations. Hearing Tr. at 53-54. In the preliminary phase of the investigations, petitioner argued that the material injury analysis was appropriate. However, in response to staff questions, petitioner analyzed the relevant factors and reached the conclusion that all but one factor supported the finding that the domestic industry was not established. See Petitioner’s Postconference Brief, Annex 1, at 1-9. Thielmann argued that the provision was not applicable because the industry was established. Thielmann’s Postconference Brief, Exhibit 1, at 15-17.

<sup>31</sup> The Commission made affirmative material retardation determinations in two investigations and reached negative determinations in the other three. See *Benzyl Paraben from Japan*, Inv. No. 731-TA-462 (Final), USITC Pub. 2355 (Feb. 1991) (“*Benzyl Paraben*”); *Certain Dried Codfish from Canada*, Inv. (Continued...)

Injury provisions under the United States' first antidumping laws included a concept similar to material retardation: the prevention of the establishment of a domestic industry. The antidumping provisions of the Revenue Act of 1916 provided for relief when imports "prevented the establishment of an industry,"<sup>32</sup> and the Antidumping Act of 1921 ("1921 Act") required that the U.S. Treasury (and following 1954, the U.S. Tariff Commission, the predecessor of the Commission) determine whether "an industry in the United States...is prevented from being established" by reason of dumped imports.<sup>33</sup>

The "prevention" standard appears to have evolved from concerns regarding the U.S. chemical and dyestuffs industry and competition from imports from Germany following World War I.<sup>34</sup> This historical context provides insight into Congress' original intent, given that the U.S.

(...Continued)

No. 731-TA-199 (Final), USITC Pub. 1711 (Jul. 1985) ("*Dry Salted Codfish*"), *aff'd*, *BMT Commodity Corp. v. United States*, 667 F. Supp. 880 (Ct. Int'l Trade 1987), *aff'd*, 852 F.2d 1285 (Fed. Cir.), *cert denied*, 489 U.S. 1012 (1989). See also *53-Foot Domestic Dry Containers from China*, Inv. Nos. 701-TA-514 and 731-TA-1250 (Final), USITC Pub. 4537 (June 2015) ("*Domestic Dry Containers*"); *Certain Copier Toner from Japan*, Inv. No. 731-TA-373 (Preliminary), USITC Pub. 1960 (March 1987) ("*Copier Toner*") *Certain Commuter Airplanes from France and Italy*, Inv. Nos. 701-TA-174-175 (Preliminary), USITC Pub. 1269 (July 1982). The issue of material retardation has also arisen in three changed circumstances reviews, see, e.g., *Salmon Gill Fish Netting of Manmade Fibers from Japan*, Inv. No. 751-TA-5, USITC Pub. 1234 (March 1982), and the related question of the "prevention of the establishment of a domestic industry" arose under the Antidumping Act of 1921, see *Regenerative Blower/Pumps from West Germany*, Inv. No. AA1921-140, TC Pub. 676 (May 1974).

<sup>32</sup> The antidumping provisions of the Revenue Act of 1916 afforded individuals a cause of action in federal court against parties that sold foreign merchandise in the U.S. market at a price substantially less than prices in other principal markets, provided that such an act was done with the intent of destroying or injuring a U.S. industry, or of *preventing the establishment of an industry*. Act of September 8, 1916, 15 U.S.C. § 72. Proving a violation under this statute required evidence of intent and resulted in only a single reported case that did not result in a final ruling. See *Cast Iron and Soil Pipe from Poland*, Inv. No. AA1921-50, 32 Fed. Reg. 12,926 (Sept. 9, 1967) (discussing history of injury determinations under U.S. law).

<sup>33</sup> Act of May 27, 1921, ch. 14, sec. 201(a), 42 Stat. 11, 19 § U.S.C. 160.

<sup>34</sup> The concept of allowing the U.S. chemical industry to become established was discussed at a Senate Finance Committee hearing regarding the 1921 Act:

Admiral Earl:	The only way to get distillation of by-products, and so forth...and increase production in this country, is by protecting the dye industry.
Senator Simmons:	In connection with your use of the word, "protecting," you mean by permitting the industry to become established?
Admiral Earl:	Yes sir.
Senator Simmons:	I like that very much better.

Tariff Hearings before the Committee on Finance, 66<sup>th</sup> Cong., 1<sup>st</sup> Sess. 14 (1920). The House version of the 1921 Act did not include injury provisions, while the Senate version added injury (Continued...)

chemical industry had been in existence for a number of years at the time of the passage of the 1921 Act and had reached significant production levels; the industry was nonetheless considered “nascent” relative to German firms because of U.S. producers’ lesser technical expertise, inability to make certain products, and their less efficient/higher costs of production.<sup>35</sup> Congressional statements from this time indicate that the “prevention” standard could also apply to industries not yet in production.<sup>36</sup>

The Trade Agreements Act of 1979 (“1979 Act”) adopted the current language of the statute,<sup>37</sup> requiring that the Commission determine whether “the establishment of an industry in the United States is materially retarded” by reason of subject imports.<sup>38</sup> The 1979 Act amended U.S. trade laws to conform with international commitments in the Tokyo Round of negotiations under the General Agreement on Tariffs and Trade (“GATT”), and the change from “prevention” to “material retardation” reflected the language adopted in the GATT.<sup>39</sup> The statutory language concerning “material retardation” has remained unchanged since the 1979 Act, and Congress has not further addressed the meaning of this provision since that time.

The change from “prevention” to “material retardation” in the standard to be applied in investigations was not considered a substantive difference. Negotiators to the original GATT appear to have adopted the “material retardation” standard out of the same historical context as the “prevention” standard under the 1921 Act,<sup>40</sup> and an executive branch analysis found that “material retardation” was a “reasonable interpretation” of the “prevention” standard.<sup>41</sup>

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(...Continued)

provisions, including the “prevention” standard. *Compare* H.R. 2435, 67<sup>th</sup> Cong., 1<sup>st</sup> Sess. (1921) with Report No. 16, Senate Finance Committee, 67<sup>th</sup> Cong., 1<sup>st</sup> Sess. (1921).

<sup>35</sup> See generally Steen, Kathryn, *The American Synthetic Organic Chemicals Industry: War and Politics, 1910-1930* (2014) at 191-95.

<sup>36</sup> See, e.g., 61 Cong. Rec. 1101 (1920).

<sup>37</sup> The 1979 Act replaced the 1921 Act and incorporated antidumping and injury provisions into Title VII of the Tariff Act of 1930.

<sup>38</sup> P.L. 96-39, approved July 26, 1979.

<sup>39</sup> GATT Art. VI(1) (1947), providing that dumping was to be condemned if it “materially retards the establishment of a domestic industry.”

<sup>40</sup> John H. Jackson, *World Trade and the Law of GATT* (1969), at 419-20 (citing United Nations documents concerning the negotiation of the 1947 GATT).

<sup>41</sup> In discussions concerning the International Antidumping Code under the Kennedy Round of GATT negotiations, an executive branch analysis stated:

The Code speaks in terms of “material retardation of the establishment of such an industry” and the \*\*\* Act reads “is prevented from being established.” The notion of “material retardation” is a reasonable interpretation of the idea of prevention and would permit injury to be found even though it is not shown that dumped imports absolutely prevent the establishment of an industry.

Hearing on the International Dumping Code, Sen. Comm. on Finance, 90<sup>th</sup> Cong., 2d Sess. 287 (1968).

Neither the statute nor the legislative history provides a framework for how the Commission should apply this provision. The Commission has applied the material retardation provision to both domestic producers that have not yet engaged in U.S. production and those that have engaged in domestic production. If there is or was at least some domestic production,<sup>42</sup> which is the case in these investigations, then the Commission has applied a two-step framework in which it first determines whether the domestic industry is established. If producers have made a substantial commitment to production but the domestic industry is not yet established, then the Commission moves to the second step of its analysis and examines whether a potential domestic industry has been materially retarded by reason of subject imports.<sup>43</sup> If the industry is established, then the Commission has instead examined whether the domestic industry is materially injured or threatened with material injury by reason of subject imports. The Commission has not reached the question of material retardation in the majority of investigations in which the issue has arisen, either because it found the domestic industry to be established (and thus applied the material injury or threat standard),<sup>44</sup> or

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<sup>42</sup> When domestic firms had not yet undertaken production, the Commission looked for an indication that the producers made a “substantial commitment” to commence production before examining whether the industry’s establishment was materially retarded by subject imports. *See, e.g., Certain Commuter Airplanes from France and Italy*, Inv. Nos. 701-TA-174-175 (Preliminary), USITC Pub. 1269 (Jul. 1982) at 8 (domestic producers had not yet commenced production but had made a substantial commitment to do so); *Motorcycle Batteries from Taiwan*, Inv. No. 731-TA-42 (Final), USITC Pub. 1228 (Oct. 1981) (finding U.S. firms did not take substantial steps or make an affirmative commitment to produce 6-volt motorcycle batteries); *Thin Sheet Glass from Switzerland, Belgium, and the Federal Republic of Germany*, Inv. Nos. 731-TA-127 and 129 (Preliminary), USITC Pub. 1376 (May 1983) (not finding a substantial commitment to commence production of high-quality thin sheet glass because domestic producer’s marketing efforts were not very intensive, as it had not purchased testing equipment that would have allowed it to differentiate between regular and high-quality glass, and it had problems qualifying its product), *aff’d, Jeanette Sheet Glass Corp. v. United States*, 607 F. Supp. 123, 131-32 (Ct. Int’l Trade 1985) (affirming “substantial commitment” test where domestic producers had not yet engaged in producing high-quality thin sheet glass).

<sup>43</sup> See *Domestic Dry Containers* at 10-11.

<sup>44</sup> *See Fabric and Expanded Neoprene Laminate from Japan*, Inv. No. 731-TA-206 (Preliminary), USITC Pub. 1608 (Nov. 1984) (“*Neoprene Laminate*”); *Lime Oil from Peru*, Inv. No. 303-TA-16, USITC Pub. 1723 (July 1985) (“*Lime Oil*”); *Certain All-Terrain Vehicles from Japan*, Inv. No. 731-TA-388 (Preliminary), USITC Pub. 2071 (March 1988); *Pressure-Sensitive PVC Battery Covers from West Germany*, Inv. No. 731-TA-452 (Preliminary), USITC Pub. 2265 (March 1990) (“*PVC Battery Covers*”); *Fresh and Chilled Atlantic Salmon from Norway*, Inv. No. 701-TA-302 (Preliminary), USITC Pub. 2272 (April 1990) (“*Salmon*”); *Tungsten Ore Concentrates from the People’s Republic of China*, Inv. No. 731-TA-497 (Preliminary), USITC Pub. 2367 (March 1991); *Certain Gene Amplification Thermal Cyclers and Subassemblies Thereof from the United Kingdom*, Inv. No. 731-TA-485 (Final), USITC Pub. 2412 (Aug. 1991) (“*Gene Amplification Thermal Cyclers*”); *Wheel Inserts from Taiwan*, Inv. No. 731-TA-721 (Preliminary), USITC Pub. 2824 (Oct. 1994) (“*Wheel Inserts*”); *Laminated Woven Sacks from China*, Inv. Nos. 701-TA-450 and 731-TA-1122 (Final), USITC Pub. 4025 (July 2008) (“*Laminated Woven Sacks*”).

because it found that producers had not made a substantial commitment to commence production (and thus reached a negative determination).<sup>45</sup>

## 2. Arguments of the Parties

In the final phase of these investigations, American Keg argues that the record supports an affirmative determination under either the material injury or material retardation analysis.<sup>46</sup> Blefa argues that because the domestic industry is not established, the Commission should find that subject imports from Germany have not materially retarded the establishment of the domestic industry.<sup>47</sup> While taking no position on the standard to be applied in these investigations, Thielmann argues that the record supports a negative determination under either a material injury or material retardation analysis.<sup>48</sup> Chinese Respondents state that the domestic industry became established at some point during the period of investigation (January 2016-March 2019) (“POI”), and the appropriate inquiry is thus a material injury analysis and not material retardation.<sup>49</sup>

## 3. Analysis

Because there is some production of steel kegs in the United States, the first step in this analysis is to determine whether a domestic industry is established. In making this determination in previous investigations, the Commission has examined all or several of the following criteria: (1) the length of domestic production operations; (2) the nature of domestic production; (3) the size of domestic operations; (4) whether the proposed domestic industry has reached a reasonable financial “break-even” point; and (5) whether the activity is more in the nature of introducing a new product line by an already established business.<sup>50</sup> The Commission makes this determination on a case-by-case basis according to the record of each investigation.<sup>51</sup>

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<sup>45</sup> See *Synthetic L-Methionine from Japan*, Inv. No. 751-TA-4, USITC Pub. 1167 (July 1981); *Motorcycle Batteries from Taiwan*, Inv. No. 731-TA-42 (Final), USITC Pub. 1228 (Oct. 1981); *Thin Sheet Glass from Switzerland, Belgium, and Germany*, Inv. Nos. 731-TA-127-129 (Preliminary), USITC Pub. 1376 (May 1983); *Liquid Crystal Display Television Receivers from Japan*, Inv. No. 751-TA-14, USITC Pub. 2042 (Dec. 1987) (“*Liquid Crystal Displays*”) (dissenting views).

<sup>46</sup> Petitioner’s Posthearing Brief, Resp. to Hearing Questions, at 2-3. As discussed in detail below, Blefa argues that cumulation of subject imports is not permitted in a material retardation analysis.

<sup>47</sup> Blefa’s Prehearing Brief at 4-8.

<sup>48</sup> Thielmann’s Posthearing Brief, Exhibit 1 at 25.

<sup>49</sup> Chinese Respondents’ Prehearing Brief at 5; Chinese Respondents’ Posthearing Brief, Response to Hearing Questions, at 4.

<sup>50</sup> *Laminated Woven Sacks*, USITC Pub. 4025 at 19; see *Benzyl Paraben*, USITC Pub. 2355 at 8-9 (enumerating these five factors).

<sup>51</sup> *Domestic Dry Containers*, USITC Pub. 4537, at 11.

## 1. The Length of Domestic Production Operations

The Commission has regularly focused on when domestic producers began their U.S. production of the domestic like product. In general, where domestic producers have produced for fewer than two to three years, the Commission has found this favored finding a nascent domestic industry.<sup>52</sup> When some or all of the domestic producers have produced for longer periods of time, then this factor generally favored finding an established industry.<sup>53</sup> Nonetheless, the Commission has rejected defining a specific time period for production that favors an industry being established, given that each industry may be distinctive and require varying lengths of production for a firm to become established.<sup>54</sup>

Geemacher, LLC (“Geemacher”) began producing kegs on a trial basis in February 2014 and started commercial production in December 2014, when it made \*\*\* steel kegs.<sup>55</sup> The firm made \*\*\* steel kegs in 2015.<sup>56</sup> After Geemacher’s operations faltered, American Keg purchased its assets in May 2016; American Keg continued production in mid-2016, and \*\*\* kegs were produced that year, the first year of the POI.<sup>57</sup> American Keg, the sole domestic producer of kegs, thus began production during the POI and, including Geemacher’s experience, domestic production extends back to 2014.<sup>58</sup> In the context of the steel kegs

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<sup>52</sup> See, e.g., *Benzyl Paraben*, USITC Pub. 2355 (Feb. 1991) (firm produced for 15 months, shut down, began again, shut down less than a year later, and then supplied customers out of inventory); *Dried Salted Codfish*, USITC Pub. 1711 at 6 (codfish production suspended after two years with intent to resume production); *Copier Toner*, USITC Pub. 1960 at 9-10 (domestic production began about three years earlier).

<sup>53</sup> See, e.g., *Laminated Woven Sacks*, USITC Pub. 4025 at 20-22 (one or more domestic producers had supplied the major types of products to the U.S. market long enough to weigh in favor of established industry); *Wheel Inserts*, USITC Pub. 2824 (steady production throughout the period of investigation by at least three producers and since the late 1980s by at least two U.S. producers); *Gene Amplification Thermal Cyclers*, USITC Pub. 2412 (domestic production for more than three years); *Liquid Crystal Displays*, USITC Pub. 2413 at 18-19 (domestic production began before the period of investigation); *Tungsten Ore Concentrates*, USITC Pub. 2367 at 18 n.49 (continuous production over a long period of time); *Salmon*, USITC Pub. 2272 at 16-18 (domestic producers had been engaging in activities leading to production for a number of years, and some had recently produced the product); *PVC Battery Covers*, USITC Pub. 2265 at 12 (production began three to four years prior to investigation); *Fabric and Expanded Neoprene Laminate*, USITC Pub. 1608 at 8 n.24 (producing for several years).

<sup>54</sup> *Benzyl Paraben*, USITC Pub. 2303 at 12-13 (“...we have never stated that any specific period of production would “establish” an industry.”). The original legislative context for the “prevention” standard concerned an industry that had been producing for at least six years but was considered not to be established. See, Dong Woo, *Material Retardation in the U.S. Antidumping Law*, 24 Law & Pol’y Int’l Bus. 835, 843-44 (1993) (describing U.S. chemical dye industry at time of 1921 Act).

<sup>55</sup> CR/PR at E-3 to E-4.

<sup>56</sup> CR/PR at E-3.

<sup>57</sup> CR/PR at E-3 to E-4.

<sup>58</sup> Additionally, prior to 2007, Spartanburg Stainless Products, Inc. (“Spartanburg Stainless”) produced steel kegs in the United States. This firm ceased production of steel kegs in 2007 when it was purchased by Franke, the parent company of Blefa. There was no domestic production of steel kegs (Continued...)

industry, this length of production appears relatively limited. Indeed, respondents have noted that most foreign producers have had “longstanding operations” going back decades.<sup>59</sup> Thus, this factor weighs in favor of finding that the domestic industry is not established.

## 2. The Nature of Domestic Production

In examining the characteristics of domestic production, the Commission has asked whether domestic production has been “modest,” continuous, or more akin to start-and-stop.<sup>60</sup> In previous investigations, when domestic production was “modest” or domestic production began but halted and domestic producers were not producing at the time of the Commission’s vote, the Commission concluded that this factor supported finding the domestic industry was not established.<sup>61</sup> When domestic production was continuous or even continuous and growing, the Commission has concluded that factor supported finding an established domestic industry.<sup>62</sup> The Commission has also considered the number of firms engaged in domestic production and whether new entrants have commenced domestic production, finding that more firms engaging in or beginning domestic production supported a finding that the domestic

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between 2007 and 2014. Given this lengthy hiatus in domestic production, and that Geemacher and American Keg were start-ups with no relation to Spartanburg Stainless, we do not consider this earlier production in our analysis of the length of domestic operations. *Id.*

<sup>59</sup> Hearing Tr. at 111 (Lewis). For instance, Blefa has produced steel kegs since 1968, and it has indicated that other foreign producers, including Thielmann, have been producing steels kegs for “many years.” Blefa Prehearing Brief at 2.

<sup>60</sup> See, e.g., *Laminated Woven Sacks*, USITC Pub. 4025 at 24 (considering the specific circumstances of individual producers as well as the circumstances of domestic producers as a whole); *High Information Content Flat Panel Displays*, USITC Pub. 2413 at 18-19 (conducting inquiry on an industry-wide basis).

<sup>61</sup> See, e.g., *Benzyl Paraben*, USITC Pub. 2355 at 9-10 (petitioner produced for 15 months, shut down production, resumed production but shut down less than a year later and supplied the U.S. market out of inventory); *Copier Toner*, USITC Pub. 1960 at 9 n.24 (domestic production was “modest”); *Codfish*, USITC Pub. 1711 at 4-5 & n.8 (domestic producer began production in late 1982 but suspended operations in November 1984 with the intent to reopen the plant in summer 1985 pending conclusion of negotiations with the FDIC concerning certain loans); *Domestic Dry Containers*, USITC Pub. 4537 at 13-14 (domestic producer’s production had been intermittent and supported industry not being established).

<sup>62</sup> See, e.g., *Laminated Woven Sacks*, USITC Pub. 4025 at 22-24 (domestic producers as a whole have been continuously supplying the U.S. market throughout the period of investigation and since mid-2003, even if some reported intermittent or suspended production operations); *Wheel Inserts*, USITC Pub. 2824 (Oct. 1994) (steady production throughout the period of investigation by at least three producers and since the late 1980s by at least two producers); *Gene Amplification Thermal Cyclers*, USITC Pub. 2412 (steady and substantial increases in domestic production capacity and production); *Flat Panels*, USITC Pub. 2413 at 18-19 (steady rather than start-up production); *Salmon*, USITC Pub. 2272 at 16-18 (substantial U.S. shipments); *PVC Battery Covers*, USITC Pub. 2265 at 12 (production was increasing).



industry was established.<sup>63</sup> Further, the historical context of the “prevention” standard considered the relative technical abilities and production efficiencies of domestic producers versus foreign competitors.<sup>64</sup>

In these investigations, domestic production has been continuous during the POI, but this production has been modest in relation to the total market.<sup>65</sup> Additional characteristics of domestic production also weigh against finding the industry to be established. American Keg currently is the only domestic producer of steel kegs, and it does not produce all sizes of steel kegs demanded in the U.S. market.<sup>66</sup> It also operates at a relatively low utilization rate; its capacity utilization was \*\*\* percent in 2016, \*\*\* percent in 2017, and \*\*\* percent in 2018, and it was higher in interim 2019 (\*\*\* percent) than in interim 2018 (\*\*\* percent).<sup>67</sup> The record further indicates that American Keg’s production processes are less advanced than those of foreign producers.<sup>68</sup> On balance, the single producer’s limited range of production, no new entrants engaged in production, less advanced production processes, and the industry’s low capacity utilization rate support a finding that the domestic industry is not established.

### 3. The Size of Domestic Operations

The Commission has sometimes considered the size of domestic operations, with larger operation levels generally supporting a finding that the domestic industry was established,<sup>69</sup> and lower operation levels sometimes suggesting the domestic industry was not established.<sup>70</sup>

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<sup>63</sup> See, e.g., *Benzyl Paraben*, USITC Pub. 2355 at 11 (noting only a single domestic producer, which supported that domestic industry was not established); *Laminated Woven Sacks*, USITC Pub. 4025 at 23-24 (multiple firms engaged in domestic production supported that the domestic industry was established); *Certain Gene Amplification Thermal Cyclers*, USITC Pub. 2412 at 11-12 (new entrants commenced domestic production during POI, which supported that domestic industry was established).

<sup>64</sup> See Steen, Kathryn, *The American Synthetic Organic Chemicals Industry: War and Politics, 1910-1930* (2014) at 191-95 (noting that U.S. producers had limited technical expertise relative to German chemical producers, could not produce all varieties of products, and had less efficient production processes).

<sup>65</sup> American Keg’s reported production fluctuated but finished the period higher than in the beginning, initially increasing from \*\*\* units in 2016 to \*\*\* units in 2017, before declining to \*\*\* units in 2018. Production was also higher in January-March (“interim”) 2019 (\*\*\* units) than in interim 2018 (\*\*\* units). CR/PR at Table III-3. American Keg did not report any \*\*\* during the POI. CR/PR at Table III-2.

Since production began in 2014, there has only been one U.S. producer at a time: first Geemacher and then American Keg.

<sup>66</sup> CR/PR at E-4.

<sup>67</sup> CR/PR at Table III-3.

<sup>68</sup> \*\*\*. CR/PR at E-4 to E-5. While American Keg has \*\*\*, this expansion process remains ongoing. CR/PR at Table III-2. Indeed, respondents have asserted that American Keg’s production is less automated than that of foreign producers. Hearing Tr. at 111 & 119 (Lewis) (Thielmann indicating that foreign producers have more “modern automated machinery” than does American Keg).

<sup>69</sup> See, e.g., *Gene Amplification Thermal Cyclers*, USITC Pub. 2412 (finding domestic industry to be established industry where, among other factors, the vast majority of the U.S. market was supplied (Continued...))

The domestic industry produced \*\*\* units in 2016, \*\*\* units in 2017, and \*\*\* units in 2018, and production was higher in interim 2019 (\*\*\* units) than in interim 2018 (\*\*\* units).<sup>71</sup> American Keg’s U.S. shipments were \*\*\* units in 2016, \*\*\* units in 2017, and \*\*\* units in 2018, while U.S. shipments were lower in interim 2019 (\*\*\* units) versus interim 2018 (\*\*\* units).<sup>72</sup> These shipments resulted in market shares of \*\*\* percent of apparent U.S. consumption in 2016, \*\*\* percent in 2017, and \*\*\* percent in 2018, and their share was higher in interim 2019 (\*\*\* percent) than in interim 2018 (\*\*\* percent).<sup>73</sup> Because domestic operations are small relative to the market based on any of these measures, this factor suggests that the domestic industry is not established.

#### 4. Whether the Proposed Domestic Industry Has Reached a Reasonable Financial “Break-Even” Point

In deciding whether the domestic industry is already established, the Commission has also examined whether the proposed domestic industry has reached a reasonable financial “break-even” point. In cases in which domestic producers as a whole have not reached a reasonable break-even point, the Commission generally found that this favored the domestic industry not being established.<sup>74</sup> By contrast, where it found that domestic producers as a whole had reached a reasonable break-even point, the Commission found this factor favored

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by domestic producers); *Certain All-Terrain Vehicles*, USITC Pub. 2071 at A-15 (finding domestic industry to be established because, *inter alia*, domestic producers had achieved significant and increasing U.S. market share). *But see Benzyl Paraben*, USITC Pub. 2355 at 10 (finding domestic industry to not be established despite an increase in its market share, given the small number of purchasers and findings on other factors).

<sup>70</sup> See, e.g., *Copier Toner*, USITC Pub. 1960 at 9 n.24 (finding domestic industry to not be established where, *inter alia*, domestic production was small compared to the market as a whole). *But see Flat Panels*, USITC Pub. 2413 at 18-19 (finding domestic industry to be established despite domestic production accounting for “at least some,” if only a “small,” share of total U.S. market); *Salmon*, USITC Pub. 2272 at 17 (finding domestic industry to be established despite low market share); *Domestic Dry Containers*, USITC Pub. 4537 at 14-15 (finding domestic industry to not be established where, *inter alia*, domestic producer’s production, production capacity, shipments, and market share were “relatively small”).

<sup>71</sup> CR/PR at Table III-3.

<sup>72</sup> CR/PR at Table IV-9. By value, the domestic producer’s U.S. shipments were \$\*\*\* in 2016, \$\*\*\* in 2017, and \$\*\*\* in 2018, and were higher in interim 2019 (\$\*\*\*) than in interim 2018 (\$\*\*\*). *Id.*

<sup>73</sup> CR/PR at Table IV-10. By value, the domestic industry’s market share was \*\*\* percent in 2016, \*\*\* percent in 2017, and \*\*\* percent in 2018, and was higher in interim 2019 (\*\*\* percent) than in interim 2018 (\*\*\* percent). *Id.*

<sup>74</sup> See, e.g., *Benzyl Paraben*, USITC Pub. 2355 at 10 (industry not established where, *inter alia*, firm did not reach reasonable break-even point during the latest period for which the Commission had data (interim 1990)); *Codfish*, USITC Pub. 1711 at 5 (industry not established, company did not reach break-even point); *Domestic Dry Containers*, USITC Pub. 4537 at 16 (industry not established where company had not reached break-even point).

finding the domestic industry to be established.<sup>75</sup> Where available, the Commission has also examined domestic producers' plans, assumptions, and expectations in measuring firms' performance, including whether such plans and assumptions were reasonable.<sup>76</sup>

American Keg provided financial projections from February 2016 that estimated the firm's likely financial results based on different levels of production by keg type, and these projections estimated that it would need to produce \*\*\* units per year to generate a modest gross profit, or to produce \*\*\* units per year to recover both cost of goods sold ("COGS") and selling, general, and administrative expenses ("SG&A").<sup>77</sup> Similarly, based on American Keg's 2018 actual product mix and corresponding variable and fixed costs as a baseline, with adjustments to reflect higher production volume, the firm estimated it would need a sales volume of \*\*\* units to break even.<sup>78</sup> Because neither American Keg's production nor sales ever approached these levels, the record indicates that it has not achieved a reasonable break-even point by 2019, and this factor accordingly supports finding that the domestic industry is not established.

##### **5. Whether the Start-Up Production Is More in the Nature of the Introduction of a New Product Line by an Already Established Business**

In assessing whether a proposed domestic industry is already established, the Commission also has examined whether the start-up production is more in the nature of the introduction of a new product line by an already established business. In examining this factor, the Commission's underlying question has been whether the introduction of this product was aided by the domestic producers' other existing products. When the Commission found the start-up production to be akin to the introduction of a new product line by an already established business, it generally found the domestic industry was established.<sup>79</sup>

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<sup>75</sup> See, e.g., *Wheel Inserts*, USITC Pub. 2824 (established industry where, *inter alia*, producers as a whole had passed the break-even point and reached profitability during the period of investigation; they were able to cover fixed and variable costs); *Gene Amplification Thermal Cyclers*, USITC Pub. 2412 (established industry where, *inter alia*, an overwhelming majority of domestic producers already had reached a break-even point); *Salmon*, USITC Pub. 2272 at 16-18 (established industry where, *inter alia*, by 1988 a portion of the domestic producers had achieved profitability and another firm showed improvement from 1987 to 1988, even though there were no sustained profits for producers as a whole).

<sup>76</sup> See, e.g., *Laminated Woven Sacks*, USITC Pub. 4025 at 26-27 (finding this factor suggested that the domestic industry was not established where domestic producers had conducted market research, talked to prospective customers, set goals, and developed strategies for entering the market but as a whole experienced operating losses, albeit lower operating losses than reflected in the record of the preliminary phase of the investigations).

<sup>77</sup> CR at E-5 to E-7, PR at E-4 to E-5.

<sup>78</sup> CR at E-7 to E-8, PR at E-5; see also Petitioner's Posthearing Brief at Exhibit 1. \*\*\*. CR at E-8 n.21, PR at E-5 n.21.

<sup>79</sup> See, e.g., *Wheel Inserts*, USITC Pub. 2824 (established industry where, *inter alia*, wheel inserts were produced as just one of several product lines of established firms); *Gene Amplification Thermal* (Continued...)

While a single domestic firm (Spartanburg Stainless) had manufactured steel kegs prior to the POI, Franke, the parent company of Blefa, purchased these operations in 2007 and \*\*\*, which resulted in no domestic production of steel kegs between 2007 and 2014.<sup>80</sup> When Geemacher commenced domestic production in 2014, it did not draw on either the equipment or expertise of Spartanburg Stainless, but rather acted as a start-up for a product not produced in the United States.<sup>81</sup> Significantly, neither Geemacher nor American Keg previously manufactured any other keg products, and neither firm is related to other steel keg manufacturing firms whose operations might have assisted their own steel keg manufacturing operations.<sup>82</sup> This factor thus supports finding that the domestic industry is not established.

## 6. Conclusion

The assessment as to whether an industry is established is conducted on a case-by-case basis. We find that an evaluation of the factors discussed above supports a finding that the domestic industry is not established, including the small size and modest nature of the sole domestic producer's operations, the limitations in relative technical abilities and production efficiencies of the domestic producer versus foreign competitors, the domestic producer's inability to reach a reasonable financial break-even point, and that domestic production is a start-up operation rather than the introduction of a new product line by an already established business.

Respondents observe that the domestic industry's history of production is significantly less than that of many foreign producers of steel kegs, and respondents have also emphasized that American Keg's production processes are significantly less advanced than those of foreign producers and are more akin to a start-up. Accordingly, in light of their arguments and the

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*Cyclers*, USITC Pub. 2412 (established industry; this was a new product for some established firms though a new product for some newly formed firms); *Battery PVC Covers*, USITC Pub. 2265 at 13 (finding pressure-sensitive battery covers were merely a new product line of an established firm that had been producing labels for 76 years); *Neoprene Laminate*, USITC Pub. 1608 at 8 nn.24-26 (majority finding R-131 neoprene was merely a change in the product line of the established fabric and expanded neoprene laminate industry); *Domestic Dry Containers*, USITC Pub. at 4537 at 17 (finding that domestic producer had benefited from production of other products, including trailers, flatbeds, and aluminum containers). *But see, e.g., Benzyl Paraben*, USITC Pub. 2355 at 11 (even though petitioner was an established firm, its benzyl paraben operations did not appear to have derived a benefit from its other arguably 'established' operations); *Copier Toner*, USITC Pub. 1960 at 9 n.24 (not discussing this factor but determining that the electrically resistive monocomponent toner ("ERMT") industry was nascent even though the ERMT producers manufactured other toners as well); *Codfish*, USITC Pub. 1711 (even though petitioner was also producing other dried salted fish such as pollock or hake, this did not prevent finding the industry was not established).

<sup>80</sup> CR/PR at III-1 to III-2 n.1.

<sup>81</sup> CR at E-8, PR at E-6.

<sup>82</sup> CR at E-8, PR at E-6.

evaluation of other factors discussed above, we find that the domestic steel kegs industry is not established and conduct a material retardation analysis.

## B. Related Parties

We next consider whether any producer of the domestic like product should be excluded from the domestic industry pursuant to Section 771(4)(B) of the Tariff Act. This provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or that are themselves importers.<sup>83</sup> Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.<sup>84</sup>

In the preliminary phase of these investigations, American Keg qualified as a related party because it imported steel kegs from China during the POI. The Commission determined, however, not to exclude American Keg from its definition of the domestic industry pursuant to the related parties provision, finding that its principal interest was in domestic production. Thus, the Commission defined the domestic industry to include the only known domestic producer of steel kegs, American Keg.<sup>85</sup>

In the final phase of these investigations, American Keg argues that the Commission should continue to define the domestic industry as the only known producer of steel kegs and that American Keg should not be excluded from the domestic industry as a related party.<sup>86</sup> No respondent argues that American Keg should be excluded.

American Keg is the petitioner and the only U.S. producer of steel kegs.<sup>87</sup> Because it imported subject merchandise during the POI, it is a related party.<sup>88</sup> It reported imports of

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<sup>83</sup> See *Torrington Co. v. United States*, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd mem.*, 991 F.2d 809 (Fed. Cir. 1993); *Sandvik AB v. United States*, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd mem.*, 904 F.2d 46 (Fed. Cir. 1990); *Empire Plow Co. v. United States*, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

<sup>84</sup> 19 U.S.C. § 1677(4)(B). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

- (1) the percentage of domestic production attributable to the importing producer;
- (2) the reason the U.S. producer has decided to import the product subject to investigation (whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market);
- (3) whether inclusion or exclusion of the related party will skew the data for the rest of the industry;
- (4) the ratio of import shipments to U.S. production for the imported product; and
- (5) whether the primary interest of the importing producer lies in domestic production or importation. *Changzhou Trina Solar Energy Co. v. USITC*, 100 F. Supp.3d 1314, 1326-31 (Ct. Int'l Trade 2015); see also *Torrington Co. v. United States*, 790 F. Supp. at 1168.

<sup>85</sup> *Preliminary Determinations*, USITC Pub. 4844 at 8-10.

<sup>86</sup> Petitioner's Prehearing Brief at 12-14.

<sup>87</sup> CR/PR at III-1.

<sup>88</sup> CR/PR at Table III-6.

subject merchandise totaling \*\*\* units in 2016, \*\*\* units in 2017, \*\*\* units in 2018, \*\*\* units in interim 2018, and \*\*\* units in interim 2019.<sup>89</sup> Its subject imports as a share of domestic production, while initially high, substantially declined over the POI.<sup>90</sup> American Keg reported that it \*\*\*.<sup>91</sup> American Keg also increased its domestic production capacity,<sup>92</sup> production,<sup>93</sup> and capital expenditures<sup>94</sup> over the POI.

Because the record indicates that American Keg's interests lie increasingly with domestic production, and because no party has argued to the contrary, we find that appropriate circumstances do not exist to exclude it from the domestic industry. We therefore define the domestic industry to include the only known domestic producer of steel kegs, American Keg.

#### IV. Negligibility

Pursuant to Section 771(24) of the Tariff Act, imports from a subject country of merchandise corresponding to a domestic like product that account for less than 3 percent of all such merchandise imported into the United States during the most recent 12 months for which data are available preceding the filing of the petition shall be deemed negligible.<sup>95</sup> Based on questionnaire responses from importers, which account for approximately \*\*\* percent of subject imports from Mexico,<sup>96</sup> the data for the 12-month period preceding the filing of the petition (September 2017 through August 2018) indicate that subject imports from Mexico were \*\*\* percent of total steel keg imports.<sup>97</sup> As subject imports from Mexico were well above

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<sup>89</sup> CR/PR at Table III-6.

<sup>90</sup> CR/PR at Table III-6. American Keg's ratio of subject imports to domestic production was \*\*\* percent in 2016, \*\*\* percent in 2017, and \*\*\* percent in 2018; it was higher in interim 2018 (\*\*\* percent) than in interim 2019 (\*\*\* percent). *Id.*

<sup>91</sup> CR/PR at Table III-6.

<sup>92</sup> CR/PR at Table III-3. American Keg's production capacity increased from \*\*\* units in 2016 to \*\*\* units in 2017 and 2018; it was higher in interim 2019 (\*\*\* units) than in interim 2018 (\*\*\* units). *Id.*

<sup>93</sup> CR/PR at Table III-3. American Keg's production increased from \*\*\* units in 2016 to \*\*\* units in 2017, before declining to \*\*\* units in 2018, a higher level than at the beginning of the POI. Production was also higher in interim 2019 (\*\*\* units) than in interim 2018 (\*\*\* units). *Id.*

<sup>94</sup> CR/PR at Table VI-3. American Keg's capital expenditures fluctuated over the POI but generally increased over the period. They were \$\*\*\* in 2016, \$\*\*\* in 2017, \$\*\*\* in 2018, and they were higher in interim 2019 (\$\*\*\*) than in interim 2018 (\$\*\*\*). *Id.*

<sup>95</sup> 19 U.S.C. §§ 1671b(a), 1673b(a), 1677(24)(A)(i), 1677(24)(B); *see also* 15 C.F.R. § 2013.1 (developing countries for purposes of 19 U.S.C. § 1677(36)).

<sup>96</sup> CR/PR at IV-1 & n. 5. The Commission received questionnaire responses from the largest producer Mexico, \*\*\*, as well as its U.S. affiliate importer and those U.S. importers identified by the Mexican producer. Based on these firms' reported data, subject import data include approximately \*\*\* percent of subject imports from Mexico, and approximately \*\*\* percent of reported exports. *Id.*

<sup>97</sup> CR/PR at Table IV-3.

3 percent of total imports for the 12-month period preceding filing of the petition, we find that they are not negligible.<sup>98</sup>

## V. Cumulation

For purposes of evaluating the volume and effects for a determination of material injury by reason of subject imports, section 771(7)(G)(i) of the Tariff Act requires the Commission to cumulate subject imports from all countries as to which petitions were filed and/or investigations self-initiated by Commerce on the same day, if such imports compete with each other and with the domestic like product in the U.S. market. As explained below, we find that this provision applies to determinations concerning material retardation as well. Additionally, we find that there is a reasonable overlap of competition and therefore cumulatively assess the volume and effects of subject imports from China, Germany, and Mexico for purposes of determining whether the establishment of the domestic industry has been materially retarded. As an initial matter, the petitioner filed the antidumping and countervailing duty petitions with respect to China, Germany, and Mexico on the same day, September 20, 2018.<sup>99</sup>

### A. Applicability of the Cumulation Provision to Material Retardation Analysis

*Party Arguments.* American Keg argues that the statute is unambiguous and requires cumulation of subject imports in an analysis of material retardation where the Commission finds a reasonable overlap of competition. American Keg notes that the statutory provision for cumulation, 19 U.S.C. § 1677(7)(G), includes reference to all final injury determinations made by the Commission, including one of material retardation.<sup>100</sup> While acknowledging special provisions for cumulation in a threat of material injury analysis, American Keg reasons that the lack of such a special provision for a determination of material retardation indicates that section 1677(7)(G) applies to such investigations.<sup>101</sup>

Blefa argues that cumulation of subject imports is not permitted in a material retardation analysis. Blefa notes that whereas the statute provides explicit direction for cumulation in a material injury analysis (19 U.S.C. § 1677(7)(G)) and threat of material injury analysis (19 U.S.C. § 1677(7)(H)), the statute is silent regarding cumulation in a material retardation analysis.<sup>102</sup> Blefa contends that the Commission cannot “fill in” this statutory silence, because the statute offers differing standards for cumulation in material injury and threat analyses and offers no direction as to which may be appropriate in a material retardation

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<sup>98</sup> CR at IV-7, PR at IV-5.

<sup>99</sup> CR/PR at I-1. We note that these investigations involve a final antidumping duty determination regarding imports from Mexico, preliminary subsidy findings for subject imports from China, and preliminary antidumping findings for subject imports from China and Germany.

<sup>100</sup> Petitioner’s Posthearing Brief, Response to Hearing Questions, at 21-22.

<sup>101</sup> Petitioner’s Posthearing Brief, Response to Hearing Questions, at 22.

<sup>102</sup> Blefa’s Prehearing Brief at 27.

analysis.<sup>103</sup> Blefa reasons that because section 1677(7) is a definitional provision and is entitled “material injury,” the provisions under it, including those on cumulation, apply only to an analysis of material injury, and therefore the Commission is not permitted to cumulate in investigations analyzing material retardation.<sup>104</sup>

*Analysis.* Blefa’s argument relies primarily on a narrow interpretation of the title for section 1677(7)(G), specifically, that the title “{c}umulation for determining material injury” refers only to a present material injury analysis. However, this cumulation provision is a subsection of the material injury definition, and the scope of this definition delineated in section 1677(7)(B) includes “determinations {by the Commission} under sections ... 1671d(b) ... and 1673d(b),” which include determinations of material retardation.<sup>105</sup> Legislative history further supports that section 1677(7)(B) should be read broadly to include a material retardation analysis. Previously, this section applied to determinations of “whether there is material injury,” yet Congress amended this provision to the current formulation so as to clarify that it applies “in every case.”<sup>106</sup> Because the scope of the cumulation provision at section 1677(7)(G) derives from sections 1677(7)(B) and (C), whose language and history support that it should be interpreted to apply to all determinations under sections 1671d(b) and 1673d(b), the cumulation provision at section 1677(7)(G) applies to an analysis of material retardation.

Furthermore, such application of section 1677(7)(G) would be consistent with Congress’ clear intent regarding cumulation.<sup>107</sup> Prior to 1984, the Commission cumulated subject imports on a case-by-case basis as an administrative practice. In 1984, Congress added a cumulation provision to the statute.<sup>108</sup> In 1988, Congress added the separate provision for cumulation specifically with respect to a threat analysis.<sup>109</sup> In discussing the provisions for cumulation, Congress explained that:

competition from unfairly traded imports from several countries simultaneously often has a hammering effect on the domestic industry. This hammering effect may not be adequately addressed if the impact of imports are analyzed separately on the basis of their country of origin. The cumulation requirement is thus an effort to make the application of the injury analysis more realistic in terms of recognizing the actual effects of unfair import competition.<sup>110</sup>

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<sup>103</sup> Blefa’s Prehearing Brief at 27-28; Blefa’s Posthearing Brief, Exhibit 1, at 6.

<sup>104</sup> Blefa’s Posthearing Brief, Exhibit 1, at 4-5.

<sup>105</sup> 19 U.S.C. 1677(7)(G)(i).

<sup>106</sup> H.R. Rep. 100-40, 100<sup>th</sup> Cong. 1st Sess. at 127 (1987), stating:

...the amendment clarifies current law and Congressional intent that, *in every case*, the Commission is required to consider all three factors of volume, price, and impact. (emphasis added).

<sup>107</sup> *Chevron U.S.A., Inc. v. Natural Res. Defense Council, Inc.*, 467 U.S. 837, 842-44 (1984) (requiring that any interpretation of statutory language give effect to Congress’ clear intent); *Comm. for Fairly Traded Venezuelan Cement v. United States*, 372 F.3d 1284, 1289-91 (Fed. Cir. 2004).

<sup>108</sup> See Trade and Tariff Act of 1984, P.L. 98-573, sec. 612.

<sup>109</sup> See Omnibus Trade and Competitiveness Act of 1988, Pub. L. 100-418, sec. 1330.

<sup>110</sup> H.R. Rep. 100-40, 100<sup>th</sup> Cong. 1st Sess. at 130 (1987).



This “hammering effect” is pertinent to a material retardation analysis where the Commission examines an import-dominated market.<sup>111</sup> While the statute makes cumulation discretionary in a threat analysis, this difference reflects the concern that the forward-looking assessment of cumulation in a threat analysis not be “conjectural or speculative.”<sup>112</sup> In this case, the material retardation analysis (similar to material injury) examines the impact of subject imports over a preceding period and is not forward-looking.<sup>113</sup>

Notwithstanding the title for the cumulation provision at section 1677(7)(G), the provision’s language and supporting legislative history indicate that the provision should be interpreted to include material retardation. Even if the Commission were to find the statutory language ambiguous, Congress’ intent regarding cumulation is clear: that the Commission cumulate subject imports from multiple countries where their simultaneous presence in the U.S. market has a “hammering effect” on the domestic industry. The same rationale applies in a material retardation analysis. Thus, we interpret section 1677(7)(G) to require cumulation in a material retardation context when the Commission finds a reasonable overlap of competition.

## **B. Reasonable Overlap of Competition**

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

- (1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality related questions;
- (2) the presence of sales or offers to sell in the same geographic markets of subject imports from different countries and the domestic like product;
- (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and

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<sup>111</sup> *Dried Salted Codfish*, USITC Pub. 1571 at 6 (noting that a material retardation analysis by its nature concerns an import-dominated market).

<sup>112</sup> H.R. Rep. 100-40, 100<sup>th</sup> Cong. 1st Sess. at 131 (1987).

<sup>113</sup> Blefa’s contention that the Commission is prohibited from cumulating subject imports absent statutory authority, is incorrect. The Commission cumulated subject imports in investigations on a case-by-case basis prior to the statute’s amendment providing for such an analysis. *See, e.g., Carbon Steel Products from the European Community*, Inv. Nos. 731-TA-18-24 (Preliminary), USITC Pub. 1064 (1980); *see also Republic Steel Corp. v. United States*, 591 F. Supp. 640 (Ct. Int’l Trade 1984) (affirming Commission authority to cumulate subject imports and finding mandatory in some circumstances), *rev’d on other grounds, American Lamb Co. v. United States*, 785 F.2d 994 (Fed. Cir. 1986) (concerning standard for injury in preliminary determinations).

(4) whether the subject imports are simultaneously present in the market.<sup>114</sup>

While no single factor is necessarily determinative, and the list of factors is not exclusive, these factors are intended to provide the Commission with a framework for determining whether the subject imports compete with each other and with the domestic like product.<sup>115</sup> Only a “reasonable overlap” of competition is required.<sup>116</sup>

In the preliminary determinations, the Commission found a reasonable overlap of competition between the domestic like product and imports from each subject country, as well as between imports from each subject country, and it cumulatively assessed the volume and effects of imports from each subject country.<sup>117</sup>

In the final phase of these investigations, no party argues that the criteria for reasonable overlap of competition are not satisfied in these investigations. As explained below, we find there is a reasonable overlap of competition between subject imports from each of the subject countries, and between subject imports from each source and the domestic like product.

*Fungibility.* The record shows that there is a moderate-to-high degree of substitutability between domestically produced steel kegs and steel kegs from imported sources.<sup>118</sup> Regardless of source, steel kegs in the U.S. market are standardized products that are produced to Brewer Association Performance Guidelines and that have the Sankey design.<sup>119</sup> The U.S. producer and majorities of responding U.S. importers and purchasers reported that the domestic like product and subject imports from and between all three subject countries are “always” or “frequently” interchangeable.<sup>120</sup> The substantial majority of U.S. shipments reported by the domestic producer and by U.S. importers from each subject country were of the 1/6 and 1/2 barrel sizes.<sup>121</sup>

The record is mixed regarding the importance of non-price factors. The U.S. producer reported that non-price differences are “never” significant in comparisons of the domestic like product and imports from each subject country, as well as in comparisons between imports

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<sup>114</sup> See *Certain Cast-Iron Pipe Fittings from Brazil, the Republic of Korea, and Taiwan*, Inv. Nos. 731-TA-278-280 (Final), USITC Pub. 1845 (May 1986), *aff'd*, *Fundicao Tupy, S.A. v. United States*, 678 F. Supp. 898 (Ct. Int'l Trade), *aff'd*, 859 F.2d 915 (Fed. Cir. 1988).

<sup>115</sup> See, e.g., *Wieland Werke, AG v. United States*, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

<sup>116</sup> The Statement of Administrative Action (SAA) to the Uruguay Round Agreements Act (URAA), expressly states that “the new section will not affect current Commission practice under which the statutory requirement is satisfied if there is a reasonable overlap of competition.” H.R. Rep. No. 103-316, Vol. I at 848 (1994) (*citing Fundicao Tupy, S.A. v. United States*, 678 F. Supp. at 902; see *Goss Graphic Sys., Inc. v. United States*, 33 F. Supp. 2d 1082, 1087 (Ct. Int'l Trade 1998) (“cumulation does not require two products to be highly fungible”); *Wieland Werke, AG*, 718 F. Supp. at 52 (“Completely overlapping markets are not required.”)).

<sup>117</sup> *Preliminary Determinations*, USITC Pub. 4844 at 11-13.

<sup>118</sup> CR at II-25, PR at II-15.

<sup>119</sup> CR at I-22-23, PR at I-17 to I-18. Steels kegs with the Sankey design have similar shapes and dimensions to facilitate automatic filling and cleaning. *Id.*

<sup>120</sup> CR/PR at Table II-12.

<sup>121</sup> CR/PR at Table IV-6.

from subject countries.<sup>122</sup> U.S. importers most often reported that non-price differences were “frequently” or “sometimes” significant in such comparisons, while U.S. purchasers most often indicated that non-price differences were “always” or “sometimes” important in such comparisons.<sup>123</sup> Notwithstanding some non-price differences, for those purchasing factors most frequently identified by purchasers as “very important,”<sup>124</sup> a majority of purchasers rated the domestic like product and imports from each subject country “comparable” on these traits.<sup>125</sup> In comparisons between subject imports, majorities or pluralities of purchasers rated such products “comparable” for availability, customer service, and quality meets industry standard.<sup>126</sup>

Thus, the record generally supports that there is comparability between and among subject imports from China, Germany, and Mexico, and with the domestic like product, with respect to those considerations ranked most important by purchasers. Further, steel kegs are made to common standards, and market participants generally perceive them as being interchangeable. The record therefore indicates that there is a sufficient degree of fungibility among the subject imports and the domestic like product for purposes of finding a reasonable overlap of competition.

*Channels of Distribution.* Subject imports and the domestic like product shared the same general channels of distribution, to breweries and keg leasing and rental companies, albeit with differences in concentration.<sup>127</sup> In addition, there is an overlap between each of these products in shipments to breweries of different sizes, specifically to \*\*\* and \*\*\* breweries.<sup>128</sup>

*Geographic Overlap.* During the POI, the domestic product and subject imports from China, Germany, and Mexico were sold in all regions of the contiguous United States.<sup>129</sup>

*Simultaneous Presence in Market.* The domestic like product and subject imports from China, Germany, and Mexico were present in the U.S. market in each of the full years of the POI and in every month between September 2017 and March 2019.<sup>130</sup>

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<sup>122</sup> CR/PR at Table II-14.

<sup>123</sup> CR/PR at Table II-14.

<sup>124</sup> CR/PR at Table II-9. Factors most frequently identified as “very important” by purchasers were product consistency (24 of 25 responding firms), quality meets industry standards (22 firms), availability (21 firms), and customer service (19 firms). *Id.*

<sup>125</sup> CR/PR at Table II-11.

<sup>126</sup> CR/PR at Table II-11. With respect to product consistency, a majority of purchasers rated subject imports from China “inferior” to subject imports from Germany and Mexico. *Id.*

<sup>127</sup> CR/PR at Table II-2. The U.S. producer mainly shipped to \*\*\*, but also had increasing sales to \*\*\*. Subject imports from China were shipped almost entirely to breweries. Subject imports from Germany and Mexico were shipped primarily to breweries at the beginning of the POI but shifted primarily to keg leasing and rental companies at the end of the POI. *Id.*

<sup>128</sup> CR/PR at Table II-3. The U.S. producer’s shipments were primarily to \*\*\*, with some shipments also to \*\*\*. Shipments of subject imports from China were primarily to \*\*\* breweries, those of subject imports from Germany were primarily to \*\*\* and \*\*\* breweries, and those of subject imports from Mexico included shipments to \*\*\* breweries. *Id.*

<sup>129</sup> CR/PR at Table II-4.

*Conclusion.* The record indicates that subject imports from each subject country are fungible with the domestic like product and each other, and that subject imports from each subject country and the domestic like product are sold in similar channels of distribution and in similar markets, and have been simultaneously present in the U.S. market. In light of the record and no contrary argument, we find that there is a reasonable overlap of competition between the domestic like product and imports from each subject country and between imports from each subject country. Accordingly, we cumulate subject imports from all three subject countries for purposes of determining whether the establishment of the domestic industry is materially retarded by reason of subject imports.

## **VI. Material Retardation by Reason of Subject Imports**

### **A. Legal Standards**

In previous investigations where the Commission has determined that a domestic industry was not established, the Commission has then examined whether the establishment of the domestic industry was materially retarded by reason of the subject imports. The Commission has previously stated that, because each attempt to establish a new industry is inherently unique, it makes its determination of whether the establishment of an industry is materially retarded on a case-by-case basis.<sup>131</sup> The factors that the Commission has examined in assessing whether the establishment of a domestic industry is materially retarded by reason of subject imports have included many of the same factors it considers in its material injury determinations: domestic production, shipments, capacity utilization, inventories, financial condition, employment, projected performance compared to actual performance, and other market conditions.<sup>132</sup> We therefore consider the volume, price effects, and impact of subject imports pursuant to sections 1677(7)(B) & (C) of the statute, just as we would in a material injury or threat thereof investigation.<sup>133 134</sup> While Blefa argues that these provisions do not

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(...Continued)

<sup>130</sup> CR/PR at Table III-4 (showing U.S. shipments of domestic producer over POI) and Table IV-8 (showing monthly U.S. shipments of subject imports).

<sup>131</sup> See, e.g., *Laminated Woven Sacks*, USITC Pub. 3942 at 32; *Codfish*, USITC Pub. 1711 at 4.

<sup>132</sup> See, e.g., *Benzyl Paraben*, USITC Pub. 2355 at 9, 14; *Copier Toner*, USITC Pub. 1960 at 11-14; *Dried Salted Codfish*, USITC Pub. 1711 at 6-7. *Compare Domestic Dry Containers*, USITC Pub. 4537 at 28-32 (addressing quality inconsistencies in domestic product); *Commuter Airplanes*, USITC Pub. 1269 at 8 (addressing that domestic producers had made insufficient efforts to provide technical specifications of planes to potential customers).

<sup>133</sup> See, e.g., *Benzyl Paraben*, USITC Pub. 2355 at 17 n.1 (stating that criteria under section 1677(7)(C)(iii) apply to an analysis of material retardation); *Laminated Woven Sacks*, USITC Pub. 3942 at 33-39.

<sup>134</sup> Commissioner Kearns notes that 19 U.S.C. § 1677(7)(B) authorizes the Commission to consider “such other economic factors” as are relevant to its determination. In this investigation, he need not, and does not, consider the applicability of prospective factors (such as, for example, an (Continued...))

apply to an analysis of material retardation,<sup>135</sup> section 1677(7)(B) specifies that these provisions apply to all final determinations under sections 1671d(b) and 1673d(b), which include determinations of material retardation.<sup>136</sup> We note that the legislative history of this provision further confirms that it applies to “every investigation,” including material retardation.<sup>137</sup>

Nonetheless, while we consider the same criteria as in a present material injury or threat thereof investigation, the Commission has noted that these criteria are not “viewed in the same light” given the unique circumstances of a material retardation analysis. For instance, the Commission has “discounted” various improvements in the domestic industry’s performance when new firms have commenced production over the POI and some increases in production, shipments, and capacity utilization would thus be expected as a result.<sup>138</sup> Similarly, the Commission has discounted increases in the domestic industry’s share of apparent U.S. consumption when the market is nonetheless dominated by subject imports, reasoning that some increase in market share is inevitable when nascent firms commence domestic production.<sup>139</sup>

The Commission has framed its inquiry as whether the industry’s performance “reflects merely the normal start-up condition of a company entering an admittedly difficult market or, is the performance worse than what could reasonably be expected ....”<sup>140</sup> The Commission has sometimes examined the projections of individual producers at the time of their inception to gauge whether a reasonable level of operations has been achieved.<sup>141</sup>

## **B. Conditions of Competition**

The following conditions of competition inform our analysis of whether there is material retardation by reason of subject imports.

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(...Continued)

expected imminent increase in subject imports) in determining whether the establishment of a domestic industry is presently materially retarded by reason of the subject merchandise.

<sup>135</sup> Blefa’s Posthearing Brief, Exhibit 1 at 4-5. Blefa reasons that section 1677(7) is a definition provision entitled “Material Injury,” and it argues that this title indicates that provisions apply only to a present material injury analysis.

<sup>136</sup> See 19 U.S.C. § 1677(7)(B).

<sup>137</sup> H.R. Rep. 100-40, 100<sup>th</sup> Cong. 1st Sess. at 127 (1987).

<sup>138</sup> *Laminated Woven Sacks*, USITC Pub. 3942 at 37-39 (noting that in examining the impact of subject imports, criteria are not viewed “in the same light” in a material retardation analysis; discounting increases in domestic industry’s production, shipments, market share and capacity utilization because of new entrants commencing production during POI).

<sup>139</sup> *Benzyl Paraben*, USITC Pub. 2355 at 13-14 (noting that a decline in subject import market share is to be expected in an analysis of material retardation).

<sup>140</sup> See, e.g., *Laminated Woven Sacks*, USITC Pub. 3942 at 32; *Codfish*, USITC Pub. 1711 at 5.

<sup>141</sup> *Copier Toner*, USITC Pub. 1960 at 9-10 (finding that domestic industry was performing better than would be expected and that producer’s business plan predicting higher market share was unrealistic); *Dried Salted Codfish*, USITC Pub. 1711 at 6-7 (looking at market feasibility study done at inception of business operations).

## 1. Demand Conditions

Steel kegs are primarily used to store beer, but they are also used for wine, coffee, cider, soda, and kombucha.<sup>142</sup> U.S. demand for steel kegs therefore depends primarily on the demand for beer storage.<sup>143</sup>

Breweries and steel keg leasing or rental companies purchase steel kegs in the United States, with the majority purchased by breweries.<sup>144</sup> For purposes of these investigations, breweries are categorized as large brewers, such as \*\*\* that produce over 6 million barrels per year; medium brewers such as \*\*\* that produce between 100,000 and 6 million barrels per year; and small breweries that produce fewer than 100,000 barrels per year.<sup>145</sup>

The number of total breweries in the United States reportedly increased from 5,606 in 2016 to 7,450 in 2018.<sup>146</sup> The increase has been led by the growth in craft brewers, which are typically smaller breweries.<sup>147</sup>

Small breweries purchased the largest volume of steel kegs among small, medium, and large breweries.<sup>148</sup> In addition to purchasing large volumes of steel kegs, smaller breweries rely on keg leasing and rental companies for their steel kegs because less upfront cost is required to lease steel kegs than to buy them.<sup>149</sup> Keg leasing companies, such as \*\*\*, \*\*\*, \*\*\*, and \*\*\*, purchased large volumes of steel kegs during the POI.<sup>150</sup> Purchases by leasing and rental companies accounted for an increasing portion of the steel keg market, while small breweries' purchases of steel kegs declined over the POI.<sup>151</sup> Importers' shipments to distributors were a small part of the U.S. market during the POI.<sup>152</sup>

Demand for steel kegs is somewhat seasonal, reflecting increasing beer consumption in the summer months.<sup>153</sup> As a result, apparent U.S. consumption of steel kegs is higher during the warmer months of the year.<sup>154</sup> Purchasers tend to purchase a large number of steel kegs at one time and then use them for several years.<sup>155</sup>

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<sup>142</sup> CR at II-21, PR at II-12. Approximately 85 percent of beer is packaged and sold in cans and bottles. CR at II-21 n.46, PR at II-12 n.46.

<sup>143</sup> CR at II-21, PR at II-12.

<sup>144</sup> See CR/PR at Table II-2.

<sup>145</sup> CR at II-8 n.28, PR at II-6 n.28.

<sup>146</sup> CR at II-23 n.52, PR at II-13 n.52. Craft brewers increased from 5,539 in 2016 to 7,346 in 2018, while the number of large/non-craft breweries increased from 67 in 2016 to 104 in 2018. *Id.*

<sup>147</sup> CR/PR at Table II-3.

<sup>148</sup> CR/PR at Tables IV-11 to IV-14.

<sup>149</sup> CR at II-6 to II-7, PR at II-5. Respondents estimate that as many as 4,000 craft breweries lease steel kegs instead of buying them. CR/PR at II-1.

<sup>150</sup> See CR/PR at Table IV-15.

<sup>151</sup> See CR/PR at Tables IV-13 and IV-15; CR at II-9, PR at II-6.

<sup>152</sup> CR/PR at Table II-2. American Keg \*\*\*. *Id.*

<sup>153</sup> CR at II-22, PR at II-12 to II-13.

<sup>154</sup> CR at II-10, PR at II-6.

<sup>155</sup> CR at II-1 to II-2, PR at II-1. For instance, a medium sized brewery like \*\*\* reported it did not purchase any steel kegs during the POI. CR at V-25 n.23, PR at V-11 n.23.

Apparent U.S. consumption of steel kegs increased from \*\*\* steel kegs in 2016 to \*\*\* steel kegs in 2017, and then decreased to \*\*\* steel kegs in 2018, for an overall increase of \*\*\* percent during the full years of the POI.<sup>156</sup> Apparent U.S. consumption of steel kegs was \*\*\* percent lower in interim 2019, at \*\*\* steel kegs, than in interim 2018, at \*\*\* steel kegs.<sup>157</sup>

## 2. Supply Conditions

As discussed above, American Keg, a start-up company, was the only domestic producer of steel kegs in 2017 and 2018.<sup>158</sup> A separate producer, Geemacher, commenced production of steel kegs in 2014 in Pottstown, Pennsylvania, but sold its assets to American Keg in 2016, which subsequently increased the production and capacity of the production line in Pottstown.<sup>159</sup> American Keg's annual production capacity increased from \*\*\* units in 2016 to \*\*\* units in 2017 and remained unchanged in 2018.<sup>160</sup> However, much of its capacity was unused during the POI; its capacity utilization ranged from a low of \*\*\* percent in 2016 to a high of \*\*\* percent in 2017 during the full years of the POI.<sup>161</sup>

The great majority of American Keg's shipments of steel kegs were to small breweries, but it also sold to leasing and rental companies throughout the POI and to medium-sized breweries in 2018.<sup>162</sup> The majority of subject import shipments also were to breweries with the majority of those shipments to small breweries.<sup>163</sup>

The domestic industry's share of apparent U.S. consumption increased from \*\*\* percent in 2016 to \*\*\* percent in 2017 and \*\*\* percent in 2018.<sup>164</sup> The domestic industry's share of apparent U.S. consumption was higher in interim 2019, at \*\*\* percent, than in interim 2018, at \*\*\* percent.<sup>165</sup>

Subject imports were the largest source of shipments of steel kegs to the U.S. market during the POI.<sup>166</sup> Cumulated subject imports' share of apparent U.S. consumption was \*\*\* percent in 2016, \*\*\* percent in 2017, and \*\*\* percent in 2018.<sup>167</sup> Cumulated subject imports'

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<sup>156</sup> CR/PR at Tables IV-9, C-1.

<sup>157</sup> CR/PR at Tables IV-9, C-1.

<sup>158</sup> CR/PR at III-1 n.1.

<sup>159</sup> See CR at E-4, PR at E-3. Before Geemacher began producing steel kegs, it only imported steel kegs. *Id.*

<sup>160</sup> CR/PR at Table III-3.

<sup>161</sup> CR/PR at Table III-3. Its capacity utilization rate was higher at \*\*\* percent during interim 2019 than in interim 2018 when it was \*\*\* percent. *Id.*

<sup>162</sup> See CR/PR at Tables IV-11 to IV-15.

<sup>163</sup> See CR/PR at Tables IV-11 to IV-15. Subject imports also accounted for the majority of shipments to keg leasing and rental companies. CR/PR at Table IV-15.

<sup>164</sup> CR/PR at Tables IV-10 and C-1.

<sup>165</sup> CR/PR at Tables IV-10 and C-1.

<sup>166</sup> CR/PR at Table IV-9.

<sup>167</sup> CR/PR at Tables IV-9, C-1.

share of apparent U.S. consumption was lower in interim 2019, at \*\*\* percent, than in interim 2018, at \*\*\* percent.<sup>168</sup>

Shipments of nonsubject imports were the second largest source of supply during the POI.<sup>169</sup> Leading nonsubject sources of steel kegs were Spain, France, Italy, and the Czech Republic.<sup>170</sup> Nonsubject imports' market share decreased from \*\*\* percent of apparent U.S. consumption in 2016 to \*\*\* percent in 2017 and \*\*\* percent in 2018.<sup>171</sup> Nonsubject imports' market share was \*\*\* percent in interim 2018 and \*\*\* percent in interim 2019.<sup>172</sup>

### 3. Substitutability and Other Conditions

Majorities of responding U.S. importers and purchasers reported that the domestic like product and subject imports from all three subject countries are “always” or “frequently” interchangeable.<sup>173</sup> There are some distinctions between the products, however, with respect to availability. Ten of 24 purchasers responding to questionnaires indicated that they require their suppliers to become certified or qualified to sell steel kegs to their firm.<sup>174</sup> Although American Keg successfully certified with leasing companies \*\*\*, it is not \*\*\*.<sup>175</sup> Additionally, as explained further below, the most popular sized kegs in the U.S. market are the 1/6 and 1/2 barrel sizes, both of which are produced by American Keg. Subject imports, however, are available in additional sizes beyond the 1/6 and 1/2 barrels.<sup>176</sup> Notwithstanding some non-price differences, for those purchasing factors most frequently identified by purchasers as “very important,”<sup>177</sup> a majority of purchasers rated the domestic like product and imports from each subject country “comparable” on these traits.<sup>178</sup> In comparisons between subject imports, majorities or pluralities of purchasers rated such products “comparable” for availability, customer service, and quality meets industry standard.<sup>179</sup> Accordingly, we find that there is a moderate-to-high degree of substitutability between subject imports and the domestic like product.<sup>180</sup>

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<sup>168</sup> CR/PR at Tables IV-9, C-1.

<sup>169</sup> CR/PR at Table IV-9.

<sup>170</sup> CR at II-19, PR at II-11.

<sup>171</sup> CR/PR at Table IV-10.

<sup>172</sup> CR/PR at Table IV-10.

<sup>173</sup> CR/PR at Table II-12.

<sup>174</sup> CR at II-31, PR at II-18.

<sup>175</sup> CR at II-32, II-32 n.64, PR at II-19, II-19 n.64.

<sup>176</sup> See CR/PR at Table IV-6.

<sup>177</sup> CR/PR at Table II-9. Factors most frequently identified as “very important” by purchasers were product consistency (24 of 25 responding firms), quality meets industry standards (22 firms), availability (21 firms), and customer service (19 firms). *Id.*

<sup>178</sup> CR/PR at Table II-11.

<sup>179</sup> CR/PR at Table II-11. With respect to product consistency, a majority of purchasers rated subject imports from China “inferior” to subject imports from Germany and Mexico. *Id.*

<sup>180</sup> See CR at II-25, PR at II-15.



Purchasers reported that a number of factors are important when they purchase steel kegs.<sup>181</sup> Purchasers cited product consistency, quality meets industry standards, availability, customer service, business/historical relationship, quality exceeds industry standards, reliability of supply, delivery time, and price.<sup>182</sup> As noted above, however, the domestic product and subject imports from each source were generally reported as being comparable with respect to these factors.<sup>183</sup> Thus, while price may not necessarily be the most important consideration in purchasing decisions, it is an important factor.

In 2018, the substantial majority of U.S. shipments reported by the domestic producer and by U.S. importers from each subject country were of the 1/6 and 1/2 barrel sizes.<sup>184</sup> Nonsubject imports were less concentrated in the 1/6 and 1/2 barrel sizes.<sup>185</sup> Together, the 1/6 and 1/2 barrel sizes accounted for four-fifths of apparent U.S. consumption of steel kegs in 2018.<sup>186</sup>

The vast majority of the U.S. producer's and importers' reported sales of steel kegs were made on the spot market.<sup>187</sup> Importers often sold from inventory while American Keg produced steel kegs to order though it built up its inventories later in the POI.<sup>188</sup>

Stainless steel is the primary raw material used in the production of steel kegs.<sup>189</sup> The prices of grades 304 and 316 cold-rolled stainless steel coil increased from 2016 through the first half of 2018 and then declined.<sup>190</sup> Raw materials accounted for between \*\*\* percent and \*\*\* percent of American Keg's total COGS for its U.S. production of steel kegs during the 2016-18 period.<sup>191</sup>

Tariffs of 25-percent *ad valorem* were imposed on certain steel products, including stainless steel, in March 2018 under Section 232 of the Trade Expansion Act of 1962 ("Section 232").<sup>192</sup> In addition, pursuant to Section 301 of the Trade Act of 1974, subject imports from

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<sup>181</sup> See CR/PR at Table II-9.

<sup>182</sup> See CR/PR at Table II-9.

<sup>183</sup> CR/PR at Table II-11 (showing that the only key factors where majorities or pluralities of responding purchasers reported that the domestic product was inferior to the subject imports were business/historical relationship with respect to imports from Germany and Mexico and price with respect to imports from China and Mexico).

<sup>184</sup> CR/PR at Table IV-6.

<sup>185</sup> See CR/PR at Table IV-6. All of American Keg's shipments were 1/6 barrel and 1/2 barrel steel kegs, and \*\*\* percent of shipments of subject imports were 1/6 barrel and 1/2 barrel steel kegs. In contrast, only \*\*\* percent of shipments of nonsubject imports were 1/6 barrel and 1/2 barrel steel kegs. *Id.*

<sup>186</sup> CR/PR at Table IV-6.

<sup>187</sup> CR/PR at Table V-2.

<sup>188</sup> CR at II-26, III-7, III-7 n.9, PR at II-15, III-5, III-5 n.9.

<sup>189</sup> CR/PR at V-1.

<sup>190</sup> CR/PR at Fig. V-1.

<sup>191</sup> CR/PR at Table VI-1. The ratio was \*\*\* percent in interim 2018 and \*\*\* percent in interim 2019. *Id.*

<sup>192</sup> CR at I-13, PR at I-10. Section 232 of the Trade Expansion Act of 1962, as amended, 19 U.S.C. § 1862, authorizes the Secretary of Commerce to conduct investigations to determine the effects of (Continued...)

China were subject to an additional 10 percent *ad valorem* tariff beginning in September 2018, which increased to 25 percent *ad valorem* on January 1, 2019.<sup>193</sup>

### C. Volume of Subject Imports

Section 771(7)(C)(i) of the Tariff Act provides that the “Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.”<sup>194</sup>

Cumulated subject imports had a large presence in the U.S. market throughout the POI. Based on importer questionnaire data,<sup>195</sup> subject imports increased from 1.26 million steel kegs in 2016 to 1.29 million steel kegs in 2017 and 1.31 million steel kegs in 2018, for a total increase of 4.4 percent.<sup>196</sup> The volume of subject imports was 260,429 steel kegs in interim 2018 and 264,527 steel kegs in interim 2019.<sup>197</sup>

Cumulated subject imports’ market share was \*\*\* percent in 2016, \*\*\* percent in 2017 and \*\*\* percent in 2018, as apparent U.S. consumption overall was relatively flat.<sup>198</sup> Their share of apparent U.S. consumption was \*\*\* percent in interim 2018 and \*\*\* percent in interim

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(...Continued)

imports on the national security of the United States and authorizes the President to take action to restrict such imports. Steel kegs are not directly subject to the Section 232 tariffs. The relevant Section 232 investigation began in April 2017, and the President announced the duties in March 2018. *Adjusting Imports of Steel Into the United States*, Presidential Proclamation 9705, March 8, 2018, 83 Fed. Reg. 11625 (March 15, 2018).

American Keg uses U.S.-made steel for its raw materials and, therefore, did not have to pay these additional tariffs directly. It reported, however, that the Section 232 tariffs caused raw material prices to fluctuate during the POI. See CR at V-3 n.5, PR at V-2 n.5. A majority of responding importers indicated that the imposition of Section 232 tariffs on imported steel in March 2018 affected raw material costs. CR at V-3, PR at V-2. Stainless steel from China is also subject to a 15 percent *ad valorem* duty under the Section 301 duty. CR at I-13 to I-14, PR at I-11.

<sup>193</sup> CR at I-13, PR at I-11. Section 301 of the Trade Act of 1974, as amended, 19 U.S.C. § 2411, authorizes the United States Trade Representative (“USTR”), at the direction of the President, to take appropriate action to respond to a foreign country’s unfair trade practices. On September 17, 2018, USTR released a list of approximately \$200 billion worth of imports from China that will be subject to Section 301 tariffs, which were initially 10 percent, but were subsequently increased to 25 percent. See “USTR Finalizes Tariffs on \$200 Billion of Chinese Imports in Response to China’s Unfair Trade Practices,” Press Release, Office of the United States Trade Representative, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/september/ustr-finalizes-tariffs-200> (visited Nov. 4, 2018); Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, 83 Fed. Reg. 47974 (Sept. 21, 2018).

<sup>194</sup> 19 U.S.C. § 1677(7)(C)(i).

<sup>195</sup> CR/PR at IV-1.

<sup>196</sup> See CR/PR at Table IV-2. Shipments of subject imports increased to an even greater extent. See CR/PR at Table C-1 (indicating 5.5 percent increase from 2016 to 2018).

<sup>197</sup> CR/PR at Table IV-2.

<sup>198</sup> CR/PR at Tables IV-10, C-1.

2019.<sup>199</sup> Both subject imports and the domestic industry gained market share at the expense of nonsubject imports, which experienced declines in both volume and market share during 2016-2018.<sup>200</sup> Given that we have found this to be a nascent domestic industry and are considering American Keg's start-up nature in our analysis, we place less weight on the domestic industry's increase in market share that occurred during the POI.<sup>201</sup> Its market share remained modest, increasing from \*\*\* percent in 2016 to \*\*\* percent in 2018, as it attempted to increase its production and shipments and establish itself in the market.<sup>202</sup>

We have also considered subject imports relative to domestic production. The ratio of cumulated subject imports to U.S. production fluctuated but remained high throughout the POI. The ratio decreased from \*\*\* percent in 2016 to \*\*\* percent in 2017 and then increased to \*\*\* percent in 2018.<sup>203</sup> This ratio was \*\*\* percent in interim 2018 and \*\*\* percent in interim 2019.<sup>204</sup>

In light of the foregoing, we find that the volume of cumulated subject imports is significant in both absolute terms and relative to U.S. production and consumption.

#### **D. Price Effects of the Subject Imports**

Section 771(7)(C)(ii) of the Tariff Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.<sup>205</sup>

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<sup>199</sup> CR/PR at Table IV-10, C-1 (based on shipments of imports). The domestic industry's market share was \*\*\* percent in 2016, \*\*\* percent in 2017, and \*\*\* percent in 2017. *Id.* Its share was \*\*\* percent in interim 2018 and \*\*\* percent in interim 2019. *Id.*

<sup>200</sup> See CR/PR at Tables IV-9 and IV-10. We place less weight on the interim period data in these investigations for the following reasons. The interim periods consist of only three months (January-March). Furthermore, because demand for steel kegs is seasonal, most apparent U.S. consumption occurs in the summer months after the interim period months. Finally, the pendency of the investigations may have also affected the volume and pricing of the subject imports after the filing of the petitions in September 2018. See CR/PR at Table IV-2. See also 19 U.S.C. § 1677(7)(I).

<sup>201</sup> See *Laminated Woven Sacks*, USITC Pub. 3942 at 33-34.

<sup>202</sup> CR/PR at Table C-1.

<sup>203</sup> CR/PR at Table IV-2.

<sup>204</sup> CR/PR at Table IV-2.

<sup>205</sup> 19 U.S.C. § 1677(7)(C)(ii).

As explained in Section VI.B.3., we have found that there is a moderate-to-high degree of substitutability between domestically produced steel kegs and the subject imports, and that price is an important factor in purchasing decisions.

The Commission collected quarterly data for the total quantity and f.o.b. value of two pricing products (1/2 barrel kegs and 1/6 barrel kegs) shipped to unrelated U.S. customers between January 2016 and March 2019.<sup>206</sup> American Keg and 18 importers provided usable pricing data for sales of the requested products, although not all firms reported pricing data for all products and all quarters.<sup>207</sup> Reported pricing data accounted for all of the domestic producer's U.S. shipments and over three-quarters of the shipments of steel kegs from each subject country. Cumulated subject imports consisting of \*\*\* steel kegs undersold the domestic like product in 63 of 77 quarterly comparisons, at margins ranging from 0.6 percent to 26.8 percent.<sup>208</sup> Cumulated subject imports consisting of \*\*\* steel kegs oversold the domestic like product in 14 of 77 quarterly comparisons, at margins up to 20.0 percent.<sup>209</sup>

The respondents assert that the pricing data, and specifically the high degree of underselling by the subject imports, are not indicative of relative pricing between the subject imports and domestically produced kegs because they are sold to different types of purchasers

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<sup>206</sup> CR at V-8, PR at V-5. The product descriptions are below:

Product 1-- 1/2 barrel (also known as a keg); Assembled with no accessories; 300 series stainless steel; volume of 15.5 gallons (58.7 liters); approximately 23.25 inches tall (+/- 0.5 inches) with diameters ranging from 14.5 inches to 17.5 inches, thickness ranging from 0.050 to 0.060 inches for the body and 0.070 to 0.090 inches for the handles; rated to a maximum of 60 PSI of pressure; unfilled; finish may be dull, polished, painted, or encapsulated in a rubber or plastic material.

Product 2-- 1/6 barrel; Assembled with no accessories; 300 series stainless steel; volume of 5.16 gallons (19.5 liters); approximately 23.25 inches tall (+/- 0.5 inches) with diameters ranging from 8.5 inches to 9.7 inches, thickness ranging from 0.045 to 0.055 inches for the body and 0.055 to 0.070 inches for the handles; rated to a maximum of 60 PSI of pressure; unfilled; finish may be dull, polished, painted, or encapsulated in a rubber or plastic material.

CR at V-8, PR at V-5.

<sup>207</sup> CR at V-9, PR at V-5.

<sup>208</sup> CR/PR at Table V-8.

<sup>209</sup> CR/PR at Table V-8. Importers also provided information to the Commission concerning their imports of subject merchandise used for internal consumption. Import purchase cost data reported by 9 firms accounted for \*\*\* percent of imports from China and \*\*\* percent of imports from Mexico in 2018. No data were collected for such subject imports from Germany. CR at V-14, PR at V-6. For the most part, purchase costs for steel kegs from China and Mexico were less than prices of domestically produced product. See CR/PR at Figs. V-4 and V-5. Importers also estimated certain additional costs (as a percentage of total landed duty paid value) associated with directly importing steel kegs: inland transportation costs (1 to 10 percent); logistical or supply chain management costs (2 percent); inventory carrying costs (1 to 10 percent); and insurance costs (1 percent). CR at V-19, PR at V-7.

in different volumes, with larger volume purchases receiving volume discounts that would affect the price comparisons.<sup>210</sup> Multiple points on the record belie this assertion. First, focusing just on the small brewery portion, which accounted for the majority of the domestic industry's shipments and a substantial portion of subject import shipments, the record shows that subject imports sold to small breweries generally exhibited lower average unit values than American Keg's sales of steel kegs.<sup>211 212</sup> Second, volume discounts do not appear to account for the lower prices of the subject imports.<sup>213</sup> Removing data for sales by \*\*\* from the pricing data does not change the number of instances of underselling.<sup>214</sup> Moreover, not all importers offer volume discounts, and \*\*\*, does not offer volume discounts.<sup>215</sup> Finally, multiple purchasers reported that the domestic product was "inferior" with respect to the price of subject imports, meaning that the imports were lower priced, and purchasers also reported that subject imports were priced lower than the domestic product in their responses to the lost sales and revenue questions.<sup>216</sup>

We also are not persuaded by respondents' contention that American Keg priced its steel kegs unreasonably high in a misguided effort to obtain an "American-made" price premium.<sup>217</sup> American Keg provided the basis for its pricing strategy, explaining that it sought to price its products between German steel kegs that are seen as high quality and Chinese product that is perceived to be lower quality, and that its prices were designed to be

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<sup>210</sup> Anheuser's Posthearing Brief at 9-10; Thielmann's Prehearing Brief at 42-43.

<sup>211</sup> See CR/PR at Table F-1. Both subject imports and the domestic product were also sold to medium-sized breweries and to leasing/rental companies; the record demonstrates that subject imports sold to those portions of the market generally exhibited lower average unit values than domestic sales of steel kegs. *Id.*

<sup>212</sup> Commissioner Kearns finds that the U.S. steel kegs market does not have distinct segments. Specifically with respect to the small breweries, the record indicates overlap, whereby many smaller breweries increasingly utilize keg leasing/rental companies. CR at II-7, PR at II-5. As such, he finds that the small breweries' reliance on leasing/rental of steel kegs (rather than purchases) necessarily displaces sales to those small breweries.

<sup>213</sup> American Keg indicates that it offers volume discounts comparable to those offered by many importers. See Petitioner's Posthearing Brief, Answers to Questions at 76-81. Additionally, with respect to small breweries, these sales were likely of comparable quantities and therefore would not involve substantially different volume discounts.

<sup>214</sup> CR at V-23 n.22, PR at V-8 n.22. We also observe that not all importers offer volume discounts, and Blefa, in particular, does not offer volume discounts. See Petitioner's Posthearing Brief, Answers to Questions at 76-81. In any event, both importers and American Keg sell on the spot market and subject imports sold to small breweries generally exhibited lower average unit values than American Keg's sales of steel kegs to small breweries. See CR/PR at Table V-2 and F-1. Presumably, these sales were of comparable quantities, but even if purchases of subject imports involved larger orders, that would not mitigate the effect of the subject imports on American Keg's prices and sales volumes.

<sup>215</sup> See Petitioner's Posthearing Brief, Answers to Questions at 79-80.

<sup>216</sup> See CR at II-39, V-25 to V-26, PR at II-23, V-10 to V-11.

<sup>217</sup> See, e.g., Blefa's Prehearing Brief at 50-51.

competitive in the market place while also enabling it to earn a profit.<sup>218</sup> Record evidence indicates that its prices were not unreasonable as they were within a range of prices for steel kegs in the marketplace.<sup>219</sup> Indeed, American Keg represented that it was able to \*\*\* that was \*\*\*.<sup>220</sup> In order to \*\*\* but this is not an unreasonable “price premium.”

Purchasers confirmed that the domestic industry lost a large volume of sales to the subject imports due to lower prices.<sup>221</sup> Eighteen of 24 purchasers indicated they had purchased subject merchandise instead of domestic product during the POI.<sup>222</sup> Nine of these purchasers reported that the lower price of the subject imports was a primary reason for their purchasing subject imports rather than the domestic product.<sup>223</sup> The 176,064 steel kegs from subject countries acknowledged to have been purchased instead of domestic product because of lower prices more than \*\*\* the volume of American Keg’s sales of steel kegs during the entire POI.<sup>224</sup>

Respondents challenge the conclusion that the sales were lost to subject imports because of lower prices. Although the two medium-sized breweries reported the majority of the lost sales by volume and clearly indicated that price was a primary reason for the purchase of subject imports,<sup>225</sup> respondents argue that other factors (lack of availability or quality) explain the decision by these breweries to purchase subject imports instead of domestically produced kegs.<sup>226</sup> There is ample evidence that these sales were primarily lost to subject imports due to pricing. \*\*\* in its questionnaire indicated that price was the reason it purchased a large quantity of subject imports instead of American Keg’s steel kegs.<sup>227</sup> Another medium-sized brewery, \*\*\*, also purchased subject imports based on their lower pricing and never indicated it had concerns about American Keg’s quality or production capacity.<sup>228</sup> Thus,

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<sup>218</sup> See Petitioner’s Posthearing Brief, Answers to Questions at 57.

<sup>219</sup> See Petitioner’s Posthearing Brief, Answers to Questions at 57-62. This was confirmed by the pricing data at the beginning of the POI. See CR/PR at Figs. V-2 and V-3.

American Keg was able to increase its sales at the level it priced its steel kegs and its prices were comparable to those forecast in its feasibility study. See CR at E-6 n.17, PR at E-5 n.17. See also Petitioner’s Posthearing Brief, Answers to Questions at 50-51 & Exhibit 8 (explaining that American Keg’s assumptions concerning pricing were in part based on Geemacher’s pricing in 2015 when it sold a significant quantity of steel kegs at \$\*\*\* for a 1/6 barrel and \$\*\*\* for a 1/2 barrel).

<sup>220</sup> Petitioner’s Posthearing Brief at Exhibit 9.

<sup>221</sup> See CR/PR at Table V-10.

<sup>222</sup> CR at V-25, PR at V-11.

<sup>223</sup> CR at V-25 to V-26, PR at V-11.

<sup>224</sup> See CR/PR at Table VI-1.

<sup>225</sup> See \*\*\*; CR/PR at Table V-10.

<sup>226</sup> Blefa’s Prehearing Brief at 44-45; Anheuser’s Posthearing Brief, Answers to Questions at 10; Chinese Respondents’ Prehearing Brief at 33-37. See CR/PR at Table V-10; \*\*\*.

<sup>227</sup> \*\*\* reported the largest lost sale and respondents assert that it should be disregarded despite the fact that \*\*\*. Respondents note that \*\*\*. Nonetheless, \*\*\*. It also indicated that \*\*\*. See \*\*\*. See also Petitioner’s Posthearing Brief, Answers to Questions at 85-88 (noting that \*\*\*).

<sup>228</sup> Petitioner provided evidence showing that \*\*\*. Petitioner’s Posthearing Brief, Answers to Questions at 82-85. Given its unequivocal \*\*\*, we conclude that the lower prices of the subject imports (Continued...)

we are not persuaded by respondents' arguments and find that these confirmed lost sales are credible. We also note that even the volume of lost sales to other purchasers (\*\*\*) are substantial relative to American Keg's sales volumes during the POI.<sup>229</sup>

Based on the pervasive underselling of the domestic like product by the cumulated subject imports, the degree of substitutability of the domestic like product and the subject imports, the importance of price in purchasing decisions and the substantial volume of lost sales on the basis of price, we find that there has been significant underselling of the domestic like product by the cumulated subject imports. The significant underselling enabled the subject imports to increase their share in the U.S. market and prevented American Keg from further expanding its output and sales that it needed to do in order to approach break-even results.

We have also considered trends for prices for the domestic like product and subject imports over the POI. The pricing data for the domestic like product and subject imports show that prices generally increased.<sup>230</sup> Nonetheless, the domestic industry's prices relative to its costs were not sufficient for the domestic industry to break even during the POI.

The domestic industry's raw material costs generally increased due to increasing stainless steel costs. American Keg's unit net raw material costs rose from \$\*\*\* per keg in 2016 to \$\*\*\* in 2017 and \$\*\*\* in 2018.<sup>231</sup> Its ratio of net raw material costs to net sales also increased from \*\*\* percent in 2016 to \*\*\* percent in 2017 and \*\*\* percent in 2018, as American Keg's net sales values did not increase as much as its raw material costs.<sup>232</sup>

Despite the increase in raw material costs, American Keg's total costs as reflected in unit COGS declined during the period, initially falling from \$\*\*\* in 2016 to \$\*\*\* in 2017 and then increasing to \$\*\*\* in 2018.<sup>233</sup> The improvement in unit COGS reflected American Keg's lower per-unit factory costs and direct labor costs as American Keg increased production, spread these costs over more output, and generally improved its manufacturing efficiencies. Its ratio of COGS to net sales fell from \*\*\* in 2016 to \*\*\* in 2017 and 2018.<sup>234</sup> Therefore, although American Keg's sales values did not increase as much as its raw material costs, American Keg's

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(...Continued)

account for the lost sale. Furthermore, although \*\*\* See \*\*\*. Indeed, Petitioner asserts that \*\*\*. Petitioner Posthearing Brief, Answers to Questions at 43-44.

<sup>229</sup> See CR/PR at Table VI-1. This volume of confirmed lost sales exceeds American Keg's \*\*\* and equates to more than \*\*\* American Keg's largest annual sales volume, which was \*\*\*. See CR/PR at Table III-4.

<sup>230</sup> CR at V-20, PR at V-8; CR/PR Table V-7. Domestic prices for product 1 (1/2 barrels) increased by \*\*\* percent and domestic prices for product 2 (1/6 barrels) increased by \*\*\* percent over the POI. CR/PR at Table V-7. However, one purchaser, a keg leasing company, \*\*\*, reported that American Keg had reduced its price in order to compete with lower-priced subject imports. CR at V-33, PR at 12. \*\*\* purchased \*\*\* kegs from American Keg during the POI, equivalent to more than \*\*\* percent of American Keg's total sales during the POI. See CR/PR at Table V-9 and VI-1.

<sup>231</sup> CR/PR at Table VI-1.

<sup>232</sup> CR/PR at Table VI-1. American Keg reported that it \*\*\*. CR at V-3 n.5, PR at V-2 n.5.

<sup>233</sup> CR/PR at Table VI-1.

<sup>234</sup> CR/PR at Table VI-1.

total unit costs fell relative to its sales values as it increased production and improved its manufacturing efficiencies during the period, as would be expected for a start-up operation.

American Keg's ratios improved as it increased output, but it faced pricing pressure that prevented it from increasing its sales and prices further. For instance, \*\*\* confirmed a relatively large lost revenue allegation in addition to the sales American Keg lost due to lower priced subject imports. We therefore find evidence that American Keg faced downward pressure on its prices during the POI.

We conclude that the subject imports had significant price effects during the POI. They significantly undersold the domestic like product resulting in a large volume of lost sales by the domestic industry to the subject imports. The record also indicates that subject imports exerted downward pressure on American Keg's prices for steel kegs.

#### **E. Impact of the Cumulated Subject Imports<sup>235</sup>**

Section 771(7)(C)(iii) of the Tariff Act provides that in examining the impact of subject imports, the Commission "shall evaluate all relevant economic factors which have a bearing on the state of the industry."<sup>236</sup> These factors include output, sales, inventories, capacity

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<sup>235</sup> The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determination with respect to steel kegs from Mexico, Commerce found dumping margins of 18.48 percent with respect to all producers/exporters. *Refillable Stainless Steel Kegs From Mexico: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 84 Fed. Reg. 42894, 42895 (August 19, 2019). In its preliminary determination with respect to steel kegs from China, Commerce found dumping margins of 2.01 percent for imports from China from three exporter/producer combinations: Ningbo Master International Trade Co., Ltd/Ningbo Major Draft Beer Equipment Co., Ltd; Guangzhou Jingye Machinery Co., Ltd/Guangzhou Jingye Machinery Co., Ltd.; Ningbo Haishu Direct Import and Export Trade Co., Ltd./Ningbo Haishu Xiangsheng Metal Products Plant; and margins of 79.71 percent for all other producers and exporters in China. *Refillable Stainless Steel Kegs From the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures*, 84 Fed. Reg. 25745, 25746 (June 4, 2019). For steel kegs from Germany, Commerce assigned a preliminary margin of 8.61 percent for all producers and exporters of steel kegs. *Refillable Stainless Steel Kegs From the Federal Republic of Germany: Preliminary Affirmative Determination of Sales at Less Than Fair Value, and Postponement of Final Determination*, 84 Fed. Reg. 25736, 25737 (June 4, 2019).

We have considered the above dumping margins. In addition to this consideration, our impact analysis has considered other factors affecting domestic prices. Our analysis of the significant underselling and price effects of subject imports, described in both the price effects discussion and below, is particularly probative to an assessment of the impact of the subject imports on the establishment of the domestic industry.

<sup>236</sup> 19 U.S.C. § 1677(7)(C)(iii); see also SAA at 851 and 885 ("The Commission considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they also may demonstrate that an (Continued...)



utilization, market share, employment, wages, productivity, gross profits, net profits, operating profits, cash flow, return on investment, return on capital, ability to raise capital, ability to service debts, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>237</sup>

In considering whether the establishment of an industry was materially retarded by reason of the subject imports, we consider the size of the domestic industry and the market in which it is competing to determine whether subject imports are adversely affecting its performance. For a start-up business in a nascent industry, we would expect it to be able to improve its performance by increasing its production and sales, while realizing efficiencies and thereby lowering its average unit costs. Therefore, the fact that American Keg experienced improvements in its production indicia (through increases in production, capacity, and U.S. shipments) over the POI<sup>238</sup> does not alone indicate that subject imports did not adversely affect its performance. At the same time, we also take into consideration in our analysis that it is not unexpected for a start-up company to suffer losses for a number of years before it is able to break-even and begin earning a profit, particularly when it is competing against businesses that have established products and relationships in the marketplace.

Throughout the POI, American Keg lost money and its capacity utilization rate remained under \*\*\* percent.<sup>239</sup> Though its output-related indicators improved overall during the period, and it gained \*\*\* of market share,<sup>240</sup> its output remained modest and it had to reduce

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(...Continued)

industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.”).

<sup>237</sup> 19 U.S.C. § 1677(7)(C)(iii). This provision was amended by the Trade Preferences Extension Act of 2015, Pub. L. 114-27.

<sup>238</sup> American Keg’s capacity increased from \*\*\* steel kegs in 2016 to \*\*\* steel kegs in 2017 and 2018. CR/PR at Table III-3. Its capacity was \*\*\* in interim 2018 and \*\*\* in interim 2019. *Id.* American Keg’s production increased from \*\*\* steel kegs in 2016 to \*\*\* steel kegs in 2017 and then decreased to \*\*\* steel kegs in 2018. *Id.* Its production was \*\*\* in interim 2018 and \*\*\* in interim 2019. *Id.*

American Keg’s net sales (by quantity) and U.S. shipments increased from \*\*\* steel kegs in 2016 to \*\*\* steel kegs in 2017 and \*\*\* steel kegs in 2018. CR/PR at Tables III-4 and VI-1. Net sales (by quantity) and U.S. shipments were \*\*\* in interim 2018 and \*\*\* in interim 2019. *Id.*

<sup>239</sup> American Keg’s capacity utilization increased from \*\*\* percent in 2016 to \*\*\* percent in 2017 and then decreased to \*\*\* percent in 2018. CR/PR at Table III-3. Its capacity utilization rate was \*\*\* percent in interim 2018 and \*\*\* percent in interim 2019. *Id.*

American Keg’s inventories increased during the POI. It reported end-of-year inventories of \*\*\* steel kegs in 2016, \*\*\* steel kegs in 2017, \*\*\* steel kegs in 2018, \*\*\* steel kegs in interim 2018, and \*\*\* steel kegs in interim 2019. CR/PR at Table III-5. American Keg explained that it increased its inventories throughout 2017 in order to improve its lead times and ensure it had additional inventory during peak sales season. CR at III-7 n.9, PR at III-5 n.9. However, American Keg also attributed the buildup in its inventories to subject import competition. *Id.*

<sup>240</sup> See CR/PR at Table IV-10. The domestic industry’s market share was \*\*\* percent in 2016, \*\*\* percent in 2017, and \*\*\* percent in 2018. *Id.* Its market share was \*\*\* percent in interim 2018 and (Continued...)

production in 2018, compared to 2017.<sup>241</sup> Similarly, while its employment indicia demonstrated some improvement over the entire POI, PRWs,<sup>242</sup> total hours worked,<sup>243</sup> wages paid,<sup>244</sup> and productivity<sup>245</sup> all declined from 2017 to 2018. We find that American Keg's performance was adversely affected by the presence of low-priced subject imports in the market, as subject imports captured a large volume of sales on the basis of lower prices and prevented it from further increasing its production and sales.

The domestic industry's financial performance was poor during the POI, as the industry reported \*\*\* through most of the period.<sup>246</sup> The domestic industry's sales revenues increased irregularly over the POI.<sup>247</sup> Its \*\*\* decreased from 2016 to 2017, but they increased again from 2017 to 2018; the losses were lower in interim 2019 than in interim 2018.<sup>248</sup> Its \*\*\* margin

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(...Continued)

\*\*\* percent in interim 2019. *Id.* We note that American Keg gained \*\*\* percentage points of market share in the portion of the market consisting of small breweries. See CR/PR at Table IV-13. We observe that American Keg lost sales totaling \*\*\* steel kegs in this part of the market. See CR/PR at Table V-10. Accordingly, it is clear that subject imports were competing and taking sales from American Keg in this important portion of the market and American Keg could have increased its sales further to small breweries if not for the subject imports.

<sup>241</sup> American Keg's production declined \*\*\* percent from 2017 (at \*\*\* units) to 2018 (at \*\*\* units). Table C-1.

American Keg ramped up its operations during the period; it invested in equipment in order to increase its capacity and productivity. CR at VI-10, PR at VI-7. American Keg introduced \*\*\* according to American Keg. CR at VI-10 n.17, PR at VI-7 n.17.

<sup>242</sup> American Keg had \*\*\* PRWs in 2016, \*\*\* in 2017, and \*\*\* in 2018. CR/PR at Table III-7. It employed \*\*\* PRWs in interim 2018 and \*\*\* in interim 2019. *Id.*

<sup>243</sup> Total hours worked increased from \*\*\* hours in 2016 to \*\*\* hours in 2017 and then decreased to \*\*\* hours in 2018. CR/PR at Table III-7. The number of hours worked was \*\*\* in interim 2018 and \*\*\* in interim 2019. *Id.*

<sup>244</sup> Wages paid increased from \$\*\*\* in 2016 to \$\*\*\* in 2017, and then decreased to \$\*\*\* in 2018. CR/PR at Table III-7. They were \$\*\*\* in interim 2018 and \$\*\*\* in interim 2019. *Id.*

<sup>245</sup> Productivity was \*\*\* steel kegs per hour in 2016, \*\*\* steel kegs per hour in 2017, \*\*\* steel kegs per hour in 2018, \*\*\* steel kegs per hour in interim 2018, and \*\*\* steel kegs per hour in interim 2019. CR/PR at Table III-7.

<sup>246</sup> American Keg \*\*\*. See CR at VI-9 n.16, PR at VI-7 n.16.

<sup>247</sup> The domestic industry's net sales revenues were \$\*\*\* in 2016, \$\*\*\* in 2017, \$\*\*\* in 2018, \$\*\*\* in interim 2018, and \$\*\*\* in interim 2019. CR/PR at Table VI-1.

<sup>248</sup> The domestic industry's \*\*\* were \$\*\*\* in 2016, \$\*\*\* in 2017, \$\*\*\* in 2018, \$\*\*\* in interim 2018, and \$\*\*\* in interim 2019. CR/PR at Table VI-1. The domestic industry's \*\*\* was \$\*\*\* in 2016, \$\*\*\* in 2017, \$\*\*\* in 2018, \$\*\*\* in interim 2018, and \$\*\*\* in interim 2019. *Id.*

decreased from 2016 to 2018, and was lower in interim 2019 than in interim 2018.<sup>249</sup> The industry reported \*\*\* during 2017 and 2018 and during the interim periods.<sup>250</sup>

Despite year-to-year fluctuations, American Keg generally increased its capital expenditures during the POI.<sup>251</sup> The domestic industry's assets increased and its return on assets improved, but remained negative from 2016 to 2018.<sup>252</sup> Finally, American Keg reported negative effects on investment and on growth and development due to subject imports during the POI, specifically the \*\*\*.<sup>253</sup>

While American Keg's financial indicators improved and its losses decreased over the POI, its performance was worse than expected, and in fact certain indicators showed declines between 2017 and 2018. Many of the improvements resulted from American Keg's realization of efficiencies, reflected in overall declines in per-unit factory costs, labor costs, and SG&A expenses.<sup>254</sup> The record also indicates that American Keg faced large volumes of low-priced subject imports that significantly undersold American Keg's domestically produced kegs. The low-priced subject imports captured a large volume of sales from American Keg and prevented it from further increasing its output and approaching the estimated level of production and sales (\*\*\* kegs) that would have permitted it to break even.<sup>255</sup> We find that if American Keg had not lost sales of 176,064 steel kegs to the low-priced subject imports during the POI, it would have been closer to its break-even level during the POI.<sup>256</sup> Thus, the record indicates that American Keg's performance was poorer than that which could reasonably be expected.

In short, the cumulated subject imports materially retarded the establishment of the domestic industry during the period by preventing it from expanding its production and sales.

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<sup>249</sup> The domestic industry's \*\*\* as a share of net sales was \*\*\* percent in 2016, \*\*\* percent in 2017, \*\*\* percent in 2018, \*\*\* percent in interim 2018, and \*\*\* percent in interim 2019. CR/PR at Table VI-1.

<sup>250</sup> The domestic industry's \*\*\* was \$\*\*\* in 2016; its \*\*\* was \$\*\*\* in 2017, \$\*\*\* in 2018, \$\*\*\* in interim 2018, and \$\*\*\* in interim 2019. CR/PR at Table VI-1. The domestic industry's \*\*\* as a share of net sales was \*\*\* percent in 2016; its \*\*\* as a share of net sales was \*\*\* percent in 2017, \*\*\* percent in 2018, \*\*\* percent in interim 2018, and \*\*\* percent in interim 2019. *Id.*

<sup>251</sup> CR/PR at Table VI-5. The domestic industry's capital expenditures were \$\*\*\* in 2016, \$\*\*\* in 2017, \$\*\*\* in 2018, \$\*\*\* in interim 2018, and \$\*\*\* in interim 2019. *Id.* CR/PR at Table VI-3. The domestic industry did not \*\*\* during the POI. *Id.*

<sup>252</sup> Total net assets were \$\*\*\* in 2016, \$\*\*\* in 2017, and \$\*\*\* in 2018. CR/PR at Table VI-4. The industry's return on assets was \*\*\* percent in 2016, \*\*\* percent in 2017, and \*\*\* percent in 2018. *Id.*

<sup>253</sup> CR/PR at Table VI-6.

<sup>254</sup> See CR/PR at Table VI-1.

<sup>255</sup> See CR at E-7 to E-8, PR at E-4 to E-5. This break-even analysis is based on American Keg's costs and product mix during 2018 and was prepared by American Keg in response to a request from the Commission to update the assumptions in American Keg's feasibility study. *Id.* See also Petitioner's Posthearing Brief at Exhibit 1 and Answers to Questions at 123-27 (explaining break-even model).

<sup>256</sup> If it had made sales representing even a substantial portion of the lost sales, the industry's performance would have improved beyond what it experienced during the POI. Moreover, as discussed earlier, downward pricing pressure by subject imports also prevented it from increasing its sales and improving its performance over the POI,

The domestic industry's output, revenues, and financial losses were materially worse than they would have been otherwise because of the subject imports. We therefore find that subject imports had an adverse impact and materially retarded the establishment of the domestic industry.

We are not persuaded by respondents' arguments that subject imports do not directly compete with American Keg for sales, and therefore are not responsible for its poor performance. Respondents claim that, due to its limited production capacity and failure to certify with large purchasers, American Keg cannot supply large brewers or keg rental/leasing companies supplied by subject imports, that American Keg sells to customers in the craft brewery portion of the market where subject imports are less concentrated, and that the craft brewery portion of the market is smaller than American Keg anticipated.<sup>257</sup> Despite the respondents' attempts to minimize the small brewery portion of the market, these sales accounted for between \*\*\* and \*\*\* percent of annual apparent U.S. consumption of steel kegs throughout the POI.<sup>258</sup> These sales also accounted for between \*\*\* and \*\*\* percent of American Keg's shipments during 2016-2018 and between \*\*\* and \*\*\* percent of subject import shipments.<sup>259</sup> Importantly, this volume of subject imports ranged between \*\*\* and \*\*\* steel kegs during this time and accounted for over \*\*\* percent of shipments to this portion of the market throughout the POI.<sup>260</sup> Thus, the record shows that small breweries accounted for a large portion of the total market and that there was substantial competition between subject imports and the domestic producer with respect to this large group of purchasers.<sup>261</sup>

With respect to the declining size of the small brewery portion of the market, the record shows that consumption did decline during the POI, from \*\*\* steel kegs in 2016 to \*\*\* steel kegs in 2018.<sup>262</sup> Given that American Keg's total sales volume in 2018 was \*\*\* steel kegs and its capacity utilization rate was \*\*\* percent, there were still plenty of sales to small brewers available to American Keg that could have significantly benefitted this start-up company.<sup>263</sup>

In addition, the fact that subject imports supply larger volumes of shipments than American Keg to other portions of the market does not negate the fact that head-to-head competition exists within the small brewery portion of the market. Moreover, the record shows that American Keg was competing in the leasing segment, with increasing sales throughout the POI, and had a successful sale to a medium-sized brewery in 2018, which

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<sup>257</sup> See, e.g., Anheuser's Prehearing Brief at 2-10; Thielmann's Posthearing Brief at 8, 10, 13-15.

<sup>258</sup> CR/PR at Table IV-13.

<sup>259</sup> Derived from CR/PR at Tables IV-9 and IV-13.

<sup>260</sup> CR/PR at Table IV-13.

<sup>261</sup> Accordingly, this is not a situation where the domestic industry and subject imports are serving different parts of the market. See Thielmann's Prehearing Brief at 52 (citing *Silica Bricks and Shapes from China*, Inv. No. 731-TA-1205 (Final), USITC Pub. 4443 (Jan. 2014)).

<sup>262</sup> CR/PR at Table IV-13. Total apparent U.S. consumption in the small brewery portion of the market was \*\*\* steel kegs in interim 2018 and \*\*\* steel kegs in interim 2019. *Id.*

<sup>263</sup> CR/PR at Table C-1. Petitioner points out that \*\*\*. Petitioner's Posthearing Brief, Answers to Questions at 34 n.138.

demonstrates active participation in those portions of the market as well.<sup>264</sup> Its lack of certification with large purchasers is not surprising given its start-up status, and the record indicates that such certifications are not necessary in order to effectively compete in this market at larger sales volumes.<sup>265</sup>

Respondents also argue that many of American Keg's assumptions concerning the steel keg market were wrong and that it misjudged the market it was entering.<sup>266</sup> The record shows that American Keg's pro forma analysis from 2016 did include certain assumptions, such as product mix and prices, and these assumptions were based on the information available at the time, including Geemacher's sales history.<sup>267</sup> While certain market dynamics may have changed over time, American Keg was capable of responding to those changes and remained an active participant in the market.<sup>268</sup> Indeed, under both the original feasibility analysis from 2016 and the revised break-even analysis using 2018 data, American Keg had the capacity to operate profitably during the POI. American Keg's feasibility study from 2016 estimated that production and sales of \*\*\* steel kegs per year would be required for American Keg to break even at the operating level.<sup>269</sup> In response to the Commission's request that American Keg prepare a modified break-even analysis based on different assumptions and its actual costs, prices, and

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<sup>264</sup> See CR/PR at Tables IV-15 and IV-12. Although American Keg sold only \*\*\* kegs to medium-sized breweries, it lost sales of \*\*\* steel kegs to medium breweries due to price, further indicating that it is competing for sales in this part of the market. See CR/PR at Table V-10. Additionally, American Keg reported shipments to keg leasing and rental companies throughout the POI and lost sales to subject imports with two keg leasing and rental companies. See CR/PR at Tables IV-15 and V-10.

<sup>265</sup> The record shows that most purchasers do not require certification and only five of the responding 24 purchasers reported that suppliers were required to meet a minimum annual production level. CR at II-31 to II-33, PR at II-18 to II-20. While the largest purchaser responding to a purchaser questionnaire \*\*\* indicated that its steel keg suppliers need to have production capacity of \*\*\* steel kegs, \*\*\* purchases from steel keg producers with \*\*\* steel kegs capacity. See CR at II-33, II-33 n.68, PR at II-18, II-18 n.68. See also Anheuser's Posthearing Brief, Answers to questions at 1. Subject producer \*\*\*, so it is clear that steel keg producers need not be qualified with all major purchasers in order to compete successfully in the U.S. market. *Id.*

<sup>266</sup> Blefa's Prehearing Brief at 56-60; Chinese Respondents' Posthearing Brief at 4-6; Thielmann's Prehearing Brief at 45-50; Chinese Respondents' Prehearing Brief at 44-45.

<sup>267</sup> See also Petitioner's Posthearing Brief, Answers to Questions at 50-51 & Exhibit 8 (explaining that American Keg's assumptions concerning pricing were in part based on Geemacher's pricing in 2015 when it sold a significant quantity of steel kegs at \$\*\*\* for a 1/6 barrel and \$\*\*\* for a 1/2 barrel).

<sup>268</sup> Respondents argue that American Keg did not anticipate the shift in sales from small craft breweries to keg leasing companies nor did it anticipate the increased demand for 1/6 barrel kegs over 1/2 barrel kegs. See, e.g., Blefa Posthearing Brief, Exhibit 1 at 8-9. As previously discussed, American Keg was participating in the keg leasing segment of the market, and although the consumption declined with respect to small breweries, this remained one of the largest portions of the market with abundant sales available to American Keg. See CR/PR at Tables IV-13, IV-15. Similarly, while there may have been increasing demand for 1/6 barrels, American Keg produced both sizes (1/2 and 1/6) and was able to meet customers' needs. See CR/PR at Table IV-6.

<sup>269</sup> CR at E-7, PR at E-5.

product mix during 2018, American Keg calculated that it would require a sales volume of \*\*\* steel kegs to break even, which is reasonably close to its original estimate of \*\*\* steel kegs.<sup>270</sup>

Respondents also contend that, by many measures, American Keg's performance during the POI improved and its performance was consistent with its projections from February 2016 for the production levels it achieved.<sup>271</sup> These arguments ignore both that improvements would be expected for a start-up operation and the large volume of sales lost to low-priced subject imports during the period. As we have discussed, additional production and sales by American Keg would have permitted it to come materially closer to breaking even during the period. Accordingly, the fact that American Keg's trade and financial indicators improved does not detract from the fact that subject imports had a material effect on American Keg's performance and the establishment of the domestic industry during the POI.

Respondents further contend that increasing raw material costs resulting from the Section 232 tariff imposed on steel products in March 2018 are responsible for any adverse impact on American Keg's performance. To the extent that the Section 232 tariffs caused American Keg to incur higher raw material costs during the POI, this would only explain why its costs increased and ignores the corresponding issue of why American Keg was unable to recoup those increased costs.<sup>272</sup> Moreover, as explained above, American Keg took into account its actual costs in 2018 when preparing its break-even analysis, which shows that American Keg could have operated profitably at that raw material cost level (assuming some discount for additional volume) and at its existing production capacity.<sup>273</sup>

Finally, we have considered whether there are other factors that may have had an impact on the domestic industry during the POI to ensure that we are not attributing injury from such other factors to subject merchandise. We have considered the role of nonsubject imports and demand in the U.S. market. Nonsubject imports maintained a not insubstantial presence in the U.S. market during the POI.<sup>274</sup> The volume of nonsubject imports, however, decreased from \*\*\* kegs in 2016 to \*\*\* kegs in 2018,<sup>275</sup> and their market share decreased from \*\*\* percent to \*\*\* percent during the three full years of the POI.<sup>276</sup> Additionally, as described

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<sup>270</sup> See CR at E-7 to E-8, PR at E-5.

<sup>271</sup> Blefa's Prehearing Brief at 31-34.

<sup>272</sup> As explained above, despite increasing its prices in each year of the POI, American Keg was unable to raise steel keg prices commensurate with its raw material cost increases as it attempted to compete with a significant volume of low-priced subject imports. See CR/PR at Table VI-1.

<sup>273</sup> See CR at E-7 to E-8, PR at E-4 to E-5. See CR/PR at Table VI-1.

<sup>274</sup> See CR/PR at Tables IV-9 and IV-10.

<sup>275</sup> CR/PR at Table IV-2. Nonsubject imports were slightly higher in interim 2019 compared to interim 2018. *Id.*

<sup>276</sup> CR/PR at Table IV-10. Nonsubject imports' market share was \*\*\* percent in interim 2018 and \*\*\* percent in interim 2019. *Id.* As noted earlier, nonsubject imports were less concentrated in the sizes of steel kegs that American Keg produced. See CR/PR at Table IV-6. Any argument that subject imports only replaced nonsubject imports overlooks the large volume of sales that American Keg lost to subject imports.

above, demand remained relatively stable from 2016 to 2018.<sup>277</sup> Given the declining volume and market share of the nonsubject imports and the relatively stable demand, neither of these factors can explain the adverse effects on the domestic industry's performance during the POI.

## VII. Critical Circumstances

### A. Legal Standards

No party has addressed whether the critical circumstances provision of the statute would apply to an affirmative finding of material retardation, and prior investigations involving material retardation did not address this issue.<sup>278</sup> Nonetheless, we find that the statute requires the Commission to make a finding regarding critical circumstances in such instances. The statute provides that where Commerce has made an affirmative finding of critical circumstances, the Commission "shall include a finding as to whether the imports subject to {Commerce's finding} are likely to seriously undermine the remedial effect of the antidumping duty order."<sup>279</sup> If Commerce makes an affirmative finding of critical circumstances, the statute appears unequivocal in requiring that the Commission make a finding on critical circumstances should it determine that the domestic industry has been materially retarded.

In its final antidumping duty determination concerning subject imports from Mexico, Commerce found that critical circumstances exist with respect to all subject producers/exporters.<sup>280</sup> Because we have determined that the domestic industry is materially retarded by reason of subject imports from Mexico, we must further determine "whether the imports subject to the affirmative {Commerce critical circumstances} determination{s} . . . are likely to undermine seriously the remedial effect of the antidumping {and/or countervailing duty} order{s} to be issued."<sup>281</sup>

The SAA indicates that the Commission is to determine "whether, by massively increasing imports prior to the effective date of relief, the importers have seriously undermined the remedial effect of the order" and specifically "whether the surge in imports prior to the suspension of liquidation, rather than the failure to provide retroactive relief, is likely to seriously undermine the remedial effect of the order."<sup>282</sup> The legislative history for the critical circumstances provision indicates that the provision was designed "to deter exporters whose

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<sup>277</sup> See CR/PR at Table C-1 (showing only a \*\*\* percent increase in apparent U.S. consumption from 2016 to 2018).

<sup>278</sup> In the Commission's only two affirmative material retardation determinations in original investigations, the issue of critical circumstances does not appear to have been raised by the parties. See *Certain Dried Codfish*, USITC Pub. 1711; *Benzyl Paraben*, USITC Pub. 2355.

<sup>279</sup> 19 U.S.C. § 1673d(b)(4)(A)(i).

<sup>280</sup> Refillable Stainless Steel Kegs from Mexico: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, 84 Fed. Reg. 42894, 42895 (August 19, 2019).

<sup>281</sup> 19 U.S.C. §§ 1671d(b)(4)(A)(i), 1673d(b)(4)(A)(i); 19 U.S.C. §§ 1671d(b)(4)(A)(ii), 1673d(b)(4)(A)(ii); 19 U.S.C. §§ 1671d(e)(2), 1673d(e)(2).

<sup>282</sup> SAA at 877.

merchandise is subject to an investigation from circumventing the intent of the law by increasing their exports to the United States during the period between initiation of an investigation and a preliminary determination by {Commerce}.”<sup>283</sup> An affirmative critical circumstances determination by the Commission would normally result in the retroactive imposition of duties for those imports subject to Commerce’s affirmative critical circumstances determination for a period 90 days prior to the suspension of liquidation.<sup>284</sup>

The statute provides that, in making this determination, the Commission shall consider, among other factors it considers relevant –

- (I) the timing and the volume of the imports,
- (II) a rapid increase in inventories of the imports, and
- (III) any other circumstances indicating that the remedial effect of the {order} will be seriously undermined.<sup>285</sup>

In considering the timing and volume of subject imports, the Commission’s practice is to consider import quantities prior to the filing of the petition with those subsequent to the filing of the petition using monthly statistics on the record regarding those firms for which Commerce has made an affirmative critical circumstance determination.<sup>286</sup>

## **B. Arguments of the Parties**

*Petitioner’s Argument.* American Keg acknowledges that subject imports from Mexico declined in the six months following the filing of the petitions relative to the six-month period prior to the filing, but it notes that inventories of subject imports from Mexico increased and even reached their highest levels of the POI in interim 2019.<sup>287</sup> Given the decreases in apparent U.S. consumption over the POI and the lumpy demand for such products, it argues that this rapid increase in inventory is likely to undermine seriously the remedial effect of any antidumping duty order and supports an affirmative finding of critical circumstances for subject imports from Mexico.<sup>288</sup>

*Respondents’ Arguments.* Thielmann argues that the Commission should reach a negative critical circumstances determination with respect to subject imports from Mexico. Examining the six-month periods before and after the filing of the petitions, it notes that subject imports from Mexico declined significantly over this period, which it argues should be

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<sup>283</sup> *ICC Industries, Inc. v. United States*, 812 F.2d 694, 700 (Fed. Cir. 1987), quoting H.R. Rep. No. 317, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 63 (1979), *aff’g* 632 F. Supp. 36 (Ct. Int’l Trade 1986).

<sup>284</sup> See 19 U.S.C. §§ 1671b(e)(2), 1673b(e)(2).

<sup>285</sup> 19 U.S.C. §§ 1671d(b)(4)(A)(ii), 1673d(b)(4)(A)(ii).

<sup>286</sup> See *Lined Paper School Supplies from China, India, and Indonesia*, Inv. Nos. 701-TA-442 to 443, 731-TA-1095 to 1097 (Final), USITC Pub. 3884 at 46-48 (Sept. 2006); *Carbazole Violet Pigment from China and India*, Inv. Nos. 701-TA-437 & 731-TA-1060 to 1061 (Final), USITC Pub. 3744 at 26 (Dec. 2004); *Certain Frozen Fish Fillets from Vietnam*, Inv. No. 731-TA-1012 (Final), USITC Pub. 3617 at 20-22 (Aug. 2003).

<sup>287</sup> Petitioner’s Prehearing Brief at 106-07.

<sup>288</sup> Petitioner’s Prehearing Brief at 107-08; Petitioner’s Posthearing Brief at 15.



sufficient itself to compel a negative determination of critical circumstances.<sup>289</sup> Further, Thielmann argues that the Commission lacks data of inventory levels tied to the six-month period before and after the filing of the petitions, such that available data on inventories cannot conclusively be tied to effects from the filing of petitions.<sup>290</sup> Even if the Commission finds that inventory levels for subject imports from Mexico increased over the POI, it argues that such increases were insufficient to justify an affirmative finding of critical circumstances.<sup>291</sup>

### C. Analysis

We first consider the appropriate period for comparison of pre-petition and post-petition levels of subject imports from Mexico. While the Commission typically considers six-month periods, it has relied on a shorter comparison period when Commerce's preliminary determination falls within the six-month post-petition period.<sup>292</sup> That, however, is not the situation here.<sup>293</sup> Thus, we compare the volume of subject imports during the six months prior to the filing of petitions in these investigations (April 2018 to September 2018) with the volume of subject imports in the six months after the petitions were filed (October 2018 to March 2019) for purposes of our critical circumstances analysis in the antidumping duty investigations.

Imports of steel kegs from Mexico subject to Commerce's affirmative critical circumstances finding significantly decreased by \*\*\* percent in the post-petition period, from \*\*\* steel kegs in April-September 2018 to \*\*\* steel kegs in October 2018-March 2019.<sup>294</sup> Despite the overall decline in import volume of \*\*\* steel kegs,<sup>295</sup> U.S. importers' inventories of

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<sup>289</sup> Thielmann's Prehearing Brief at 63-65. Thielmann argues that the Commission has never made an affirmative critical circumstances determination when subject import volumes decreased.

<sup>290</sup> Thielmann's Prehearing Brief at 65-66. Thielmann notes that the Commission has inventory levels for U.S. importers during March 2018, December 2018, and March 2019.

<sup>291</sup> Thielmann's Prehearing Brief at 66-67.

<sup>292</sup> In particular, the Commission has used five-month periods in recent investigations where the timing of the first preliminary Commerce determination authorizing the imposition of provisional duties would have served to reduce subject import volume in the sixth month of the post-petition period. *See, e.g., Cold-Rolled Steel Flat Products from China and Japan*, Inv. Nos. 701-TA-541 and 731-TA-1284 and 1286 (Final), USITC Pub. 4619 (July 2016); *Polyethylene Terephthalate (PET) Resin from Canada, China, India, and Oman*, Inv. Nos. 701-TA-531-532 and 731-TA-1270-1273 (Final), USITC Pub. 4604 at 31-32 (Apr. 2016); *Carbon and Certain Steel Wire Rod from China*, Inv. Nos. 701-TA-512, 731-TA-1248 (Final), USITC Pub. 4509 at 25-26 (Jan. 2015) (using five-month periods because preliminary Commerce countervailing duty determination caused a reduction of subject import volume in the sixth month).

<sup>293</sup> Commerce issued an affirmative preliminary determination in the antidumping duty investigation of steel kegs from Mexico on June 4, 2019. *Refillable Stainless Steel Kegs From Mexico: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 84 Fed. Reg. 25738 (June 4, 2019).

<sup>294</sup> CR/PR at Table IV-5. This decline in import volume belies the notion that importers were attempting to stockpile the subject merchandise and evade paying duties.

<sup>295</sup> CR/PR at Table IV-5.

steel kegs from Mexico were higher in March 2019, at \*\*\* steel kegs, than in March 2018, at \*\*\* steel kegs, or an increase of \*\*\* steel kegs.<sup>296</sup>

When placed in context, it does not appear that this increase in inventories is likely to undermine seriously the remedial effect of the antidumping duty order. Inventories increased by \*\*\* steel kegs from March 2018 to March 2019, compared to a decline in imports from Mexico during the relevant six-month periods of \*\*\* kegs, and a decline in the interim period from \*\*\* to \*\*\*. In addition, compared to other market participants during the period of investigation, Mexico's inventories to U.S. import ratios were unusually low in 2016, 2017, and in the interim period of 2018 (at \*\*\* percent, \*\*\* percent, and \*\*\* percent, respectively), and its inventories to import ratio in March 2019, at \*\*\* percent, was not significantly higher than the inventories to import ratios of others in the market before the petition was filed.<sup>297</sup>

The record also indicates that the increase in inventories relates to kegs that had already been \*\*\* (or marked for sale) to a specific customer, in connection with that customer's policy that kegs should be dedicated and available to deliver to the customer within one week, to enable the customer to supply its own customers within 10 days of the order.<sup>298</sup> It is also worth recalling our finding that sales of kegs tend to be "lumpy," which may lead to significant swings in inventory levels as well.

We note that importers' inventories from all import sources also were larger in March 2019 than in March 2018, and this increase likely reflects the \*\*\* percent drop in apparent U.S. consumption over that period. Thus, while recognizing the increase in inventories, given the other factors present in this market in the relevant time period, particularly the decline in import volume in the post-petition period, we conclude that subject imports covered by Commerce's affirmative critical circumstances determination would not undermine seriously the remedial effect of the antidumping duty orders. Consequently, we determine that critical circumstances do not exist with respect to subject imports from Mexico that are covered by Commerce's affirmative critical circumstances finding in the antidumping duty investigation.

## VIII. Conclusion

For the reasons stated above, we determine that an industry in the United States is materially retarded by reason of subject imports of steel kegs from Mexico that are sold in the United States at less than fair value. We also find that critical circumstances do not exist with respect to imports of steel kegs from Mexico that are subject to Commerce's affirmative critical circumstances determination.

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<sup>296</sup> CR/PR at Table VII-17. The ratio of the inventories to imports was \*\*\* percent in March 2019, which is higher than the \*\*\* percent ratio in March 2018. CR/PR at Table VII-17.

<sup>297</sup> CR/PR at Table VII-17.

<sup>298</sup> The record indicates that the increase in importers' inventories in 2019 resulted from Thielmann's efforts to \*\*\*, \*\*\*. Thielmann's Posthearing Brief at Exhibit 5 at 1 (Declaration of Alejandro Galvez). *See also* Thielmann's Posthearing Brief at Exhibit 1 at 27 (Answers to Questions).

## PART I: INTRODUCTION

### BACKGROUND

These investigations result from petitions filed with the U.S. Department of Commerce (“Commerce”) and the U.S. International Trade Commission (“USITC” or “Commission”) by American Keg Company, LLC (“American Keg”), Pottstown, Pennsylvania, on September 20, 2018, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized refillable stainless steel kegs (“refillable stainless steel kegs”)<sup>1</sup> from China and less-than-fair-value (“LTFV”) imports of refillable stainless steel kegs from China, Germany, and Mexico. The following tabulation provides information relating to the background of these investigations.<sup>2 3</sup>

Effective date	Action
<b>September 20, 2018</b>	Petitions filed with Commerce and the Commission; institution of Commission’s investigations (83 FR 48652, September 26, 2018)
<b>October 10, 2018</b>	Commerce’s notice of initiation, China CVD (83 FR 52192, October 16, 2018)
<b>October 10, 2018</b>	Commerce’s notice of initiation, China, Germany, and Mexico AD (83 FR 52195, October 16, 2018)
<b>November 5, 2018</b>	Commission’s preliminary determinations (83 FR 56102, November 9, 2018)
<b>December 4, 2018</b>	Commerce’s postponement of China’s preliminary CVD determination (83 FR 62560, December 4, 2018)
<b>March 19, 2019</b>	Commerce’s postponement of preliminary determinations in LTFV investigations for China, Germany, and Mexico (84 FR 10033, March 19, 2019)
<b>April 5, 2019</b>	Commerce’s preliminary affirmative CVD determination for China and alignment with final CVD with AD determination (84 FR 13634, April 5, 2019)
<b>May 2, 2019</b>	Commerce’s preliminary affirmative determination of critical circumstances for Mexico (84 FR 18796, May 2, 2019)

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<sup>1</sup> See the section entitled “The Subject Merchandise” in *Part I* of this report for a complete description of the merchandise subject in this proceeding.

<sup>2</sup> Pertinent *Federal Register* notices are referenced in appendix A, and may be found at the Commission’s website ([www.usitc.gov](http://www.usitc.gov)).

<sup>3</sup> Appendix B of this report presents a list of witnesses appearing at the hearing.

<b>Effective date</b>	<b>Action</b>
<b>June 4, 2019</b>	Commerce's preliminary affirmative determination of sales at LTFV and critical circumstances for China, and postponement of final determination (84 FR 25745, June 4, 2019); preliminary affirmative determination of sales at LTFV and postponement of final determination for Germany (84 FR 25736, June 4, 2019); and preliminary affirmative determination of sales at LTFV for Mexico (84 FR 25738, June 4, 2019)
<b>June 4, 2019</b>	Commerce's preliminary affirmative determination of critical circumstances for China's CVD investigation (84 FR 25748, June 4, 2019)
<b>June 4, 2019</b>	Scheduling of final phase of Commission's investigations (84 FR 28070, June 17, 2019)
<b>August 14, 2019</b>	Commission's hearing
<b>August 19, 2019</b>	Commerce's final affirmative determination of sales at LTFV and critical circumstances for Mexico (84 FR 42894, August 19, 2019)
<b>September 16, 2019</b>	Commission's vote (Mexico)
<b>October 3, 2019</b>	Commission's views (Mexico)
<b>Pending</b>	Commission's vote (China, Germany)
<b>Pending</b>	Commission's views (China, Germany)

## STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

### Statutory criteria

Section 771(7)(B) of the Tariff Act of 1930 (the “Act”) (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

*shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--<sup>4</sup>

*In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant. . . In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether. . . (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree. . . In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to. . . (I) actual and potential decline in output, sales, market share, gross profits, operating profits, net profits, ability to service debt, productivity, return on investments, return on assets, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the*

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<sup>4</sup> Amended by PL 114-27 (as signed, June 29, 2015), Trade Preferences Extension Act of 2015.

*domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.*

In addition, Section 771(7)(J) of the Act (19 U.S.C. § 1677(7)(J)) provides that—<sup>5</sup>

*(J) EFFECT OF PROFITABILITY.—The Commission may not determine that there is no material injury or threat of material injury to an industry in the United States merely because that industry is profitable or because the performance of that industry has recently improved.*

### **Organization of report**

*Part I* of this report presents information on the subject merchandise, subsidy and dumping margins, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Parts IV* and *V* present the volume of subject imports and pricing of domestic and imported products, respectively. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission’s consideration of the question of threat of material injury as well as information regarding nonsubject countries.

### **MARKET SUMMARY**

Refillable stainless steel kegs generally are used to store beer as well as wine, coffee, cider, soda, and kombucha.<sup>6</sup> The only known U.S. producer of refillable stainless steel kegs is American Keg, while leading producers of refillable stainless kegs outside the United States include Ningbo Major Draft Beer Equipment Co., Ltd. (“Ningbo Major”), and Penglai Jinfu Stainless Steel Products Co., Ltd. (“Penglai Jinfu”) of China; Blefa GmbH (“Blefa”) of Germany; and Thielmann Mexico SA de CV (“Thielmann Mexico”) of Mexico. The leading U.S. importers of refillable stainless steel kegs from China are \*\*\*. The leading U.S. importer of refillable stainless steel kegs from Germany is \*\*\*, while the leading U.S. importers of refillable stainless steel kegs from Mexico are \*\*\*. Leading importers of refillable stainless steel kegs from nonsubject countries (primarily the Czech Republic and Spain), include \*\*\*, \*\*\*, and \*\*\*. U.S. purchasers of refillable stainless steel kegs are beer manufacturers, keg leasing and rental companies, and keg distributors; leading purchasers include \*\*\* and \*\*\*.

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<sup>5</sup> Amended by PL 114-27 (as signed, June 29, 2015), Trade Preferences Extension Act of 2015.

<sup>6</sup> Petition, p. 8.

Apparent U.S. consumption of refillable stainless steel kegs totaled \*\*\* units \*\*\* in 2018. Currently, one firm is known to produce refillable stainless steel kegs in the United States. The U.S. producer's U.S. shipments of refillable stainless steel kegs totaled \*\*\* units \*\*\* in 2018, and accounted for \*\*\* percent of apparent U.S. consumption by quantity and \*\*\* percent by value. U.S. shipments of imports from subject sources totaled 1.2 million units (\$98 million) in 2018 and accounted for \*\*\* percent of apparent U.S. consumption by quantity and \*\*\* percent by value. U.S. shipments of imports from nonsubject sources totaled \*\*\* units \*\*\* in 2018 and accounted for \*\*\* percent of apparent U.S. consumption by quantity and \*\*\* percent by value.

### **SUMMARY DATA AND DATA SOURCES<sup>7</sup>**

A summary of data collected in these investigations is presented in appendix C, table C-1. Except as noted, U.S. industry data are based on questionnaire responses of one firm that accounted for all U.S. production of refillable stainless steel kegs during 2018. U.S. imports are based on questionnaire data from 30 firms<sup>8</sup> that account for approximately \*\*\* percent of reported exports from China, approximately \*\*\* percent of reported exports from Germany, approximately \*\*\* percent of reported exports from Mexico, and the majority of exports from nonsubject countries in 2018. Foreign industry data are based on questionnaire responses from \*\*\* firms whose exports are equivalent to virtually all reported U.S. imports from China, Germany, and Mexico.

### **PREVIOUS AND RELATED INVESTIGATIONS**

Refillable stainless steel kegs have not been the subject of any prior countervailing/or antidumping duty investigations in the United States.

### **NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV**

#### **Subsidies**

On April 5, 2019, Commerce published a notice in the *Federal Register* of its preliminary affirmative determination of countervailable subsidies for producers and exporters of refillable

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<sup>7</sup> Commerce did not postpone its final antidumping duty determination regarding imports from Mexico as it did the other antidumping duty determinations (*Refillable Stainless Steel Kegs From Mexico: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 25738, June 4, 2019). Given the compressed schedule for this proceeding, certain information had to be updated and revised following the prehearing report.

<sup>8</sup> Staff \*\*\*. Staff telephone interview with \*\*\*. For more information, see Part IV of this report.

stainless steel kegs from China.<sup>9</sup> Table I-1 presents Commerce’s findings of subsidization of refillable stainless steel kegs in China.

**Table I-1**  
**Refillable stainless steel kegs: Commerce’s subsidy determination with respect to imports from China**

Entity	Preliminary countervailable subsidy rate (percent)	Final countervailable subsidy rate (percent)
Equipmentines (Dalian) E-Commerce Co., Ltd	144.30	Pending
Jinan HaoLu Machinery Equipment Co., Ltd	144.30	Pending
NDL Keg Qingdao Inc.	144.30	Pending
Ningbo Direct Import & Export Co., Ltd	144.30	Pending
Ningbo Hefeng Container Manufacture Co., Ltd	144.30	Pending
Ningbo Hefeng Kitchen Utensils Manufacture Co., Ltd	144.30	Pending
Ningbo HGM Food Machinery Co., Ltd	144.30	Pending
Ningbo Jiangbei Bei Fu Industry and Trade Co., Ltd	144.30	Pending
Ningbo Master International Trade Co., Ltd	15.78	Pending
Ningbo Sanfino Import & Export Co., Ltd	144.30	Pending
Ningbo Shimaotong International Co., Ltd	144.30	Pending
Ningbo Sunburst International Trading Co., Ltd	144.30	Pending
Orient Equipment (Taizhou) Co., Ltd	144.30	Pending
Penglai Jinfu Stainless Steel Products	144.30	Pending
Qingdao Henka Precision Technology Co., Ltd	144.30	Pending
Shandong Tiantai Beer Equipment	144.30	Pending
Sino Dragon Trading International	144.30	Pending
Wenzhou Deli Machinery Equipment Co.	144.30	Pending
Wuxi Taihu Lamps and Lanterns Co., Ltd	144.30	Pending
Yantai Trano New Material Co., Ltd.	144.30	Pending
All others	15.78	Pending

Source: 84 FR 13634, April 5, 2019.

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<sup>9</sup> *Refillable Stainless Steel Kegs From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 84 FR 13634, April 5, 2019.



Commerce preliminarily determined all of the government programs in China identified below to be countervailable:<sup>10</sup>

- Government Policy Lending Program
- Provision of Stainless Steel Coil for LTAR
- Provision of Electricity for LTAR
- Special Funds for International Market Expansion
- Export Assistance Grants
- Special Fund for Steady Increase and Promotion of Enterprises in Jiangbei District
- Patent Subsidy in Jiangbei District
- Steady Position Subsidy for Enterprise
- Subsidy Fund of Provincial Commerce Improvement
- Prize for Enterprise's Independent Evaluation
- Supporting Fund for Technology Improvement Program in Jiangbei District

### **Sales at LTFV**

On June 4, 2019 Commerce published a notice in the *Federal Register* of its preliminary determination of sales at LTFV with respect to imports from China,<sup>11</sup> Germany,<sup>12</sup> and Mexico.<sup>13</sup> On August 19, 2019, Commerce published its notice of final determination of sales at LTFV with respect to Mexico.<sup>14</sup> Tables I-2, I-3, and I-4 present Commerce's dumping margins with respect to imports of refillable stainless steel kegs from China, Germany, and Mexico, respectively.

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<sup>10</sup> *Decision Memorandum for the Preliminary Affirmative Determination: Countervailing Duty Investigation of Refillable Stainless Steel Kegs from the People's Republic of China*, Case C-570-094, March 28, 2019, pp. 34-44.

<sup>11</sup> *Refillable Stainless Steel Kegs From the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures*, 84 FR 25745, June 4, 2019.

<sup>12</sup> *Refillable Stainless Steel Kegs From the Federal Republic of Germany: Preliminary Affirmative Determination of Sales at Less Than Fair Value, and Postponement of Final Determination*, 84 FR 25736, June 4, 2019.

<sup>13</sup> *Refillable Stainless Steel Kegs From Mexico: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 84 FR 25738, June 4, 2019.

<sup>14</sup> *Refillable Stainless Steel Kegs From Mexico: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 84 FR 42894, August 19, 2019.

**Table I-2****Refillable stainless steel kegs: Commerce's weighted-average LTFV margins with respect to imports from China**

<b>Exporter</b>	<b>Producer</b>	<b>Preliminary dumping margin (percent)</b>	<b>Final dumping margin (percent)</b>
Ningbo Master International Trade Co., Ltd.	Ningbo Major Draft Beer Equipment Co., Ltd	2.01	Pending
Guangzhou Jingye Machinery Co., Ltd	Guangzhou Jingye Machinery Co., Ltd	2.01	Pending
Guangzhou Ulix Industrial & Trading Co., Ltd	Guangzhou Jingye Machinery Co., Ltd	2.01	Pending
Ningbo Haishu Direct Import and Export Trade Co., Ltd.	Ningbo Haishu Xiangsheng Metal Products Plant	2.01	Pending
China-Wide Entity		79.71	Pending

Source: 84 FR 25746, June 4, 2019.

**Table I-3****Refillable stainless steel kegs: Commerce's weighted-average LTFV margins with respect to imports from Germany**

<b>Exporter/producer</b>	<b>Preliminary dumping margin (percent)</b>	<b>Final dumping margin (percent)</b>
Blefa GmbH	8.61	Pending
All Others	8.61	Pending

Source: 84 FR 25736, June 4, 2019.

**Table I-4****Refillable stainless steel kegs: Commerce's weighted-average LTFV margins with respect to imports from Mexico**

<b>Exporter/producer</b>	<b>Preliminary dumping margin (percent)</b>	<b>Final dumping margin (percent)</b>
Thielmann Mexico S.A. de C.V.	18.48	18.48
Portinox Mexico S.A. de C.V.	18.48	18.48
Geodis Wilson Mexico S.A. de C.V.	18.48	18.48
All Others	18.48	18.48

Source: 84 FR 25738, June 4, 2019 and 84 FR 42894, August 19, 2019.

## THE SUBJECT MERCHANDISE

### Commerce's scope

In the current proceeding, Commerce has defined the scope as follows:

*Refillable stainless steel kegs covered by these investigations are kegs, vessels, or containers with bodies that are approximately cylindrical in shape, made from stainless steel (i.e., steel containing at least 10.5 percent chromium by weight and less than 1.2 percent carbon by weight, with or without other elements), and that are compatible with a "D Sankey" extractor (refillable stainless steel kegs) with a nominal liquid volume capacity of 10 liters or more, regardless of the type of finish, gauge, thickness, or grade of stainless steel, and whether or not covered by or encased in other materials. Refillable stainless steel kegs may be imported assembled or unassembled, with or without all components (including spears, couplers or taps, necks, collars, and valves), and be filled or unfilled.*

*"Unassembled" or "unfinished" refillable stainless steel kegs include drawn stainless steel cylinders that have been welded to form the body of the keg and attached to an upper (top) chime and/or lower (bottom) chime. Unassembled refillable stainless steel kegs may or may not be welded to a neck, may or may not have a valve assembly attached, and may be otherwise complete except for testing, certification, and/or marking.*

*Subject merchandise also includes refillable stainless steel kegs that have been further processed in a third country, including but not limited to, attachment of necks, collars, spears or valves, heat treatment, pickling, passivation, painting, testing, certification or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope refillable stainless steel keg.*

*Specifically excluded are the following:*

- (1) vessels or containers that are not approximately cylindrical in nature (e.g., box, "hopper" or "cone" shaped vessels);*
- (2) stainless steel kegs, vessels, or containers that have either a "ball lock" valve system or a "pin lock" valve system (commonly known as "Cornelius," "corny" or "ball lock" kegs);*
- (3) necks, spears, couplers or taps, collars, and valves that are not imported with the subject merchandise; and*

*(4) stainless steel kegs that are filled with beer, wine, or other liquid and that are designated by the Commissioner of Customs as Instruments of International Traffic within the meaning of section 332(a) of the Tariff Act of 1930, as amended.*

*Refillable stainless steel kegs are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7310.10.0010, 7310.10.0050, 7310.29.0025, and 7310.29.0050. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of these investigations is dispositive.<sup>15</sup>*

### **Tariff treatment**

Based upon the scope set forth by Commerce, information available to the Commission indicates that the refillable stainless steel kegs subject to these investigations are imported under Harmonized Tariff Schedule of the United States (“HTSUS” or “HTS”) statistical reporting numbers 7310.10.0010, 7310.10.0050, 7310.29.0025, and 7310.29.0050. The 2019 column 1-general rate of duty is “Free” for HTS subheadings 7310.10.00 and 7310.29.00.<sup>16</sup> Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection.

Excluded product 4 from the scope (filled kegs) refers to refillable stainless steel kegs that are “Instruments of International Trade” (“IIT”). Items classified as IITs are not subject to duty and exempt from other aspects of the normal entry process. Items that are classified as IIT enter under HTSUS 9803.00.50.<sup>17</sup>

### **Section 232 proclamations**

HTS subheadings 7310.10.00 and 7310.29.00 were not included in the enumeration of iron and steel articles subject to the additional 25-percent ad valorem national security duties under Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.A.C. 1862).<sup>18</sup> However, coiled stainless steel sheet, the feedstock for producing refillable stainless steel

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<sup>15</sup> *Refillable Stainless Steel Kegs From Mexico: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 84 FR 42894, August 19, 2019.

<sup>16</sup> *HTSUS (2019) Revision 12*, USITC Publication 4949, September 2019, ch. 73, p. 24.

<sup>17</sup> *HTSUS (2019) Revision 12*, USITC Publication 4949, September 2019, U.S. Note 4, pp. 98-III-1, 2.

<sup>18</sup> *Adjusting Imports of Steel Into the United States*, Presidential Proclamation 9705, March 8, 2018, 83 FR 11625, March 15, 2018.

kegs,<sup>19</sup> was included among the articles subject to the Section 232 additional 25-percent ad valorem duties.<sup>20</sup> See U.S. notes 16(a) and 16(b), subchapter III of chapter 99.<sup>21</sup>

### Section 301 proceedings

U.S imports of steel kegs from China provided for under HTS subheadings 7310.10.00 and 7310.29.00 are subject to an additional 25 percent ad valorem duty under “tranche 3” of the Section 301 of the Trade Act of 1974.<sup>22</sup> The raw material stainless steel sheet in coils were initially subject to an additional 10 percent ad valorem which was raised to 15 percent ad valorem duty under Section 301 of the Trade Act of 1974 (“tranche 4, list 1”).<sup>23</sup> See U.S. notes 20(e), 20(f), and 20(i), subchapter III of chapter 99.<sup>24</sup>

### THE PRODUCT

#### Description and applications<sup>25</sup>

A refillable stainless steel keg, commonly called a “beer keg” or simply a “keg,” is a cylindrical container that stores, transports, and serves various types of beverages whether alcoholic/non-alcoholic or carbonated/noncarbonated. The most common use of a keg is to store beer, wine, coffee, and soda. As discussed in the petition, the keg consists of two body halves, two chimes (rims on the bottom and top (with handle holes) of the keg), a neck piece,

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<sup>19</sup> *HTSUS (2019) Revision 12*, USITC Publication 4949, September 2019, ch. 72 pp. 27-32. The raw material for stainless steel kegs is classified under HTS heading 7219.

<sup>20</sup> *Adjusting Imports of Steel Into the United States*, Presidential Proclamation 9705, March 8, 2018, 83 FR 11625, March 15, 2018.

<sup>21</sup> *HTSUS (2019) Revision 12*, USITC Publication 4949, September 2019, pp. 99-III-5, 6; 99-III-72; and 99-III-75, 76.

<sup>22</sup> *Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 FR 47974, September 21, 2018. On September 3, 2019, the Office of the United States Trade Representative published a notice in the Federal Register modifying its prior action in accordance with the specific direction of the President, by proposing to increase the additional duties on the products in the first three tranches, from 25 percent to 30 percent, effective October 1, 2019. *Request for Comments Concerning Proposed Modification of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 FR 46212, September 3, 2019.

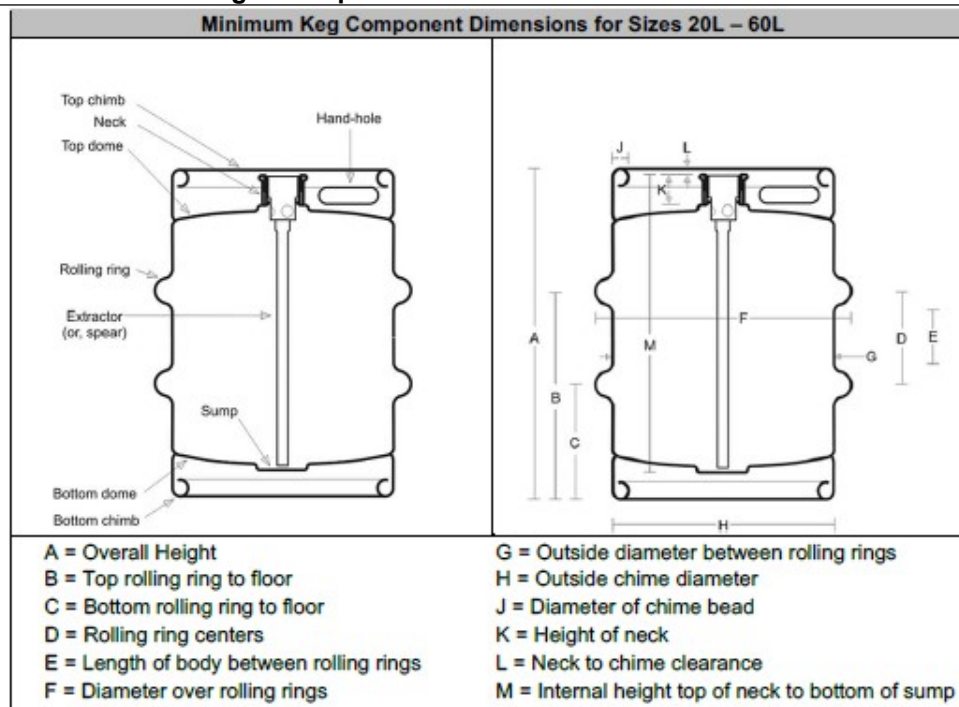
<sup>23</sup> USTR, *Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 FR 43304, August 20, 2019. USTR, *Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 FR 45821, August 30, 2019.

<sup>24</sup> *HTSUS (2019) Revision 12*, USITC Publication 4949, September 2019, pp. 99-III-21, 22; 99-III-40; 99-III-52; and 99-III-80, 81.

<sup>25</sup> Unless otherwise noted, information in this section is from the petition, pp. 8-15, 19-22.

and a spear/extractor (for filling, dispensing, and cleaning).<sup>26</sup> Kegs may be imported with or without the neck and spear. Necks or spears imported separately from the keg body are excluded from the scope of these investigations. Figure I-1 shows the components and characteristics of a refillable stainless steel keg.

**Figure I-1**  
**Refillable stainless steel kegs: Components and characteristics**



Source: Brewers Association, “Performance Guidelines for Refillable Kegs,” August 2017, Revision 1, [https://s3-us-west-2.amazonaws.com/brewersassoc/wp-content/uploads/2017/08/Performance\\_Guidelines\\_for\\_Refillable\\_Kegs.pdf](https://s3-us-west-2.amazonaws.com/brewersassoc/wp-content/uploads/2017/08/Performance_Guidelines_for_Refillable_Kegs.pdf) (accessed September 28, 2018).

Refillable stainless steel kegs are produced in various sizes but are typically of 10-liter, one-eighth barrel, one-sixth barrel, 20-liter, one-quarter-barrel, 30-liter, 50 liter, one-half barrel, and European one-half barrel capacities (table I-5). The most popular sizes in the United States are the one-half barrel and the one-sixth barrel kegs.

<sup>26</sup> Petition, p. 8.

**Table I-5**

**Refillable stainless steel kegs: Characteristics by type and size**











<b>Characteristic</b>	<b>10 Liter</b>	<b>1/8 Barrel<sup>1</sup></b>	<b>Cornelius Keg</b>	<b>1/6 Barrel</b>	<b>European 1/2 Barrel</b>
Scope status	In-scope	In-scope	<i>Out-of-scope</i>	In-scope	In-scope
Appearance <sup>2</sup>					
Capacity (gallons)	2.64	3.88	5	5.16	6.6
Capacity (liters)	10	14.7	18.9	19.5	25
Nicknames	( <sup>3</sup> )	( <sup>3</sup> )	<i>Corny Keg, Soda Keg, Home Brew Keg</i>	Torpedo Keg, Log, Sixth Barrel, Sixtel	25 Litre
End users	( <sup>3</sup> )	Micro-breweries, home brewers, craft brewers	<i>Home brewers, craft brewers</i>	Micro-breweries, home brewers, craft brewers, restaurants and bars	European breweries
Servings (number):					
12-ounce beers	28	41	53	55	70
16-ounce beers	21	31	40	41	53
Cases (of 12-ounce beers) per keg (number)	1.2	1.7	2.2	2.3	2.9
Dimensions (inches):					
Height	14½	23¾	23	23¾	10½
Diameter	9¼	9¼	9	9¼	16
Weight (pounds):					
Full	( <sup>3</sup> )	( <sup>3</sup> )	55	58	( <sup>3</sup> )
Empty (tare)	9.3	( <sup>3</sup> )	9	16.5	20.9

Table continued on the next page.

**Table I-5 -- Continued**

**Refillable stainless steel kegs: Characteristics by type and size**

Characteristic	Pony Keg	1/4 Barrel	30 Liter	50 Litre	1/2 Barrel
Scope status	In-scope	In-scope	In-scope	In-scope	In-scope
Appearance <sup>2</sup>					
Capacity (gallons)	7.75	7.75	7.9	13.2	15.5
Capacity (liters)	29.3	29.3	30	50	58.7
Nicknames	Pony Keg, Quarter Barrel, Stubby Quarter	Slim Quarter, Tall Quarter, Half Keg	Euro Standard 30 Liter Keg	Import Keg, European Barrel, 50 Liter	Half Barrel, Full Keg, Keg
End users	Small parties and other events	Small parties and other events	European breweries	European breweries	American breweries, large parties and other events
Servings (number):					
12-ounce beers	82	82	88	140	165
16-ounce beers	62	62	66	105	124
Cases (of 12-ounce beers) per keg (number)	3.4	3.4	3.7	5.8	6.9
Dimensions (inches):					
Height	13 <sup>7</sup> / <sub>8</sub>	23 <sup>3</sup> / <sub>8</sub>	13 <sup>3</sup> / <sub>4</sub>	20.94	23 <sup>3</sup> / <sub>8</sub>
Diameter	16 <sup>1</sup> / <sub>8</sub>	11 <sup>1</sup> / <sub>8</sub>	16	16.06	16 <sup>1</sup> / <sub>8</sub>
Weight (pounds):					
Full	87	87	91	130	160
Empty (tare)	22	22	25	28	30

<sup>1</sup> The one-eighth barrel keg, an uncommon size, is of the same dimensions and shape as the one-sixth barrel keg, but its bottom 7 inches are hollow. Bestbeer Refrigerator, "Beer Keg Sizes," November 24, 2015.

<sup>2</sup> Not to exact scale.

<sup>3</sup> Not readily available.

Source: Angotti Beverage Co., "Keg Details," 2010; Bestbeer Refrigerator, "Beer Keg Sizes," November 24, 2015; Bestbeer Refrigerator, "How Much Beer is in a Keg?," December 4, 2015; BLEFA Beverage Systems, *Stainless Steel Keg*, Kreuztal, Germany: BLEFA GmbH, 2018; Buy Keg Beer, "Keg Sizes," no date; Flowers, Jeff, "Keg Size Comparison Chart," *Kegeator.com*, July 24, 2014; JES Restaurant Equipment, "Draft Beer Keg Size Comparison Chart," 2017; Kegworks, "Guide to Beer Keg Sizes and Dimensions," May 9, 2016; Minnetonka Brewing and Equipment Co., "10 Liter Keg," 2018; NDL Keg, "Euro Standard 30 Liter Keg," 2016; and The Beer Store, "Keg Sizing," no date.



## Raw materials

The primary input material for a refillable stainless steel keg is stainless steel sheet in coil form.<sup>27</sup> Stainless steel is a suitable raw material for making kegs due to its sanitary nature, ease of fabrication, corrosion resistance, and other mechanical and physical properties. Wood, copper, and aluminum, which historically were used to make kegs, now are considered largely obsolete.

Refillable stainless steel kegs commonly are produced using austenitic stainless steel that conforms to American Iron and Steel Institute (“AISI”) designations 301, 304, or 316. Austenitic stainless steel exhibits excellent strength properties at high or cryogenic temperatures and is the most weldable of the high-alloy steels. Austenitic stainless steel has moderate strength in the annealed condition and can be further strengthened by cold-working, but not by heat treatment.<sup>28</sup>

Refillable stainless steel kegs require both a spear and a neck. A spear is made out of stainless steel and is based on the type of coupler system. The length of the spear is determined by the internal height of the keg. Some features of the spear may include a carbon-dioxide valve and color and year coding for preventative maintenance. The neck of the keg is made out of cast or forged stainless steel. Generally, the spear and neck are purchased from a secondary source. A keg manufacturer typically sells the spear and neck with the keg, although a keg also can be sold without them.<sup>29</sup>

Another component is the coupler. Reportedly, kegs rarely are imported with the coupler and if a coupler is imported separately, it is outside the scope of these investigations.<sup>30</sup> A coupler is a fitting that has one or two valves that control the flow of liquid out of and gas into a keg.<sup>31</sup> There are six different types of keg coupler systems:

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<sup>27</sup> Stainless steels are alloy steels that contain, by weight 1.2 percent or less of carbon and 10.5 percent or more of chromium with or without other elements. The most common other alloying elements include: nickel, molybdenum, and manganese. *HTSUS (2019) Revision 12*, USITC Publication 4949, September 2019, note 1(e), ch. 72, p. 1; Specialty Steel Industry of North America (“SSINA”), “Chemical Compositions for Common Stainless Steels,” no date, <http://www.ssina.com/composition/chemical.html> (accessed July 18, 2019).

<sup>28</sup> There are three general classifications used to identify stainless steels: (1) metallurgical structure; (2) the AISI numbering system, and (3) the Unified Numbering System (“UNS”). In terms of metallurgical structure, stainless steels are divided into five major classes: martensitic, ferritic, austenitic, precipitation-hardened, and duplex. The AISI numbering system uses the 200, 300, and 400 series for stainless steel. The UNS was developed by the American Society for Testing and Materials (“ASTM”) and Society of Automotive Engineers (“SAE”) to be applicable to all commercial metals and alloys.

<sup>29</sup> Petitioner’s postconference brief, Annex 1, pp. 50-52.

<sup>30</sup> Petition, p. 8.

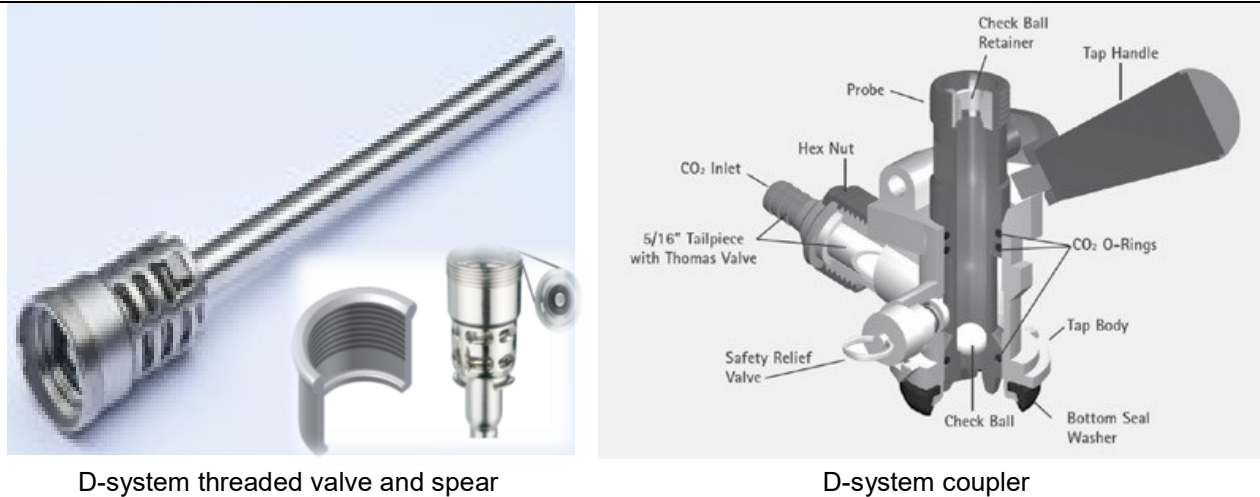
<sup>31</sup> Petition, p. 9.

- (1) D Coupler– fits U.S. Sankey keg valves,
- (2) A Coupler– fits most German keg valves.
- (3) G Coupler– fits some European keg valves,
- (4) M Coupler– fits some German keg valves,
- (5) S Coupler– fits European Sankey keg valves, and the
- (6) U Coupler– fits some European keg valves.<sup>32</sup>

The most common configuration is the D-system spear matched with the D-system coupler (figure I-2).

**Figure I-2**

**Refillable stainless steel kegs: The D-system threaded valve and spear and The D-system coupler**



Source: Brewers Association, Performance Guidelines for Refillable Kegs, August 2017, Revision 1, [https://s3-us-west-2.amazonaws.com/brewersassoc/wp-content/uploads/2017/08/Performance\\_Guidelines\\_for\\_Refillable\\_Kegs.pdf](https://s3-us-west-2.amazonaws.com/brewersassoc/wp-content/uploads/2017/08/Performance_Guidelines_for_Refillable_Kegs.pdf) (accessed September 28, 2018).

### Keg design

There are many different designs for producing a keg. However, the Petitioner noted that stainless steel kegs are produced using a “Sankey” or “Sanke” technology, a style developed in Europe during the 1960’s. The Sankey keg is designed to have a domed head, dome bottom, straight sidewalls and the ability to be automatically cleaned and filled through the same fitting. Utilizing the same opening for cleaning and filling made this keg design superior to counterparts with two separate openings, and reduces the exposure of the keg’s interior to human and atmospheric contaminants. The Sankey keg is also stackable, has

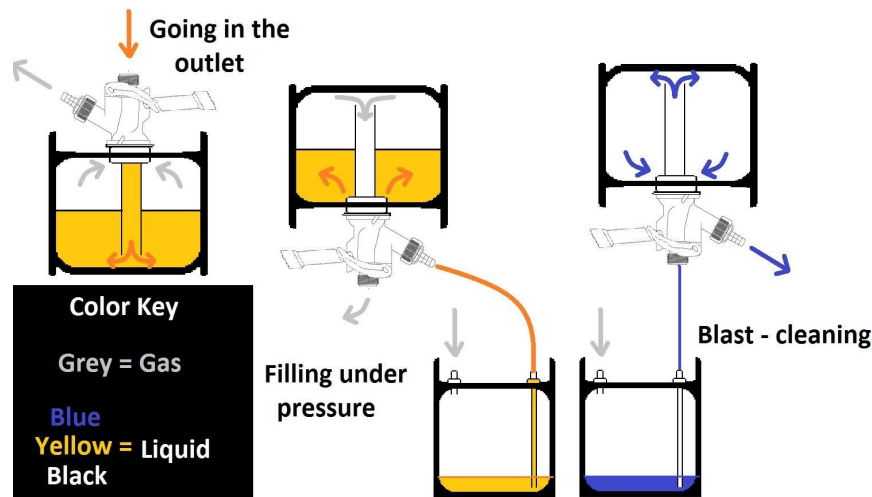
<sup>32</sup> Flowers, Jeff, “What is a Keg Coupler?” Kegerators Learning Center, December 4, 2013, <https://learn.kegator.com/keg-couplers/> (accessed July 15, 2019).

ergonomic handles, and is easier to transport because of the rolling rings protruding from its side.<sup>33</sup>

Cleaning, filling, and dispensing has become more efficient due to the Sankey design. The cleaning process involves pumping the cleaning solution through the self-closing keg valve and up the internal spear (figure I-3). Unlike the past irregularly shape kegs, the Sankey keg's domed structure for the bottom and head along with its straight sidewalls, allows the cleaning solution to cover the entire interior surface of the keg.<sup>34</sup>

**Figure I-3**

**Refillable stainless steel kegs: The Sankey keg design, dispensing, filling, and cleaning**



Source: Petition, p. 8.

A stainless steel keg also incorporates the keg coupler (discussed above), which attaches to the valve of the keg and to a carbon-dioxide or nitrogen compressed-gas line. The coupler allows the compressed air to enter the keg and push out the liquid.<sup>35</sup> The D-system spear/extractor removes the liquid from the keg using two concentric spring-loaded valves, which are bi-directional and extend to the bottom of the keg body. Dispensed gas enters through the outer valve which forces liquid up the spear and through the inner valve to the dispensing point.<sup>36</sup>

The D-Sankey extractor ("spear"), manufactured by \*\*\*<sup>37</sup>, is inserted into the keg neck. It is color coded to remind customers when it was purchased since the recommended

<sup>33</sup> Petition, pp. 8-9.

<sup>34</sup> Petition, pp. 8-9.

<sup>35</sup> Flowers, Jeff, "What is a Keg Coupler?" Kegerators Learning Center, December 4, 2013, <https://learn.kegator.com/keg-couplers/> (accessed October 3, 2018).

<sup>36</sup> Petition, p. 10.

<sup>37</sup> \*\*\*.

maintenance is every two years for a brewer. The spear is held in place with a retaining ring clamped onto the rim of the neck. A coupler with valves fits into the top of the spear. A pressure release valve fits into the spear at the top of the neck. Steel kegs are over-engineered for longevity to not burst until internal pressure reaches \*\*\*.<sup>38</sup>

The Sankey keg can be filled in either an upright or inverted position—automatic kegging systems fill the Sankey keg in the inverted position. Knowing the tare (empty) weight<sup>39</sup> and the capacity weight<sup>40</sup> of a keg is important to avoid either over- or under-filling. For carbonated beverages, the keg is attached to a container filled with the desired fluid, which in turn is attached to the carbon-dioxide container. Pressure from the keg is monitored as it is filled with the liquid.<sup>41</sup>

### **Guidelines and specifications for refillable stainless steel kegs**

The Petitioner states that both domestic and imported kegs meet or exceed the Brewers Association Performance Guidelines.<sup>42</sup> These guidelines for refillable stainless steel kegs can be broken down into two groups: (1) general industry specifications for the product and (2) the welding guidelines based on the raw-material feedstock. Both the American Society for Testing and Materials (“ASTM”) and American Society of Mechanical Engineers (“ASME”) provide industry guidelines for refillable stainless steels kegs as well as guidelines for welding stainless steels.

The general specifications that cover stainless steel kegs are ASTM A-967, ASTM A-380, ASTM B-912, ASTM D5276-92, ASTM D4003-92, ASTM D4577, ASTM D642, ASTM 117, ASTM D880-92, ASTM D3332-92, ASTM F1115, and ASTM D3070-00.<sup>43</sup> The general specifications for welding a stainless steel keg requires a tungsten inert gas (“TIG”) or metal inert gas (“MIG”) process.<sup>44</sup>

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<sup>38</sup> \*\*\*.

<sup>39</sup> The tare weight is the officially accepted weight of an empty car, vehicle, or container that when subtracted from gross weight yields the net weight of cargo or shipment upon which charges can be calculated.

<sup>40</sup> The capacity weight is the maximum amount weight that can be contained or accommodated.

<sup>41</sup> For more details about the keg washing and filling process, see: IDD Process and Packaging Inc., “Kegs & Keg System Theory & Practice,” <https://www.iddeas.com/s/Kegs-and-Keg-System-Theory-and-Practice.pdf> (accessed October 2, 2018).

<sup>42</sup> Petitioner’s postconference brief, Annex 1, p. 52.

<sup>43</sup> Brewers Association, “Performance Guidelines for Refillable Kegs,” August 2017, Revision 1, [https://s3-us-west-2.amazonaws.com/brewersassoc/wp-content/uploads/2017/08/Performance\\_Guidelines\\_for\\_Refillable\\_Kegs.pdf](https://s3-us-west-2.amazonaws.com/brewersassoc/wp-content/uploads/2017/08/Performance_Guidelines_for_Refillable_Kegs.pdf) (accessed September 28, 2018).

<sup>44</sup> Brewing, Food & Beverage Industry Suppliers Association (“BFBI”), *Cellar/Dispense, Keg & Cask, Industry Standards & Specifications for the Design, Manufacture, Performance and Purchase of Kegs*, no date, <https://www.bfbi.org.uk/keg-and-cask/keg-and-cask-information> accessed October 11, 2018.

Refillable stainless steel kegs bear a warning label required by the Alcoholic Beverage and Label Act (“ABLA”) as well as three other pressure warning labels related to safe handling and use (table I-6). Petitioner notes that these warning labels, while appearing to be best practice across the industry, are not required by U.S. law. Kegs do bear a country-of-origin stamping, required by U.S. Customs and Border Protection.<sup>45</sup>

**Table I-6**  
**Refillable stainless steel kegs: Warning labels**

Type	Text
Alcoholic Beverage Labeling Act	Government Warning: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery and may cause health problems.
First pressure warning	Warning: Contents under pressure. Do not remove valve.
Second pressure warning	Warning: Never exceed maximum working pressure of 60 p.s.i.g.
Third pressure warning	Use only tapping equipment and pressure regulator each equipped with a pressure-relief valve.

Source: Petitioner’s postconference brief, Annex 1, pp. 54-55.

### **Manufacturing processes<sup>46</sup>**

Petitioner contends that the manufacturing processes for domestic and foreign producers of a refillable stainless steel keg are generally the same and use stainless steel sheet in coils as the raw-material feedstock.<sup>47</sup> The process for creating a stainless steel keg can be broken down into the following steps: (1) stamping and trimming, (2) fabrication and assembly, (3) painting, and (4) valve assembly and final inspection.

#### **Stamping and trimming**

In the first step, coiled stainless sheet is loaded onto a decoiler and unwound. The sheet is then fed through a punch press, which creates circular blanks — each being referred to as a “body half.” A hydraulic press draws the circular blanks into the shape of a half cylinder. These half cylinders are produced in various sizes based on the intended capacity of the keg. To avoid gaps, an automatic trimmer cleans the edge of the half cylinder.

Stainless steel strip are used to form the chimes of the keg, which is curled by rolling it into a circle. Two elongated (hand) holes are punched into the upper chime to create handles

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<sup>45</sup> Petitioner’s postconference brief, Annex 1, pp. 54-55.

<sup>46</sup> Unless otherwise noted, information in this section is from the petition, pp. 15-18.

<sup>47</sup> Conference transcript, p. 18 (Rolig).

when strip is either flat or curled.<sup>48</sup> Petitioner noted that the top of the chime is stamped with the manufacturer's name, country of origin, year of production, tare weight, fillable capacity, body material, thickness of the body and chime, and ABLA and other warning labels.<sup>49</sup> Some kegs also have bar codes at the top of the keg.

### **Fabrication and assembly**

After the stamping and trimming process, the two-body halves and the two chimes are simultaneously joined together most commonly using the tungsten inert gas ("TIG") welding process (figure I-4). The upper chime is welded to the upper body (chime-to-body (fillet) weld) and the lower chime is welded to the lower body (longitudinal chime (butt) weld). The two body halves are welded together producing a central circumferential (butt) weld. A hole is then punched into the top of the cylinder for the insertion of a threaded valve flange, which is welded to the top body (neck-to-body (butt) weld).<sup>50</sup> For sanitary reasons, the weld of the chimes are not exposed to liquid.

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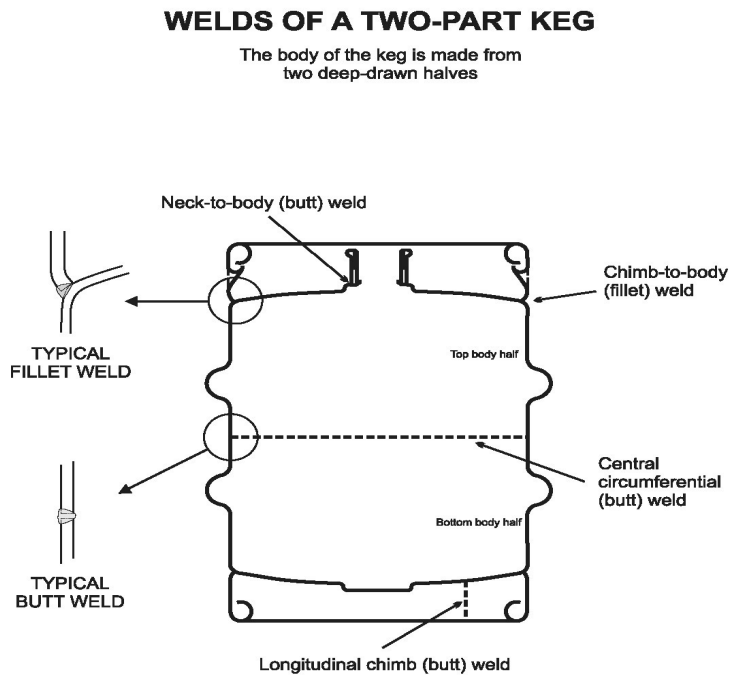
<sup>48</sup> Petition, p. 12.

<sup>49</sup> Petitioner's postconference brief, Annex 1, pp. 54-55.

<sup>50</sup> Brewing, Food & Beverage Industry Suppliers Association ("BFBI"), *Cellar/Dispense, Keg & Cask, Industry Standards & Specifications for the Design, Manufacture, Performance and Purchase of Kegs*, no date, <https://www.bfbi.org.uk/keg-and-cask/keg-and-cask-information> retrieved October 11, 2018.

**Figure I-4**  
**Refillable stainless steel kegs: Assembly and welding details**

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Source: Brewing, Food & Beverage Industry Suppliers Association (“BFBi”), *Cellar/Dispense, Keg & Cask, Industry Standards & Specifications for the Design, Manufacture, Performance and Purchase of Kegs*, no date, <https://www.bfbi.org.uk/keg-and-cask/keg-and-cask--information> (retrieved October 11, 2018).

\*\*\*.<sup>51</sup> It is cleaned to ensure food-grade compliance and corrosion resistance.<sup>52</sup> A keg is pulled from the production line and sent to an inspection station for testing: (1) of the weld seams strength, which should be as strong as the steel grade used; (2) water pressurization for expansion; and \*\*\*.<sup>53</sup>

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<sup>51</sup> \*\*\*.

<sup>52</sup> Petition, p. 17.

<sup>53</sup> \*\*\*.

## **Painting**

The manufacturers of refillable stainless steel kegs may have their name and logo embossed or painted on the keg. The purchaser can also request customization of the keg to their specifications. In most cases, the majority of the keg's surface is unpainted.

## **Valve assembly and final inspection**

After the keg is painted, a valve is placed into the flange opening and the final inspection of the keg is completed by submerging the keg in water and performing an air-pressurization test for detecting any leaks.

## **DOMESTIC LIKE PRODUCT ISSUES**

No issues with respect to domestic like product have been raised in these investigations. Petitioner contends that refillable stainless steel kegs constitute a single domestic like product coextensive with the scope of the investigations.<sup>54</sup> Thielmann, the respondent from Mexico, stated in its preliminary brief that in case the investigation proceeded to a final injury investigation, the firm would intend to consider further "whether the domestic like product should be expanded to include additional types of stainless steel or plastic kegs."<sup>55</sup> However, no party included a request for data or other information specific to domestic like product analysis in the comments of the Commission's draft questionnaires.

In its prehearing brief, Blefa stated that the Commission defined domestic like product as "all steel kegs coextensive with the scope" and that Blefa contends that the definition of the domestic like product should be the same for purposes of the Commission's final determination.<sup>56</sup> No party proposed alternative domestic like products in their briefs.

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<sup>54</sup> Petition, pp. 33-34.

<sup>55</sup> Thielmann's preliminary postconference brief, p. 3.

<sup>56</sup> Blefa's prehearing brief, p. 18.



## PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

### U.S. MARKET CHARACTERISTICS

There are six common sizes of refillable stainless steel kegs in the U.S. market: 1/2 barrel, 1/4 barrel, 1/6 barrel, 50 liter, 30 liter, and 10 liter.<sup>1</sup> The 1/2 barrel and 1/6 barrel sizes constitute approximately four-fifths of the U.S. market.<sup>2</sup> The domestic producer, American Keg, can supply both of these sizes,<sup>3</sup> but it does not produce 10 liter, 1/4 barrel (29.3 liters), European 1/2 barrel (25 liter), or European barrel (50 liter) sizes.<sup>4</sup>

A relatively small number of larger brewers and keg leasing/rental companies purchase the largest volumes of refillable stainless steel kegs on a per-order basis. Small and craft breweries purchase smaller orders but represent a larger share of U.S. demand for refillable stainless steel kegs than large breweries.<sup>5</sup> Approximately 6,000 to 7,000 end user companies use refillable stainless steel kegs in the United States, of which more than an estimated 4,000 are craft brewers that lease or rent kegs.<sup>7</sup> Purchases of refillable stainless steel kegs tend to be “lumpy,” with purchasers buying large numbers of kegs at one time and relying on these for years.<sup>8</sup> Ten of 25 purchasers reported buying refillable stainless kegs less frequently than yearly, with one firm (\*\*\*) reporting that it bought kegs only once ever. Purchaser \*\*\* reported that it purchased refillable stainless steel kegs every second or third year. Of the remaining 15

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<sup>1</sup> Petition, p. 11.

<sup>2</sup> Petition, p. 11, and questionnaire responses of American Keg and U.S. importers.

<sup>3</sup> American Keg webpage, “American made kegs”, <http://www.americankeg.com/features/american-made-kegs.html>, retrieved July 23, 2019.

<sup>4</sup> American Keg does not produce 1/8 barrel (14.7 liter) kegs, however, importers also did not supply any 1/8 barrels from January 2016 to March 2019.

<sup>5</sup> Small and independent craft brewers represent 13.2 percent market share by volume of the overall beer industry. Brewers Association webpage, “National Beer Sales and Production Data,” <https://www.brewersassociation.org/statistics-and-data/national-beer-stats/>, retrieved July 24, 2019.

<sup>6</sup> On a total volume basis, shipments of refillable stainless steel kegs to small craft breweries are larger than shipments to large brewers. See Part IV for a discussion of shipments by quantity.

<sup>7</sup> In the preliminary phase of these investigations, respondent Thielmann estimated there are approximately 4,000 craft brewers in the United States that rent kegs; in the final phase, respondent Thielmann estimated that more than half of craft breweries rent kegs. Conference transcript, p. 94 (Galvez) and Hearing transcript, p. 121 (Parker). Petitioner maintained that respondent’s argument that there are 4,000 craft brewers that lease or rent kegs is offered without support. Hearing transcript, pp. 99-100 (Rickard).

However, Keg Logistics, a keg leasing and rental company, stated that it had 2,100 customers in the United States. Keg Logistics also noted that Microstar, another keg leasing and rental company, is a larger keg management company. Hearing transcript p. 138 (Sapyta).

<sup>8</sup> For example, \*\*\* bought a large number of kegs in 2015 and has not needed to buy additional kegs since then. Staff telephone interview with \*\*\*.

purchasers, 10 reported buying kegs annually, 1 reported buying quarterly,<sup>9</sup> 1 reported buying every 6 months,<sup>10</sup> 3 reported monthly purchases,<sup>11</sup> and 1 reported buying daily.<sup>12</sup>

Apparent U.S. consumption of refillable stainless steel kegs has fluctuated since 2016. Overall, apparent U.S. consumption was \*\*\* percent higher in 2018 than in 2016, but was \*\*\* percent lower in January-March 2019 compared to January-March 2018.

American Keg is the only known U.S. producer of refillable stainless steel kegs,<sup>13</sup> and supplied \*\*\* percent of U.S. apparent consumption in 2018. As discussed in greater detail in Part IV, American Keg primarily supplies \*\*\*, and to a lesser extent, \*\*\*. Subject importers typically supply brewers of all sizes, distributors, and leasing companies.

\*\*\* 20 of 24 responding importers reported that there were no changes to product mix or marketing since 2016. Importer \*\*\* noted that demand for 1/2 kegs has decreased and demand for smaller kegs, such as 1/6 kegs, has increased.

### **Impact of Section 301 proceedings**

Chinese refillable stainless steel kegs are subject to the Section 301 tariffs implemented in March 2018, as detailed in Part I. U.S. producers, importers, and purchasers were asked if the implementation of Section 301 tariffs had an impact on their firm's refillable stainless steel kegs business and/or the U.S. refillable stainless steel kegs market as a whole. \*\*\* 12 importers reported that the Section 301 tariffs had an effect on the refillable stainless steel keg market. As shown in table II-1 below, most of these firms reported that Section 301 tariffs had increased prices of refillable stainless steel kegs. A majority or plurality of responding importers reported that the Section 301 tariffs decreased demand for refillable stainless steel kegs from China and increased demand from other import sources.

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<sup>9</sup> Purchaser \*\*\* reported both quarterly and annually explaining that its frequency of purchases "depends, maybe biannually."

<sup>10</sup> \*\*\*, reported buying kegs every 6 months.

<sup>11</sup> The three monthly purchasers were two \*\*\* and one \*\*\*.

<sup>12</sup> Purchaser \*\*\*, reported buying kegs on a daily basis. This purchaser \*\*\*.

<sup>13</sup> American Keg is a U.S. producer and an importer. \*\*\*.

**Table II-1****Refillable stainless steel kegs: Firms' perceptions regarding the impact of the Section 301 tariffs**

Item	Number of firms reporting			
	Increase	No change	Decrease	Fluctuate
Impact on demand for U.S.-produced product: U.S. producer	***	***	***	***
Importers	3	9	***	4
Purchaser	---	5	---	2
Impact on demand for product from China: U.S. producer	***	***	***	***
Importers	---	4	10	3
Purchasers	---	4	3	1
Impact on demand for product from sources other than China: U.S. producer	***	***	***	***
Importers	8	4	---	5
Purchasers	1	5	---	1
Impact on prices: U.S. producer	***	***	***	***
Importers	11	4	---	3
Purchasers	4	4	---	---

Source: Compiled from data submitted in response to Commission questionnaires.

\*\*\*. Petitioner also noted that the 10 percent tariff increase occurred shortly after the petition for these investigations were filed, and therefore, it is difficult to ascertain the effect of the Section 301 tariffs as opposed to the petition. However, petitioner stated that imports from China \*\*\*.<sup>14</sup> Lastly, petitioner argued that American Keg did not experience price relief until the Section 301 tariff increased to 25 percent and importers' inventories of Chinese kegs decreased.<sup>15</sup>

Importers indicated that the Section 301 tariffs have decreased demand for Chinese product and increased prices in the U.S. market. Importer \*\*\* stated that the 25 percent tariff has made it difficult to manage cash flows and that it has stopped all imports from China. \*\*\* reported that due to the Section 301 tariffs it was closing its business, selling \*\*\*, and its \*\*\* employees were let go. Importers \*\*\* and \*\*\* reported that imports from China have decreased significantly and that Chinese kegs are being replaced by European or Mexican kegs. Importer \*\*\* stated that the 301 tariffs had resulted in price increases of 20 percent, which had resulted in decreased sales and potentially reducing employees' hours and consolidating warehouses. Respondent Thielmann noted that American Keg's CEO stated in the Section 301 hearing that, in addition to American Keg, "European and Mexican suppliers" can meet the

<sup>14</sup> Petitioner's prehearing brief, p. 50.

<sup>15</sup> Petitioner also argued that the price relief associated with the Section 301 tariffs demonstrates a "clear price sensitivity for kegs." Hearing transcript, pp. 101-102 (Rolig).

shortfall of keg supply if the Section 301 tariffs went into effect on Chinese kegs, and that the European and Mexican kegs are not “subsidized or dumped low-cost steel kegs.”<sup>16</sup>

### **Impact of Section 232 proclamations**

Firms were also asked about the impact of the Section 232 tariffs on the raw material costs and prices for refillable stainless steel kegs in the U.S market. Eight importers indicated that the Section 232 tariffs on imported steel products has resulted in an increase in the cost of the raw materials used to produce refillable stainless steel kegs (cold-rolled stainless steel) as well as an increase in the price of refillable stainless steel kegs.<sup>17 18</sup> Most importers (15 of 24 responding firms) indicated that they did not know if the Section 232 tariffs had impacted the price of raw materials.

### **Impact of duties on all goods from Mexico**

Pursuant to the International Emergency Economic Powers Act, Mexican refillable stainless steel kegs were announced to be subjected to tariffs beginning June 10, 2019. These tariffs were suspended on June 7, 2019, before they were implemented.<sup>19</sup>

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<sup>16</sup> Respondent Thielmann’s prehearing brief, p. 44, and United States Trade Representative, Section 301 Tariffs Public Hearing, Day 1- May 15, 2018, p. 210, <https://ustr.gov/issue-areas/enforcement/section-301-investigations/record-section-301-investigation/section-301>, retrieved September 3, 2019.

<sup>17</sup> For more on the impact of the Section 232 steel investigation and tariffs, see Part V.

<sup>18</sup> As discussed in Part I, “Section 232 proclamations,” on March 8, 2018, the President announced that an additional 25 percent ad valorem rate of duty with respect to steel articles defined at the Harmonized Tariff Schedule 6-digit level as 7206.10 through 7216.50, 7216.99 through 7301.10, 7302.10, 7302.40 through 7302.90, and 7304.10 through 7306.90, would apply to imports of steel articles from all countries except Canada and Mexico. On March 23, 2018, these tariffs went into effect. Between March and May 2018, exemptions to these tariffs were announced for Argentina, Australia, Brazil, Canada, Mexico, member countries of the European Union, and South Korea, and import quotas were agreed to by Argentina, Brazil, and South Korea. Since the President’s May 19, 2019 proclamation, the Section 232 tariff on imported steel is in effect for all countries except Argentina, Australia, Brazil, Canada, Mexico, and South Korea. For more information, see <https://www.cbp.gov/trade/remedies/232-tariffs-aluminum-and-steel>, retrieved August 27, 2019.

<sup>19</sup> Firms were asked if the announcement of tariffs on all goods from Mexico impacted the refillable stainless steel keg market. \*\*\* almost all importers reported that they did not know if there had been an impact on the refillable stainless steel kegs market. One importer, \*\*\*, indicated that the announcement of tariffs had an impact on the U.S. refillable stainless steel kegs market, and that the announcements had caused demand for Mexican produced refillable stainless steel kegs to decrease and prices in the U.S. market to increase.

## Keg leasing/rentals

Beverage manufacturers also rely on keg leasing companies to supply rented kegs instead of purchasing refillable stainless steel kegs.<sup>20</sup> Petitioner noted that leasing kegs involves complex contracts, with long-term commitments and high interest rates.<sup>21</sup> American Keg offers a lease-to-own financing arrangement that allows end-users to pay for the kegs over time.<sup>22</sup> Respondent purchaser Anheuser-Busch believes that American Keg's lease-to-own program is not comparable to the keg leasing option.<sup>23</sup> Respondent Thielmann argued that smaller breweries that do not have the upfront capital for purchasing kegs, or do not have the production or logistical support to maintain kegs in circulation, will utilize keg leasing/rental companies.<sup>24</sup> Five of the responding 20 purchasers that are breweries indicated that they leased or rented kegs, and all were small breweries with less than 100,000 barrels of production. Purchasers were asked to estimate the share of their beverage production that rely on leased or rented kegs; estimates included 5 percent (\*\*\*), 10 percent (\*\*\*), 50 percent (\*\*\*), 95 percent (\*\*\*), and 100 percent (\*\*\*).<sup>25</sup>

## U.S. PURCHASERS

The Commission received 25 usable questionnaire responses from firms that had purchased refillable stainless steel kegs since January 1, 2016.<sup>26</sup> These firms accounted for \*\*\*

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<sup>20</sup> Major keg leasing companies include Microstar, the largest keg management company; Keg Logistics; and \*\*\*. There are different models of keg leasing including keg management/pooling (Microstar and Keg Logistics' system), rent-to-own (Keg Logistics' system), or straight rental model (also Keg Logistics' system). In the keg management/pooling system, breweries order the kegs needed on a monthly basis from the keg management companies that own the kegs; the breweries then fill the kegs and ship filled kegs to their customers, and the keg management company will retrieve the empty kegs. The rent-to-own model allows the breweries to finance the keg over time with the option to buy. In a "straight rental," breweries pay a lower monthly rate but do not have the option to buy the keg out of the lease. Hearing transcript, pp. 137-140 (Sapyta).

<sup>21</sup> American Keg also stated that some keg leasing companies offer rental models or pay-to-fill models, and that breweries that choose the rental or pay-to-fill model are typically larger and well-established, with a business model that is not compatible with buying a keg outright. Hearing transcript, p. 42 (Luzzi).

<sup>22</sup> The lease-to-own financing arrangement requires no money paid up-front and monthly payments. Hearing transcript, p. 99 (Luzzi).

<sup>23</sup> Anheuser-Busch stated that American Keg's lease-to-own model is a financing option as opposed to a keg pooling model. Respondent Anheuser-Busch's posthearing brief, p.7.

<sup>24</sup> Respondent Thielmann's prehearing brief, pp. 22-23.

<sup>25</sup> Purchaser \*\*\* indicated that 100 percent of its production relied on leased or rented kegs, but it also reported that it made a one-time purchase of German kegs in 2016.

<sup>26</sup> Of the 25 responding purchasers, six purchased domestic refillable stainless steel kegs, four purchased subject imports from China, 13 purchased subject imports from Germany, 8 purchased

percent of apparent U.S. consumption in 2018.<sup>27</sup> Twenty responding purchasers are breweries/beer manufacturers. Of those 20 beer manufacturers, 1 is a large beer manufacturer (\*\*\*) , 4 are medium sized beer manufacturers, and 15 are small craft breweries.<sup>28</sup> The remaining purchasers are distributors (2 purchasers) and keg leasing operators (4 purchasers).<sup>29</sup> Responding U.S. purchasers were located throughout the United States. Large purchasers of refillable stainless steel kegs include keg leasing and rental company \*\*\* and beer manufacturer \*\*\* , which represented \*\*\* percent and \*\*\* percent, respectively, of the purchases and imports of refillable stainless steel kegs reported by responding purchasers in 2018.<sup>30</sup>

## CHANNELS OF DISTRIBUTION

U.S. producer American Keg sold mainly to \*\*\* and had small but increasing sales to \*\*\*. American Keg stated that it actively competes for sales in all markets,<sup>31</sup> and that it competes head-to-head “in significant portions of the market,” namely the “\*\*\*\*” channels.<sup>32</sup> Subject imports of Chinese kegs were shipped almost entirely to breweries. Subject imports of German kegs were split between breweries and leasing and rental companies in 2016, but in 2017 and 2018 imports of German kegs were sold mainly to leasing and rental companies. Subject imports of Mexican kegs were sold principally to large breweries in 2016 and 2017 but in 2018 were sold mainly to leasing and rental companies, as shown in table II-2. Respondent Thielmann reported that keg leasing and rental companies are becoming more popular for small craft brewers,<sup>33</sup> and Respondent Blefa noted that there has been a “nearly direct shift” in keg consumption from small breweries to keg leasing and rental companies.<sup>34</sup> Petitioner and respondents disagreed on whether American Keg can service the keg leasing/rental companies and whether there is head-to-head competition in all channels of distribution.<sup>35</sup>

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subject imports from Mexico, and 5 purchased imports of refillable stainless steel kegs from other sources.

<sup>27</sup> Purchasers’ reported imports and purchases in 2018 totaled \*\*\* kegs.

<sup>28</sup> The following is the definition of brewery sizes for purposes of these investigations: Large (production of more than 6 million barrels per year); Medium (production of 100,000 to 6 million barrels per year); and Small (production of fewer than 100,000 barrels per year). Brewers Association, “Support independent beer – what defines a craft brewer?” <https://www.brewersassociation.org/independent-craft-brewer-seal/>, retrieved August 1, 2019. Respondent Blefa’s comments on draft questionnaires, p. 3 and p. 5.

<sup>29</sup> Purchaser \*\*\* stated that it is both a small brewery and a distributor of refillable stainless steel kegs.

<sup>30</sup> \*\*\* purchased from \*\*\*. \*\*\* purchased from \*\*\*.

<sup>31</sup> Hearing transcript, p. 48 (Czachor).

<sup>32</sup> Petitioner’s posthearing brief, p. 23.

<sup>33</sup> Respondent Thielmann’s prehearing brief, pp. 22-23.

<sup>34</sup> Respondent Blefa’s prehearing brief, pp. 15-16.

<sup>35</sup> Petitioner argued that it is competing “head-to-head with all of the Respondents in this case, and losing sales to those Respondents in a very important portion of the market,” and also stated that

**Table II-2**

**Refillable stainless steel kegs: U.S. producer’s and importers’ U.S. shipments, by sources and channels of distribution, 2016-18, January to March 2018, and January to March 2019**

\* \* \* \* \*

Within the brewery channel of distribution, the U.S. producer shipped mainly to \*\*\*, with some shipments to \*\*\* breweries in 2018 (table II-3).<sup>36</sup> American Keg also stated that it has sold to major breweries.<sup>37</sup> \*\*\* Chinese kegs sold to breweries were shipped to \*\*\* in 2016, however, the share of shipments to \*\*\* increased to comprise \*\*\* of its shipments to breweries by 2018.<sup>38</sup> German kegs sold to breweries were mostly sold to \*\*\*, with increasing shipments to \*\*\* from 2016 to 2018.<sup>39 40</sup> U.S. shipments of Mexican kegs to breweries were concentrated in the \*\*\* in 2016, but by 2018 shipments to \*\*\* comprised the largest share of shipments to breweries.

**Table II-3**

**Refillable stainless steel kegs: U.S. producer’s and importers’ U.S. shipments to breweries, by sources and by size, 2016-18, January to March 2018, and January to March 2019**

\* \* \* \* \*

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American Keg is “actively engaged” with leasing companies. Petitioner also noted that Thielmann targets the craft brewery market. However, Respondents argued that there are segments of the market that American Keg cannot serve due to its scale and the CEO of Blefa stated that it “rarely, if ever” competes with American Keg for customers. Hearing transcript, pp. 59-60 (Rolig), p. 168 (Dougan), p. 132 (Brand).

<sup>36</sup> Petitioner’s posthearing brief, p. 33.

<sup>37</sup> In response to Respondents Blefa and Thielmann’s argument that American Keg does not compete with imports in the large and medium brewery segments, American Keg provided customer lists that included \*\*\*, all of which are designated by the Brewer’s Association as Top 50 Barrel Producers. Petitioner’s posthearing brief, pp. 39-40.

<sup>38</sup> Importer \*\*\* shipments to \*\*\* increased from approximately \*\*\* kegs in 2016 to \*\*\* kegs in 2018, an increase of \*\*\* percent.

<sup>39</sup> Anheuser-Busch argued that shipments of subject imported kegs to \*\*\* are overstated. It purported that \*\*\*. \*\*\* are “meaningfully different” than \*\*\*, and shipments to \*\*\* are overstated, as they include \*\*\*. Respondent Anheuser-Busch’s prehearing brief, p. 4 and Exhibit A.

<sup>40</sup> German kegs also service the small and craft breweries via leasing and rental channels. “Blefa US performs many value-added services for its customers, including holding inventory for larger keg leasing rental companies, such as \*\*\* and Keg Logistics. Whether through consignment or call-off stock arrangements with these keg leasing/rental companies, Blefa US can customize kegs for these companies’ customers - the small and craft breweries.” Respondent Blefa’s posthearing brief, p. 1.

## GEOGRAPHIC DISTRIBUTION

\*\*\* importers reported selling refillable stainless steel kegs to all specified U.S. regions (table II-4). American Keg sold \*\*\* percent of sales within 100 miles of its production facility, \*\*\* percent were between 101 and 1,000 miles, and \*\*\* percent were over 1,000 miles. Importers sold 30 percent within 100 miles of their U.S. point of shipment, 38 percent between 101 and 1,000 miles, and 32 percent over 1,000 miles.

**Table II-4**  
**Refillable stainless steel kegs: Geographic market areas in the United States served by U.S. producers and importers**

Region	U.S. producers	Subject U.S. importers			
		China	Germany	Mexico	Subject
Northeast	***	***	***	***	15
Midwest	***	***	***	***	18
Southeast	***	***	***	***	17
Central Southwest	***	***	***	***	16
Mountains	***	***	***	***	16
Pacific Coast	***	***	***	***	15
Other <sup>1</sup>	***	***	***	***	8
All regions (except Other)	***	***	***	***	14
Reporting firms	1	15	2	2	19

<sup>1</sup> All other U.S. markets, including AK, HI, PR, and VI.

Source: Compiled from data submitted in response to Commission questionnaires.

## SUPPLY AND DEMAND CONSIDERATIONS

### U.S. supply

Table II-5 provides a summary of the supply factors regarding refillable stainless steel kegs from the U.S. producer and producers in the subject countries. Producers in the subject countries had substantially larger capacities and higher capacity utilization than the U.S. producer. Domestic capacity increased by \*\*\* percent from 2016 to 2018 while capacity utilization remained below \*\*\* percent during 2016-18. Capacity in China and Germany also increased from 2016 to 2018 while capacity in Mexico was stable.



**Table II-5**

**Refillable stainless steel kegs: Supply factors that affect the ability to increase shipments to the U.S. market**

\* \* \* \* \*

**Domestic production**

Based on available information, the U.S. producer of refillable stainless steel kegs has the ability to respond to changes in demand with moderate-to-high changes in the quantity of shipments of U.S.-produced refillable stainless steel kegs to the U.S. market, until it reaches its capacity (which is substantially less than apparent U.S. consumption). The main contributing factors to this degree of responsiveness of supply are the availability of unused capacity and large inventories (relative to production). Factors mitigating responsiveness of supply include small total capacity, no ability to shift production to or from alternate products, and the inability to produce some sizes of refillable stainless steel kegs.<sup>41</sup>

Domestic production of refillable stainless steel kegs \*\*\* from 2016 to 2017 before declining by \*\*\* percent in 2018. Production increased by \*\*\* percent from 2016 to 2018, outpacing the increase in capacity and leading to increased capacity utilization between 2016 and 2018. Capacity utilization was \*\*\* percentage points higher in January-March 2019 than in January-March 2018, as capacity was \*\*\* percent higher and production was higher by \*\*\* percent. Absolute capacity remains \*\*\* at \*\*\* units annually.<sup>42</sup> American Keg \*\*\* refillable stainless steel kegs, and \*\*\* on its production equipment.

**Subject imports from China**

Based on available information, producers of refillable stainless steel kegs from China have the ability to respond to changes in demand with moderate-to-large changes in the quantity of shipments of refillable stainless steel kegs to the U.S. market. The main contributing factors to this degree of responsiveness of supply are increasingly large overall capacity and the substantial ability to shift shipments from alternate markets. Factors mitigating responsiveness of supply include the inability to shift production to or from alternate products, limited available capacity, and limited inventories.

From 2016 to 2018, Chinese capacity increased by \*\*\* percent to \*\*\* units, and production increased by \*\*\* percent to \*\*\* units. The increase in capacity outpaced production in 2017, leading to a period low utilization rate of \*\*\* percent, however

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<sup>41</sup> As discussed above, American Keg produces only two sizes of refillable stainless steel kegs. These two sizes, however, comprise approximately four-fifths of the U.S. market.

<sup>42</sup> American Keg's capacity is \*\*\* the volume required to supply \*\*\* annual purchases. \*\*\* annual purchases in the United States ranged from \*\*\* to \*\*\* units during 2016-18.

by 2018 capacity utilization was at \*\*\* percent. Chinese producers' inventories relative to total shipments were low during 2016-18. Chinese producers had limited shipments to the home market, and shipments to other export markets increased by \*\*\* percent from 2016 to 2018. Major export markets other than the United States include European countries such as Belgium, France, Germany, Spain, the United Kingdom, as well as Australia, Brazil, Canada, Ethiopia, Kazakhstan, Mexico, Russia, Uzbekistan, and Vietnam. There are no third country trade actions on Chinese refillable stainless steel kegs.

Although three of four responding Chinese producers reported producing other types of kegs on the same equipment as refillable stainless steel kegs, these other products accounted for a very small share of total Chinese production in 2018. Other products that responding Chinese producers report producing on the same equipment as refillable stainless steel kegs include non-cylindrical kegs, kegs with less than 10 liters of capacity, or kegs not compatible with "D Sankey" extractors. Factors affecting Chinese producers' ability to shift production to other products include designated drawing machines used for drawing steel that limit the ability to produce kegs of different sizes, and the general inefficiencies of product shifting including machinery shut down, mold switching, adjustment, and testing.

### **Subject imports from Germany**

Based on available information, producers of refillable stainless steel kegs from Germany have the ability to respond to changes in demand with moderate changes in the quantity of shipments of refillable stainless steel kegs to the U.S. market. The main contributing factors to this degree of responsiveness of supply are large overall capacity and the ability to shift shipments from alternate markets. Factors mitigating responsiveness of supply include limited unused capacity and the limited ability to shift production to or from alternate products.

German producers' capacity increased by \*\*\* percent from 2016 to 2018, while production increased by \*\*\* percent in the same time period. Thus, capacity utilization increased from \*\*\* in 2016 percent to \*\*\* percent in 2018. German producers' inventories relative to total shipments increased by \*\*\* percentage points from 2016 to 2018. German producers had a moderate level of home market shipments that remained steady from 2016-18, while exports to other markets grew by \*\*\* percent from 2016 to 2018. Major export markets included Australia, Africa, Asia, Canada, Europe, and Russia. There are no third country trade actions on German refillable stainless steel kegs.

\*\*\* was the \*\*\* German producer that reported that \*\*\* using the same equipment as refillable stainless steel kegs equipment. \*\*\* reported it could produce \*\*\*. \*\*\* stated that these products account for less than \*\*\* percent of its production.

### **Subject imports from Mexico**

Based on available information, Mexican producer Thielmann Mexico has the ability to respond to changes in demand with moderate changes in the quantity of shipments of refillable stainless steel kegs to the U.S. market. The main contributing factors to this degree of responsiveness of supply are some availability of unused capacity, relatively high inventories, and the ability to shift shipments from alternate markets. Factors mitigating responsiveness of

supply include limited capacity and the inability to shift production to or from alternate products.

Thielmann Mexico's production capacity \*\*\* from 2016 to 2018, however, production increased by \*\*\* percent. Its exports to other markets increased by \*\*\* percent during 2016-18, with major export markets reported as \*\*\*. There are no third country trade actions against Mexican refillable stainless steel kegs.

Thielmann Mexico reported that it \*\*\*.

### **Imports from nonsubject sources**

Imports of refillable stainless steel kegs from nonsubject sources accounted for 10.6 percent of total U.S. imports in 2018. Importers cited Spain as the most common source of nonsubject imports, other countries included France, Italy, and the Czech Republic.

### **Supply constraints**

\*\*\* 15 of 23 responding importers reported that they had not experienced supply constraints since January 1, 2016. Eight responding importers reported that they had experienced supply constraints since January 1, 2016. Multiple importers reported supply issues on imports from China; importers \*\*\* and \*\*\* stated they had run out of inventory and importer \*\*\* stated there was limited supply since the fourth quarter of 2018. Importers \*\*\* and \*\*\* noted that they had stopped purchasing kegs due to duties on Chinese kegs.<sup>43</sup> \*\*\* noted capacity limitations in \*\*\* and logistic constraints in the United States limited the firm's ability to take additional customers or orders.<sup>44</sup>

Two of 25 responding purchasers reported experiencing supply constraints. \*\*\* reported experiencing backorders due to increased demand and the lack of domestic suppliers of kegs, and \*\*\* reported that two European producers refused to do business with it due to their relationships with \*\*\*. \*\*\* also said that it could not find particular sizes in a designated timeframe.

Some importers indicated that finding various sizes of U.S.-produced kegs was not possible. Importer \*\*\* reported that American Keg can only produce 1/2 and 1/6 sized kegs, and also stated that American Keg will only sell to end users and not keg re-sellers or distributors. Purchaser \*\*\* also noted that 1/4 barrels are not manufactured in the United States.

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<sup>43</sup> \*\*\* stated that due to the "duties and tariffs imposed on Chinese Kegs" it has been refusing potential orders from \*\*\* since July 2018. \*\*\* reported it had "halted purchases and declined new orders" due to the potential of tariffs from these investigations.

<sup>44</sup> Importer \*\*\* did not explain how it had encountered supply constraints.

## **New suppliers**

Six of 24 purchasers indicated that new suppliers entered the U.S. market since January 1, 2016. Purchasers cited Entinox (Spain),<sup>45</sup> “too many Chinese firms to list,” “Mexican firms,” and American Keg.

## **U.S. demand**

U.S. demand for refillable stainless steel kegs is primarily driven by beer consumption, although the petitioner stated that there is not a direct relationship between beer consumption and demand for kegs.<sup>46</sup> Based on available information, the overall demand for refillable stainless steel kegs is likely to experience small-to-moderate changes in response to changes in price. The main contributing factors are the limited range of substitute products and small cost share in end-use products.

## **End uses and cost share**

Refillable stainless steel kegs are used to store beer, wine, coffee, cider, soda, and kombucha.<sup>47</sup> U.S. demand for refillable stainless steel kegs depends primarily on the demand for beer storage, and to a lesser degree on demand for the storage of other beverages.

Refillable stainless steel kegs account for a small share of the cost of the end-use products in which they are used. Most responding purchasers (11 of 17) reported cost shares of 2 percent or less.<sup>48</sup>

## **Business cycles**

\*\*\* 15 of 24 importers, and 10 of 22 purchasers indicated that the market was subject to business cycles. Beer consumption is generally higher in warmer months, thus demand for kegs increases in the summer when beer sales are higher. Anheuser-Busch stated that its

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<sup>45</sup> Purchaser \*\*\* listed Entinox from Spain and also listed Ambrach, an importer of product from \*\*\*.

<sup>46</sup> Petitioner’s postconference brief, p. 23. Petitioner argued that it is not a “1:1 relationship” between beer demand and keg demand. Petitioner reported that most beer, about 85 percent, is packaged in bottles and cans, but draft beer “maintained a consistent presence” from 2016 to 2018. Petitioner also noted that beer consumption decreased from 2016 to 2018, but the craft brewery segment is growing. Hearing transcript, pp. 22-23 (Rolig)

<sup>47</sup> Petition, pp. 8-9.

<sup>48</sup> Reported cost shares ranged from 0.1 percent to 60 percent. Purchaser \*\*\* added that for the first use of a keg the cost share is 200 percent, however, kegs are often returned, cleaned, refilled, and used hundreds of times. Depending on the frequency of re-use, the cost share will continually drop. Issues such as lost or damaged kegs can limit the number of re-uses. \*\*\*, the only responding keg leasing and rental company, reported a cost share of \*\*\* percent.

purchases of kegs are “typically concentrated just before the summer months when demand for beer is at its peak.”<sup>49</sup>

\*\*\* 7 of 24 importers, and 5 of 22 purchasers indicated that the market was subject to other conditions distinctive to the refillable stainless steel kegs market. Specifically, importers reported that an increase in the number of craft breweries led to increased demand for kegs. Importers \*\*\* and \*\*\* reported that American Keg’s limited U.S. capacity and its production of only 1/2 and 1/6 kegs was too limited to meet demand, and also that American Keg imported refillable stainless steel kegs to meet demand.

## Demand trends

U.S. beer consumption decreased year-over-year during 2016-17 and 2017-18.<sup>50 51</sup> However, the number of breweries in the United States increased by 33 percent from 2016 to 2018, which was primarily driven by the increase in the number of craft breweries.<sup>52</sup>

A plurality of responding firms reported that U.S. demand for refillable stainless steel kegs had increased since January 1, 2016 (table II-6). A majority of responding purchasers indicated that demand for their end-use product had increased, 9 of which were craft breweries, 2 were medium breweries, and 1 keg leasing and rental company.<sup>53</sup> Three breweries, a large brewery (\*\*\*), a medium brewery (\*\*\*), and a small brewery (\*\*\*), reported that demand for beer had decreased.

A plurality of importers reported that demand for kegs has increased with four importers (\*\*\*) reporting in their responses that beer consumption and the number of craft brewers is increasing. Importer \*\*\* in contrast indicated that beer consumption is declining.

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<sup>49</sup> Hearing transcript, p. 116 (Hoffmeister).

<sup>50</sup> The Wall Street Journal estimated beer consumption decreased by 1.1 percent from 2016 to 2017, and decreased by 1.5 percent from 2017 to 2018. The Brewer’s Association estimated beer production decreased by 0.8 percent in 2018. “As Americans Drink Less Alcohol, Booze Makers Look Beyond the Barrel,” The Wall Street Journal, <https://www.wsj.com/articles/americans-are-drinking-less-alcohol-11547733600>, retrieved July 26, 2019. Brewers Association webpage, “National Beer Sales and Production Data,” <https://www.brewersassociation.org/statistics-and-data/national-beer-stats/>, retrieved July 24, 2019.

<sup>51</sup> Craft beer sales increased by 3.9 percent in 2018, suggesting that the decline in beer consumption is in the non-craft beer segment. Brewers Association webpage, “National Beer Sales and Production Data,” <https://www.brewersassociation.org/statistics-and-data/national-beer-stats/>, retrieved July 24, 2019.

<sup>52</sup> Total breweries (craft and large/non-craft) totaled 5,606 in 2016 and 7,450 in 2018. Craft brewers increased from 5,539 in 2016 to 7,346 in 2018; the number of large/non-craft breweries increased from 67 in 2016 to 104 in 2018. Brewers Association webpage, “National Beer Sales and Production Data,” <https://www.brewersassociation.org/statistics-and-data/national-beer-stats/>, retrieved July 24, 2019. See “Behind the Data: 2018 Craft Brewing Growth Methodology” for an explanation of the statistics and data, <https://www.brewersassociation.org/insights/behind-the-data-2018-craft-brewing-growth-methodology/>, retrieved July 24, 2019.

<sup>53</sup> \*\*\* and \*\*\* are the two medium breweries, and \*\*\* is the keg leasing and rental company.

**Table II-6**  
**Refillable stainless steel kegs: Firms' responses regarding U.S. demand and demand outside the United States**

Item	Number of firms reporting			
	Increase	No change	Decrease	Fluctuate
Demand inside the United States: U.S. producer	***	***	***	***
Importers	10	4	2	7
Purchasers	8	6	3	3
Demand outside the United States: U.S. producer	***	***	***	***
Importers	8	2	---	6
Purchasers	1	7	---	2
Demand for end use product(s): Purchasers	12	3	3	3

Source: Compiled from data submitted in response to Commission questionnaires.

### Substitute products

Substitutes for refillable stainless steel kegs are somewhat limited. Some firms reported that plastic kegs can be a substitute for stainless steel kegs but very few firms reported that aluminum kegs or any other products could be used as substitutes.

Firms had mixed responses regarding the substitutability of plastic kegs. Petitioner stated that plastic kegs are not substitutable as they are “one-way” kegs used for exporting beer, are not refillable,<sup>54</sup> and are disposable and recyclable.<sup>55</sup> Respondents, however, stated that craft brewers prefer cheaper plastic kegs that tie up less capital.<sup>56</sup> More than half of importers (14 of 24) reported that plastic kegs were substitutable with refillable stainless steel kegs. Importers reported that plastic kegs are used for exporting beer due to the “fear of losing stainless steel kegs” (\*\*\*), that plastic keg prices are independent of stainless steel kegs (\*\*\*), and that plastic kegs are not designed to replace stainless steel kegs (\*\*\*). \*\*\* 10 importers, and most purchasers (14 of 22) reported that plastic kegs were not substitutable for refillable stainless steel kegs. Keg leasing and rental companies reported that plastic kegs can be used to ship to remote locations and can be used for beer and cider distribution. Two medium breweries reported that plastic kegs are substitutable for stainless steel kegs: \*\*\* uses them to export outside of the United States and \*\*\* uses them for retail accounts.

The vast majority of responding firms (\*\*\*, 21 of 23 importers, and 18 of 10 purchasers) reported that aluminum kegs were not substitutable for refillable stainless steel kegs. \*\*\* almost all importers and purchasers indicated that there were no other substitutes.

<sup>54</sup> Hearing transcript, p. 106 (Rolig).

<sup>55</sup> Hearing transcript, p. 107 (Luzzi).

<sup>56</sup> Mr. Parker, advisor to the Thielmann Executive Committee, reported that plastic kegs are 10 to 15 percent cheaper than refillable stainless steel kegs. Hearing transcript, pp. 121-122 (Parker).

## **SUBSTITUTABILITY ISSUES**

The degree of substitution between domestic and imported refillable stainless steel kegs depends upon such factors as relative prices, quality (e.g., grade standards, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, reliability of supply, product services, etc.). Based on available data, staff believes that there is a moderate-to-high degree of substitutability between domestically produced refillable stainless steel kegs and refillable stainless steel kegs imported from subject sources. Substitutability between domestic and imported refillable stainless steel kegs is somewhat limited by the domestic producers' inability to produce other sized kegs that are outside of the 1/2 and 1/6 barrel sizes and its capacity to supply large customers.

### **Lead times**

U.S. producer American Keg's refillable stainless steel kegs are primarily produced-to-order (\*\*\*) of shipments) with average lead times of \*\*\* days. The remaining \*\*\* percent of American Keg's commercial shipments are from inventories, with lead times of \*\*\* days. About half (51.5 percent) of importers' commercial shipments are from U.S. inventories with lead times of 1 to 33 days; 27.9 percent were produced-to-order, with lead times averaging 60 to 150 days;<sup>57</sup> and 20.5 percent came from foreign inventories with lead times of 45 to 120 days.

### **Pre- and post-sale service**

Firms were asked whether they offered any pre-and post-sales services relating to refillable stainless steel kegs, and whether those services were included in the sales price or invoiced separately. \*\*\* 9 of 22 importers reported that they offered pre-and post-sales services. \*\*\*.

Importers' most frequently reported services included embossing (4 firms)<sup>58</sup> and screen printing (4 firms).<sup>59</sup> Three firms (\*\*\*) offered rebranding of kegs which was not included in the sales price. Other services included maintenance, vinyl keg wrapping, and cleaning and reworking of kegs, none of which were included in the sales price.

Purchasers identified the following pre- and post-sale services that they deemed important in their purchasing decisions: keg maintenance, laser etching, embossing, colored interlocking chimes, warranties, and short fulfillment times. On the other hand, \*\*\* indicated that services are "generally treated as separate and procured from other vendors." Eleven of 18 purchasers indicated that there was no difference in suppliers' ability to provide pre- and post-

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<sup>57</sup> Importer \*\*\* reported lead times of 150 days for produced-to-order sales despite having no sales of produced-to-order kegs in 2018. The firm clarified that produced-to-order kegs was a potentiality which would have a lead time of 150 days. Of firms that reported sales produced-to-order, the upper range was 130 days. Email from \*\*\*, July 10, 2019.

<sup>58</sup> \*\*\* included this service in its sales price, whereas \*\*\* billed it separately.

<sup>59</sup> \*\*\* included this service in its price, whereas \*\*\* billed it separately.

sale services. Of the seven firms that reported there was a difference in suppliers' pre- and post-sales services, firms' responses included the following: communication is easy in the United States (\*\*\*), Franke is the only supplier that can emboss blank kegs (\*\*\*), and Chinese keg suppliers provide less support (\*\*\*)).

As discussed later, technical support/service was rated as very important by 8 of 24 purchasers, somewhat important by 12 purchasers, and not important by 4 purchasers.<sup>60</sup> In comparing American Keg's technical support/service to that of imports, a majority of responding purchasers rated American Keg as superior or comparable with importers of Chinese product (9 of 10 firms), and comparable with importers of German product (5 of 10) and importers of Mexican product (3 of 4).<sup>61</sup>

### **Knowledge of country sources**

Twelve purchasers indicated they had marketing/pricing knowledge of domestic product, 9 of Chinese product, 18 of German product, 9 of Mexican product, and 10 of nonsubject countries.

As shown in table II-7, most purchasers and their customers never make purchasing decisions based on the producer or country of origin. Of the nine purchasers that reported that they always make decisions based on the manufacturer, two firms cited quality; other reasons cited include purchasing from approved suppliers and maintaining fleet consistency. \*\*\*, a large purchaser of refillable stainless steel kegs, stated that domestic and Chinese suppliers cannot meet its requirements for quality, specification, or service, and that domestic and Chinese suppliers cannot provide a meaningful portion of its supply.

Firms that reported country preferences cited a preference for German kegs due to their quality, reliability, and the design of Schaefer eco kegs. \*\*\* reported it preferred U.S. and European owned companies, and \*\*\* also cited French kegs for the quality and price. \*\*\* stated that it typically avoided Chinese kegs because of quality issues and market perception, however, the lower price has made Chinese kegs more competitive. \*\*\* also noted that some customers prefer buying a U.S.-produced keg.

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<sup>60</sup> See "Importance of specified purchase factors" later in this chapter.

<sup>61</sup> See "Comparisons of domestic products, subject imports, and nonsubject imports" later in this chapter. No purchaser rated American Keg's technical support/service as superior in comparisons with Germany and Mexico.



**Table II-7****Refillable stainless steel kegs: Purchasing decisions based on producer and country of origin**

Decision	Always	Usually	Sometimes	Never
Purchases based on producer: Purchaser's decision	9	3	6	6
Purchaser's customer's decision	---	2	4	9
Purchases based on country of origin: Purchaser's decision	3	4	3	13
Purchaser's customer's decision	---	1	3	10

Source: Compiled from data submitted in response to Commission questionnaires.

### Factors affecting purchasing decisions

The most often cited top three factors firms consider in their purchasing decisions for refillable stainless steel kegs were quality (21 firms), price (18 firms), and delivery/timing (10 firms) as shown in table II-8. Quality was the most frequently cited first-most important factor (cited by 15 firms), followed by availability (3 firms); price was the most frequently reported second-most important factor (10 firms) and delivery/timing was the third-most important factor (7 firms).

**Table II-8****Refillable stainless steel kegs: Ranking of factors used in purchasing decisions as reported by U.S. purchasers, by factor**

Item	1st	2nd	3rd	Total
	Number of firms (number)			
Quality	15	6	1	21
Price / Cost	2	10	6	18
Delivery / Time / Speed	2	1	7	10
Availability / Supply	3	2	2	7
All other factors	2	5	7	NA

Source: Compiled from data submitted in response to Commission questionnaires.

Eleven of 24 purchasers reported that they never purchase the lowest-priced product, 8 purchasers indicated that they sometimes purchase the lowest-priced product, 3 purchasers reported that they usually purchase the lowest-priced product, and two purchasers reported that they always purchase the lowest-priced product.

### Importance of specified purchase factors

Purchasers were asked to rate the importance of 22 factors in their purchasing decisions (table II-9). The factors rated as very important by more than half of responding purchasers were product consistency (24 of 25 firms), quality meets industry standards (22), availability (21), customer service (19), business/historical relationship (17), quality exceeds industry standards (17), reliability of supply (17), delivery time (15), and price (14).

**Table II-9**  
**Refillable stainless steel kegs: Importance of purchase factors, as reported by U.S. purchasers, by factor**

Factor	Number of firms reporting		
	Very important	Somewhat important	Not important
Availability	21	4	---
Ability to meet minimum quantity	12	9	4
Branding (of keg supplier)	4	11	9
Business/historical relationship	17	5	2
Certification	10	7	8
Customer service	19	5	1
Delivery terms	12	12	---
Delivery time	15	10	---
Discounts offered	7	12	5
Packaging	2	13	9
Payment terms	5	15	4
Price	14	10	1
Product consistency	24	1	---
Product range	5	11	8
Quality exceeds industry standards	17	6	1
Quality meets industry standards	22	1	1
Reliability of supply	17	8	---
Supplier financial stability	12	9	3
Supply chain efficiency	4	15	5
Technical support/service	8	12	4
U.S. transportation costs	6	10	7
Warranty	12	10	2

Source: Compiled from data submitted in response to Commission questionnaires.

### Supplier certification

Ten of 24 responding purchasers require their suppliers to become certified or qualified to sell refillable stainless steel kegs to their firm. Six purchasers reported the time to qualify a new supplier: one brewery/keg distributor reported 30 days (\*\*\*), one brewery reported 60 days (\*\*\*), two breweries reported 90 days (\*\*\*), while \*\*\* reported 180-365 days and 90 days, respectively. Some purchasers, such as \*\*\* and \*\*\* noted that they only considered established producers, and they purchase kegs from producers based on producer's reputation.<sup>62</sup> \*\*\* detailed that its supplier certification process involves an assessment of capacity, production volumes, delivery schedules and other pertinent information, quality

<sup>62</sup> \*\*\* noted that it "never consider{s} Chinese kegs" and \*\*\* only purchases from its approved supplier, and that if "ABI and Microstar don't trust them, neither do we." Staff believe ABI to be Anheuser-Busch.

testing, and a test run for performance testing. \*\*\* explained that its supplier certification included receiving samples, quality testing, and reviewing “QA documentation to understand the consistency in supply of quality over time.”

Purchasers were also asked whether American Keg had attempted to certify its product with their firm since January 1, 2016. Of the ten firms that required certification, seven purchasers indicated that American Keg had not attempted to certify its product since January 1, 2016.<sup>63</sup> One purchaser (\*\*\* ) indicated that American Keg had successfully certified with it.<sup>64</sup> Two purchasers (\*\*\* ) indicated that American Keg was not able to certify successfully with their firms. \*\*\* reported that American Keg had limited production capabilities and higher pricing than other suppliers; and \*\*\* noted that American Keg did not meet its quality, specifications, or service requirements and that American Keg’s production was too small.<sup>65</sup>

American Keg reported that it \*\*\* to sell to large breweries, medium breweries, or to distributors/rental/lease firms that purchase more than 50,000 but less than 100,000 refillable stainless steel kegs per year. It also indicated that it \*\*\* a certification process with a purchaser.<sup>66</sup>

Four of the ten purchasers that required certification, \*\*\*, reported that a foreign supplier had attempted to certify with their firms since January 1, 2016. Of those four firms, \*\*\* reported that a foreign supplier had successfully certified.<sup>67</sup> \*\*\* stated that Major Keg (China) was in the process of qualification, but was not qualified yet. \*\*\* indicated that Chinese suppliers do not meet quality, specification requires or service expectations. \*\*\* said that Chinese firms had attempted to certify but Chinese sources have a reputation for misrepresentation of their products, and it does not trust the quality of Chinese stainless steel.

### **Supplier capacity requirements**

Purchasers were asked if suppliers of refillable stainless steel kegs were required to have a minimum annual production capacity or an ability to fill minimum order sizes. Five of the responding 24 purchasers reported that suppliers were required to meet a minimum annual production. \*\*\* and \*\*\* reported minimum annual production of one million units.<sup>68</sup> \*\*\*

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<sup>63</sup> The \*\*\* reported that American Keg had not attempted to certify.

<sup>64</sup> In addition, \*\*\* indicated that American Keg had successfully certified with its firm, although \*\*\* indicated it did not have a certification requirement.

<sup>65</sup> Petitioner argued that \*\*\* in its discussion with \*\*\* and that \*\*\* response is based on incomplete and outdated information. American Keg states that it first had contact with \*\*\* in \*\*\*, and that \*\*\* initially identified \*\*\*. However, \*\*\*, \*\*\*. Petitioner’s prehearing brief, pp. 48-49.

<sup>66</sup> Petitioner added that it is currently certifying with a leasing company. It also stated that it had sent sample kegs to potential purchasers, but it had not, to its knowledge, failed any certification. Hearing transcript, pp. 73-74 (Czachor).

<sup>67</sup> \*\*\* also reported that a foreign supplier had successfully certified, however, \*\*\* did not require certification.

<sup>68</sup> \*\*\* explained that \*\*\*. It continued that \*\*\*. \*\*\* stated that \*\*\*. \*\*\* principally purchased kegs produced by \*\*\* from 2016 to 2018. \*\*\*, \*\*\*.

reported a minimum annual production of 96,000 units and added that if an order from \*\*\* is “one-eighth of {the producer’s} business, it would be concerning from a quality/pricing/service perspective.” \*\*\* reported that its minimum annual production is not a formal number, but instead it needs a flexible production scale to allow for production slots each month. \*\*\* reported that it needs \*\*\*.

Four of the responding 23 purchasers indicated that they had a minimum order size supplier requirement, with \*\*\* reporting a minimum order size of 12,000 units and \*\*\* and \*\*\* reporting a full shipping container as their minimum order size. \*\*\* reported that \*\*\*. American Keg stated that it has not encountered a situation in which a potential customer has refused to buy from it due to its capacity and production size.<sup>69</sup>

### Changes in purchasing patterns

Purchasers were asked about changes in their purchasing patterns from different sources since 2016 (table II-10); reasons reported for changes in sourcing included availability, production volumes, and increasing demand. Three responding purchasers reported that they had changed suppliers since January 1, 2016. Two firms dropped or reduced purchases from the United States, one firm (\*\*\*) “suspected” American Keg was importing from China and one firm (\*\*\*) reported reduced purchases because it experienced slower growth. Two firms decreased purchases from Germany due to better pricing from Mexico and a decline in demand. Two purchasers reported reducing purchases from China, one of which cited the addition of tariffs. Three firms added or increased purchases from the United States as \*\*\* replaced its (out-of-scope) Hoff Stevens kegs with Sankey kegs, while \*\*\* and \*\*\* explained that they increased purchases of U.S. product as it became available. Two firms increased purchases from Germany; \*\*\* reported that it was able to get better pricing, and \*\*\* stated that its business grew and needed more kegs.

**Table II-10**  
**Refillable stainless steel kegs: Changes in purchase patterns from U.S., subject, and nonsubject countries**

Source of purchases	Did not purchase	Decreased	Increased	Constant	Fluctuated
United States	11	2	3	3	1
China	9	2	1	3	2
Germany	5	2	2	5	4
Mexico	8	1	2	2	4
All other sources	8	2	1	2	3
Unknown sources	12	---	---	2	---

Source: Compiled from data submitted in response to Commission questionnaires.

<sup>69</sup> Hearing transcript, p. 75 (Luzzi).

## Importance of purchasing domestic product

All of the responding purchasers reported that their purchases did not require purchasing U.S.-produced product, however, \*\*\* reported that its customers required domestic product in \*\*\*.

In the preliminary phase of these investigations, respondents Blefa and Thielmann stated that American Keg sells its product at a price premium as its kegs are made in America with American steel.<sup>70</sup> American Keg argued that even if customers that are willing to pay a “small premium” for American products, the price differential between domestically produced and subject product is too large to convince customers to buy domestic refillable stainless steel kegs.<sup>71</sup> In the final phase of these investigations, respondent Blefa argued that American Keg was able to sell increasing volume of kegs at higher prices, indicating that “some segment of the market is willing to pay a premium for domestically-produced kegs,”<sup>72</sup> and respondent Thielmann argued that price data show a “Made in America” price premium and not underselling.<sup>73 74</sup> American Keg stated that it does not believe it has sold, nor could sell, its product at a price premium, adding if it were able to charge higher prices to cover its costs, it could operate at a higher capacity utilization rate.<sup>75</sup>

Six responding purchasers reported purchasing from American Keg.<sup>76</sup> As noted above, one of these purchasers (\*\*\*) indicated that some of its customers required domestic product. Of these six purchasers, three (\*\*\*) indicated that they sometimes purchase the lowest-priced product, two (\*\*\*) reported that they never purchase the lowest-priced product, and one (\*\*\*) indicated that it always makes decisions based on price. In addition, five of these six purchasers reported that price is a “very important” factor in their purchasing decisions, with one purchaser (\*\*\*) reporting that it is “sometimes important.”

## Comparisons of domestic products, subject imports, and nonsubject imports

Purchasers were asked a number of questions comparing refillable stainless steel kegs produced in the United States, subject countries, and nonsubject countries. First, purchasers were asked for a country-by-country comparison on the same 22 factors (table II-9) for which they were asked to rate the importance of purchasing decisions. A majority of responding purchasers reported that domestic product was comparable to subject imports from China,

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<sup>70</sup> Respondent Blefa’s postconference brief, pp. 2-3, and respondent Thielmann’s postconference brief, pp. 14-15.

<sup>71</sup> Conference transcript, p. 37 (Czachor).

<sup>72</sup> Respondent Blefa’s prehearing brief, p. 10.

<sup>73</sup> Respondent Thielmann’s prehearing brief, pp. 39 and 42-43.

<sup>74</sup> Blefa also prepared a price premium analysis which calculated the differential between American Keg’s U.S.-produced shipment quarterly prices to American Keg’s quarterly prices of its imported \*\*\* kegs. Blefa’s prehearing brief, pp. 50-51 and Exhibits 9 and 10.

<sup>75</sup> Hearing transcript, p. 105 (Rickard).

<sup>76</sup> These included \*\*\* breweries (\*\*\*) and \*\*\* keg leasing and rental company (\*\*\*) .

Germany, and Mexico with respect to most factors, but rated the U.S. product inferior to Chinese and Mexican product regarding price, and comparable or inferior to German and Mexican product regarding the business/historical relationship.

Ten purchasers compared refillable stainless steel kegs from the United States with those from China, and most reported that the U.S. product was superior or comparable regarding most factors. In particular, U.S. refillable stainless steel kegs were rated as superior or comparable in customer service (all 10 responding firms), certification (all 8 responding firms), and U.S. transportation costs (all 8 responding firms). U.S. refillable stainless steel kegs were rated as inferior (5 of 8 responding firms) regarding price.<sup>77</sup>

Ten purchasers compared refillable stainless steel kegs from the United States with those from Germany, and reported that U.S. refillable stainless steel kegs were comparable or superior in most factors. However, the U.S. product was rated as inferior by three of seven firms in terms of supplier financial stability and business/historical relationship<sup>78</sup> (three firms rated the U.S. producer as comparable across those same factors).

Four purchasers compared refillable stainless steel kegs from the United States to those from Mexico, and all reported that the United States was superior or comparable in U.S. transportation costs, and inferior regarding price. Most other factor comparisons were comparable or tied between the U.S. product being comparable or inferior to the Mexican product.

Most responding purchasers reported that U.S. and nonsubject refillable stainless steel kegs were comparable on all factors.

In comparing the U.S. and subject product across the factors which firms most often rated as very important (table II-9), the U.S. product was rated as comparable to subject countries in product consistency, quality meets industry standards, availability, customer service, reliability of supply, and quality exceeds industry standards. U.S. product was rated as comparable regarding the business/historical relationship compared to Chinese product, and comparable or inferior compared to Mexican and German product.

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<sup>77</sup> Two firms did not compare the U.S. and China on certification, U.S. transportation costs, and price.

<sup>78</sup> Keg Logistics noted that it has not purchased kegs from American Keg because it did not know the company, and that American Keg's relationship to Geemacher may have created a negative perception of American Keg's quality. Hearing transcript, p. 195 (Saptya).

**Table II-11**  
**Refillable stainless steel kegs: Purchasers' comparisons between U.S.-produced and imported product**

Factor	Number of firms reporting								
	United States vs. China			United States vs. Germany			United States vs. Mexico		
	S	C	I	S	C	I	S	C	I
Availability	---	6	4	---	6	4	---	2	2
Ability to meet minimum quantity	1	7	1	---	6	3	---	3	1
Branding (of keg supplier)	1	7	1	---	6	3	---	3	1
Business/historical relationship	2	5	1	1	3	4	---	2	2
Certification	4	4	---	---	6	2	---	2	1
Customer service	3	7	---	1	5	3	---	2	1
Delivery terms	2	6	1	---	5	1	---	2	1
Delivery time	3	5	1	---	6	1	---	3	1
Discounts offered	---	4	3	1	5	1	---	3	---
Packaging	---	6	1	---	4	2	---	1	1
Payment terms	1	7	1	---	7	1	---	2	2
Price <sup>1</sup>	---	3	5	---	6	2	---	1	2
Product consistency	3	6	1	1	4	3	---	2	1
Product range	---	7	3	---	5	5	---	2	2
Quality exceeds industry standards	3	5	1	---	4	3	---	2	1
Quality meets industry standards	3	5	1	---	6	2	---	3	---
Reliability of supply	---	7	3	---	5	2	---	2	1
Supplier financial stability	---	5	3	---	3	4	---	1	1
Supply chain efficiency	---	5	2	---	4	2	---	1	1
Technical support/service	2	7	1	---	5	5	---	3	1
U.S. transportation costs <sup>1</sup>	2	6	---	2	6	---	2	2	---
Warranty	3	5	1	---	6	3	---	3	1

Table continued on next page.

**Table II-11--Continued**  
**Refillable stainless steel kegs: Purchasers' comparisons between U.S.-produced and imported product**

Factor	Number of firms reporting								
	China vs. Germany			China vs. Mexico			Germany vs. Mexico		
	S	C	I	S	C	I	S	C	I
Availability	---	6	1	---	2	1	---	6	---
Ability to meet minimum quantity	---	6	---	---	3	---	---	6	---
Branding (of keg supplier)	---	1	5	---	---	3	---	6	---
Business/historical relationship	---	2	4	---	1	2	---	5	1
Certification	---	1	4	---	1	2	---	4	---
Customer service	---	3	3	---	1	2	---	6	---
Delivery terms	---	1	3	---	1	1	---	6	---
Delivery time	---	2	3	---	---	3	---	5	1
Discounts offered	2	2	1	1	1	1	---	4	---
Packaging	---	1	3	---	1	1	---	5	---
Payment terms	1	3	1	---	2	1	---	4	---
Price <sup>1</sup>	3	2	---	2	1	---	---	4	2
Product consistency	---	2	4	---	1	2	1	5	---
Product range	---	4	3	---	2	1	---	6	---
Quality exceeds industry standards	---	1	5	---	1	2	---	5	---
Quality meets industry standards	---	2	4	---	2	1	---	5	---
Reliability of supply	---	4	2	---	2	1	---	6	---
Supplier financial stability	---	1	3	---	1	1	---	4	---
Supply chain efficiency	---	2	3	---	1	1	---	4	1
Technical support/service	---	1	5	---	1	2	---	6	---
U.S. transportation costs <sup>1</sup>	---	4	---	---	2	---	1	3	1
Warranty	---	1	5	---	1	2	---	5	---

Table continued on next page.



**Table II-11--Continued**  
**Refillable stainless steel kegs: Purchasers' comparisons between U.S.-produced and imported product**

Factor	Number of firms reporting					
	United States vs. Nonsubject			China vs. Nonsubject		
	S	C	I	S	C	I
Availability	---	5	1	---	5	2
Ability to meet minimum quantity	---	4	1	---	5	1
Branding (of keg supplier)	---	5	---	---	2	4
Business/historical relationship	1	3	2	---	3	4
Certification	---	4	---	---	3	2
Customer service	1	4	1	---	3	4
Delivery terms	---	4	---	---	3	2
Delivery time	---	4	---	---	3	2
Discounts offered	---	4	---	1	3	1
Packaging	---	4	---	---	3	2
Payment terms	---	4	---	1	3	1
Price <sup>1</sup>	---	5	---	2	3	1
Product consistency	1	4	1	---	3	4
Product range	---	4	1	---	4	2
Quality exceeds industry standards	---	5	1	---	3	4
Quality meets industry standards	---	5	1	---	4	3
Reliability of supply	---	5	---	---	5	1
Supplier financial stability	---	3	1	---	3	2
Supply chain efficiency	---	3	1	---	3	2
Technical support/service	---	4	1	---	3	4
U.S. transportation costs <sup>1</sup>	1	4	---	---	4	2
Warranty	---	4	1	---	4	3

Table continued on next page.

**Table II-11--Continued**  
**Refillable stainless steel kegs: Purchasers' comparisons between U.S.-produced and imported product**

Factor	Number of firms reporting					
	Germany vs. Nonsubject			Mexico vs. Nonsubject		
	S	C	I	S	C	I
Availability	---	5	1	---	4	---
Ability to meet minimum quantity	1	4	---	---	4	---
Branding (of keg supplier)	2	3	---	---	4	---
Business/historical relationship	1	4	1	---	4	---
Certification	1	4	---	---	3	---
Customer service	2	3	1	---	4	---
Delivery terms	---	4	---	---	4	---
Delivery time	---	4	---	1	3	---
Discounts offered	---	4	---	---	2	---
Packaging	1	3	---	---	3	---
Payment terms	---	4	---	---	4	---
Price <sup>1</sup>	---	5	---	1	3	---
Product consistency	2	3	1	---	3	---
Product range	1	4	---	---	4	---
Quality exceeds industry standards	2	3	1	---	4	---
Quality meets industry standards	1	5	1	---	4	---
Reliability of supply	---	4	---	---	4	---
Supplier financial stability	---	4	---	---	3	---
Supply chain efficiency	---	4	---	---	3	---
Technical support/service	1	4	1	---	4	---
U.S. transportation costs <sup>1</sup>	---	5	---	---	4	---
Warranty	1	4	1	---	4	---

<sup>1</sup> A rating of superior means that price/U.S. transportation cost is generally lower. For example, if a firm reported "U.S. superior," it meant that the U.S. product was generally priced lower than the imported product.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first list country's product is inferior.

Source: Compiled from data submitted in response to Commission questionnaires.

### **Comparison of U.S.-produced and imported refillable stainless steel kegs**

In order to determine whether U.S.-produced refillable stainless steel kegs can generally be used in the same applications as imports from China, Germany, and Mexico, U.S. producers, importers, and purchasers were asked whether the products can always, frequently, sometimes, or never be used interchangeably. As shown in table II-12, \*\*\* a plurality of U.S. importers reported that U.S. and subject refillable stainless steel kegs are always

interchangeable.<sup>79</sup> Purchasers' responses were mixed, with most purchasers reporting that U.S. and subject kegs are always or frequently interchangeable.

**Table II-12**  
**Refillable stainless steel kegs: Interchangeability between refillable stainless steel kegs produced in the United States and in other countries, by country pair**

Country pair	U.S. producer				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
United States vs. China	***	***	***	***	9	7	6	2	4	4	4	1
United States vs. Germany	***	***	***	***	8	3	6	1	8	3	3	---
United States vs. Mexico	***	***	***	***	7	2	6	1	4	3	4	---
China vs. Germany	***	***	***	***	8	3	4	1	4	4	2	2
China vs. Mexico	***	***	***	***	8	2	4	1	2	3	2	2
Germany vs. Mexico	***	***	***	***	9	3	3	---	6	5	1	---
United States vs. Other	***	***	***	***	6	2	4	1	1	4	4	---
China vs. Other	***	***	***	***	5	3	4	---	2	3	2	1
Germany vs. Other	***	***	***	***	4	4	3	---	3	5	2	---
Mexico vs. Other	***	***	***	***	4	3	3	---	3	3	3	---

Note.--A=Always, F=Frequently, S=Sometimes, N=Never.

Source: Compiled from data submitted in response to Commission questionnaires.

In additional comments, importers \*\*\* and \*\*\* reported that kegs are always interchangeable if they are built to U.S. specifications and have the correct valve type. One purchaser (\*\*\*) reported that Chinese kegs are unreliable for quality, and purchaser \*\*\* reported that U.S. kegs and subject kegs are sometimes interchangeable due to quality.<sup>80</sup> \*\*\* stated that kegs sold in the U.S. market are interchangeable with one another, but kegs produced for foreign markets are not interchangeable with kegs made for the U.S. market. Chinese respondents stated that American Keg's \*\*\* warranty, compared to the \*\*\* offered by Blefa and Ningbo Major, demonstrates that American Keg's quality is not perceived as comparable to subject imports.<sup>81</sup>

As can be seen from table II-13, six purchasers reported that domestically produced product always or usually met minimum quality specifications while two firms reported that it rarely or never did. Seven purchasers reported that Chinese kegs sometimes or never met minimum quality specifications. Eleven purchasers reported that German refillable stainless

<sup>79</sup> American Keg stated that the existence of keg leasing and rental companies are indicative of the commodity nature and interchangeability of kegs. Hearing transcript, p. 47 (Czachor).

<sup>80</sup> \*\*\* reported products are sometimes interchangeable for every country-pair comparison except for Germany and Mexico, where it answered these products are "frequently" interchangeable.

<sup>81</sup> Chinese respondents' posthearing brief, p. 5.

steel kegs always met minimum quality specifications, and six purchasers indicated that Mexican refillable stainless steel kegs always met minimum quality specifications.

**Table II-13**  
**Refillable stainless steel kegs: Ability to meet minimum quality specifications, by source<sup>1</sup>**

Source of purchases	Always	Usually	Sometimes	Rarely or never
United States	3	3	---	2
China	3	1	2	5
Germany	11	3	---	---
Mexico	6	4	---	---
All other sources	9	2	---	---

<sup>1</sup> Purchasers were asked how often domestically produced or imported refillable stainless steel kegs meets minimum quality specifications for their own or their customers' uses.

Source: Compiled from data submitted in response to Commission questionnaires.

In addition, producers, importers, and purchasers were asked to assess how often differences other than price were significant in sales of refillable stainless steel kegs from the United States, subject, or nonsubject countries. As seen in table II-14, \*\*\*. Fourteen of 23 importers reported that non-price factors were always or frequently important when comparing U.S. and Chinese refillable stainless steel kegs, 13 of 19 importers reported non-price factors were always or frequently important when comparing U.S. and German refillable stainless steel kegs, and 10 of 15 importers reported non-price factors were always or frequently important when comparing U.S. and Mexican refillable stainless steel kegs. Most responding purchasers reported that non-price factors were always or frequently important when comparing U.S. and subject refillable stainless steel kegs.

In additional comments, importer \*\*\* noted that U.S.-produced kegs are of inferior quality compared to European kegs, and that American Keg substituted Chinese-produced kegs for domestic kegs without notice, according to \*\*\* customer reports. Importer \*\*\* noted that Germany and Mexico have similar prices as Thielmann Portinox offers imports from both sources. Importer \*\*\* reported that when comparing the U.S. and Chinese kegs, Chinese manufacturers can meet production demands, have high quality kegs, can make any type of keg, and can accommodate special orders. Similarly, \*\*\* stated that the ability to supply a full range of products is a critical factor. Purchaser \*\*\* reported that availability is always a significant factor and that its demand is approximately \*\*\* times the total annual production capacity of American Keg. \*\*\* reported that availability is always “an issue” in the United States and is sometimes with respect to Mexico, but has not been an issue with Chinese or German kegs.

**Table II-14**

**Refillable stainless steel kegs: Perceived importance of factors other than price between product produced in the United States and in other countries, by country pair**

Country pair	U.S. producer				U.S. importers				U.S. purchasers			
	A	F	S	N	A	F	S	N	A	F	S	N
United States vs. China	***	***	***	***	7	7	6	3	9	1	4	1
United States vs. Germany	***	***	***	***	6	7	4	2	7	3	2	3
United States vs. Mexico	***	***	***	***	4	6	4	1	4	2	3	3
China vs. Germany	***	***	***	***	4	5	6	2	8	1	3	1
China vs. Mexico	***	***	***	***	2	5	6	1	4	2	3	2
Germany vs. Mexico	***	***	***	***	3	4	7	1	2	3	5	3
United States vs. Other	***	***	***	***	3	6	3	1	4	1	3	2
China vs. Other	***	***	***	***	2	6	3	1	4	2	2	1
Germany vs. Other	***	***	***	***	2	5	3	1	2	3	4	2
Mexico vs. Other	***	***	***	***	2	5	3	1	1	2	5	2

Note.--A = Always, F = Frequently, S = Sometimes, N = Never.

Source: Compiled from data submitted in response to Commission questionnaires.

## ELASTICITY ESTIMATES

This section discusses elasticity estimates. No parties provided comments regarding these estimates.

### U.S. supply elasticity

The domestic supply elasticity<sup>82</sup> for refillable stainless steel kegs measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of refillable stainless steel kegs. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced refillable stainless steel kegs. Analysis of these factors above indicates that the U.S. industry has the ability to greatly increase or decrease shipments to the U.S. market up to its capacity limitations. However, while American Keg's reported capacity utilization is low, indicating the ability to substantially increase production, its total capacity is very limited. At full production, it can only supply approximately \*\*\* percent of the market, and only in 1/2 and 1/6 sizes of kegs. An estimate in the range of 5

<sup>82</sup> A supply function is not defined in the case of a non-competitive market.

to 8 is suggested up to the capacity limitations of American Keg; after the capacity limitation is reached the U.S. supply elasticity is zero.

### **U.S. demand elasticity**

The U.S. demand elasticity for refillable stainless steel kegs measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of refillable stainless steel kegs. This estimate depends on factors discussed above such as the existence, availability, and commercial viability of substitute products, as well as the component share of the refillable stainless steel kegs in the production of any downstream products. Based on the available information, the aggregate demand for refillable stainless steel kegs is likely to be relatively inelastic; a range of -0.4 to -0.8 is suggested.

### **Substitution elasticity**

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.<sup>83</sup> Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (e.g., availability, sales terms/ discounts/ promotions, etc.). Based on available information, the elasticity of substitution between U.S.-produced refillable stainless steel kegs and imported refillable stainless steel kegs is likely to be in the range of 3 to 5 for most products; the substitution elasticity of some types of refillable stainless steel kegs, such as European kegs and 1/4 kegs, would be zero. Substitutability is also somewhat limited by the inability to meet capacity requirements of some large customers.

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<sup>83</sup> The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

## PART III: U.S. PRODUCER'S PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the subsidies and dumping margins was presented in *Part I* of this report and information on the volume and pricing of imports of the subject merchandise is presented in *Part IV* and *Part V*. Information on the other factors specified is presented in this section and/or *Part VI* and (except as noted) is based on the questionnaire response of the one firm, petitioner American Keg, that accounted for all U.S. production of refillable stainless steel kegs during 2018.

### U.S. PRODUCER

The Commission issued a U.S. producer questionnaire to American Keg, the only U.S. producer identified in the petition.<sup>1</sup> American Keg provided usable data on its productive operations, as well as those of Geemacher (prior to its acquisition). Staff believes that this response represents all U.S. production of refillable stainless steel kegs.

Table III-1 lists the sole U.S. producer of refillable stainless steel kegs, its production location, and share of total production.

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<sup>1</sup> Prior to the creation of American Keg in 2016, Geemacher LLC was the sole domestic producer of refillable stainless steel kegs. Geemacher had been operating since February 2007, although it did not begin production of refillable stainless steel kegs until 2014. Petition, p. 3. In 2015, however, Geemacher, was an importer of refillable stainless steel kegs from China, specifically from Chinese producer Penglai Jinfu. (For additional details, see *Penglai Jinfu Stainless Steel Products, Co., Ltd., a Chinese entity v. Geemacher, LLC, a Pennsylvania limited liability company*, 2:16-CV-00552 (U.S. District Court for the Eastern District of Pennsylvania, August 22, 2016), in Chinese respondents' prehearing brief, Exh. 2). Shortly thereafter, in 2016, American Keg purchased the assets of Geemacher's refillable stainless steel keg manufacturing facility in Pottstown, Pennsylvania and continued production at that location.

Before Geemacher and American Keg, the only U.S. manufacturer of refillable stainless steel kegs was Spartanburg Stainless Products, Inc., located in South Carolina. In 1998, Spartanburg Stainless was reported to supply three-fourths of the U.S. market, but was expected to face increasing import competition for major breweries and microbreweries from Blefa of Germany. *Global Atlanta*, <https://www.globalatlanta.com/atlanta-firm-aids-german-keg-maker-against-u-s-rival/>, retrieved August 12, 2019.

In November 2006, Franke Beverage Containers, a Swiss company that also owns German keg manufacturer Franke Blefa, acquired Spartanburg Stainless. Spartanburg Stainless reportedly sold its keg division to focus on other core stainless steel products and the automotive segment, while Franke relocated Spartanburg's keg manufacturing equipment to Louisiana for projected operations to start in 2007. Petition, pp. 4-5 and hearing transcript, p. 131 (Brand). See also *ProBrewer*, <https://www.probrewer.com/spartanburg-sells-keg-division/>, retrieved August 1, 2019. However, in 2009, Franke decided the venture was \*\*\*. Staff telephone interview with \*\*\* October 10, 2018.

**Table III-1**

**Refillable stainless steel kegs: U.S. producer American Keg’s position on the petition, location of production, and share of reported production, 2018**

<b>Firm</b>	<b>Position on petition</b>	<b>Production location</b>	<b>Share of production (percent)</b>
American Keg	Petitioner	Pottstown, PA	100.0
Total			100.0

Source: Compiled from data submitted in response to Commission questionnaires.

The U.S. producer, American Keg, is not related to foreign producers or U.S. importers of refillable stainless steel kegs. However, as discussed in greater detail below, American Keg directly imported refillable stainless steel kegs from China.<sup>2</sup> American Keg reported \*\*\* purchases from U.S. importers.

Table III-2 presents the U.S. producer’s reported changes in operations since January 1, 2016.

**Table III-2**

**Refillable stainless steel kegs: U.S. producer American Keg’s reported changes in operations, since January 1, 2016**

<b>Item / firm</b>	<b>Reported changes in operations</b>
<b>Expansions:</b>	
***	***
<b>Acquisitions:</b>	
***	***
<b>Prolonged shutdowns or curtailments:</b>	
***	***
<b>Other:</b>	
***	***

Source: Compiled from data submitted in response to Commission questionnaires.

### **U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION**

Table III-3 and figure III-1 present American Keg’s production, capacity, and capacity utilization. American Keg increased capacity at the Pottstown facility by \*\*\* percent during 2016-18, as a result of \*\*\*.<sup>3</sup> Production increased by \*\*\* percent from 2016 to 2017, from (\*\*\*)<sup>4</sup> units, but then decreased by \*\*\* percent in 2018 from (\*\*\*) units.<sup>5</sup> Production was

<sup>2</sup> American Keg and its predecessor, Geemacher, both imported refillable stainless steel kegs from \*\*\*. However, \*\*\*. American Keg’s U.S. importer questionnaire response, II-4, p. 10.

<sup>3</sup> American Keg also reported operating \*\*\* hours per week for \*\*\* weeks per year, assuming \*\*\* for its capacity calculation. U.S. producer questionnaire response to parts II-2, II-3-b, and II-3c.

<sup>4</sup> According to American Keg, actual production in 2016 is \*\*\* than previously reported in the preliminary phase because of a correction made to account for U.S.-produced kegs that were

*(continued...)*



higher in January to March 2019 by \*\*\* percent compared to January to March 2018.<sup>6 7</sup> During 2016-17, capacity utilization increased by \*\*\* percentage points, from \*\*\* to \*\*\* percent, but fell to \*\*\* percent in 2018. Capacity utilization in January to March 2019 reached its highest point at \*\*\* percent, \*\*\* percentage points higher than in the same period in 2018.

**Table III-3**

**Refillable stainless steel kegs: U.S. producer American Keg’s capacity, production, and capacity utilization, 2016-18, January to March 2018, and January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
Capacity	***	***	***	***	***
Production	***	***	***	***	***
	<b>Ratio (percent)</b>				
Capacity utilization	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

**Figure III-1**

**Refillable stainless steel kegs: U.S. producer American Keg’s capacity, production, and capacity utilization, 2016-18, January to March 2018, and January to March 2019**

\* \* \* \* \*

### Alternative products

American Keg reported no production of other products on the same machinery.

(...continued)

substituted for \*\*\*. Also, overall production for 2016 and 2017 has been revised upward based on verification results. American Keg counsel’s email message to USITC staff, July 22, 2019.

<sup>5</sup> In its U.S. producer questionnaire response to II-3d, American Keg reported that the company is \*\*\*.

<sup>6</sup> American Keg owner Scott Bentley stated during the hearing that if import remedies were to be put in place, he plans to build a second factory and would likely invest “tens of millions of dollars,” to increase output, hearing transcript, pp. 66-67 (Bentley).

<sup>7</sup> American Keg currently does not produce 1/4 barrel kegs, but noted that they would need to “add some minor tooling” to produce the keg, and will examine return on investment regarding this size. Hearing transcript, p. 71 (Luzzi) and p. 72 (Czachor).

## U.S. PRODUCER'S U.S. SHIPMENTS AND EXPORTS

Table III-4 presents U.S. producer American Keg's U.S. shipments, export shipments, and total shipments. During 2016-17, U.S. shipments increased by \*\*\* percent and then by another \*\*\* percent between 2017 and 2018. However, U.S. shipments were lower in interim 2019 compared to interim 2018. The value of U.S. shipments increased by \*\*\* percent during 2016-18, while unit values decreased between 2016 and 2017, from \$\*\*\* to \$\*\*\* per unit, but then increased to \$\*\*\* per unit in 2018.<sup>8</sup> The value and unit value of U.S. shipments were both higher in January to March 2019 than in January to March 2018, by \*\*\* percent and \$\*\*\* per unit, respectively. These trends stand in contrast to American Keg's production and capacity trends.

**Table III-4**

**Refillable stainless steel kegs: U.S. producer American Keg's U.S. shipments, export shipments, and total shipments, 2016-18, January to March 2018, and January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
U.S. shipments	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
	<b>Value (1,000 dollars)</b>				
U.S. shipments	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
	<b>Unit value (dollars per unit)</b>				
U.S. shipments	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments	***	***	***	***	***
	<b>Share of quantity (percent)</b>				
U.S. shipments	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments	100.0	100.0	100.0	100.0	100.0
	<b>Share of value (percent)</b>				
U.S. shipments	***	***	***	***	***
Export shipments	***	***	***	***	***
Total shipments	100.0	100.0	100.0	100.0	100.0

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.

<sup>8</sup> \*\*\*.

## U.S. PRODUCER'S INVENTORIES

Table III-5 presents U.S. producer American Keg's end-of-period inventories and the ratio of these inventories to its production, U.S. shipments, and total shipments. American Keg's end-of-year inventories increased by \*\*\* percent during 2016-17 from \*\*\* units,<sup>9</sup> and then decreased by \*\*\* percent in 2018 from \*\*\* units. End-of-year inventories were \*\*\* percent higher in January to March 2019, than in the same period in 2018. Inventories were equivalent to \*\*\* and \*\*\* percent of U.S. producer's total shipments in 2016 and 2017, respectively, but decreased to \*\*\* percent of total shipments in 2018. The ratio of inventories to American Keg's total shipments was higher in January to March 2019 at \*\*\* percent compared to \*\*\* percent of total shipments in January to March 2018.

**Table III-5**  
**Refillable stainless steel kegs: U.S. producer American Keg's inventories, 2016-18, January to March 2018, and January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
U.S. producer's end-of-period inventories	***	***	***	***	***
	<b>Ratio (percent)</b>				
Ratio of inventories to.-- U.S. production	***	***	***	***	***
U.S. shipments	***	***	***	***	***
Total shipments	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

## U.S. PRODUCER'S IMPORTS AND PURCHASES

American Keg's imports and purchases of refillable stainless steel kegs are presented in table III-6. American Keg reported importing subject refillable stainless steel kegs from China from 2016 through 2018. According to American Keg's U.S. importer's questionnaire response, the firm \*\*\*.<sup>10</sup> In 2018, the firm reported importing \*\*\* refillable stainless steel keg units from China, which represents a \*\*\* percent decrease in imports from 2016, when the company imported \*\*\* units. The company reported that it has ceased imports during the first quarter of 2019. The ratio of American Keg's U.S. imports to its U.S. production was \*\*\* percent in 2016, \*\*\* percent in 2017, \*\*\* percent in the first quarter of 2018, \*\*\* percent for the full year, and \*\*\* in the first quarter of 2019.

<sup>9</sup> \*\*\*. American Keg counsel's email message to USITC staff, July 12, 2019.

<sup>10</sup> American Keg's U.S. importer's questionnaire response, II-5a.

**Table III-6**  
**Refillable stainless steel kegs: U.S. producer American Keg's imports, 2016-18, January to March 2018, and January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
American Keg Company's U.S. production	***	***	***	***	***
American Keg Company's U.S. imports from China	***	***	***	***	***
	<b>Ratio (percent)</b>				
American Keg Company's ratio of imports from China to U.S. production	***	***	***	***	***
	<b>Narrative</b>				
American Keg Company's reason for importing	***.				

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.

### **U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY**

Table III-7 shows U.S. producer American Keg's employment-related data. The number of production and related workers increased during 2016-17, from \*\*\* to \*\*\* employees, but then decreased to \*\*\* employees in 2018. The number of production and related workers was lower in January to March 2019 compared to January to March 2018, although hours worked were higher. Hourly wages increased year-on-year during 2016-18, but were lower in interim 2019 than in interim 2018.

Productivity measured in units per hour remained below \*\*\* keg per hour during all periods, and increased in 2017 but then decreased in 2018. This trend also corresponds to the increased shipments of \*\*\*.<sup>11</sup>

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<sup>11</sup> American Keg attributed the company's 2018 layoffs to the U.S. Administration's imposition of 25-percent ad valorem national-security duties on imports of steel under Section 232 of the Trade Expansion Act of 1962.

*Natural Resource Report webpage*, <http://naturalresourcereport.com/2018/03/trump-tariff-backlash-keg-company-lays-off-third-workforce/>, retrieved October 28, 2018 and *NPR's webpage*, <https://www.npr.org/2018/03/24/596744980/trumps-tariffs-lead-to-layoffs-at-steel-beer-keg-company>, retrieved October 28, 2018.

**Table III-7****Refillable stainless steel kegs: U.S. producer American Keg's employment related data, 2016-18, January to March 2018, and January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
Production and related workers (PRWs) (number)	***	***	***	***	***
Total hours worked (1,000 hours)	***	***	***	***	***
Hours worked per PRW (hours)	***	***	***	***	***
Wages paid (\$1,000)	***	***	***	***	***
Hourly wages (dollars per hour)	***	***	***	***	***
Productivity (units per hour)	***	***	***	***	***
Unit labor costs (dollars per unit)	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.



## PART IV: U.S. IMPORTS, APPARENT U.S. CONSUMPTION, AND MARKET SHARES

### U.S. IMPORTERS

The Commission issued importer questionnaires to 160 potential importers of subject refillable stainless steel kegs, including U.S. producer American Keg.<sup>1</sup> Usable questionnaire responses were received from 30 companies.<sup>2</sup> These firms' imports of refillable stainless steel kegs represent approximately \*\*\* percent of reported exports from China,<sup>3</sup> approximately \*\*\* percent of reported exports from Germany,<sup>4</sup> approximately \*\*\* percent of reported exports from Mexico,<sup>5</sup> and the majority of imports from nonsubject countries in 2018 under HTS statistical reporting numbers 7310.10.0010, 7310.10.0050, 7310.29.0025, and 7310.29.0050, broad classifications that include multiple products.

Table IV-1 lists all responding U.S. importers of refillable stainless steel kegs from China, Germany, and Mexico and other sources, their locations, and their shares of U.S. imports, in 2018.<sup>6</sup>

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<sup>1</sup> The Commission issued questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by U.S. Customs and Border Protection ("Customs"), may have accounted for more than one percent of total imports under HTS statistical reporting numbers 7310.10.0010, 7310.10.0050, 7310.29.0025, and 7310.29.0050 in 2018.

<sup>2</sup> \*\*\*.

<sup>3</sup> The Commission received questionnaires from the largest importers of refillable stainless steel kegs from China (\*\*\*).

<sup>4</sup> The Commission received questionnaire responses from the two largest producers of refillable stainless steel kegs in Germany, \*\*\*.

<sup>5</sup> The Commission received questionnaire responses from the largest producer of refillable stainless steel kegs in Mexico, \*\*\*, along with responses from its U.S. affiliate importer and other U.S. firms which identified as importers by the Mexican producer.

<sup>6</sup> The following firms certified that they have not imported refillable stainless steel kegs during the final phase of these investigations: \*\*\*. \*\*\* provided an incomplete and unusable importer questionnaire response, while \*\*\*, an importer of refillable stainless steel kegs from China, did not provide a U.S. importer questionnaire response.

The staff report does not include imports from \*\*\*.

**Table IV-1**  
**Refillable stainless steel kegs: U.S. importers, their headquarters, and share of total imports by source, 2018**

Firm	Headquarters	Share of imports by source (percent)					
		China	Germany	Mexico	Subject sources	Non-subject sources	All import sources
ABS	Raleigh, NC	***	***	***	***	***	***
All Safe	Wyoming, MN	***	***	***	***	***	***
Ambrach	Portland, OR	***	***	***	***	***	***
American Keg	Pottstown, PA	***	***	***	***	***	***
Bell's	Galesburg, MI	***	***	***	***	***	***
Beverage Factory	San Diego, CA	***	***	***	***	***	***
Blefa	Kreuztal, Germany	***	***	***	***	***	***
Block 15	Corvallis, OR	***	***	***	***	***	***
Boneyard	Bend, OR	***	***	***	***	***	***
Cross-Eyed	Decatur, AL	***	***	***	***	***	***
G4 Kegs	Tualatin, OR	***	***	***	***	***	***
Global Keg	Orlando, FL	***	***	***	***	***	***
Jordan Lake	Cary, NC	***	***	***	***	***	***
Keg Solutions	Baton Rouge, LA	***	***	***	***	***	***
Minnetonka	Minnetonka, MN	***	***	***	***	***	***
NDL <sup>1</sup>	Ferndale, MI	***	***	***	***	***	***
Ningbo Master	Ningbo City, China	***	***	***	***	***	***
Occidental	Portland, OR	***	***	***	***	***	***
Odell	Fort Collins, CO	***	***	***	***	***	***
Penglai Jinfu	Penglai, China	***	***	***	***	***	***
Schaefer	Atlanta, GA	***	***	***	***	***	***
Sick N Twisted	Hill City, SD	***	***	***	***	***	***
Standard Kegs	Medley, FL	***	***	***	***	***	***
Stout Tanks	Portland, OR	***	***	***	***	***	***
Switchback	Burlington, VT	***	***	***	***	***	***
The Lagunitas	Petaluma, CA	***	***	***	***	***	***
Thielmann Mexico	San Luis Potosi, Mexico	***	***	***	***	***	***
Thielmann Portinox	Granada, Spain	***	***	***	***	***	***
Thielmann U.S.	Houston, TX	***	***	***	***	***	***
Upslope	Boulder, CO	***	***	***	***	***	***
Total		***	***	***	***	***	***

<sup>1</sup> Staff adjusted the trade data but was unable to fully reconcile \*\*\* U.S. importer questionnaire since the company did not provide further revisions, stating the information was correct as submitted.

Source: Compiled from data submitted in response to Commission questionnaires.



## U.S. IMPORTS

Table IV-2 presents data for U.S. imports of refillable stainless steel kegs from China, Germany, Mexico and all other sources. The quantity of U.S. imports of refillable stainless steel kegs from China increased during 2016-17 and then decreased in 2018. Imports from Germany, in contrast, have fallen year-on-year since 2016, while imports from Mexico have been steadily increasing during 2016-18. Imports of refillable stainless steel kegs from the three subject countries, as a share of quantity of total imports, ranged from \*\*\* to \*\*\* percent during 2016-18 and were \*\*\* percent in January to March 2019. The aggregate average unit values of imports of refillable stainless steel kegs from the three subject countries decreased from \$70 to \$68 during 2016-17 and increased from \$68 to \$71 from 2017 to 2018, and were higher in January to March 2019 at \$64, compared to \$63 in January to March 2018. The ratio of subject imports to U.S. production decreased during 2016-18 from \*\*\* to \*\*\* percent, and was lower in January to March 2019 than in January to March in 2018.

The share in quantity of U.S. imports of refillable stainless steel kegs was \*\*\* percent for China, \*\*\* percent for Germany, and \*\*\* percent for Mexico in 2018, while average unit values were \$\*\*\* for China, \$\*\*\* for Germany, and \$\*\*\* for Mexico, in 2018. As discussed below, a greater share of imports from China are 1/6 barrel rather than larger sizes more common among imports from Germany and Mexico.

**Table IV-2**  
**Refillable stainless steel kegs: U.S. imports, by source, 2016-18, January to March 2018, and January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
U.S. imports from.--					
China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	1,256,409	1,286,410	1,311,339	260,429	264,527
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
	<b>Value (1,000 dollars)</b>				
U.S. imports from.--					
China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	87,608	86,852	93,740	16,454	16,897
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***

Table continued on the next page.

**Table IV-2 -- Continued**  
**Refillable stainless steel kegs: U.S. imports, by source, 2016-18, January to March 2018, and January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Unit value (dollars per unit)</b>				
U.S. imports from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	70	68	71	63	64
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
	<b>Share of quantity (percent)</b>				
U.S. imports from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	100.0	100.0	100.0	100.0	100.0
	<b>Share of value (percent)</b>				
U.S. imports from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	100.0	100.0	100.0	100.0	100.0
	<b>Ratio to U.S. production</b>				
U.S. imports from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***

1 \*\*\*.

Source: Compiled from data submitted in response to Commission questionnaires.

**Figure IV-1**  
**Refillable stainless steel kegs: U.S. import quantity and average unit value, 2016-18, January to March 2018, and January to March 2019**

\* \* \* \* \*

## NEGLIGENCE

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.<sup>7</sup> Negligible imports are generally defined in the Act, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.<sup>8</sup> As presented in table IV-3, based on questionnaire responses to the Commission, U.S. imports of refillable stainless steel kegs from China, Germany, and Mexico accounted for \*\*\* percent \*\*\*, \*\*\* percent \*\*\*, and \*\*\* percent \*\*\*, respectively, of total imports of refillable stainless steel kegs during September 2017 through August 2018.

**Table IV-3**  
**Refillable stainless steel kegs: U.S. imports in the twelve-month period preceding the filing of the petition, September 2017 through August 2018**

Item	September 2017 through August 2018	
	Quantity (units)	Share quantity (percent)
U.S. imports from.--		
China	***	***
Germany	***	***
Mexico	***	***
Subject sources	1,344,179	***
Nonsubject sources	***	***
All import sources	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

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<sup>7</sup> Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

<sup>8</sup> Section 771 (24) of the Act (19 U.S.C § 1677(24)).

## CRITICAL CIRCUMSTANCES

On June 4, 2019, in its countervailing duty investigation, Commerce issued its preliminary determination based on adverse facts available that “critical circumstances” exist with regard to imports from China of refillable stainless steel kegs from 19 companies<sup>9</sup> that chose not to participate in Commerce’s countervailing duty investigation. Also on June 4, 2019, in its antidumping duty investigation, Commerce issued its preliminary determination that “critical circumstances” exist with regard to imports from China of refillable stainless steel kegs from the China-wide entity, but do not exist for Ningbo Master International Trade Co., Ltd., or for the separate rate applicants, Ningbo Haishu Direct Import And Export Trade Co., Ltd., Guangzhou Jingye Machinery Co., Ltd., and Guangzhou Ulix Industrial & Trading Co., Ltd.<sup>10</sup>

On May 2, 2019, Commerce issued its preliminary determination that “critical circumstances” exist with regard to imports from Mexico of refillable stainless steel kegs from Thielmann. Commerce noted that because the mandatory respondent Thielmann Mexico did not participate in the Commerce investigation, it made this preliminary determination of critical circumstances on the basis of the facts otherwise available.<sup>11</sup> On August 19, 2019, Commerce issued its final affirmative determination notice that critical circumstances exist for imports of

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<sup>9</sup> *Refillable Stainless Steel Kegs From the People's Republic of China: Preliminary Affirmative Determination, in Part, of Critical Circumstances in the Countervailing Duty Investigation*, 84 FR 25748, June 4, 2019. Specifically, one mandatory respondent, Penglai Jinfu Stainless Steel Products Co., Ltd., failed to respond to Commerce's questionnaire, and the following 18 companies failed to respond to Commerce's Quantity and Value Questionnaire: Equipmentines (Dalian) E-Commerce Co., Ltd.; Jinan HaoLu Machinery Equipment Co., Ltd.; NDL Keg Qingdao Inc.; Ningbo Direct Import & Export Co., Ltd.; Ningbo Hefeng Container Manufacture Co., Ltd.; Ningbo Hefeng Kitchen Utensils Manufacture Co., Ltd.; Ningbo HGM Food Machinery Co., Ltd.; Ningbo Jiangbei Bei Fu Industry and Trade Co., Ltd.; Ningbo Sanfino Import & Export Co., Ltd.; Ningbo Shimaotong International Co., Ltd.; Ningbo Sunburst International Trading Co., Ltd.; Orient Equipment (Taizhou) Co., Ltd.; Qingdao Henka Precision Technology Co., Ltd.; Shandong Tiantai Beer Equipment; Sino Dragon Trading International; Wenzhou Deli Machinery Equipment Co.; Wuxi Taihu Lamps and Lanterns Co., Ltd.; and Yantai Trano New Material Co., Ltd.

<sup>10</sup> *Refillable Stainless Steel Kegs From the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures*, 84 FR 25745, June 4, 2019.

<sup>11</sup> *Antidumping Duty Investigation on Refillable Stainless Steel Kegs From Mexico: Preliminary Affirmative Determination of Critical Circumstances*, 84 FR 18796, May 2, 2019, referenced in app. A. When petitioners file timely allegations of critical circumstances, Commerce examines whether there is a reasonable basis to believe or suspect that (1) either there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at LTFV and that there was likely to be material injury by reason of such sales; and (2) there have been massive imports of the subject merchandise over a relatively short period.

refillable stainless steel kegs from Mexico exported by Thielmann and imports of refillable stainless steel kegs from Mexico produced and/or exported by all other companies.<sup>12</sup>

In these investigations, if both Commerce and the Commission make affirmative final critical circumstances determinations, certain subject imports may be subject to antidumping duties retroactive by 90 days from June 4, 2019, the effective date of Commerce’s preliminary affirmative LTFV determinations for China and Mexico; and from April 5, 2019, the effective date of Commerce’s preliminary affirmative countervailing duty determination for China. Tables IV-4 and IV-5 present data on U.S. imports from China and Mexico subject to Commerce’s affirmative critical circumstances determinations.

**Table IV-4**  
**Refillable stainless steel kegs: U.S. imports from China subject to Commerce’s preliminary AD and CVD critical circumstance determinations, April 2018 through March 2019**

Period	Actual monthly quantity (units)	Outwardly cumulative subtotals (units)	Percentage change from comparable period (percent) <sup>1</sup>
2018.--			
April	***	***	
May	***	***	
June	***	***	
July	***	***	
August	***	***	
September	***	***	
Petition file date: September 20, 2018.			
October	***	***	***
November	***	***	***
December	***	***	***
2019.--			
January	***	***	***
February	***	***	***
March	***	***	***

<sup>1</sup> The percentage increase or (decrease) over the comparable pre-petition period.

Note.--Imports from China subject to Commerce's preliminary AD and CVD critical circumstance findings relate to imports from firms other than Ningbo Master, Ningbo Haishu, Guangzhou Jingye, or Guangzhou Ulix.

Source: Compiled from data submitted in response to Commission questionnaires.

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<sup>12</sup> *Refillable Stainless Steel Kegs From Mexico: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 84 FR 42894, August 19, 2019.

**Figure IV-2**

**Refillable stainless steel kegs: U.S. imports from China subject to Commerce's preliminary AD and CVD critical circumstance findings, April 2018 through March 2019**

\* \* \* \* \*

**Table IV-5**

**Refillable stainless steel kegs: U.S. imports from Mexico subject to Commerce's final AD critical circumstance determination, April 2018 through March 2019**

Period	Actual monthly quantity (units)	Outwardly cumulative subtotals (units)	Percentage change from comparable period (percent) <sup>1</sup>
2018.-- April	***	***	
May	***	***	
June	***	***	
July	***	***	
August	***	***	
September	***	***	
Petition file date: September 20, 2018.			
October	***	***	***
November	***	***	***
December	***	***	***
2019.-- January	***	***	***
February	***	***	***
March	***	***	***

<sup>1</sup> The percentage increase or (decrease) over the comparable pre-petition period.

Note.--Imports from Mexico subject to Commerce's final AD critical circumstance findings relate to imports from Thielmann.

Source: Compiled from data submitted in response to Commission questionnaires.

**Figure IV-3**

**Refillable stainless steel kegs: U.S. imports from Mexico subject to Commerce's final AD critical circumstance finding, April 2018 through March 2019**

\* \* \* \* \*

## CUMULATION CONSIDERATIONS

In assessing whether imports should be cumulated, the Commission determines whether U.S. imports from the subject countries compete with each other and with the domestic like product and has generally considered four factors: (1) fungibility, (2) presence of sales or offers to sell in the same geographical markets, (3) common or similar channels of distribution, and (4) simultaneous presence in the market. Information regarding channels of distribution, market areas, and interchangeability appear in Part II. Additional information concerning fungibility, geographical markets, and simultaneous presence in the market is presented below.

### Fungibility

As shown in table IV-6 and figure IV-4, the substantial majority of U.S. shipments by U.S. importers from each of the subject countries, and all of American Keg's U.S. shipments, were in the 1/6 and 1/2 barrel size.

**Table IV-6**  
**Refillable stainless steel kegs: U.S. producers' and U.S. importers' U.S. shipments by item, 2018**

Item	U.S. producer	U.S. importers						U.S. producer and U.S. importers
		China	Germany	Mexico	Subj. sources	Non-subj. sources	All import sources	
<b>Quantity (units)</b>								
U.S. shipments.-- 10 liter	***	***	***	***	***	***	***	***
1/8 barrel or 14.7 liter	***	***	***	***	***	***	***	***
1/6 barrel or 19.5 liter	***	***	***	***	***	***	***	***
1/4 barrel or 29.3 liter	***	***	***	***	***	***	***	***
1/2 barrel (Eur) or 25 liter	***	***	***	***	***	***	***	***
1/2 barrel or 58.7 liter	***	***	***	***	***	***	***	***
European barrel or 50 liter	***	***	***	***	***	***	***	***
All others sizes	***	***	***	***	***	***	***	***
All items	***	***	***	***	***	***	***	***

Table continued on the next page.

**Table IV-6 -- Continued**  
**Refillable stainless steel kegs: U.S. producers' and U.S. importers' U.S. shipments by item, 2018**

Item	U.S. producer	U.S. importers						U.S. producer and U.S. importers
		China	Germany	Mexico	Subj. sources	Non-subj. sources	All import sources	
<b>Share across (percent)</b>								
U.S. shipments.-- 10 liter	***	***	***	***	***	***	***	***
1/8 barrel or 14.7 liter	***	***	***	***	***	***	***	***
1/6 barrel or 19.5 liter	***	***	***	***	***	***	***	***
1/4 barrel or 29.3 liter	***	***	***	***	***	***	***	***
1/2 barrel (Eur) or 25 liter	***	***	***	***	***	***	***	***
1/2 barrel or 58.7 liter	***	***	***	***	***	***	***	***
European barrel or 50 liter	***	***	***	***	***	***	***	***
All others sizes	***	***	***	***	***	***	***	***
All items	***	***	***	***	***	***	***	***
<b>Share down (percent)</b>								
U.S. shipments.-- 10 liter	***	***	***	***	***	***	***	***
1/8 barrel or 14.7 liter	***	***	***	***	***	***	***	***
1/6 barrel or 19.5 liter	***	***	***	***	***	***	***	***
1/4 barrel or 29.3 liter	***	***	***	***	***	***	***	***
1/2 barrel (Eur) or 25 liter	***	***	***	***	***	***	***	***
1/2 barrel or 58.7 liter	***	***	***	***	***	***	***	***
European barrel or 50 liter	***	***	***	***	***	***	***	***
All others sizes	***	***	***	***	***	***	***	***
All items	***	***	***	***	***	***	***	***

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.

**Figure IV-4**  
**Refillable stainless steel kegs: U.S. producers' and U.S. importers' U.S. shipments by Item, 2018**

\* \* \* \* \*



## Geographical markets

Table IV-7 presents the 2018 value of U.S. imports of iron and steel containers,<sup>13</sup> by region (based on port of entry). U.S. imports from Germany and, particularly, Mexico were concentrated in the Southern region. In contrast, the Southern region represented the smallest regional share of U.S. imports from China, which were relatively evenly dispersed, in greater shares, throughout the Eastern, Northern, and Western regions. While U.S. imports from Germany also entered, albeit in smaller shares, through the Eastern, Northern, and Western regions, less than three percent of U.S. imports from Mexico entered through these regions.<sup>14</sup>

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<sup>13</sup> The official import statistics include containers other than refillable stainless steel kegs. Data for these products may be overstated and are not available in quantity and units; therefore, the data are reported in dollar values.

<sup>14</sup> The “West” includes the following Customs entry districts: Columbia-Snake, Oregon; Honolulu, Hawaii; Los Angeles, California; Nogales, Arizona; San Diego, California; San Francisco, California; and Seattle, Washington.

The “North” includes the following Customs entry districts: Chicago, Illinois; Cleveland, Ohio; Detroit, Michigan; Duluth, Minnesota; Great Falls, Montana; Milwaukee, Wisconsin; Minneapolis, Minnesota; and Pembina, North Dakota.

The “South” includes the following Customs entry districts: Dallas-Fort Worth, Texas; El Paso, Texas; Houston-Galveston, Texas; Laredo, Texas; Miami, Florida; Mobile, Alabama; New Orleans, Louisiana; and Tampa, Florida.

The “East” includes the following Customs entry districts: Baltimore, Maryland; Boston, Massachusetts; Buffalo, New York; Charleston, South Carolina; Charlotte, North Carolina; New York, New York; Norfolk, Virginia; Ogdensburg, New York; Philadelphia, Pennsylvania; Portland, Maine; San Juan, Puerto Rico; Savannah, Georgia; St. Albans, Vermont; and Washington, District of Columbia.

**Table IV-7**  
**Iron and steel containers: U.S. imports by border of entry, 2018**

Item	Border of entry				
	East	North	South	West	All borders
	<b>Value (1,000 dollars)</b>				
U.S. imports from.--					
China	39,640	47,426	21,618	51,626	160,310
Germany	25,055	11,641	175,439	7,591	219,726
Mexico	27	31	55,166	1,268	56,491
Subject sources	64,722	59,098	252,223	60,485	436,528
Nonsubject sources	27,989	23,143	14,916	28,070	94,118
All import sources	92,711	82,241	267,139	88,554	530,646
	<b>Share across (percent)</b>				
U.S. imports from.--					
China	24.7	29.6	13.5	32.2	100.0
Germany	11.4	5.3	79.8	3.5	100.0
Mexico	0.0	0.1	97.7	2.2	100.0
Subject sources	14.8	13.5	57.8	13.9	100.0
Nonsubject sources	29.7	24.6	15.8	29.8	100.0
All import sources	17.5	15.5	50.3	16.7	100.0
	<b>Share down (percent)</b>				
U.S. imports from.--					
China	42.8	57.7	8.1	58.3	30.2
Germany	27.0	14.2	65.7	8.6	41.4
Mexico	0.0	0.0	20.7	1.4	10.6
Subject sources	69.8	71.9	94.4	68.3	82.3
Nonsubject sources	30.2	28.1	5.6	31.7	17.7
All import sources	100.0	100.0	100.0	100.0	100.0

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Nonsubject sources exclude imports from Canada, Jordan, Netherlands, Portugal, and Turkey as these countries are not believed to be suppliers of refillable stainless steel kegs. Petition, pp. 31-32.

Source: Official U.S. import statistics using HTS statistical reporting numbers 7310.10.0010, 7310.10.0050, 7310.29.0025 and 7310.29.0050, accessed July 16, 2019.

### Presence in the market

Table IV-8 presents monthly U.S. imports during September 2017 through March 2019. These data show that imports of refillable stainless steel kegs from China, Germany, and Mexico were present in the U.S. market in every month during September 2017 through March 2019. Imports of refillable stainless steel kegs from China were at their highest level in September 2017, while imports from Mexico peaked in July 2018 and imports from Germany in June 2018.

**Table IV-8**  
**Refillable stainless steel kegs: U.S. imports by month, September 2017 through March 2019**

Item	U.S. imports					
	China	Germany	Mexico	Subject sources	Nonsubject sources	All import sources
	<b>Quantity (units)</b>					
2017: September	***	***	***	161,308	***	***
2017: October	***	***	***	91,824	***	***
2017: November	***	***	***	77,937	***	***
2017: December	***	***	***	61,386	***	***
2018: January	***	***	***	112,980	***	***
2018: February	***	***	***	64,428	***	***
2018: March	***	***	***	83,021	***	***
2018: April	***	***	***	125,971	***	***
2018: May	***	***	***	128,021	***	***
2018: June	***	***	***	137,415	***	***
2018: July	***	***	***	158,842	***	***
2018: August	***	***	***	141,046	***	***
2018: September	***	***	***	116,805	***	***
2018: October	***	***	***	65,083	***	***
2018: November	***	***	***	122,863	***	***
2018: December	***	***	***	54,864	***	***
2019: January	***	***	***	89,085	***	***
2019: February	***	***	***	73,905	***	***
2019: March	***	***	***	101,537	***	***

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.

**Figure IV-5**  
**Refillable stainless steel kegs: Monthly U.S. imports from individual subject sources, September 2017 through March 2019**

\* \* \* \* \*

**Figure IV-6**  
**Refillable stainless steel kegs: Monthly U.S. imports from aggregated subject and nonsubject sources, September 2017 through March 2019**

\* \* \* \* \*

**APPARENT U.S. CONSUMPTION**

Table IV-9 and figure-IV-7 present data on apparent U.S. consumption and U.S. market shares for refillable stainless steel kegs.

**Table IV-9**  
**Refillable stainless steel kegs: Apparent U.S. consumption, 2016-18, January to March 2018, to January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.--					
China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	1,162,268	1,255,804	1,225,733	275,838	166,531
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
	<b>Value (1,000 dollars)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.--					
China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	91,104	91,031	97,810	19,476	13,010
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

**Figure IV-7**  
**Refillable stainless steel kegs: Apparent U.S. consumption, 2016-18, January to March 2018, to January to March 2019**

\* \* \* \* \*

### U.S. MARKET SHARES

U.S. market share data are presented in table IV-10. Tables IV-11 through IV-17 present data on refillable stainless steel keg shipments to large, medium, and small beer manufacturers and breweries, leasing and rental companies, distributors, and all other firm types.

**Table IV-10**  
**Refillable stainless steel kegs: Market shares, 2016-18, January to March 2018, and January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
Apparent U.S. consumption	***	***	***	***	***
	<b>Share of quantity (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-					
- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
	<b>Value (1,000 dollars)</b>				
Apparent U.S. consumption	***	***	***	***	***
	<b>Share of value (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-					
- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

Table IV-11

Refillable stainless steel kegs: U.S. shipments to large beer manufacturers and breweries, 2016-18, January to March 2018, and January to March 2019

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
	<b>Share of quantity (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
	<b>Ratio of overall consumption (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.

**Table IV-12**

**Refillable stainless steel kegs: U.S. shipments to medium beer manufacturers and breweries, 2016-18, January to March 2018, and January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
	<b>Share of quantity (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
	<b>Ratio of overall consumption (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.

**Table IV-13**

**Refillable stainless steel kegs: U.S. shipments to small beer manufacturers and breweries, 2016-18, January to March 2018, and January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	580,532	430,938	423,468	105,123	89,676
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption <sup>1</sup>	***	***	***	***	***
	<b>Share of quantity (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
	<b>Ratio of overall consumption (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***

<sup>1</sup> Blefa attributed the decline in shipments during 2016 through March of 2019 to small brewers that are moving away from purchases toward the leasing or renting models to procure their kegs. (See also table IV-15). Blefa's posthearing brief, pp.8-9. Blefa also added that although shipments to small brewers are not a small share of the market, they are a "declining share of the market," hearing transcript, p. 178 (Dogan).

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.



**Table IV-14**

**Refillable stainless steel kegs: U.S. shipments to beer manufacturers and breweries (all sizes), 2016-18, January to March 2018, and January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
	<b>Share of quantity (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
	<b>Ratio of overall consumption (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.

**Table IV-15**

**Refillable stainless steel kegs: U.S shipments to leasing and rental companies, 2016-18, January to March 2018, and January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption <sup>1</sup>	***	***	***	***	***
	<b>Share of quantity (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
	<b>Ratio of overall consumption (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***

<sup>1</sup> In a response to Commissioner Kearns' question regarding market share, Blefa stated that demand for kegs in the small brewery market shrank and was replaced by increased demand in the keg leasing and rental market. Blefa's posthearing brief p.13, and Blefa's prehearing brief at exhibit 5.

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.

**Table IV-16**  
**Refillable stainless steel kegs: U.S. shipments to distributors, 2016-18, January to March 2018,**  
**and January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
	<b>Share of quantity (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
	<b>Ratio of overall consumption (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.

**Table IV-17**

**Refillable stainless steel kegs: U.S. shipments to all other firm types, 2016-18, January to March 2018, and January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
	<b>Share of quantity (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***
	<b>Ratio of overall consumption (percent)</b>				
U.S. producers' U.S. shipments	***	***	***	***	***
U.S. importers' U.S. shipments from.-- China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***
Apparent U.S. consumption	***	***	***	***	***

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.

## PART V: PRICING DATA

### FACTORS AFFECTING PRICES

#### Raw material costs

Refillable stainless steel kegs are commonly made from 300 series austenitic grade cold-rolled stainless steel.<sup>1</sup> Stainless steel is the largest raw material input cost for refillable stainless steel kegs. One standard referenced benchmark for cold-rolled stainless steel prices is the MEPS International 304 and 316 cold-rolled coil monthly average price (figure V-1). As shown in the figure, average prices increased by \*\*\* percent from January 2016-March 2019 for 304 cold-rolled stainless steel and by \*\*\* percent for 316 cold-rolled stainless steel. From March 2019 to June 2019, prices for 304 cold-rolled stainless steel have decreased by \*\*\* percent and 316 cold-rolled stainless steel prices have decreased by \*\*\* percent.

Stainless steel costs accounted for approximately \*\*\* percent of the net cost of goods sold (COGS) during 2018.<sup>2</sup> Additional raw materials used to produce refillable stainless steel kegs may include necks, D-spears, chemicals and paint.<sup>3</sup>

#### Figure V-1

**Cold-rolled stainless steel coil prices: Negotiated domestic transaction prices by common grades, grades 304 and 316, monthly, January 2016 to June 2019, indexed January 2016=100**

\* \* \* \* \*

#### Impact of Section 232 tariffs on steel<sup>4</sup>

As discussed in Part II, American Keg reported an overall increase in the price of domestic stainless steel resulted from the Section 232 tariffs, and indicated that there had been

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<sup>1</sup> Petition, p. 15. The most common series are AISI 301, 304, and 316. U.S. producer American Keg uses AISI grade 304 stainless steel. American Keg grades webpage, <http://www.americankeg.com/about.html>, retrieved July 21, 2019.

<sup>2</sup> On a gross basis, prior to scrap sellback.

<sup>3</sup> U.S. producer's questionnaire response and conference transcript, pp. 57-58 (Czachor).

<sup>4</sup> On March 8, 2018, the President announced that an additional 25 percent ad valorem rate of duty with respect to steel articles defined at the Harmonized Tariff Schedule 6-digit level as 7206.10 through 7216.50, 7216.99 through 7301.10, 7302.10, 7302.40 through 7302.90, and 7304.10 through 7306.90, would apply to imports of steel articles from all countries except Canada and Mexico. On March 23, 2018, these tariffs went into effect. Between March and May 2018, exemptions to these tariffs were announced for Argentina, Australia, Brazil, Canada, Mexico, member countries of the European Union, and South Korea, and import quotas were agreed to by Argentina, Brazil, and South Korea. Since the President's May 19, 2019 proclamation, the Section 232 tariff on imported steel is in effect for all

\*\*\* in the price of stainless steel kegs from the Section 232 tariffs.<sup>5</sup> Eight of 14 responding importers<sup>6</sup> reported that the Section 232 tariffs had increased raw material prices, 3 reported that there had been no impact on raw material prices, and 3 reported that the tariffs had caused raw material prices to fluctuate. Six of the 14 responding importers indicated that the Section 232 tariffs had caused the price of refillable stainless steel kegs to increase, 6 importers reported no change in prices, 1 importer reported prices decreased, and 1 importer reported prices had fluctuated.

### **Impact of Section 301 tariffs on Chinese-origin products**

As discussed in greater detail in Part II, \*\*\* most responding importers reported that Section 301 tariffs increased prices for refillable stainless steel kegs, and most importers reported decreased demand for Chinese kegs due to the Section 301 tariffs.

### **Transportation costs to the U.S. market**

Transportation costs, calculated as a share of customs value, for refillable stainless steel kegs shipped to the United States averaged 7.9 percent for kegs shipped from China, 1.6 percent for kegs shipped from Germany, and 0.7 percent for kegs shipped from Mexico during 2018. These estimates were derived from official import data and represent the transportation and other charges on imports.<sup>7</sup>

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countries except Argentina, Australia, Brazil, Canada, Mexico, and South Korea. For more information, see <https://www.cbp.gov/trade/remedies/232-tariffs-aluminum-and-steel>, retrieved August 26, 2019.

<sup>5</sup> American Keg stated in March 2018 that the Section 232 tariffs increased raw material prices and led to employee downsizing at American Keg. NPR webpage, <https://www.npr.org/2018/03/24/596744980/trumps-tariffs-lead-to-layoffs-at-steel-beer-keg-company>, retrieved July 23, 2019.

American Keg's U.S. producer and importer questionnaires stated that the 232 tariffs caused raw material prices \*\*\*. American Keg also reported that \*\*\*.

American Keg also stated that it buys U.S.-made steel, so it was not directly paying the Section 232 tariffs, and that the Mexican producer Thielmann also buys U.S. steel and would face the same price pressures. Hearing transcript, pp. 86-87 (Rolig).

<sup>6</sup> American Keg is a U.S. producer and an importer. \*\*\*.

<sup>7</sup> The estimated transportation costs were obtained by subtracting the customs value from the c.i.f. value of the imports for 2018 and then dividing by the customs value based on the HTS statistical reporting numbers 7310.10.0010, 7310.10.0050, 7310.29.0025 and 7310.29.0050. There are no dedicated HTS statistical reporting numbers for refillable stainless steel kegs. The petitioner identified HTS 7310.10.0010 as a broad tariff classification code through which refillable stainless steel kegs enter the United States. These estimated transportation costs are approximations that may vary from the actual due to nonsubject products that enter the United States with the same HTS classification code.

## U.S. inland transportation costs

\*\*\* most importers (19 of 21) reported that they typically arrange transportation to their customers. \*\*\*<sup>8</sup> most importers (13 of 19) reported U.S. inland transportation costs of five percent or less.<sup>9</sup>

### PRICING PRACTICES

#### Pricing methods

\*\*\* most importers (13 of 21 responding firms) reported using transaction-by-transaction negotiations to set prices, however, \*\*\* some importers also reported using set price lists (6 importers) and other methods (6 importers), as presented in table V-1. Importer \*\*\* explained that all of its sales to \*\*\* were made using an \*\*\*. This process involves certified suppliers \*\*\*, and typically the firm with the best price that meets delivery requirements wins the bid. Other methods to set prices include price matching to competitive offers, online pricing, and cost plus margin.

**Table V-1**  
**Refillable stainless steel kegs: U.S. producers' and importers' reported price setting methods, by number of responding firms<sup>1</sup>**

Method	U.S. producers	U.S. importers
Transaction-by-transaction	***	13
Contract	***	1
Set price list	***	6
Other	***	6
Responding firms	1	21

<sup>1</sup> The sum of responses down may not add up to the total number of responding firms as each firm was instructed to check all applicable price setting methods employed.

Source: Compiled from data submitted in response to Commission questionnaires.

\*\*\* most importers reported selling all or the vast majority of their refillable stainless steel kegs in the spot market (table V-2). Importer \*\*\* was the only firm to report selling through annual contracts.<sup>10</sup> Two importers, \*\*\* and \*\*\*, reported selling on a short-term contract basis, with an average contract duration of \*\*\* and \*\*\* days respectively. Both firms reported that prices are \*\*\* during the contract and are \*\*\*, and their contracts have \*\*\*.

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<sup>8</sup> \*\*\*.

<sup>9</sup> Estimates of U.S. inland transportation costs ranged from 0.1 to 100 percent. \*\*\* reported transportation costs of 100 percent and \*\*\* reported transportation costs of 80 percent. Excluding these two firms, transportation costs averaged 4.4 percent.

<sup>10</sup> \*\*\* exclusively imports from \*\*\* and sells primarily to \*\*\* using annual contracts.

**Table V-2**  
**Refillable stainless steel kegs: U.S. producers' and importers' shares of U.S. commercial shipments by type of sale, 2018**

\* \* \* \* \*

As discussed in Part II, purchases of refillable stainless steel kegs tend to be “lumpy.” Most purchasers reported that they purchase annually or less frequently than annually (20 of 25),<sup>11</sup> 1 purchaser purchased quarterly,<sup>12</sup> 3 purchasers purchased monthly, and 1 purchaser reported daily purchases.<sup>13</sup> Fifteen of 25 responding purchasers reported that their purchasing frequency had not changed since 2016. Most (21 of 24) purchasers contact 1 to 3 suppliers before making a purchase.

### **Sales terms and discounts**

\*\*\* nine of 20 responding importers typically quote prices on an f.o.b. basis, while nine importers reported quoting on a delivered basis, and two firms reported pricing on both delivered and f.o.b. pricing bases.

\*\*\* 14 of 21 importers offer quantity discounts, while 1 importer offers a total volume discount, 4 importers have no discount policy, and 5 importers \*\*\* offer other discounts. \*\*\* discount policy includes \*\*\*.<sup>14</sup> Reported quantity discounts included discounts for orders of 150 units or more (\*\*\*), and discounts on orders of 200 to 300 kegs and to customers that consistently order large quantities (\*\*\*). Two importers reported a per keg discount for orders of more than 200 kegs: \*\*\* stated it gave a \$3 per keg discount and \*\*\* reported a \$1 to \$2 per keg discount. \*\*\* also reported discounts for seasonal or special events.

### **Price leadership**

Most purchasers (14 of 19 responding firms) reported that there were no price leaders. Three purchasers reported that there were price leaders, these included “Blefa/Franke,” G4

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<sup>11</sup> Ten purchasers reported purchasing kegs on an annual basis, and 11 purchasers reported purchasing kegs on an “other” basis. Ten of the 11 “other” reported purchasing less frequently than annually, while \*\*\* reported purchasing on a 6 month basis. \*\*\* purchased kegs once, while some purchasers reported purchasing based on demand (\*\*\*), when needed (\*\*\*), annually or less (\*\*\*), or once every three years (\*\*\*).

<sup>12</sup> This purchaser, \*\*\*, reported quarterly and annual frequency, stating that purchase frequency “depends, sometimes biannually.”

<sup>13</sup> Purchaser \*\*\* reported daily purchases of kegs. This purchaser sourced its kegs from \*\*\*.

<sup>14</sup> Petitioner provided an \*\*\* which included volume discounts based on whether the customer was buying \*\*\*. The maximum volume discount for 1/2 barrels was \*\*\* and for 1/6 barrels was \*\*\* percent. American Keg further noted that in Blefa’s response to the U.S. Department of Commerce, Blefa did not report quantity discounts. Petitioner’s posthearing brief, pp. 76-79 (Question 11: Volume Discount).



Kegs, and Chinese fabricators. Purchaser \*\*\* indicated that German producer and importer Blefa is the leader for the high-end of the market, and that G4 is a benchmark for Chinese keg prices. Purchaser \*\*\* reported that there was no price leader, but reported Franke as the leader at the high-end of the market and that Chinese keg manufacturers compete with one another at the low end. \*\*\* noted that \*\*\*.

## PRICE DATA

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of the following refillable stainless steel kegs products shipped to unrelated U.S. customers during January 2016 to March 2019.

**Product 1.**—1/2 barrel (also known as a keg); Assembled with no accessories; 300 series stainless steel; volume of 15.5 gallons (58.7 liters); approximately 23.25 inches tall (+/- 0.5 inches) with diameters ranging from 14.5 inches to 17.5 inches, thickness ranging from 0.050 to 0.060 inches for the body and 0.070 to 0.090 inches for the handles; rated to a maximum of 60 PSI of pressure; unfilled; finish may be dull, polished, painted, or encapsulated in a rubber or plastic material.

**Product 2.**—1/6 barrel; Assembled with no accessories; 300 series stainless steel; volume of 5.16 gallons (19.5 liters); approximately 23.25 inches tall (+/- 0.5 inches) with diameters ranging from 8.5 inches to 9.7 inches, thickness ranging from 0.045 to 0.055 inches for the body and 0.055 to 0.070 inches for the handles; rated to a maximum of 60 PSI of pressure; unfilled; finish may be dull, polished, painted, or encapsulated in a rubber or plastic material.

One U.S. producer and 18 importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.<sup>15</sup> Pricing data reported by these firms accounted for substantially all of American Keg's U.S. shipments of refillable stainless steel kegs and more than three-quarters of commercial shipments of refillable stainless steel kegs from each of the subject countries.<sup>16</sup>

Price data for products 1-2 are presented in tables V-3 to V-4 and figures V-2 to V-3.

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<sup>15</sup> Per-unit pricing data are calculated from total quantity and total value data provided by U.S. producers and importers. The precision and variation of these figures may be affected by rounding, limited quantities, and producer or importer estimates.

<sup>16</sup> Pricing data reported by importers accounted for \*\*\* percent of commercial shipments of subject imports from China, \*\*\* percent of commercial shipments of subject imports from Germany, and \*\*\* percent of commercial U.S. shipments of subject imports from Mexico. When compared to reported total shipments, pricing data reported by importers accounted for \*\*\* percent of total shipments of subject product from China, \*\*\* percent of total shipments of subject product from Germany, and \*\*\* percent of total shipments of subject product from Mexico.

**Table V-3**

**Refillable stainless steel kegs: Weighted-average f.o.b. prices and quantities of domestic and imported product 1 and margins of underselling/(overselling), by quarter, January 2016-March 2019**

\* \* \* \* \*

**Table V-4**

**Refillable stainless steel kegs: Weighted-average f.o.b. prices and quantities of domestic and imported product 2 and margins of underselling/(overselling), by quarters, January 2016-March 2019**

\* \* \* \* \*

**Figure V-2**

**Refillable stainless steel kegs: Weighted-average prices and quantities of domestic and imported product 1, by quarter, January 2016-March 2019**

\* \* \* \* \*

**Figure V-3**

**Refillable stainless steel kegs: Weighted-average prices and quantities of domestic and imported product 2, by quarter, January 2016-March 2019**

\* \* \* \* \*

### **Import purchase costs**

In addition to price data, the Commission also requested that importers provide landed duty-paid values and quantities for imports used for internal consumption (direct imports). Nine importers provided such data, and their purchase cost data for imports of products 1 and 2 are presented in tables V-5 to V-6 and figures V-4 to V-5, along with U.S. sales prices to end users (previously presented). No importers reported purchase cost data for Germany.<sup>17</sup> Six importers reported purchase cost data for imports from China and three firms reported purchase cost data for Mexico. Import purchase cost data reported by these firms accounted for \*\*\* percent of imports from China and \*\*\* percent of imports from Mexico in 2018.

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<sup>17</sup> \*\*\*. Respondent Blefa's prehearing brief, p. 40 n. 125 and Exhibit 2. \*\*\*. \*\*\*.

**Table V-5**

**Refillable stainless steel kegs: Weighted-average f.o.b. prices and quantities of domestic product and unit LDP import purchase values, and quantities of product 1, by quarter, January 2016-March 2019**

\* \* \* \* \*

**Table V-6**

**Refillable stainless steel kegs: Weighted-average f.o.b. prices and quantities of domestic product and unit LDP values and quantities of purchased imported product 2, by quarter, January 2016-March 2019**

\* \* \* \* \*

**Figure V-4**

**Refillable stainless steel kegs: Weighted-average f.o.b. prices and quantities of domestic product 1 and unit LDP values and quantities of purchased imported product 1 by quarter, January 2016-March 2019**

\* \* \* \* \*

**Figure V-5**

**Refillable stainless steel kegs: Weighted-average f.o.b. prices and quantities of domestic product 2 and unit LDP values and quantities of purchased imported product 2 by quarter, January 2016-March 2019**

\* \* \* \* \*

In addition to the import purchase cost data, firms were asked to estimate a variety of costs associated with their imports for internal use of refillable stainless steel kegs, including inland transportation costs, logistical or supply chain management costs, inventory carrying costs, insurance costs, and other costs. Firms reported the following estimates (as a share of landed duty-paid value) for the following factors: inland transportation costs, 1 to 10 percent;<sup>18</sup> logistical or supply chain management costs, 2 percent;<sup>19</sup> inventory carrying costs, 1 to 10 percent;<sup>20</sup> and insurance costs, 1 percent.<sup>21</sup> No firms reported other costs.

Importers reporting import purchase costs were asked to identify the benefits of importing refillable stainless steel kegs for internal use as opposed to purchasing it from a U.S.

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<sup>18</sup> \*\*\* reported inland transportation costs of 100 percent, \*\*\* and \*\*\* reported transportation costs of 90 percent. These have not been included.

<sup>19</sup> \*\*\* was the only importing firm to report logistical or supply chain management costs.

<sup>20</sup> \*\*\* reported that inventory carrying costs included interest, rent, and labor.

<sup>21</sup> \*\*\* was the only importing firm to report insurance costs.

producer or importer. Two importers (\*\*\*) reported that they could get better prices by importing themselves.

Some importers also reported having issues with purchasing from American Keg or issues with finding domestic product. \*\*\* reported that American Keg does not sell to keg resellers, and that even if it did purchase from American Keg, American Keg only produces two types of kegs which are “inferior in quality and more expensive.” Moreover, importer \*\*\* reported that it is difficult to find domestically produced kegs, and most U.S. firms sell imported kegs. \*\*\* also stated that U.S.-produced kegs are not competitive and are priced 20 to 40 percent higher than imported kegs.

Four importers estimated that they saved between 14 and 30 percent of landed duty-paid value by importing themselves rather than purchasing. Most importers (7 of 11 firms) reported that they did not compare costs between U.S. producers and importers before importing themselves, while 1 importer compared prices with other U.S. importers, 3 firms compared prices with both U.S. importers and American Keg, and no importers compared prices with American Keg only.

### Price and import purchase cost trends

In general, prices increased during January 2016-March 2019, with the exception of Chinese and Mexican prices of product 1. Purchase costs generally decreased from January 2016-March 2019, although purchase costs of Product 1 from China remained relatively stable. Table V-7 summarizes the price trends, by country and by product. As shown in the table, domestic price increases ranged from \*\*\* to \*\*\* percent during January 2016-March 2019. Chinese prices decreased by \*\*\* percent for product 1 and increased by \*\*\* percent for product 2; German prices for product 1 increased by \*\*\* percent and prices for product 2 increased by \*\*\* percent; and Mexican prices for product 1 \*\*\* and prices for product 2 increased by \*\*\* percent from January 2016-March 2019.

Indexed price data compares how prices of products 1 and 2 trended for U.S. producers (figure V-6) and subject importers (figure V-7). As shown in the figure, most of the increase in U.S. producer’s prices was in the second half of 2017, while subject import prices fluctuated over January 2016-March 2019. Purchase costs also fluctuated over the same time period, although purchase costs increased in second quarter 2018 for product 1 and decreased starting in second quarter 2018 for product 2 (figure V-8).

**Table V-7**  
**Refillable stainless steel kegs: Number of quarters containing observations low price, high price, and change in price over period, by product and source, January 2016-March 2019**

\* \* \* \* \*

**Figure V-6**  
**Refillable stainless steel kegs: Indexed U.S. producer prices, January 2016-March 2019**

\* \* \* \* \*

**Figure V-7**

**Refillable stainless steel kegs: Indexed subject U.S. importer prices, January 2016-March 2019**

\* \* \* \* \*

**Figure V-8**

**Refillable stainless steel kegs: Indexed subject U.S. importer purchase costs, January 2016-March 2019**

\* \* \* \* \*

**Price comparisons**

As shown in table V-8, product imported from China was priced below U.S.-produced product in 25 of 26 instances (\*\*); margins of underselling ranged from \*\* to \*\* percent.<sup>22</sup> In the one instance of overselling (\*\*), product from China was priced \*\* percent above prices for the domestic product. Prices for product imported from Germany were below those for U.S.-produced product in 17 of 26 instances (\*\* units); margins of underselling ranged from \*\* to \*\* percent. In the remaining nine instances (\*\*), prices for product from Germany were \*\* to \*\* percent above prices for the domestic product. Prices for product imported from Mexico were below those for U.S.-produced product in 21 of 25 instances (\*\* units); margins of underselling ranged from \*\* to \*\* percent. In the remaining four instances (\*\*), prices for product from Mexico were \*\* to \*\* percent above prices for the domestic product.

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<sup>22</sup> If data from \*\* are not included, there is no change in the number of instances of underselling and the average margin of underselling of Chinese product 2 is modestly lower at \*\* percent. \*\*.

**Table V-8**

**Refillable stainless steel kegs: Instances of underselling/overselling and the range and average of margins, by country, January 2016 through March 2019**

Source	Underselling				
	Number of quarters	Quantity (units)	Average margin (percent)	Margin Range (percent)	
				Min	Max
Product 1	37	1,098,047	14.7	4.4	24.8
Product 2	26	1,319,846	13.9	0.6	26.8
Total, underselling	63	2,417,893	14.3	0.6	26.8
China	25	***	***	***	***
Germany	17	***	***	***	***
Mexico	21	***	***	***	***
Total, underselling	63	2,417,893	14.3	0.6	26.8
Source	(Overselling)				
	Number of quarters	Quantity (units)	Average margin (percent)	Margin Range (percent)	
				Min	Max
Product 1	1	44,960	(0.3)	(0.3)	(0.3)
Product 2	13	619,338	(9.1)	(0.0)	(20.0)
Total, overselling	14	664,298	(8.5)	(0.0)	(20.0)
China	1	***	***	***	***
Germany	9	***	***	***	***
Mexico	4	***	***	***	***
Total, overselling	14	664,298	(8.5)	(0.0)	(20.0)

<sup>1</sup> These data include only quarters in which there is a comparison between the U.S. and subject product.

Source: Compiled from data submitted in response to Commission questionnaires.

### LOST SALES AND LOST REVENUE

In the preliminary phase of these investigations, the Commission requested that the U.S. producer of refillable stainless steel kegs report purchases where they experienced instances of lost sales or revenue due to competition from imports of refillable stainless steel kegs from China, Germany, and Mexico during January 2015-June 2018. American Keg submitted \*\*\* lost sales and lost revenue allegations. American Keg identified \*\*\* firms where it lost sales and \*\*\* firms where it lost revenue.

In the final phase of these investigations, American Keg reported that it had to reduce prices, roll back announced price increases, and that it had lost sales.

Staff issued questionnaires to 80 purchasers and received responses from 25 purchasers.<sup>23</sup> Responding purchasers reported purchasing 2.4 million units of refillable stainless

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<sup>23</sup> Two purchasers submitted lost sales lost revenue survey responses in the preliminary phase, but did not submit purchaser questionnaire responses in the final phase. \*\*\* reported that it had not purchased any kegs since 2016. Staff telephone interview with \*\*\*. \*\*\* did not respond to the purchaser questionnaire.

steel kegs during January 2016-March 2019 (table V-9). Six purchasers reported purchasing domestic product, four of which also purchased subject imported refillable stainless steel kegs.

Of the 24 responding purchasers, 18 reported that, since January 2016, they had purchased subject imports instead of U.S.-produced product: five reported purchasing Chinese product, 11 reported purchasing German product, and 7 reported purchasing Mexican product.<sup>24</sup> Nine of these 18 purchasers reported that subject import prices were lower than prices of U.S.-produced product, and eight reported that price was a primary reason for purchasing imported product from at least one subject source rather than U.S.-produced product.<sup>25</sup> Four firms reported that Chinese product was priced lower than U.S. product and three purchasers stated that price was the primary reason they purchased Chinese product instead of U.S. refillable stainless steel kegs. Four purchasers reported that German product was priced lower than domestic kegs and all four reported that price was the reason for choosing German kegs.<sup>26</sup> Three purchasers reported that Mexican product was priced lower than domestic kegs, and two indicated that price was the primary reason they chose the Mexican product.

Three purchasers estimated the quantity of refillable stainless steel kegs from China purchased instead of domestic product, ranging from \*\*\* to \*\*\* units. Five purchasers estimated they had purchased \*\*\* to \*\*\* units of German refillable stainless steel kegs instead of domestic. Two purchasers estimated they had purchased between \*\*\* and \*\*\* units of Mexican kegs instead of U.S. kegs (table V-10 and V-11).<sup>27</sup> Purchasers identified quality and availability of 1/4 sized kegs as reasons for purchasing subject imports instead of domestic product.<sup>28</sup> In addition, \*\*\* stated that it suspected American Keg had offered Chinese kegs and

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<sup>24</sup> Some firms reported purchasing imports from more than one country instead of domestic product. \*\*\*, \*\*\*, and \*\*\* reported purchasing German and Mexican kegs instead of U.S. kegs, and \*\*\* reported purchasing Chinese and Mexican kegs instead of U.S. kegs.

<sup>25</sup> Of the eight purchasers reporting that price was a primary reason for purchasing subject imports instead of U.S.-produced product, two are medium breweries, four are small breweries, and two are keg leasing and rental companies.

<sup>26</sup> \*\*\* indicated that price was the primary reason for purchasing German kegs instead of U.S. kegs, but also stated that \*\*\*. In addition, purchaser \*\*\* did not report whether subject product was priced below U.S.-produced product, but it indicated that price was a primary reason for purchasing German and Mexican kegs. It noted that “quality is also a factor” in its response.

<sup>27</sup> Respondent Blefa argued that \*\*\* lost sale and lost revenue responses should not be relied upon as \*\*\*. It also argued that \*\*\*. Respondent Blefa’s prehearing brief, pp. 44-45.

American Keg stated that these purchasers’ responses should be considered as \*\*\*. American Keg also stated that \*\*\*. Petitioner’s posthearing brief, pp. 82-88 (Question 12: Blefa’s Lost Sales Analysis).

<sup>28</sup> Firms had various responses as to why they purchased subject imports instead of domestic product. Some purchasers were unfamiliar with the domestic product and did not know whether the subject imported kegs were priced lower than domestic kegs. \*\*\* reported that it did not buy subject imports instead of domestic product. \*\*\* reported \*\*\*. Four purchasers reported they had purchased subject imported kegs instead of domestic kegs, but did not report whether price was a primary reason. These included \*\*\*, \*\*\*, \*\*\*, and \*\*\*. \*\*\* indicated that it did not know if price was the primary reason as it has not quoted the domestic supplier “because they do not meet quality, specification requirements or service expectations.”

instead “likely paid more” out of its “concern of getting cheaply made kegs from China,” \*\*\* reported that domestic supply is insufficient to meet demand, and \*\*\* stated it was not aware there were any domestic producers.

Of the 24 responding purchasers, \*\*\* was the only purchaser to report that the U.S. producer had reduced prices in order to compete with lower-priced imports from all three subject countries (table V-12; 21 reported that they did not know). \*\*\* did not provide an estimated price reduction, explaining that \*\*\*.

**Table V-9**

**Refillable stainless steel kegs: Purchasers' responses to purchasing patterns**

\* \* \* \* \*

**Table V-10**

**Refillable stainless steel kegs: Purchasers' responses to purchasing patterns, by firm**

\* \* \* \* \*

**Table V-11**

**Refillable stainless steel kegs: Purchasers' responses to purchasing subject imports instead of domestic product, by country**

Source	Count of purchasers reporting subject instead of domestic	Count of purchasers reported that imports were priced lower	Count of purchasers reporting that price was a primary reason for shift	Quantity subject purchased (units)
China	5	4	3	***
Germany	11	4	5	***
Mexico	7	3	2	***
Any subject source	18	9	8	176,064

Source: Compiled from data submitted in response to Commission questionnaires.

**Table V-12**

**Refillable stainless steel kegs: Purchasers' responses to U.S. producer price reductions**

\* \* \* \* \*



## **PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS**

### **BACKGROUND**

One U.S. producer, American Keg, reported financial results on U.S.-produced refillable stainless steel kegs. The information presented in this section of the report reflects the operations of predecessor company Geemacher for the period January 1, 2016 through May 31, 2016 and American Keg for the period June 1, 2016 through March 31, 2019.<sup>1</sup> The manufacturing facility, which was acquired by American Keg in May 2016, remained in operation prior to and subsequent to acquisition.<sup>2</sup>

### **OPERATIONS ON REFILLABLE STAINLESS STEEL KEGS**

Table VI-1 and table VI-2 present income-and-loss data for the U.S. producer's operations on refillable stainless steel kegs and corresponding changes in average per keg values, respectively.<sup>3</sup>

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<sup>1</sup> Financial results were reported on the basis of generally accepted accounting principles (GAAP) and for calendar-year periods. On July 11-12, 2019, staff conducted a verification of the financial section, and selected elements of the trade and pricing sections, of American Keg's U.S. producer questionnaire. Data changes pursuant to verification are reflected in this and other relevant sections of this report. Verification report, p. 2.

<sup>2</sup> Conference transcript, p. 68 (Czachor). Verification report, p. 5. Geemacher began commercial keg production in late 2014, and its U.S. manufacturing operations were still relatively new when acquired by American Keg in 2016.

<sup>3</sup> Changes in product mix during the period reportedly reflect normal variations and were a response to customer demand, as opposed to deliberate shifts in product focus. Conference transcript, p. 62 (Czachor); Petitioner's postconference brief (Attachment A), p. 36. Because fluctuations in product mix reduce the utility of the Commission's variance analysis, Staff has not presented such an analysis in this chapter. USITC auditor notes (final phase).

**Table VI-1**  
**Refillable stainless steel kegs: Results of operations of U.S. producer American Keg, 2016-18,**  
**January-March 2018, and January-March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
Total net sales	***	***	***	***	***
	<b>Value (dollars)</b>				
Total net sales	***	***	***	***	***
Cost of goods sold.--					
Stainless steel	***	***	***	***	***
Neck insert	***	***	***	***	***
Valve (D-Spear)	***	***	***	***	***
Less: scrap sellback	***	***	***	***	***
Net raw material cost	***	***	***	***	***
Direct labor	***	***	***	***	***
Other factory costs	***	***	***	***	***
Total COGS	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***
SG&A expense	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***
Interest expense	***	***	***	***	***
All other expenses	***	***	***	***	***
All other income <sup>1</sup>	***	***	***	***	***
Net income or (loss)	***	***	***	***	***
Depreciation/amortization	***	***	***	***	***
Estimated cash flow	***	***	***	***	***
	<b>Ratio to net sales (percent)</b>				
Cost of goods sold.--					
Stainless steel	***	***	***	***	***
Neck insert	***	***	***	***	***
Valve (D-Spear)	***	***	***	***	***
Less: scrap sellback	***	***	***	***	***
Net raw material cost	***	***	***	***	***
Direct labor	***	***	***	***	***
Other factory costs	***	***	***	***	***
Average COGS	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***
SG&A expense	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***
Net income or (loss)	***	***	***	***	***

Table continued on next page.

**Table VI-1—Continued**  
**Refillable stainless steel kegs: Results of operations of U.S. producer American Keg, 2016-18,**  
**January-March 2018, and January-March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Ratio to total COGS (percent)</b>				
Cost of goods sold.-- Stainless steel	***	***	***	***	***
Neck insert	***	***	***	***	***
Valve (D-Spear)	***	***	***	***	***
Less: scrap sellback	***	***	***	***	***
Net raw material cost	***	***	***	***	***
Direct labor	***	***	***	***	***
Other factory costs	***	***	***	***	***
Average COGS	***	***	***	***	***
	<b>Unit value (dollars per unit)</b>				
Total net sales	***	***	***	***	***
Cost of goods sold.-- Stainless steel	***	***	***	***	***
Neck insert	***	***	***	***	***
Valve (D-Spear)	***	***	***	***	***
Less: scrap sellback	***	***	***	***	***
Net raw material cost	***	***	***	***	***
Direct labor	***	***	***	***	***
Other factory costs	***	***	***	***	***
Average COGS	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***
SG&A expense	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***
Net income or (loss)	***	***	***	***	***
	<b>Number of firms reporting</b>				
Operating losses	***	***	***	***	***
Net losses	***	***	***	***	***
Data	1	1	1	1	1

<sup>1</sup> See footnote 16 regarding other income reported in 2016 and 2017.

Source: Compiled from data submitted in response to Commission questionnaires.

**Table VI-2**  
**Refillable stainless steel kegs: Changes in average per unit values, 2016-18, January-March 2018,**  
**January-March 2019**

Item	Between calendar years			Between partial year period
	2016-18	2016-17	2017-18	2018-19
	<b>Change in AUVs (dollars per unit)</b>			
Total net sales	***	***	***	***
Cost of goods sold.-- Stainless steel	***	***	***	***
Neck insert	***	***	***	***
Valve (D-Spear)	***	***	***	***
Less: scrap sellback	***	***	***	***
Net raw material cost	***	***	***	***
Direct labor	***	***	***	***
Other factory costs	***	***	***	***
Average COGS	***	***	***	***
Gross profit or (loss)	***	***	***	***
SG&A expense	***	***	***	***
Operating income or (loss)	***	***	***	***
Net income or (loss)	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

### Revenue

Because all reported revenue reflects commercial sales, a single revenue line item is presented in the tables above.

### Quantity

Total sales quantity was at its lowest level in 2016, the year American Keg acquired the assets of Geemacher.<sup>4</sup> Following a \*\*\* increase in capacity and corresponding production in 2017, total sales increased in 2017, and reached its highest level in 2018. In January-March 2019, sales quantity was marginally lower compared to January-March 2018.<sup>5</sup>

During the period, the share of underlying keg types reflected in reported sales volume changed somewhat: larger 1/2 kegs ranging from a low of \*\*\* percent of total kegs in January-

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<sup>4</sup> As noted above, the manufacturing facility remained in operation prior to and subsequent to the acquisition of Geemacher's assets by American Keg; i.e., while 2016 was a transition year in terms of ownership of the underlying assets, this change does not directly account for the lower level of sales volume in that year.

<sup>5</sup> Notwithstanding the increase in total sales, the estimated average number of days in inventory of finished goods during the full year period increased from a low of \*\*\* days in 2016 to a high of \*\*\* days in 2018. USITC auditor notes (final phase).

March 2018 to a high of \*\*\* percent in 2016 and smaller 1/6 kegs ranging from a low of \*\*\* percent in 2016 to a high of \*\*\* percent in January-March 2018.<sup>6</sup>

## **Value**

Average keg sales value declined in 2017, increased in 2018, and reached its highest level in January-March 2019. The corresponding ratio of net raw material costs to sales value, an indicator of the extent to which average sales value recovered corresponding net raw material costs, increased to its highest level of the period (\*\*\* percent) in 2018 but was somewhat lower in January-March 2019. In addition to other factors impacting pricing levels, period-to-period changes in product mix affected the pattern of average per keg sales value.

## **Cost of goods sold and gross profit or loss**

### **Raw materials**

Stainless steel, \*\*\*, is the largest component of cost of goods sold (COGS) and on a gross basis ranged from a low of \*\*\* percent of COGS in 2016 to a high of \*\*\* percent in 2018. In conjunction with a decline in average purchase cost at the end of the period, this ratio was lower in January-March 2019 (\*\*\* percent) compared to full-year 2018.<sup>7</sup> The individual shares of COGS accounted for by the other primary material inputs, neck insert and D-spear valve, fluctuated somewhat but remained within a relatively narrow range.<sup>8</sup>

On an average per keg basis, net raw material costs increased in 2017 and 2018, and then were lower in January-March 2019 compared to full-year 2018. Changes in the relative share of total sales accounted for 1/2 kegs and 1/6 kegs, in conjunction with other factors, affected the pattern of average net raw material cost.<sup>9</sup>

### **Direct labor and other factory costs**

Notwithstanding the large share of COGS accounted for by raw material costs, the manufacture of refillable stainless steel kegs was also characterized as capital intensive.<sup>10</sup> In 2016 and in conjunction with the lowest levels of production and capacity utilization, direct labor and other factory costs represented \*\*\* percent and \*\*\* percent of total COGS, respectively, their largest shares of the period.<sup>11</sup> As a share of total COGS, other factory costs were at their lowest annual level on an average per keg basis and as a share of COGS in 2017, which coincides with an increase in production, available reported capacity, and capacity utilization. Direct labor, on an average per keg basis and as a share of COGS, declined

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<sup>6</sup> USITC auditor notes (final phase). American Keg produces 1/2 keg and 1/6 keg sizes only. Conference transcript, p. 67 (Czachor).

<sup>7</sup> Given its poor financial results during the period, a portion of American Keg's material purchases reportedly \*\*\*. Petitioner's postconference brief, p. 37.

<sup>8</sup> \*\*\*. Verification report, p. 4. \*\*\*. Ibid.

<sup>9</sup> \*\*\*. Verification report, pp. 4-5.

<sup>10</sup> Conference transcript, p. 78 (Bently); p. 115 (Lewis).

<sup>11</sup> \*\*\*. Petitioner's postconference brief (Attachment A), p. 43.

throughout the full-year period. As noted in Part III of this report, American Keg laid off a portion of its work force during 2018.

### **Gross profit or loss**

In 2016, the period's largest gross loss, on an absolute basis and as a ratio to sales, coincided with the lowest levels of annual production, sales volume, and capacity utilization. Although remaining negative, American Keg's gross results improved on an absolute and relative basis in 2017, reflecting declines in average direct labor cost and other factory costs to sales, which were partially offset by an increase in average net raw material cost. While the 2018 gross loss ratio was essentially the same as 2017, reflecting increases in average net raw material cost and other factory costs that were offset by a corresponding increase in average sales value and lower average direct labor (see table VI-2), the increase in total sales quantity in 2018 yielded a higher total gross loss compared to 2017. The period's lowest gross loss ratio was reported in January-March 2019, which reflects relatively stable average direct labor and other factory costs, lower average net raw material cost, as compared to full-year 2018, and a higher average per keg sales value.<sup>12 13</sup>

### **SG&A expenses and operating income or loss**

American Keg inventories its product on-site and sells through a distributor and its internal sales group.<sup>14</sup> Total SG&A expenses were at their highest level in 2016, which coincides with American Keg's acquisition of Geemacher's assets.<sup>15</sup> Table VI-1 shows that the company's SG&A expense ratio (total SG&A expenses divided by total revenue) was also highest in 2016 and then declined somewhat but remained at relatively high levels. Since gross losses were reported throughout the period, the relative decline in SG&A expenses served to reduce the level of operating losses.

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<sup>12</sup> \*\*\*. Verification report, pp. 6-7.

<sup>13</sup> The net raw material cost to sales ratio in table VI-1 shows that the amounts by which sales value recovered and exceeded net raw material costs, while positive, were insufficient to recover the remaining components of COGS. The net raw material cost to sales ratio was at its lowest level in 2016 (\*\*% percent of sales), increased in 2017, and reached its highest level in 2018 (\*\*% percent of sales). In conjunction with a decline in the stainless steel component, the net raw material cost to sales ratio for January-March 2019 declined compared to full-year 2018.

<sup>14</sup> Conference transcript, p. 65 (Czachor). A company official described marketing activities in general as follows: ". . . we either reach out to those people directly via outbound call, or we see them at numerous shows throughout the year. There's a lot of regional shows. There could be a California show one month, and the following month there could be a show in Florida. So we see customers at regional shows. We see them on our social media. We also market to them, either in print ads or e-mail blasts or several other ways that we market to our customers." Ibid.

<sup>15</sup> \*\*\*. Petitioner's postconference brief (Attachment A), p. 43. \*\*\*. American Keg U.S. producer questionnaire (final-phase), response to III-10a.

## Interest expense, other income and expenses, and net income or loss

Relatively large levels of \*\*\*, were reported in 2016 and 2017.<sup>16</sup> Consistent with the \*\*\* in 2017 (see footnote 16), \*\*\* interest expense was reported in 2018 or the interim periods. Net results were positive in 2016, in contrast with the 2016 operating loss, due to the above-noted \*\*\* in that year. Directionally, the pattern of change in operating results and net results, both negative for the remainder of the period, were the same in 2017-18 and between the interim periods.

## CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

Table VI-3 presents the U.S. producer’s capital expenditures and research and development (R&D) expenses related to its refillable stainless steel keg operations.

**Table VI-3**  
**Refillable stainless steel kegs: Capital expenditures and research and development (R&D) expenses of U.S. producer American Keg, 2016-18, January-March 2018, and January-March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Capital expenditures (dollars)</b>				
Total capital expenditures	***	***	***	***	***
	<b>Research and development expenses (1,000 dollars)</b>				
Total research and development expenses	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

American Keg reported its highest level of capital expenditures in 2017 (\$\*\*\*), which the company described as \*\*\*.<sup>17</sup> The second highest level was reported in 2018 (\$\*\*\*) and the lowest level was reported in 2016 (\$\*\*\*), the year American Keg acquired Geemacher’s assets. In January-March 2019, capital expenditures were higher compared to January-March 2018.

American Keg reported \*\*\* R&D expenses during the period examined.

## ASSETS AND RETURN ON ASSETS

Table VI-4 presents data on the U.S. producer’s total net assets and operating return on net assets related to its operations on refillable stainless steel kegs.<sup>18</sup>

<sup>16</sup> \*\*\*. American Keg producer questionnaire, response to III-10. \*\*\*. Ibid.

<sup>17</sup> American Keg producer questionnaire, response to III-13 (note 1). \*\*\*. Verification report, p. 6.

<sup>18</sup> With respect to a company’s overall operations, staff notes that a total asset value (i.e., the bottom line value on the asset side of a company’s balance sheet) reflects an aggregation of a number of current and non-current assets, which, in many instances, are not product specific.

**Table VI-4**  
**Refillable stainless steel kegs: U.S. producer American Keg's total net assets and operating return on net assets, 2016-18**

Firm	Calendar years		
	2016	2017	2018
	<b>Total net assets (dollars)</b>		
Total net assets	***	***	***
	<b>Operating return on assets (percent)</b>		
Average operating return on assets	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

## CAPITAL AND INVESTMENT

The Commission requested the U.S. producer of refillable stainless steel kegs to describe any actual or potential negative effects on its return on investment or its growth, investment, ability to raise capital, existing development and production efforts (including efforts to develop a derivative or more advanced version of the product), or the scale of capital investments as a result of imports of refillable stainless steel kegs from China, Germany and/or Mexico. Table VI-5 tabulates the responses on actual negative effects on investment, growth and development, as well as anticipated negative effects. Table VI-6 presents the narrative response of the U.S. producer regarding actual and anticipated negative effects on investment, growth and development.

**Table VI-5**  
**Refillable stainless steel kegs: Negative effects of imports from subject sources on investment, growth, and development since January 1, 2016**

Item	No	Yes
Negative effects on investment	***	***
Cancellation, postponement, or rejection of expansion projects		***
Denial or rejection of investment proposal		***
Reduction in the size of capital investments		***
Return on specific investments negatively impacted		***
Other		***
Negative effects on growth and development	***	***
Rejection of bank loans		***
Lowering of credit rating		***
Problem related to the issue of stocks or bonds		***
Ability to service debt		***
Other		***
Anticipated negative effects of imports	***	***

Source: Compiled from data submitted in response to Commission questionnaires.



**Table VI-6**

**Refillable stainless steel kegs: Narrative response of U.S. producer American Keg regarding actual and anticipated negative effects of imports from subject sources on investment, growth, and development since January 1, 2016**

Effects/Firm	Narrative
<b>Negative impact on investment</b>	
<b>Cancellation, postponement, or rejection of expansion projects:</b>	
American Keg	***
<b>Return on specific investments negatively impacted:</b>	
American Keg	***
<b>Negative impact on growth and development</b>	
<b>Lowering of credit rating:</b>	
American Keg	***
<b>Ability to service debt:</b>	
American Keg	***
<b>Other:</b>	
American Keg	***
<b>Anticipated effects of imports:</b>	
American Keg	***

Source: Compiled from data submitted in response to Commission questionnaires.



## PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that—  
*In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors<sup>1</sup>--*

- (I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,*
- (II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,*
- (III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,*
- (IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,*
- (V) inventories of the subject merchandise,*

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<sup>1</sup> Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that “The Commission shall consider {these factors} . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.”

- (VI) *the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,*
- (VII) *in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),*
- (VIII) *the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and*
- (IX) *any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).<sup>2</sup>*

Information on the nature of the subsidies was presented earlier in this report; information on the volume and pricing of imports of the subject merchandise is presented in *Parts IV and V*; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in *Part VI*. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report is information obtained for consideration by the Commission on nonsubject countries.

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<sup>2</sup> Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

## THE INDUSTRY IN CHINA

The Commission issued foreign producers' or exporters' questionnaires to 26 firms believed to produce and/or export refillable stainless steel kegs from China.<sup>3</sup> Usable responses to the Commission's questionnaire were received from five firms: Qingdao Henka Precision Technology Co., Ltd. ("Qingdao Henka"), NDL Keg Qingdao, Inc. ("NDL Qingdao"), Ningbo Major Draft Beer Equipment Co., Ltd. ("Ningbo Major"), Penglai Jinfu Stainless Steel Products Co., Ltd. ("Penglai Jinfu"), and Wuxi Taihu Lamps and Lanterns, Co., Ltd. ("Wuxi Taihu").<sup>4</sup> These firms' exports to the United States are equivalent to virtually all reported U.S. imports of refillable stainless steel kegs from China in 2018. According to estimates requested of the responding producers, the production of refillable stainless steel kegs in China reported in questionnaires accounts for approximately \*\*\* percent of overall production of refillable stainless steel kegs in China. Table VII-1 presents information on the refillable stainless steel kegs operations of the responding producers and exporters in China.

**Table VII-1**  
**Refillable stainless steel kegs: Summary data for producers in China, 2018**

Firm	Production (units)	Share of reported production (percent)	Exports to the United States (units)	Share of reported exports to the United States (percent)	Total shipments (units)	Share of firm's total shipments exported to the United States (percent)
Qingdao Henka	***	***	***	***	***	***
Ningbo Major	***	***	***	***	***	***
Penglai Jinfu	***	***	***	***	***	***
Wuxi Taihu <sup>1</sup>	***	***	***	***	***	***
Total	***	***	***	***	***	***

<sup>1</sup> Staff adjusted \*\*\* reported share of firm's exports to the United States.

Source: Compiled from data submitted in response to Commission questionnaires.

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<sup>3</sup> These firms were identified through a review of information submitted in the petition and contained in \*\*\* records.

<sup>4</sup> Commerce selected Ningbo Master International Trade Co., Ltd. (the trading company related to foreign producer Ningbo Major) and Penglai Jinfu as mandatory respondents during its antidumping and countervailing duty investigations.

**Table VII-2**

**Refillable stainless steel kegs: Summary data on resellers in China exporting to the United States, 2018**

<b>Firm</b>	<b>Resales exported to the United States (units)</b>	<b>Share of resales exported to the United States (percent)</b>
NDL Qingdao <sup>1</sup>	***	***
Total	***	***

<sup>1</sup> NDL Qingdao, \*\*\*, reported exporting kegs produced by \*\*\*.

Source: Compiled from data submitted in response to Commission questionnaires.

### Changes in operations

As presented in table VII-3, producers in China reported several operational and organizational changes since January 1, 2016.

**Table VII-3**

**Refillable stainless steel kegs: Reported changes in operations by producers in China, since January 1, 2016**

<b>Item / firm</b>	<b>Reported changes in operations</b>
<b>Plant openings:</b>	
***	***
<b>Expansions:</b>	
***	***
***	***
<b>Prolonged shutdowns or curtailments:</b>	
***	***
<b>Plant closings:</b>	
***	***
***	***

Source: Compiled from data submitted in response to Commission questionnaires.

## Operations on refillable stainless steel kegs

Table VII-4 presents information on the refillable stainless steel kegs operations of the responding producers and exporters in China. The Chinese industry capacity grew by \*\*\* percent between 2016 and 2017 from \*\*\* to \*\*\* units.<sup>5</sup> During 2017-18, capacity increased again by \*\*\* percent from \*\*\* to \*\*\* units. Capacity is projected to decrease during 2019-20 by \*\*\* percent. Production increased by \*\*\* percent during 2016-17, from \*\*\* to \*\*\* units, and by \*\*\* percent in 2017-18 from \*\*\* to \*\*\* units. During 2016-18, capacity utilization ranged from \*\*\* to \*\*\* percent. Projections for 2019-20 capacity utilization are expected to exceed \*\*\* percent. The volumes of export shipments to the United States followed similar patterns, increasing during 2016-17, then decreasing in 2018. Export shipments to the United States, as a share of total shipments were \*\*\* percent in 2016, \*\*\* percent in 2017, and \*\*\* percent in 2018. Projections are expected to decrease in 2019 to \*\*\* percent and \*\*\* percent in 2020.<sup>6</sup>

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<sup>5</sup> The capacity increase primarily reflects growth by \*\*\*.

<sup>6</sup> Ningbo Major reported in its foreign producer questionnaire response that it \*\*\*. Ningbo Major's foreign producer questionnaire, II-2b, p. 7.

Table VII-4

Refillable stainless steel kegs: Data on industry in China, 2016-18, January to March 2018, to January to March 2019 and projection calendar years 2019 and 2020

Item	Actual experience					Projections	
	Calendar year			January to March		Calendar year	
	2016	2017	2018	2018	2019	2019	2020
	<b>Quantity (units)</b>						
Capacity <sup>1</sup>	***	***	***	***	***	***	***
Production	***	***	***	***	***	***	***
End-of-period inventories	***	***	***	***	***	***	***
Shipments: Home market shipments: Internal consumption/transfers	***	***	***	***	***	***	***
Commercial home market shipments	***	***	***	***	***	***	***
Total home market shipments	***	***	***	***	***	***	***
Export shipments to:							
United States	***	***	***	***	***	***	***
All other markets	***	***	***	***	***	***	***
Total exports	***	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***	***
	<b>Ratios and shares (percent)</b>						
Capacity utilization	***	***	***	***	***	***	***
Inventories/production	***	***	***	***	***	***	***
Inventories/total shipments	***	***	***	***	***	***	***
Share of shipments: Home market shipments: Internal consumption/transfers	***	***	***	***	***	***	***
Commercial home market shipments	***	***	***	***	***	***	***
Total home market shipments	***	***	***	***	***	***	***
Export shipments to:							
United States	***	***	***	***	***	***	***
All other markets	***	***	***	***	***	***	***
Total exports	***	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***	***

Table continued on the next page.



**Table VII-4 -- Continued**

**Refillable stainless steel kegs: Data on industry in China, 2016-18, January to March 2018, to January to March 2019 and projection calendar years 2019 and 2020**

Item	Actual experience					Projections	
	Calendar year			January to March		Calendar year	
	2016	2017	2018	2018	2019	2019	2020
	<b>Quantity (units)</b>						
Resales exported to the United States	***	***	***	***	***	***	***
Total exports to the U.S.	***	***	***	***	***	***	***
	<b>Ratios and shares (percent)</b>						
Share of total exports to the United States: Exported by producers	***	***	***	***	***	***	***
Exported by resellers	***	***	***	***	***	***	***
Adjusted share of total shipments exported to the United States	***	***	***	***	***	***	***

1 \*\*\*

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.

### Alternative products

As shown in table VII-5, responding firms from China produced other products, (specifically, other refillable stainless steel kegs that fall outside the scope under the investigation, such as kegs that are not cylindrical, less than 10 liters capacity, or kegs not compatible with a D-Sankey extractor),<sup>7</sup> on the same equipment and machinery used to produce refillable stainless steel kegs. Refillable stainless steel kegs constituted a substantial majority of the kegs produced on shared equipment.

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<sup>7</sup> \*\*\* foreign producer questionnaire responses to question II-3a.

**Table VII-5**

**Refillable stainless steel kegs: Overall capacity and production on the same equipment as in-scope production by producers in China, 2016-18, January to March 2018, to January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
Overall capacity	***	***	***	***	***
Production:					
Stainless steel kegs	***	***	***	***	***
Out-of-scope production	***	***	***	***	***
Total production on same machinery	***	***	***	***	***
	<b>Ratios and shares (percent)</b>				
Overall capacity utilization	***	***	***	***	***
Share of production:					
Stainless steel kegs	***	***	***	***	***
Out-of-scope production <sup>1</sup>	***	***	***	***	***
Total production on same machinery	***	***	***	***	***

<sup>1</sup> \*\*\* reported producing other kegs that are not cylindrical, kegs with nominal volume capacity of less than 10 liters, or kegs not compatible with a “D Sankey” extractor. Foreign producer’s questionnaire responses to II-3a.

Source: Compiled from data submitted in response to Commission questionnaires.

## Exports

According to GTA, the leading export markets for iron and steel containers from China are the United States, Germany, and the Netherlands (table VII-6).<sup>8</sup> During 2018, the United States was the top export market for iron and steel containers from China, accounting for 19.3 percent, followed by Germany, accounting for 6.4 percent.

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<sup>8</sup> Official exports statistics include refillable stainless steel kegs as well as other products. Data for these products may be overstated and are not available in quantity and units; therefore, the data are reported in dollar values.

**Table VII-6**  
**Iron and steel containers: Exports from China by destination market, 2016-18**

Destination market <sup>1</sup>	Calendar year		
	2016	2017	2018
	<b>Value (1,000 dollars)</b>		
United States	97,171	109,902	101,826
Germany	28,573	31,905	33,911
Netherlands	17,199	21,455	24,563
United Kingdom	21,145	22,654	23,939
France	12,570	16,236	21,383
Hong Kong	21,275	17,306	18,608
Japan	14,259	16,119	17,777
Canada	14,991	15,693	17,651
Spain	12,436	11,425	16,720
All other destination markets	203,610	225,935	250,693
Total exports	443,229	488,630	527,071
	<b>Share of value (percent)</b>		
United States	21.9	22.5	19.3
Germany	6.4	6.5	6.4
Netherlands	3.9	4.4	4.7
United Kingdom	4.8	4.6	4.5
France	2.8	3.3	4.1
Hong Kong	4.8	3.5	3.5
Japan	3.2	3.3	3.4
Canada	3.4	3.2	3.3
Spain	2.8	2.3	3.2
All other destination markets	45.9	46.2	47.6
Total exports	100.0	100.0	100.0

<sup>1</sup> Data may be overstated because it includes out-of-scope merchandize.

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. United States is shown at the top, all remaining top export destinations shown in descending order of 2018 data.

Source: Official exports statistics under HS subheading 7310.10 and 7310.29 as reported by China Customs in the Global Trade Atlas database, accessed July 15, 2019.

## THE INDUSTRY IN GERMANY

The Commission issued foreign producers' or exporters' questionnaires to three firms believed to produce and/or export refillable stainless steel kegs from Germany.<sup>9</sup> Usable responses to the Commission's questionnaire were received from two firms: Blefa GmbH and Schaefer Werke GmbH ("Schaefer Werke").<sup>10</sup> These firms' exports to the United States were equivalent to virtually all reported U.S. imports of refillable stainless steel kegs from Germany in 2018. According to estimates requested of the responding producers from Germany, the production of refillable stainless steel kegs in Germany reported in questionnaires accounts for all production of refillable stainless steel kegs in Germany. Table VII-7 presents information on the refillable stainless steel keg operations of the responding producers and exporters in Germany.

**Table VII-7**  
**Refillable stainless steel kegs: Summary data on firms in Germany, 2018**

Firm	Production (units)	Share of reported production (percent)	Exports to the United States (units)	Share of reported exports to the United States (percent)	Total shipments (units)	Share of firm's total shipments exported to the United States (percent)
Blefa GmbH	***	***	***	***	***	***
Schaefer Werke	***	***	***	***	***	***
Total	***	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

### Changes in operations

As presented in table VII-8, one producer in Germany reported operational changes since January 1, 2016.

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<sup>9</sup> These firms were identified through a review of information submitted in the petition and contained in \*\*\* records.

<sup>10</sup> Commerce selected Blefa GmbH as the sole mandatory respondent in its antidumping duty investigation.

**Table VII-8**

**Refillable stainless steel kegs: Reported changes in operations by producers in Germany, since January 1, 2016**

Item / firm	Reported changes in operations
<b>Expansions:</b>	
***	***

Source: Compiled from data submitted in response to Commission questionnaires.

### **Operations on refillable stainless steel kegs**

Table VII-9 presents information on the refillable stainless steel kegs operations of the responding producers and exporters in Germany. The German industry's capacity grew by \*\*\* percent during 2016-18 from \*\*\* to \*\*\* units. Capacity is projected to remain near 2018 levels during 2019 and 2020. Production increased by \*\*\* percent during 2016-18, from \*\*\* to \*\*\* units. During 2016-18, capacity utilization ranged from \*\*\* to \*\*\* percent. Projections for 2019 and 2020 capacity utilization are expected to decline to approach \*\*\* percent. The volumes of export shipments to the United States decreased during 2016-18, from \*\*\* to \*\*\* units. Export shipments to the United States, as a share of total shipments declined from \*\*\* percent in 2016 to \*\*\* percent in 2018. Exports to the United States are projected to decrease to \*\*\* percent of total shipments by 2020.

Table VII-9

Refillable stainless steel kegs: Data on industry in Germany, 2016-18, January to March 2018, to January to March 2019 and projection calendar years 2019 and 2020

Item	Actual experience					Projections	
	Calendar year			January to March		Calendar year	
	2016	2017	2018	2018	2019	2019	2020
	<b>Quantity (units)</b>						
Capacity	***	***	***	***	***	***	***
Production	***	***	***	***	***	***	***
End-of-period inventories	***	***	***	***	***	***	***
Shipments: Home market shipments: Internal consumption/ transfers	***	***	***	***	***	***	***
Commercial home market shipments	***	***	***	***	***	***	***
Total home market shipments	***	***	***	***	***	***	***
Export shipments to: United States	***	***	***	***	***	***	***
All other markets	***	***	***	***	***	***	***
Total exports	***	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***	***
	<b>Ratios and shares (percent)</b>						
Capacity utilization	***	***	***	***	***	***	***
Inventories/production	***	***	***	***	***	***	***
Inventories/total shipments	***	***	***	***	***	***	***
Share of shipments: Home market shipments: Internal consumption/ transfers	***	***	***	***	***	***	***
Commercial home market shipments	***	***	***	***	***	***	***
Total home market shipments	***	***	***	***	***	***	***
Export shipments to: United States	***	***	***	***	***	***	***
All other markets	***	***	***	***	***	***	***
Total exports	***	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***	***

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.

## Alternative products

As shown in table VII-10, responding firms from Germany produced other products, (specifically, out-of-scope products including chemical kegs and kegs with less than 10-liter capacity) on the same equipment and machinery used to produce refillable stainless steel kegs.

**Table VII-10**

**Refillable stainless steel kegs: Overall capacity and production on the same equipment as in-scope production by producers in Germany, 2016-18, January to March 2018, to January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Quantity (units)</b>				
Overall capacity	***	***	***	***	***
Production:					
Stainless steel kegs	***	***	***	***	***
Out-of-scope production <sup>1</sup>	***	***	***	***	***
Total production on same machinery	***	***	***	***	***
	<b>Ratios and shares (percent)</b>				
Overall capacity utilization	***	***	***	***	***
Share of production:					
Stainless steel kegs	***	***	***	***	***
Out-of-scope production	***	***	***	***	***
Total production on same machinery	***	***	***	***	***

<sup>1</sup> \*\*\* is producing out-of-scope products including chemical kegs and kegs <10 liter.

Source: Compiled from data submitted in response to Commission questionnaires.

## Exports

According to GTA, the leading export markets for iron and steel containers from Germany are the United States, Belgium, and France (table VII-11).<sup>11</sup> During 2018, the United States was the top export market for iron and steel containers from Germany, accounting for 13.3 percent, followed by Belgium and France, accounting for 11.0 and 10.9 percent, respectively.

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<sup>11</sup> Official exports statistics include refillable stainless steel kegs as well as other products. Data for these products may be overstated and are not available in quantity and units; therefore, the data are reported in dollar values.

**Table VII-11****Iron and steel containers: Exports from Germany by destination market, 2016-18**

Destination market <sup>1</sup>	Calendar year		
	2016	2017	2018
	<b>Value (1,000 dollars)</b>		
United States	65,563	50,387	63,676
Belgium	43,496	41,549	52,653
France	44,697	47,795	52,062
Netherlands	55,372	43,056	44,744
United Kingdom	29,926	35,374	31,772
Switzerland	30,946	26,825	30,974
Poland	14,019	19,267	24,269
Austria	21,872	23,555	22,225
Denmark	11,808	14,216	16,975
All other destination markets	109,636	136,526	139,839
Total exports	427,336	438,550	479,190
	<b>Share of value (percent)</b>		
United States	15.3	11.5	13.3
Belgium	10.2	9.5	11.0
France	10.5	10.9	10.9
Netherlands	13.0	9.8	9.3
United Kingdom	7.0	8.1	6.6
Switzerland	7.2	6.1	6.5
Poland	3.3	4.4	5.1
Austria	5.1	5.4	4.6
Denmark	2.8	3.2	3.5
All other destination markets	25.7	31.1	29.2
Total exports	100.0	100.0	100.0

<sup>1</sup> Data may be overstated because it includes out-of-scope merchandize.

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. United States is shown at the top, all remaining top export destinations shown in descending order of 2018 data.

Source: Official exports statistics under HS subheading 7310.10 and 7310.29 as reported by Eurostat in the Global Trade Atlas database, accessed July 15, 2019.



## THE INDUSTRY IN MEXICO

The Commission issued foreign producers' or exporters' questionnaires to six firms believed to produce and/or export refillable stainless steel kegs from Mexico.<sup>12</sup> A usable response to the Commission's questionnaire was received from Thielmann Mexico.<sup>13</sup> The firm's exports to the United States are equivalent to virtually all reported U.S. imports of refillable stainless steel kegs from Mexico in 2018. According to estimates requested of the responding producer from Mexico, the production of refillable stainless steel kegs in Mexico reported in its questionnaire accounts for all production of refillable stainless steel kegs in Mexico. Table VII-12 presents information on Thielmann Mexico's refillable stainless steel keg operations in Mexico.

**Table VII-12**  
**Refillable stainless steel kegs: Summary data for Thielmann Mexico, 2018**

Firm	Production (units)	Share of reported production (percent)	Exports to the United States (units)	Share of reported exports to the United States (percent)	Total shipments (units)	Share of firm's total shipments exported to the United States (percent)
Thielmann Mexico	***	***	***	***	***	***
Total	***	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

### Changes in operations

As presented in table VII-13 Thielmann Mexico reported changes in operations since January 1, 2016.

**Table VII-13**  
**Refillable stainless steel kegs: Reported changes in operations by Thielmann Mexico, since January 1, 2016**

Item / firm	Reported changes in operations
<b>Other:</b>	
***	***

Source: Compiled from data submitted in response to Commission questionnaires.

<sup>12</sup> These firms were identified through a review of information submitted in the petition and contained in \*\*\* records.

<sup>13</sup> Commerce selected Thielmann Mexico S.A. de C.V. as the sole respondent in its antidumping duty investigation.

## Operations on refillable stainless steel kegs

Table VII-14 presents information on Thielmann Mexico's refillable stainless steel keg operations in Mexico. The firm's capacity remained the same at \*\*\* units during 2016-18, was lower in the first quarter of 2019 compared to the same period in 2018 and is expected to decrease between 2019 and 2020 to \*\*\* units. Production increased by \*\*\* percent during 2016-18, from \*\*\* to \*\*\* units, but is likewise projected to decline substantially in 2019-20. During 2016-18, capacity utilization ranged from \*\*\* to \*\*\* percent top annual rate. The company is expected to run at full capacity levels in 2019 and 2020. The volumes of export shipments to the United States increased every year during 2016-18. Export shipments to the United States, as a share of total shipments, were \*\*\* percent in 2016, \*\*\* percent in 2017, and \*\*\* percent in 2018. Projections are expected to decrease in 2019 to \*\*\* percent and \*\*\* percent in 2020.

**Table VII-14**

**Refillable stainless steel kegs: Data on industry in Mexico, 2016-18, January to March 2018, to January to March 2019 and projection calendar years 2019 and 2020**

Item	Actual experience					Projections	
	Calendar year			January to March		Calendar year	
	2016	2017	2018	2018	2019	2019	2020
	<b>Quantity (units)</b>						
Capacity	***	***	***	***	***	***	***
Production	***	***	***	***	***	***	***
End-of-period inventories	***	***	***	***	***	***	***
Shipments: Home market shipments: Internal consumption/ transfers	***	***	***	***	***	***	***
Commercial home market shipments	***	***	***	***	***	***	***
Total home market shipments	***	***	***	***	***	***	***

Table continued on the next page.

**Table VII-14 -- Continued**

**Refillable stainless steel kegs: Data on industry in Mexico, 2016-18, January to March 2018, to January to March 2019 and projection calendar years 2019 and 2020**

Item	Actual experience					Projections	
	Calendar year			January to March		Calendar year	
	2016	2017	2018	2018	2019	2019	2020
Export shipments to:							
United States	***	***	***	***	***	***	***
All other markets	***	***	***	***	***	***	***
Total exports	***	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***	***
	<b>Ratios and shares (percent)</b>						
Capacity utilization	***	***	***	***	***	***	***
Inventories/production	***	***	***	***	***	***	***
Inventories/total shipments	***	***	***	***	***	***	***
Share of shipments:							
Home market shipments:							
Internal consumption/transfers	***	***	***	***	***	***	***
Commercial home market shipments	***	***	***	***	***	***	***
Total home market shipments	***	***	***	***	***	***	***
Export shipments to:							
United States	***	***	***	***	***	***	***
All other markets	***	***	***	***	***	***	***
Total exports	***	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***	***

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.

## Alternative products

Thielmann Mexico did not report production of other products on the same equipment and machinery used to produce refillable stainless steel kegs.

## Exports

According to GTA, the leading export markets for iron and steel containers from Mexico are the United States, Argentina, and Chile (table VII-15).<sup>14</sup> During 2018, the United States was the top export market for iron and steel containers from Mexico, accounting for 93.2 percent, followed by Argentina, accounting for 1.1 percent.

**Table VII-15**  
**Iron and steel containers: Exports from Mexico by destination market, 2016-18**

Destination market <sup>1</sup>	Calendar year		
	2016	2017	2018
	<b>Value (1,000 dollars)</b>		
United States	89,284	90,399	153,611
Argentina	1,127	1,823	1,814
Chile	1,531	831	1,771
France	1	24	1,236
Guatemala	968	994	1,096
Thailand	277	40	877
Malaysia	---	1,311	798
Costa Rica	930	837	523
India	0	---	522
All other destination markets	6,269	8,730	2,618
Total exports	100,387	104,989	164,867

Table continued on the next page.

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<sup>14</sup> Official exports statistics include refillable stainless steel kegs as well as other products. Data for these products may be overstated and are not available in quantity and units; therefore, the data are reported in dollar values.

**Table VII-15 -- Continued****Iron and steel containers: Exports from Mexico by destination market, 2016-18**

Destination market	Calendar year		
	2016	2017	2018
	<b>Share of value (percent)</b>		
United States	88.9	86.1	93.2
Argentina	1.1	1.7	1.1
Chile	1.5	0.8	1.1
France	0.0	0.0	0.7
Guatemala	1.0	0.9	0.7
Thailand	0.3	0.0	0.5
Malaysia	---	1.2	0.5
Costa Rica	0.9	0.8	0.3
India	0.0	---	0.3
All other destination markets	6.2	8.3	1.6
Total exports	100.0	100.0	100.0

<sup>1</sup> Data may be overstated because it includes out-of-scope merchandize.

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Official exports statistics under HS subheading 7310.10 and 7310.29 as reported by INEGI in the Global Trade Atlas database, accessed July 15, 2019.

## SUBJECT COUNTRIES COMBINED

Table VII-16 presents summary data on refillable stainless steel keg operations of the reporting subject producers in the subject countries.

**Table VII-16**

**Refillable stainless steel kegs: Data on industry in subject countries, 2016-18, January to March 2018, to January to March 2019 and projection calendar years 2019 and 2020**

Item	Actual experience					Projections	
	Calendar year			January to March		Calendar year	
	2016	2017	2018	2018	2019	2019	2020
	<b>Quantity (units)</b>						
Capacity	3,309,901	4,536,374	4,793,385	1,276,946	1,164,553	4,090,413	3,714,701
Production	3,030,701	3,908,916	4,509,440	1,177,993	1,097,326	3,228,059	2,961,403
End-of-period inventories	151,124	193,995	295,053	228,470	293,274	***	***
Shipments: Home market shipments: Internal consumption/ transfers	---	---	---	---	---	---	---
Commercial home market shipments	545,721	376,667	361,089	53,644	83,239	290,969	284,171
Total home market shipments	545,721	376,667	361,089	53,644	83,239	290,969	284,171
Export shipments to: United States	1,250,916	1,389,965	1,352,569	272,566	267,968	551,843	384,821
All other markets	1,278,146	2,099,413	2,698,724	821,308	743,898	2,375,308	2,285,224
Total exports	2,529,062	3,489,378	4,051,293	1,093,874	1,011,866	2,927,151	2,670,045
Total shipments	3,074,783	3,866,045	4,412,382	1,147,518	1,095,105	3,218,120	2,954,216
	<b>Ratios and shares (percent)</b>						
Capacity utilization	91.6	86.2	94.1	92.3	94.2	78.9	79.7
Inventories/production	5.0	5.0	6.5	4.8	6.7	***	***
Inventories/total shipments	4.9	5.0	6.7	5.0	6.7	***	***
Share of shipments: Home market shipments: Internal consumption/ transfers	---	---	---	---	---	---	---
Commercial home market shipments	17.7	9.7	8.2	4.7	7.6	9.0	9.6
Total home market shipments	17.7	9.7	8.2	4.7	7.6	9.0	9.6
Export shipments to: United States	40.7	36.0	30.7	23.8	24.5	17.1	13.0
All other markets	41.6	54.3	61.2	71.6	67.9	73.8	77.4
Total exports	82.3	90.3	91.8	95.3	92.4	91.0	90.4
Total shipments	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Table continued on the next page.

**Table VII-16 -- Continued**

**Refillable stainless steel kegs: Data on industry in subject countries, 2016-18, January to March 2018, to January to March 2019 and projection calendar years 2019 and 2020**

Item	Actual experience					Projections	
	Calendar year			January to March		Calendar year	
	2016	2017	2018	2018	2019	2019	2020
	<b>Quantity (units)</b>						
Resales exported to the United States	***	***	***	***	***	***	***
Total exports to the U.S.	***	***	***	***	***	***	***
	<b>Ratios and shares (percent)</b>						
Share of total exports to the United States: Exported by producers	***	***	***	***	***	***	***
Exported by resellers	***	***	***	***	***	***	***
Adjusted share of total shipments exported to the United States	***	***	***	***	***	***	***

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.

## U.S. INVENTORIES OF IMPORTED MERCHANDISE

Table VII-17 presents data on U.S. importers' reported inventories of refillable stainless steel kegs.

**Table VII-17**

**Refillable stainless steel kegs: U.S. importers' end-of-period inventories of imports by source, 2016-18, January to March 2018, to January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	<b>Inventories (units); Ratios (percent)</b>				
Imports from China Inventories	***	***	***	***	***
Ratio to U.S. imports	***	***	***	***	***
Ratio to U.S. shipments of imports	***	***	***	***	***
Ratio to total shipments of imports	***	***	***	***	***
Imports from Germany Inventories	***	***	***	***	***
Ratio to U.S. imports	***	***	***	***	***
Ratio to U.S. shipments of imports	***	***	***	***	***
Ratio to total shipments of imports	***	***	***	***	***
Imports from Mexico Inventories	***	***	***	***	***
Ratio to U.S. imports	***	***	***	***	***
Ratio to U.S. shipments of imports	***	***	***	***	***
Ratio to total shipments of imports	***	***	***	***	***
Imports from subject sources Inventories	238,450	242,905	304,447	226,492	397,364
Ratio to U.S. imports	19.0	18.9	23.2	21.7	37.6
Ratio to U.S. shipments of imports	20.5	19.3	24.8	20.5	59.7
Ratio to total shipments of imports	20.2	18.9	24.3	20.0	59.1
Imports from nonsubject sources: Inventories	***	***	***	***	***
Ratio to U.S. imports	***	***	***	***	***
Ratio to U.S. shipments of imports	***	***	***	***	***
Ratio to total shipments of imports	***	***	***	***	***
Imports from all import sources: Inventories	***	***	***	***	***
Ratio to U.S. imports	***	***	***	***	***
Ratio to U.S. shipments of imports	***	***	***	***	***
Ratio to total shipments of imports	***	***	***	***	***

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

Source: Compiled from data submitted in response to Commission questionnaires.



## U.S. IMPORTERS' OUTSTANDING ORDERS

The Commission requested importers to indicate whether they imported or arranged for the importation of refillable stainless steel kegs from China, Germany, and Mexico after March 31, 2019.

**Table VII-18**  
**Refillable stainless steel kegs: Arranged imports, April 2019 through March 2020**

Item	Period				Total
	Apr-Jun 2019	Jul-Sept 2019	Oct-Dec 2019	Jan-Mar 2020	
	<b>Quantity (units)</b>				
Arranged U.S. imports from.--					
China	***	***	***	***	***
Germany	***	***	***	***	***
Mexico	***	***	***	***	***
Subject sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	***	***	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

### ANTIDUMPING OR COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

There are no known trade remedy actions on refillable stainless steel kegs in third-country markets. Both the petitioner's witnesses and respondent's witnesses testified that they were not aware of any antidumping or countervailing duty orders on these kegs imported from China, Germany, or Mexico into third-country markets.<sup>15</sup>

### INFORMATION ON NONSUBJECT COUNTRIES

According to Table VII-19, the two largest global exporters of iron and steel containers (including refillable stainless steel kegs), by value in 2018, were China and Germany accounting for 25.5 percent of total exports. The two largest nonsubject global exporters were Italy and Korea. Italy and Korea accounted for approximately 12.3 percent of global exports by value in 2018.

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<sup>15</sup> Conference transcript, pp. 87 (Rolig), 127 (Willenbrink).

**Table VII-19**  
**Iron and steel containers: Global exports by exporter, 2016-18**

Exporter	Calendar year		
	2016	2017	2018
	<b>Value (1,000 dollars)</b>		
United States	441,630	475,065	453,695
China	443,229	488,630	527,071
Germany	427,336	438,550	481,342
Mexico	100,387	104,989	164,867
Subject sources	970,952	1,032,169	1,173,280
All other major reporting exporters.--			
Italy	261,193	287,062	288,943
Korea	156,805	174,243	195,376
Poland	106,588	117,834	141,616
Netherlands	106,105	114,187	131,359
Czech Republic	80,754	92,632	107,833
United Kingdom	59,921	149,803	106,732
Spain	77,735	75,356	81,546
All other exporters	1,354,108	1,284,225	1,271,316
Total global exports	3,615,790	3,802,576	3,951,696
	<b>Share of value (percent)</b>		
United States	12.2	12.5	11.5
China	12.3	12.8	13.3
Germany	11.8	11.5	12.2
Mexico	2.8	2.8	4.2
Subject sources	26.9	27.1	29.7
All other major reporting exporters.--			
Italy	7.2	7.5	7.3
Korea	4.3	4.6	4.9
Poland	2.9	3.1	3.6
Netherlands	2.9	3.0	3.3
Czech Republic	2.2	2.4	2.7
United Kingdom	1.7	3.9	2.7
Spain	2.2	2.0	2.1
All other exporters	37.5	33.9	32.2
Total global exports	100.0	100.0	100.0

Source: Official exports statistics under HS subheadings 7310.10 and 7310.29 reported by various national statistical authorities in the Global Trade Atlas database, accessed July 18, 2019.

**APPENDIX A**

***FEDERAL REGISTER* NOTICES**



The Commission makes available notices relevant to its investigations and reviews on its website, [www.usitc.gov](http://www.usitc.gov). In addition, the following tabulation presents, in chronological order, *Federal Register* notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
83 FR 48652 September 26, 2018	<i>Refillable Stainless Steel Kegs From China, Germany, and Mexico; Institution of Anti-Dumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations</i>	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-09-26/pdf/2018-20926.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-09-26/pdf/2018-20926.pdf</a>
83 FR 52192 October 16, 2018	<i>Refillable Stainless Steel Kegs From the People's Republic of China: Initiation of Countervailing Duty Investigation</i>	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-10-16/pdf/2018-22483.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-10-16/pdf/2018-22483.pdf</a>
83 FR 52195 October 16, 2018	<i>Refillable Stainless Steel Kegs From the People's Republic of China, the Federal Republic of Germany, and Mexico: Initiation of Less-Than-Fair-Value Investigations</i>	<a href="https://www.gpo.gov/fdsys/pkg/FR-2018-10-16/pdf/2018-22482.pdf">https://www.gpo.gov/fdsys/pkg/FR-2018-10-16/pdf/2018-22482.pdf</a>
83 FR 56102 November 9, 2018	<i>Refillable Stainless Steel Kegs From the People's Republic of China, the Federal Republic of Germany, and Mexico: Affirmative Preliminary Determination and Commencement of Final Phase Investigations</i>	<a href="https://www.govinfo.gov/content/pkg/FR-2018-11-09/pdf/2018-24515.pdf">https://www.govinfo.gov/content/pkg/FR-2018-11-09/pdf/2018-24515.pdf</a>

Citation	Title	Link
83 FR 62560 December 4, 2018	<i>Refillable Stainless Steel Kegs From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation</i>	<a href="https://www.govinfo.gov/content/pkg/FR-2018-12-04/pdf/2018-26316.pdf">https://www.govinfo.gov/content/pkg/FR-2018-12-04/pdf/2018-26316.pdf</a>
84 FR 10033 March 19, 2019	<i>Refillable Stainless Steel Kegs From the Federal Republic of Germany, Mexico and the People's Republic of China: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations</i>	<a href="https://www.govinfo.gov/content/pkg/FR-2019-03-19/pdf/2019-05005.pdf">https://www.govinfo.gov/content/pkg/FR-2019-03-19/pdf/2019-05005.pdf</a>
84 FR 13634 April 5, 2019	<i>Refillable Stainless Steel Kegs From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination</i>	<a href="https://www.govinfo.gov/content/pkg/FR-2019-04-05/pdf/2019-06703.pdf">https://www.govinfo.gov/content/pkg/FR-2019-04-05/pdf/2019-06703.pdf</a>
84 FR 18796 May 2, 2019	<i>Antidumping Duty Investigation on Refillable Stainless Steel Kegs From Mexico: Preliminary Affirmative Determination of Critical Circumstances</i>	<a href="https://www.govinfo.gov/content/pkg/FR-2019-05-02/pdf/2019-08956.pdf">https://www.govinfo.gov/content/pkg/FR-2019-05-02/pdf/2019-08956.pdf</a>

Citation	Title	Link
<p>84 FR 25736 June 4, 2019</p>	<p><i>Refillable Stainless Steel Kegs From the Federal Republic of Germany: Preliminary Affirmative Determination of Sales at Less Than Fair Value, and Postponement of Final Determination</i></p>	<p><a href="https://www.govinfo.gov/content/pkg/FR-2019-06-04/pdf/2019-11587.pdf">https://www.govinfo.gov/content/pkg/FR-2019-06-04/pdf/2019-11587.pdf</a></p>
<p>84 FR 25738 June 4, 2019</p>	<p><i>Refillable Stainless Steel Kegs From Mexico: Preliminary Affirmative Determination of Sales at Less Than Fair Value</i></p>	<p><a href="https://www.govinfo.gov/content/pkg/FR-2019-06-04/pdf/2019-11586.pdf">https://www.govinfo.gov/content/pkg/FR-2019-06-04/pdf/2019-11586.pdf</a></p>
<p>84 FR 25745 June 4, 4019</p>	<p><i>Refillable Stainless Steel Kegs From the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures</i></p>	<p><a href="https://www.govinfo.gov/content/pkg/FR-2019-06-04/pdf/2019-11588.pdf">https://www.govinfo.gov/content/pkg/FR-2019-06-04/pdf/2019-11588.pdf</a></p>

Citation	Title	Link
<p>84 FR 25748 June 4, 2019</p>	<p><i>Refillable Stainless Steel Kegs From the People's Republic of China: Preliminary Affirmative Determination, in Part, of Critical Circumstances in the Countervailing Duty Investigation</i></p>	<p><a href="https://www.govinfo.gov/content/pkg/FR-2019-06-04/pdf/2019-11589.pdf">https://www.govinfo.gov/content/pkg/FR-2019-06-04/pdf/2019-11589.pdf</a></p>
<p>84 FR 28070 June 17, 2019</p>	<p><i>Stainless Steel Kegs From China, Germany, and Mexico; Scheduling of the Final Phase of Countervailing Duty and Anti-Dumping Duty Investigations</i></p>	<p><a href="https://www.govinfo.gov/content/pkg/FR-2019-06-17/pdf/2019-12663.pdf">https://www.govinfo.gov/content/pkg/FR-2019-06-17/pdf/2019-12663.pdf</a></p>
<p>84 FR 42894 August 19, 2019</p>	<p><i>Refillable Stainless Steel Kegs From Mexico: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances</i></p>	<p><a href="https://www.govinfo.gov/content/pkg/FR-2019-08-19/pdf/2019-17767.pdf">https://www.govinfo.gov/content/pkg/FR-2019-08-19/pdf/2019-17767.pdf</a></p>



**APPENDIX B**  
**LIST OF HEARING WITNESSES**



## CALENDAR OF PUBLIC HEARING

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

**Subject:** Refillable Stainless Steel Kegs from China, Germany, and Mexico  
**Inv. Nos.:** 701-TA-610 and 731-TA-1425-1427 (Final)  
**Date and Time:** August 14, 2019 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (Room 101), 500 E Street, SW., Washington, DC.

### **OPENING REMARKS:**

Petitioner (**Andrew W. Kentz**, Picard Kentz & Rowe LLP)  
Respondents (**Warren E. Connelly**, Trade Pacific PLLC)

### **In Support of the Imposition of Antidumping and Countervailing Duty Orders:**

Picard Kentz & Rowe LLP  
Washington, DC  
on behalf of

American Keg Company, LLC

**Scott Bentley**, Owner, American Keg Company, LLC

**Paul Czachor**, Chief Executive Officer, American Keg Company, LLC

**Steve Rubeo**, Controller, American Keg Company, LLC

**Brian Luzzi**, Director, Sales and Marketing, American Keg Company, LLC

**Andrew W. Kentz** )  
**Whitney M. Rolig** ) – OF COUNSEL  
**Nathan Maandig Rickard** )

**In Opposition to the Imposition of  
Antidumping and Countervailing Duty Orders:**

Hogan Lovells US LLP  
Washington, DC  
on behalf of

THIELMANN Mexico S.A. de C.V.  
THIELMANN US LLC

**Raffael Beck**, Senior Corporate Counsel, Heritage B.V.

**Terry Parker**, Advisor to the THIELMANN Executive Committee, THIELMANN

**Craig A. Lewis** )  
 ) – OF COUNSEL  
**Michael G. Jacobson** )

Pepper Hamilton LLP  
Washington, DC  
on behalf of

Blefa GmbH  
Blefa Kegs, Inc.

**Alexander Brand**, Chief Executive Officer, Blefa GmbH

**Dinah Quist**, Controller, Blefa Kegs, Inc.

**Justin Willenbrink**, Sales Director, North America, Blefa Kegs, Inc.

**Chris Sapyta**, Chief Executive Officer, Keg Logistics, LLC

**James P. Dougan**, Vice President, Economic Consulting Services, LLC

**Gillian Priddy**, Staff Economist, Economic Consulting Services, LLC

**Gregory C. Dorris** ) – OF COUNSEL

**In Opposition to the Imposition of  
Antidumping and Countervailing Duty Orders (continued):**

Trade Pacific PLLC  
Washington, DC  
on behalf of

Penglai Jinfu Stainless Steel Products Co., Ltd.  
Ningbo Major Draft Beer Equipment Co., Ltd.  
Qingdao Henka Precision Technology Co., Ltd.

**Steven Syzdek**, Managing Partner, NDL Keg LLC

**Brian Keyser**, President, Krew Kegs, Inc., d/b/a G4 Kegs

**Warren E. Connelly** ) – OF COUNSEL

Covington & Burling LLP  
Washington, DC  
on behalf of

Anheuser-Busch, LLC

**Jon Hoffmeister**, Vice President, Packaging Procurement,  
North American Operations, AB InBev

**Seth J. Hawkins**, Senior Associate General Counsel,  
Anheuser-Busch Companies, LLC

**James M. Smith** ) – OF COUNSEL

**REBUTTAL/CLOSING REMARKS:**

Petitioner (**Whitney M. Rolig**, Picard Kentz & Rowe LLP)  
Respondents (**Craig A. Lewis**, Hogan Lovells US LLP; and  
**Gregory C. Dorris**, Pepper Hamilton LLP)

**-END-**



**APPENDIX C**  
**SUMMARY DATA**





**Table C-1**

**Refillable stainless steel kegs: Summary data concerning the U.S. market, 2016-18, January to March 2018, to January to March 2019**

(Quantity=units; Value=\$1000 dollars; Unit values, unit labor costs, and unit expenses=dollars per unit; Period changes=percent--exceptions noted)

	Reported data					Period changes			
	Calendar year		2018	January to March		Calendar year			Jan-Mar
	2016	2017		2018	2018	2019	2016-18	2016-17	2017-18
<b>U.S. consumption quantity:</b>									
Amount.....	***	***	***	***	***	▲***	▲***	▼***	▼***
Producers' share (fn1).....	***	***	***	***	***	▲***	▲***	▲***	▲***
<b>Importers' share (fn1):</b>									
China.....	***	***	***	***	***	▲***	▲***	▼***	▼***
Germany.....	***	***	***	***	***	▼***	▼***	▲***	▲***
Mexico.....	***	***	***	***	***	▲***	▲***	▲***	▲***
Subject sources.....	***	***	***	***	***	▲***	▲***	▲***	▼***
Nonsubject sources.....	***	***	***	***	***	▼***	▼***	▼***	▲***
All import sources.....	***	***	***	***	***	▼***	▼***	▼***	▼***
<b>U.S. consumption value:</b>									
Amount.....	***	***	***	***	***	▲***	▼***	▲***	▼***
Producers' share (fn1).....	***	***	***	***	***	▲***	▲***	▲***	▲***
<b>Importers' share (fn1):</b>									
China.....	***	***	***	***	***	▲***	▲***	▼***	▼***
Germany.....	***	***	***	***	***	▼***	▼***	▲***	▲***
Mexico.....	***	***	***	***	***	▲***	▲***	▲***	▼***
Subject sources.....	***	***	***	***	***	▲***	▼***	▲***	▼***
Nonsubject sources.....	***	***	***	***	***	▼***	▼***	▼***	▲***
All import sources.....	***	***	***	***	***	▼***	▼***	▼***	▼***
<b>U.S. importers' U.S. shipments of imports from:</b>									
<b>China:</b>									
Quantity.....	***	***	***	***	***	▲***	▲***	▼***	▼***
Value.....	***	***	***	***	***	▲***	▲***	▼***	▼***
Unit value.....	***	***	***	***	***	▼***	▼***	▲***	▲***
Ending inventory quantity.....	***	***	***	***	***	▲***	▲***	▲***	▲***
<b>Germany:</b>									
Quantity.....	***	***	***	***	***	▼***	▼***	▼***	▼***
Value.....	***	***	***	***	***	▼***	▼***	▲***	▼***
Unit value.....	***	***	***	***	***	▲***	▼***	▲***	▼***
Ending inventory quantity.....	***	***	***	***	***	▼***	▼***	▼***	▲***
<b>Mexico:</b>									
Quantity.....	***	***	***	***	***	▲***	▲***	▲***	▼***
Value.....	***	***	***	***	***	▲***	▲***	▲***	▼***
Unit value.....	***	***	***	***	***	▲***	▼***	▲***	▼***
Ending inventory quantity.....	***	***	***	***	***	***	***	▲***	▲***
<b>Subject sources:</b>									
Quantity.....	1,162,268	1,255,804	1,225,733	275,838	166,531	▲5.5	▲8.0	▼(2.4)	▼(39.6)
Value.....	91,104	91,031	97,810	19,476	13,010	▲7.4	▼(0.1)	▲7.4	▼(33.2)
Unit value.....	\$78	\$72	\$80	\$71	\$78	▲1.8	▼(7.5)	▲10.1	▲10.6
Ending inventory quantity.....	238,450	242,905	304,447	226,492	397,364	▲27.7	▲1.9	▲25.3	▲75.4
<b>Nonsubject sources:</b>									
Quantity.....	***	***	***	***	***	▼***	▲***	▼***	▲***
Value.....	***	***	***	***	***	▼***	▼***	▼***	▼***
Unit value.....	***	***	***	***	***	▼***	▼***	▼***	▼***
Ending inventory quantity.....	***	***	***	***	***	▼***	▼***	▼***	▼***
<b>All import sources:</b>									
Quantity.....	***	***	***	***	***	▼***	▲***	▼***	▼***
Value.....	***	***	***	***	***	▲***	▼***	▲***	▼***
Unit value.....	***	***	***	***	***	▲***	▼***	▲***	▲***
Ending inventory quantity.....	***	***	***	***	***	▲***	▼***	▲***	▲***

Table continued on next page.

**Table C-1--Continued**

**Refillable stainless steel kegs: Summary data concerning the U.S. market, 2016-18, January to March 2018, to January to March 2019**

(Quantity=units; Value=\$1000 dollars; Unit values, unit labor costs, and unit expenses=dollars per unit; Period changes=percent--exceptions noted)

	Reported data					Period changes			
	Calendar year		2018	January to March		Calendar year			Jan-Mar
	2016	2017		2018	2018	2016-18	2016-17	2017-18	2018-19
U.S. producers':									
Average capacity quantity.....	***	***	***	***	***	▲***	▲***	***	▲***
Production quantity.....	***	***	***	***	***	▲***	▲***	▼***	▲***
Capacity utilization (fn1).....	***	***	***	***	***	▲***	▲***	▼***	▲***
U.S. shipments:									
Quantity.....	***	***	***	***	***	▲***	▲***	▲***	▼***
Value.....	***	***	***	***	***	▲***	▲***	▲***	▲***
Unit value.....	***	***	***	***	***	▲***	▼***	▲***	▲***
Export shipments:									
Quantity.....	***	***	***	***	***	***	***	***	***
Value.....	***	***	***	***	***	***	***	***	***
Unit value.....	***	***	***	***	***	***	***	***	***
Ending inventory quantity.....	***	***	***	***	***	▲***	▲***	▼***	▲***
Inventories/total shipments (fn1).....	***	***	***	***	***	▲***	▲***	▼***	▲***
Production workers.....	***	***	***	***	***	▲***	▲***	▼***	▼***
Hours worked.....	***	***	***	***	***	▲***	▲***	▼***	▲***
Wages paid.....	***	***	***	***	***	▲***	▲***	▼***	▲***
Hourly wages (dollars per hour).....	***	***	***	***	***	▲***	▲***	▲***	▼***
Productivity (units per hour).....	***	***	***	***	***	▲***	▲***	▼***	▲***
Unit labor costs.....	***	***	***	***	***	▼***	▼***	▲***	▼***
Net sales:									
Quantity.....	***	***	***	***	***	▲***	▲***	▲***	▼***
Value.....	***	***	***	***	***	▲***	▲***	▲***	▲***
Unit value.....	***	***	***	***	***	▲***	▼***	▲***	▲***
Cost of goods sold (COGS).....	***	***	***	***	***	▲***	▲***	▲***	▼***
Gross profit or (loss).....	***	***	***	***	***	▼***	▼***	▲***	▼***
SG&A expenses.....	***	***	***	***	***	▼***	▼***	▼***	▼***
Operating income or (loss).....	***	***	***	***	***	▼***	▼***	▲***	▼***
Net income or (loss).....	***	***	***	***	***	***	***	▲***	▼***
Capital expenditures.....	***	***	***	***	***	▲***	▲***	▼***	▲***
Unit COGS.....	***	***	***	***	***	▼***	▼***	▲***	▼***
Unit SG&A expenses.....	***	***	***	***	***	▼***	▼***	▼***	▼***
Unit operating income or (loss).....	***	***	***	***	***	▼***	▼***	▼***	▼***
Unit net income or (loss).....	***	***	***	***	***	***	***	▲***	▼***
COGS/sales (fn1).....	***	***	***	***	***	▼***	▼***	▲***	▼***
Operating income or (loss)/sales (fn1)	***	***	***	***	***	▲***	▲***	▲***	▲***
Net income or (loss)/sales (fn1).....	***	***	***	***	***	▼***	▼***	▼***	▲***

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent. Zeroes, null values, and undefined calculations are suppressed and shown as "--".

fn1.--Reported data are in percent and period changes are in percentage points.

fn2.--Suppressed due to sign change.

Source: Compiled from data submitted in response to Commission questionnaires.

**APPENDIX D**

**PROCEEDINGS UNDER SECTIONS 232 AND 301**



**Table D-1**  
**Section 232 import national-security events, 2018-19**

<b>Effective date</b>	<b>Affected U.S. trade partner(s)</b>
April 19, 2017	Commerce announced the institution of an investigation, by its U.S. Bureau of Industry and Security (“BIS”) into the potential impact of imported steel mill products on national security. <sup>1</sup>
January 11, 2018	The Secretary of Commerce submitted the BIS Section 232 steel imports report to the President. <sup>2</sup>
March 23, 2018	The President announced the imposition of 25 percent ad valorem national-security duties on U.S. steel imports. Initially exempted— Canada and Mexico. <sup>3</sup>
March 23 through May 1, 2018	<b>Adjustment:</b> Exempted— Argentina, Australia, Brazil, South Korea (quota limits), and the European Union (“EU”) member states. <sup>4</sup>
May 1 through June 1, 2018	<b>Adjustment:</b> Exempted, within calendar-year quota limits— Argentina and Brazil. Exemptions not continued— Canada, Mexico, and EU member states. <sup>5</sup>
August 13, 2018	<b>Adjustment:</b> Exemptions continued— Argentina, Australia, Brazil, and South Korea. Duty rate doubled to 50 percent ad valorem— Turkey. <sup>6</sup>
May 20, 2019	<b>Adjustment:</b> Exemptions reinstated— Canada and Mexico. <sup>7</sup>
May 21, 2019	<b>Adjustment:</b> Duty rate cut from 50 percent back to 25 percent ad valorem— Turkey. <sup>8</sup>

<sup>1</sup> *Notice Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Steel*, April 17, 2017, 82 FR 19205, April 26, 2017.

<sup>2</sup> “Statement from the Department of Commerce on Submission of Steel Section 232 Report to the President,” News Release January 11, 2018.

<sup>3</sup> *Adjusting Imports of Steel Into the United States*, Presidential Proclamation 9705, March 8, 2018, 83 FR 11625, March 15, 2018.

<sup>4</sup> *Adjusting Imports of Steel Into the United States*, Presidential Proclamation 9711, March 22, 2018, 83 FR 13361, March 28, 2018.

<sup>5</sup> *Adjusting Imports of Steel Into the United States*, Presidential Proclamation 9740, April 30, 2018, 83 FR 20683, May 7, 2018 and *Adjusting Imports of Steel Into the United States*, Presidential Proclamation 9759, May 31, 2018, 83 FR 25857, June 5, 2018. Continuation of the exemption for Australia, as of June 1, 2018, was included in subsequent Presidential Proclamation 9772, August 10, 2018.

<sup>6</sup> *Adjusting Imports of Steel Into the United States*, Presidential Proclamation 9772, August 10, 2018, 83 FR 40429, August 15, 2018.

<sup>7</sup> *Adjusting Imports of Steel Into the United States*, Presidential Proclamation 9886, May 16, 2019, 84 FR 23421, May 21, 2019.

<sup>8</sup> *Adjusting Imports of Steel Into the United States*, Presidential Proclamation 9894, May 19, 2019, 84 FR 23987, May 23, 2019.

**Table D-2  
Office of the United States Trade Representative (“USTR”), Section 301 tariff actions, 2018-19**

<b>Product list</b>	<b>Effective date</b>	<b>Tariff action</b>
Tranche 1	July 6, 2018	<b>Enacted:</b> Additional 25 percent ad valorem duties on approximately \$34 billion of imports classifiable under 818 HTS tariff subheadings (Annex A to 83 FR 28710). <sup>1</sup>
Tranche 2	August 23, 2018	<b>Enacted:</b> Additional 25 percent ad valorem duties on approximately \$16 billion of imports classifiable under 279 HTS tariff subheadings (Annex A to 83 FR 40823). <sup>2</sup>
Tranche 3	September 24, 2018	<b>Enacted:</b> Additional 10 percent ad valorem duties on approximately \$200 billion of imports classifiable under 5,745 HTS tariff subheadings and partial subheadings (Annex A to 83 FR 47974), which are scheduled to increase to 25 percent on January 1, 2019 (Annex B to 83 FR 47974). <sup>3</sup>
Tranche 3	October 1, 2018	<b>Amendment:</b> Fourteen HTS tariff subheadings in chapter 44 (under Annex A to 83 FR 47974, September 21, 2018) were removed and replaced by 38 corresponding new HTS subheadings to conform to the International Convention on the Harmonized Commodity Description and Coding System. <sup>4</sup>
Tranche 3	March 2, 2019	<b>Postponed:</b> Duty increases from 10 percent to 25 percent were rescheduled. <sup>5</sup>
Tranche 3	March 2, 2019	<b>Postponed:</b> Additional ad valorem duties to remain at 10 percent until further notice. <sup>6</sup>
Tranche 3	May 10, 2019	<b>Enacted:</b> Duty increases from 10 percent to 25 percent ad valorem were rescheduled. <sup>7</sup>
Tranche 3	Prior to June 1, 2019	<b>Enacted:</b> Delayed duty increases from the 10 percent to 25 percent ad valorem enacted May 10, 2019 on certain products exported from China before May 10, 2019, that enter into the United States before June 1, 2019. <sup>8</sup>
Tranche 3	Prior to June 15, 2019	<b>Enacted:</b> The date was extended for the delayed duty increase from 10 percent to 25 percent ad valorem on certain products exported from China before May 10, 2019 that enter into the United States before June 15, 2019. <sup>9</sup>
Tranche 4, list 1	September 1, 2019	<b>Enacted:</b> Additional 10 percent ad valorem duties on imports classifiable under 3,229 full HTS tariff subheadings and 4 partial HTS subheadings (Annexes A and B to 84 FR 43304). Imports on products classifiable under HTS subheadings on lists 1 and 2 totaled approximately \$300 billion. <sup>10</sup>
Tranche 4, list 2	December 15, 2019	<b>Enacted:</b> Additional 10 percent ad valorem duties on imports classifiable under 542 full HTS tariff subheadings and 8 partial HTS subheadings (Annexes C and D to 84 FR 43304). Imports on products classifiable under HTS subheadings on lists 1 and 2 totaled approximately \$300 billion. <sup>10</sup>
Tranche 4, list 1	September 1, 2019	<b>Enacted:</b> Duties changed from an additional 10 percent ad valorem to 15 percent ad valorem duties on imports classifiable under 3,229 full HTS tariff subheadings and 4 partial HTS subheadings (Annexes A and B to 84 FR 43304). <sup>11</sup>

Table continued on the next page.

**Table D-2 -- Continued**

**Office of the United States Trade Representative (“USTR”), Section 301 tariff actions, 2018-19**

<b>Product list</b>	<b>Effective date</b>	<b>Tariff action</b>
Tranche 4, list 2	December 15, 2019	<b>Enacted:</b> Duties changed from an additional 10 percent ad valorem to 15 percent ad valorem duties on imports classifiable under 542 full HTS tariff subheadings and 8 partial HTS subheadings (Annexes C and D to 84 FR 43304). <sup>11</sup>
Tranches 1, 2, and 3	September 3, 2019	<b>Proposed:</b> Increase in the additional duties on the products in the first three tranches, from 25 percent to 30 percent, effective October 1, 2019. <sup>12</sup>

<sup>1</sup> USTR, *Notice of Action and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 FR 28710, June 20, 2018.

<sup>2</sup> USTR, *Notice of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 FR 40823, August 16, 2018.

<sup>3</sup> USTR, *Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 FR 47974, September 21, 2018.

<sup>4</sup> USTR, *Conforming Amendment and Modification to Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 FR 49153, September 28, 2018.

<sup>5</sup> USTR, *Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 FR 65198, December 19, 2018.

<sup>6</sup> USTR, *Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 FR 7966, March 5, 2019.

<sup>7</sup> USTR, *Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 FR 20459, May 9, 2019.

<sup>8</sup> USTR, *Implementing Modification to Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 FR 21892, May 15, 2019.

<sup>9</sup> USTR, *Additional Implementing Modification to Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 FR 26930, June 10, 2019.

<sup>10</sup> USTR, *Request for Comments Concerning Proposed Modification of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 FR 22564, May 17, 2019; USTR, *Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 FR 43304, August 20, 2019.

<sup>11</sup> USTR, *Notice of Modification of Section 301 Action: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 FR 45821, August 30, 2019.

<sup>12</sup> USTR, *Request for Comments Concerning Proposed Modification of Action Pursuant to Section 301: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 FR 46212, September 3, 2019.





**APPENDIX E**  
**MATERIAL RETARDATION**



### The length of domestic production operations

Prior to Geemacher LLC and American Keg Company, Spartanburg Stainless Products, Inc. (“Spartanburg Stainless”), of South Carolina, was the only U.S. manufacturer of refillable stainless steel kegs. In November 2006, Franke Beverage Containers, a Swiss company that also owns German keg manufacturer, Franke Blefa, acquired Spartanburg Stainless. \*\*\*.<sup>1</sup> \*\*\*.<sup>2</sup>

Geemacher LLC, the predecessor to American Keg, LLC, was first registered as a limited liability company in 2007. The petitioner reports that Geemacher initially imported refillable stainless steel kegs, but began trial production in early 2014, and commercial production of refillable stainless steel kegs in late 2014.<sup>3</sup> <sup>4</sup> In May 2016, American Keg purchased the assets of Geemacher.<sup>5</sup> American Keg initially supplied much its shipments from imports, and only stopped importing in 2019.<sup>6</sup> Production volumes since 2007 (i.e., since the sale of Spartanburg Stainless) are as follows:

Year	Trial production (units)	Commercial production (units)
2007 through 2013	***	***
2014	***	***
2015	***	***
2016	***	***
2017	***	***
2018	***	***

Source: Compiled from data submitted in response to Commission questionnaires.

### The characteristics of domestic production

American Keg reported \*\*\* production of other products in its facility in Pottstown, Pennsylvania, prior to producing refillable stainless steel kegs.<sup>7</sup> According to the petition, there are approximately six sizes of imported refillable stainless steel kegs. However, American Keg estimates that 1/6 barrel kegs and 1/2 barrel kegs constitutes more than 80 percent of the U.S. market.<sup>8</sup> Consistent with the market demands, American Keg states that production and sale of 1/6 barrel and 1/2 barrel kegs are the principal focus of the company’s Pottstown production line.<sup>9</sup> Both of the major sizes were produced in each full and partial year, and sold in every quarter. No start or stoppage was reported during the transition from Geemacher to American Keg.

<sup>1</sup> Blefa’s posthearing brief, exh. 9.

<sup>2</sup> Petition, pp. 4-5, and Staff telephone interview with \*\*\* October 10, 2018.

<sup>3</sup> \*\*\*. American Keg’s U.S. producer questionnaire responses to questions II-16a and II-16b.

<sup>4</sup> Petition, p. 3.

<sup>5</sup> American Keg’s U.S. producer questionnaire response to question II-15.

<sup>6</sup> American Keg’s U.S. importer questionnaire response to question II-4.

<sup>7</sup> American Keg’s questionnaire responses to questions II-16d and II-16e.

<sup>8</sup> Petition, p. 11.

<sup>9</sup> Petition, p. 11 and p. 36.

American Keg has \*\*\*;<sup>10</sup> its production processes are reportedly less automated than those of foreign producers of refillable stainless steel kegs.<sup>11</sup> To improve efficiency, American Keg also \*\*\*.<sup>12</sup>

### **The size of domestic operations**

According to American Keg's response to question II-7 and the petition, p. 49, the company's production capacity was \*\*\* units in 2016, and increased to \*\*\* units in 2017 and 2018, while the company's production was \*\*\* units in 2016, and reached \*\*\* kegs in 2017, before declining to \*\*\* kegs in 2018. Capacity utilization ranged from \*\*\* percent to \*\*\* percent during 2016-18 and first quarter of 2019.<sup>13 14</sup> In 2018, apparent U.S. consumption of refillable stainless steel kegs was \*\*\* units and American Keg's U.S. shipments accounted for \*\*\* percent of apparent consumption by quantity.<sup>15</sup>

### **Whether the proposed domestic industry has reached a reasonable financial "break-even" point**

The U.S producer questionnaire requested that feasibility studies and/or breakeven studies related to refillable stainless steel kegs operations be submitted. In response, American Keg submitted summary information from a February 2016 spreadsheet ("Bridge File"), which projected financial results under various production levels by keg type (1/2 keg and 1/6 keg). Pro forma production levels were based on increments of total kegs produced per day (ranging from \*\*\* kegs per day and \*\*\* kegs of annual production to \*\*\* kegs per day and \*\*\* kegs of annual production). Increases in daily production capacity were a function of specific capital expenditures identified by increment (\*\*\* kegs per day) and were cumulative; e.g., in order to achieve the \*\*\* kegs per day increment, capital expenditures to reach production of \*\*\* kegs per day were implied.<sup>16</sup> The average cost by keg type and increment of production in the feasibility study were adjusted downward for costs savings associated with \*\*\*.

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<sup>10</sup> \*\*\*.

<sup>11</sup> Hearing transcript, p. 111 (Lewis).

<sup>12</sup> \*\*\*.

<sup>13</sup> \*\*\*. \*\*\* response to the purchaser questionnaire, III-17 and III-20 and American Keg's response to the U.S. producer questionnaire, II-8.

<sup>14</sup> In addition to capacity requirements for procurement, \*\*\* notes that it does not purchase from non-certified suppliers regardless of their production capacity to ensure quality and to avoid disruptions in the company's beer operations. \*\*\* posthearing brief, Responses to Commission Questions, pp. 1-2.

<sup>15</sup> Staff report table IV-10, p. 22.

<sup>16</sup> The amount of total capital expenditures incurred by American Keg during the period is \*\*\* than the total amount identified in the feasibility study summary information to reach an annual production amount of \*\*\* kegs; i.e., the amount of cumulative capital expenditures identified to reach the annual production amount of \*\*\*. \*\*\*.

In order to estimate financial results by increment of production, sales value by keg type (\$\*\*\* for 1/6 keg and \$\*\*\* for 1/2 keg) were applied to \*\*\*.<sup>17</sup> Pro forma revenue and cost assumptions indicate that manufactured keg operations could transition to a modest gross profit at a production/sales volume of \*\*\* kegs per year (\*\*\* kegs per day): 1/6 kegs generating a \*\*\* and 1/2 kegs generating a \*\*\*.<sup>18</sup>

While pro forma financial results were termed \*\*\*.<sup>19</sup> As such, calculated pro forma financial results are more analogous to \*\*\*. In order to recover both COGS and SG&A expenses and break even at the operating results level, the feasibility study summary information, in conjunction with the SG&A expenses reported in American Keg's U.S. producer questionnaire, indicates that total production/sales would need to be around \*\*\* kegs (\*\*\* kegs per day).<sup>20</sup> \*\*\*.

In its posthearing brief, American Keg provided a formal breakeven analysis based on 2018 product mix and corresponding variable and fixed costs. While based on 2018 financial results information, the company's breakeven calculation also included factor adjustments to variable costs, primarily related to increased production volume. American Keg's breakeven calculation indicated that it would breakeven at a total sales volume of \*\*\* kegs.<sup>21</sup>

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<sup>17</sup> In Part VI of this report, table VI-1 shows that the actual average per keg sales value was at its highest in \*\*\* (\$\*\*\* per keg) and during the full-year period ranged from \$\*\*\* per keg (\*\*\*) to \$\*\*\* per keg (\*\*\*). By way of comparison, the average per keg sales value in the feasibility study summary information was around \$\*\*\*. USITC auditor notes (preliminary phase). The feasibility study summary information average per keg sales value is based on a product mix of \*\*\* percent 1/6 keg and \*\*\* percent 1/2 keg. As described in Part VI of this report, the actual share of revenue accounted for by 1/6 kegs and 1/2 kegs \*\*\*, respectively, during the period.

<sup>18</sup> Based on information in the feasibility study summary information and assuming the lowest level of production and without identified \*\*\*, material costs were projected to average around \$\*\*\* per keg (\*\*% percent as a ratio to sales). At the highest level of production, corresponding capacity, and material cost savings, material costs were projected to be around \$\*\*\* per keg (\*\*% percent as a ratio to sales). Ibid.

<sup>19</sup> Costs assigned were as follows: \*\*\*.

<sup>20</sup> Ibid. Annual capacity under Geemacher was \*\*\* kegs per year in 2016 and, subsequent to American Keg's acquisition, progressively increased to reach \*\*\* kegs per year in 2017. Based on information provided at the staff conference and in American Keg's U.S. producer questionnaire, the company increased capacity to \*\*\*.

<sup>21</sup> Petitioner's posthearing brief (Exhibit 1). \*\*\*. E-mail from trade counsel on behalf of American Keg to USITC auditor, August 23, 2019. \*\*\*. Verification report, pp. 5-7.

**Whether the activity is more in the nature of  
introducing a new product line by an already established business**

Between 2007 and 2013, there was no U.S. production of steel kegs. Geemacher, the predecessor company, began trial production of refillable stainless steel kegs in early 2014 with commercial production commencing at the end of that year. At its inception, the manufacturing of refillable stainless steel kegs was of a product that was no longer produced in the United States. While Geemacher was an experienced importer of refillable stainless steel kegs and therefore familiar with marketing and selling this product, the company had not previously produced or marketed its own manufactured kegs or any other steel products. While the underlying facility has been in operation since production began in 2014, it was acquired by American Keg in May 2016. American Keg subsequently modified and upgraded the facility in order to increase the available capacity to produce 1/2 kegs and 1/6 kegs.<sup>22</sup> American Keg itself did not have other manufacturing operations prior to its acquisition of Geemacher's keg production assets.

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<sup>22</sup> \*\*\*. Verification report, p. 6.

**APPENDIX F**

**AVERAGE UNIT VALUES BY CUSTOMER TYPE AND SOURCE**





**Table F-1**

**Refillable stainless steel kegs: Average unit values by customer type and source, 2016-18, January to March 2018, to January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	Unit value (dollars per unit)				
U.S. producers:					
to Large breweries/beer producers	***	***	***	***	***
to Medium breweries/beer producers	***	***	***	***	***
to Small breweries/beer producers	***	***	***	***	***
to Breweries/beer producers	***	***	***	***	***
to Leasing/ rental companies	***	***	***	***	***
to Distributors	***	***	***	***	***
to Other firms	***	***	***	***	***
U.S. importers: China					
to Large breweries/beer producers	***	***	***	***	***
to Medium breweries/beer producers	***	***	***	***	***
to Small breweries/beer producers	***	***	***	***	***
to Breweries/beer producers	***	***	***	***	***
to Leasing/ rental companies	***	***	***	***	***
to Distributors <sup>1</sup>	***	***	***	***	***
to Other firms	***	***	***	***	***
U.S. importers: Germany:					
to Large breweries/beer producers	***	***	***	***	***
to Medium breweries/beer producers	***	***	***	***	***
to Small breweries/beer producers	***	***	***	***	***
to Breweries/beer producers	***	***	***	***	***
to Leasing/ rental companies	***	***	***	***	***
to Distributors	***	***	***	***	***
to Other firms	***	***	***	***	***
U.S. importers: Mexico:					
to Large breweries/beer producers	***	***	***	***	***
to Medium breweries/beer producers	***	***	***	***	***
to Small breweries/beer producers	***	***	***	***	***
to Breweries/beer producers	***	***	***	***	***
to Leasing/ rental companies	***	***	***	***	***
to Distributors	***	***	***	***	***
to Other firms	***	***	***	***	***

Table continued on the next page.

**Table F-1--Continued**

**Refillable stainless steel kegs: Average unit values by customer type and source, 2016-18, January to March 2018, to January to March 2019**

Item	Calendar year			January to March	
	2016	2017	2018	2018	2019
	Unit value (dollars per unit)				
U.S. importers: Subject sources:					
to Large breweries/beer producers	***	***	***	***	***
to Medium breweries/beer producers	***	***	***	***	***
to Small breweries/beer producers	***	***	***	***	***
to Breweries/beer producers	***	***	***	***	***
to Leasing/ rental companies	***	***	***	***	***
to Distributors	***	***	***	***	***
to Other firms	***	***	***	***	***
U.S. importers: Nonsubject sources:					
to Large breweries/beer producers	***	***	***	***	***
to Medium breweries/beer producers	***	***	***	***	***
to Small breweries/beer producers	***	***	***	***	***
to Breweries/beer producers	***	***	***	***	***
to Leasing/ rental companies	***	***	***	***	***
to Distributors	***	***	***	***	***
to Other firms	***	***	***	***	***
U.S. importers: All import sources:					
to Large breweries/beer producers	***	***	***	***	***
to Medium breweries/beer producers	***	***	***	***	***
to Small breweries/beer producers	***	***	***	***	***
to Breweries/beer producers	***	***	***	***	***
to Leasing/ rental companies	***	***	***	***	***
to Distributors	***	***	***	***	***
to Other firms	***	***	***	***	***

<sup>1</sup> The \*\*\* average unit values for shipments of U.S. imports from China in January-March 2019 may be a result of NDL's closing and selling off its keg distribution business in the U.S. Hearing transcript, p. 123 (Sydzak).

Source: Compiled from data submitted in response to Commission questionnaires.